

REPUBLIC OF VANUATU

FOREIGN INVESTMENT ACT NO. 15 OF 1998

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REPUBLIC OF VANUATU

Assent: 16/07/98
Commencement: 24/08/98

FOREIGN INVESTMENT ACT NO. 15 OF 1998

An Act to establish the Foreign Investment Board to expeditiously facilitate, promote and foster foreign investment in Vanuatu.

BE IT ENACTED by the President and Parliament as follows:

PART 1 PRELIMINARY

PURPOSE OF ACT

- 1 The purpose of this Act is to encourage private sector investment in Vanuatu, by providing an efficient, effective and transparent system for appraising and approving new investment proposals by foreign investors.

INTERPRETATION

- 2 (1) In this Act, and unless the context otherwise requires:

"approval certificate" means a certificate issued by the Board under section 8;

"Board" means the Foreign Investment Board established under section 15;

"CEO" means the Chief Executive Officer of the Board, and includes a person for the time being acting in that position;

"enterprise" means any person or entity engaged in an investment;

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"fit and proper person" means a person:

- (a) who has not been convicted of an offence that calls into question that person's character such that it would be inappropriate for that person to participate in a proposed investment or be granted a work or residence permit; or
- (b) who has not been convicted of a serious offence involving tax evasion;
- (c) not in liquidation or who is not an undischarged bankrupt;
- (d) who is a natural person and who is not partly or wholly the legal or beneficial owner or officer of a body corporate that is in liquidation;

"foreign investor" means:

- (a) a person who is not a citizen of Vanuatu; or
- (b) a body corporate:
 - (i) that is not wholly controlled by persons who are citizens of Vanuatu; or
 - (ii) that has any of its shares (voting or otherwise) beneficially owned or controlled by persons who are not citizens of Vanuatu;
 or,
- (c) any entity other than a natural person or a body corporate, where the control of, or the benefit to be derived from the entity, will vest wholly in persons who are not citizens of Vanuatu or a body corporate that is a foreign investor;

"invest" and "investment" means to be engaged in an activity for the principal purpose of gain (pecuniary or otherwise) but does not include:

- (a) maintaining a bank account in Vanuatu;

- (b) an isolated transaction, not being one of a number of similar transactions repeated from time to time or from which there will be derived a re-occurring or continuing benefits;
- (c) taking security for or collecting any debt or enforcing any rights relating to any security;

- (d) the gathering of any information or undertaking a feasibility study in contemplation of an investment proposal;
- (e) the supply of services by a company incorporated under the International Companies Act 1992 for the exclusive use by and benefit of persons who are not residents of Vanuatu;
- (f) entry into and performance of a contract for the supply of goods or services by a supplier who is not a resident of Vanuatu;

"investment proposal" means a proposal by a foreign investor to invest in Vanuatu;

"investor" does not include a citizen of Vanuatu or an enterprise wholly owned and controlled by a citizen of Vanuatu;

"member" means a member of the Board and includes a nominee of that member;

"Minister" means the minister appointed by the Prime Minister to be responsible for the Board;

"prescribed" means prescribed by order of the Board;

"reserved investment" means the list of investments set out in Part 2 of the First Schedule;

"reserved occupation" means an occupational activity declared under section 9 of the Labour (Work Permits) Act [Cap 187] to be a reserved occupation as is set out in the Second Schedule;

"residence permit" means a permit to enter and reside in Vanuatu, issued under section 13 of the Immigration Act [Cap 66];

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"work permit" means a work permit issued under the Labour (Work Permits) Act [Cap 187].

RESERVED INVESTMENTS AND OCCUPATIONS

- 3 (1) The investments specified in:

- (a) Part 1 of the First Schedule are prohibited investments for which a certificate of approval must not be granted by the Board; and
 - (b) Part 2 of the First Schedule are reserved investments for citizens of Vanuatu for which the Board must not grant a certificate of approval.
- (2) The occupations specified in the Second Schedule are reserved occupations for citizens of Vanuatu for which the Board must not issue a work permit.
 - (3) The investments and occupations specified in the First and Second Schedules respectively may be added to or removed by the Minister as the Minister may prescribe.
 - (4) Every proposed amendment to the First or Second Schedule must be referred to the Board which will cause the proposed amendment to be published in the Gazette and broadcast generally throughout Vanuatu to ensure that members of the public are invited, within 6 months from the date of publication, to make written submissions on the proposed amendment to the Board.
 - (5) No proposed amendment will come into force before the expiration of the period referred to in subsection (4) and if the proposed amendment is to be promulgated by the Minister, the Minister must have regard to the written submissions received from the public and comments of the Board.
 - (6) Every matter or thing affected by the amendment and done before the amendment is promulgated will, if validly done, continue to be valid after the amendment is promulgated as if the amendment had not been promulgated.

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PART 2

APPROVAL OF FOREIGN INVESTMENT

PURPOSE OF PART

- 4 The purpose of this Part is to establish and regulate a system for appraising investment proposals and granting approvals to foreign investors to invest in Vanuatu.

FOREIGN INVESTMENT WITHOUT APPROVAL CERTIFICATE

PROHIBITED

- 5 (1) A foreign investor must not invest in Vanuatu without first obtaining an approval certificate.
- (2) Where a foreign investor invests in Vanuatu without an approval certificate or engages in an investment not authorised by an approval certificate then, every contract and every agreement entered into by that foreign investor and relating to that investment will be void and of no effect.
- (3) A transfer of a legal or equitable interest or an increase in the share capital or any proprietary interest in an enterprise, that has the effect of the enterprise becoming a foreign investor shall not be valid or of any effect unless an approval certificate has first been obtained.

APPLICATION FOR APPROVAL CERTIFICATE

- 6 (1) A foreign investor proposing to invest in Vanuatu or an enterprise that proposes to become a foreign investor must apply to the Board for an approval certificate.
- (2) An investment proposal must contain full particulars of:
- (a) the name and address of the foreign investor;
 - (b) the name and address of the legal and beneficial owners of the foreign investor and the proportionate interest of each owner;
 - (c) if the foreign investor is already in business beyond Vanuatu, the principal place at which the business of the foreign investor is carried on and a description of that business;
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- (d) the principal place and description of existing investments in Vanuatu;
 - (e) the proposed investment including its location, the categories of business licence required, the nature and source of raw materials to be used, the amount and source of capital expenditure to be incurred, and the projected return on investment during the first 3 years of the investment;
 - (f) the number and full details of employees who are not citizens of Vanuatu together with their passport particulars and an estimate of the number of persons to be employed during the first 3 years of the investment;
 - (g) the number of residence and work permits that will be required and the reasons why;

- (h) what provisions (if any) will be made for the training of Vanuatu citizens in the event that specialist skills are required of persons to be employed by the foreign investor;
 - (i) a statutory declaration that no criminal or taxation evasion convictions have been entered against the foreign investor or investor who is a legal or beneficial owner of the foreign investor and persons who will require work or residence permits and if convictions have been entered, the date of conviction, the offence and the penalty imposed;
 - (j) whether the foreign investor or any investors who are the legal or beneficial owners of the foreign investor or its officers are or have been in liquidation or bankrupt and if so, full details of the circumstances;
 - (k) the value of bank deposits together with bank references and the location and value of unencumbered assets of the foreign investor and investors who are the legal or beneficial owners of the foreign investor relative to the proposed investment;
 - (l) other information as may be prescribed.
- (3) The prescribed fee must accompany an application.

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EXISTING FOREIGN INVESTORS TO APPLY FOR APPROVAL CERTIFICATE

- 7 (1) A foreign investor engaged in an investment immediately before the commencement of this Act must, within 12 months of the date of commencement (or within such further period as the Board may allow), apply to the Board for an approval certificate for that investment.
- (2) Every application made in accordance with subsection (1) must:
- (a) contain:
 - (i) the date that the investment commenced;
 - (ii) details of the investment;
 - (iii) the name and address of the foreign investor;
 - (iv) the names and addresses of the legal and beneficial owners of and their respective interests in the foreign investor;

- (v) the names and addresses of the officers of the foreign investor;
- (vi) the names of the individuals to whom section 10 applies,
- (b) subject to compliance with paragraph (a) by the foreign investor, be approved by the Board and an approval certificate issued.
- (3) A foreign investor to whom this section applies and who has made application in accordance with subsection (1) shall, notwithstanding section 5, and notwithstanding that the foreign investor has not been approved by the Board pursuant to subsection (2)(b), be entitled to continue to engage in the investment pursued by the investor immediately before the date of commencement of this Act.

APPROVAL OF INVESTMENT PROPOSAL

- 8 (1) Subject to subsections (2) and (3) the Board must approve an investment proposal.
- (2) When considering an investment proposal, the Board must be satisfied:

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- (a) the application contains full particulars of the information required by section 6;
- (b) the foreign investor or the legal and beneficial investors of the foreign investor are fit and proper persons;
- (c) the foreign investor has sufficient financial resources for the proposed investment;
- (d) the persons who will receive work or residence permits are fit and proper persons.
- (3) An application for an approval certificate for a proposed investment will not be approved where the investment:
 - (a) is a prohibited or reserved investment;
 - (b) is contrary to the law of Vanuatu;
 - (c) will interfere with an exclusive right of investment granted by the Government before the commencement of this Act.

- (4) In determining whether a person is a fit and proper person, the Board is not confined to a consideration of the matters set out in the definition of that term but may:
 - (a) take into account such other matters as may be relevant (including any association between the person being considered and a person who is not a fit and proper person); and
 - (b) consider any information obtained from any reliable source and in the event that the Board is of the opinion that further investigation is required, undertake that investigation.
- (5) If the Board takes into account material that is prejudicial to a person, the Board must disclose the information to that person and provide a reasonable opportunity for that person to refute or comment on it.
- (6) The Board may approve an application subject to conditions not inconsistent with this Act or refuse an application and, where approved subject to conditions or refused, must give reasons in writing to the foreign

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investor no later than 7 days after the decision. Where the Board approves an application with or without conditions, the Board may not alter that approval or add to the conditions subsequent to the issue of a certificate of approval under subsection (7).

- (7) A certificate of approval in the form to be prescribed must be issued by the CEO within 7 days of the date of the Board's approval and will remain valid for a period of 6 months from a date to be specified in the certificate.
- (8) Subject to a foreign investor satisfying the Board that implementation of the investment has been pursued with all diligence, the Board must renew the certificate for such further periods of 6 months as may be required by the foreign investor.
- (9) When the Board is notified and satisfied by the foreign investor that the investment for which a certificate of approval has been issued is a going concern the CEO must issue a notice to the investor that the certificate of approval will remain valid.

EFFECT OF APPROVAL CERTIFICATE

- 9 (1) Subject to compliance with the law and the statutory declaration referred to in section 6(2)(i) being correct in every material respect and subsection (2) an

approval certificate will entitle the foreign investor named in the certificate to engage in the investment specified in the certificate.

- (2) A foreign investor must diligently pursue the investment specified in the certificate without any material deviation from the substance of the investment proposal and where there is a material deviation the Board must not revoke the certificate of approval without first taking into account the circumstances that gave rise to that deviation.

RESIDENCE PERMITS, WORK PERMITS AND BUSINESS LICENCE

10 (1) Subject to subsection (2), an approval certificate entitles the foreign investor named in the certificate:

- (a) to be issued the number of residence permits specified in the approval certificate; and
- (b) to be issued the number of work permits specified in the approval certificate; and

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- (c) if the project requires a business licence, to be issued a business licence.

(2) The foreign investor must still comply with the requirements of:

- (a) the Immigration Act; and
- (b) the Labour (Work Permits) Act; and
- (c) the Business Licences Act; and
- (d) any other law of Vanuatu that requires the granting of a permit, licence or other approval (however described) before undertaking the activity involved in the investment proposal.

(3) Each foreign investor is entitled to residence permits and work permits for at least 2 positions requiring professional, technical or managerial expertise.

(4) In deciding the number and duration of additional residence and work permits to which a foreign investor is entitled, the Board must have regard to:

- (a) the nature and extent of the activity involved in the project;
- (b) the number of other positions requiring professional, technical or managerial expertise;

- (c) the availability of Vanuatu citizens with that particular professional, technical or managerial expertise who are prepared and available for that activity;
 - (d) the value of the assets to be used for the investment.
- (5) The Board must specify in the certificate the period for which each residence permit and work permit is to remain in force. This period must:
- (a) be the same for the work permit and residence permit for the one position; and

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- (b) for a residence permit for the foreign investor - be not less than 3 years nor more than the maximum decided in accordance with subsection (6); and
 - (c) for any other residence permits and work permits to which the foreign investor is entitled - be not less than 3 years or more than 5 years.
- (6) The maximum duration of residence permits and work permits is:
- (a) if the foreign investor's certificate stated that the foreign investor's assets, are to be invested in Vanuatu at least VT5,000,000 - 5 years; or
 - (b) if the foreign investor's certificate stated that the foreign investor's assets, are to be invested in Vanuatu at least VT50,000,000 - 10 years; or
 - (c) if the foreign investor's certificate stated that the foreign investor's assets, are to be invested in Vanuatu at least VT100,000,000 - 15 years.
- (7) If the foreign investor wishes to renew a residence permit or work permit, he or she must apply under the Immigration Act or Labour (Work Permits) Act.
- (8) When issuing an approval certificate, the Board must also give the foreign investor a summary of his or her obligations:
- (a) to train Vanuatu citizens; and
 - (b) to obtain permits, licences or other government approvals (however described) under other laws.

- (9) Subsection (8) does not relieve the foreign investor from the requirement to find out his or her obligations under other laws of Vanuatu in detail and to comply with those laws.
- (10) A foreign investor to whom an approval certificate has been issued may apply to the Board for renewal of the certificate.

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- (11) The Board:
 - (a) must renew the approval certificate for 6 months if the foreign investor has applied for the other approvals, certificates and licences that are required to carry out the investment activity; and
 - (b) may renew the approval certificate for 6 months if the foreign investor otherwise demonstrates to the Board that he or she has made satisfactory progress in carrying out the project involved in the investment proposal.
- (12) The Board may renew an approval certificate more than once, but the foreign investor must comply with subsection (8) each time.

SECURITY OF PROPERTY

- 11 (1) For the avoidance of doubt, there is extended to every foreign investor granted an approval certificate under this Act the following guarantees:
- (a) there will be no compulsory acquisition of the property of the investor in Vanuatu except in accordance with due process of law and upon payment of just compensation;
 - (b) subject to compliance with the law, there is an absolute entitlement to remit beyond Vanuatu:
 - (i) earnings and expatriate capital;
 - (ii) payments necessary to meet payments of principal, interest, service charges and similar liabilities on foreign loans and the cost of other foreign obligations relating to the investment;
 - (iii) compensation received in accordance with paragraph (a);
 - (c) the right to dispose of part or all of an investor's interest in the foreign enterprise to any person including a citizen of Vanuatu or another investor

or intending investor in the foreign enterprise subject only to the second mentioned investor being a fit and proper person as determined by the Board upon application by the second mentioned investor.

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- (2) Unless the parties have agreed otherwise, a dispute regarding the amount of compensation to be paid to a foreign investor may be submitted to the Supreme Court for an order as to the amount of just compensation payable.
- (3) The Supreme Court has jurisdiction to hear and determine a dispute.

**COPY OF APPROVAL CERTIFICATE TO BE PROVIDED TO
INTERESTED DEPARTMENTS OF GOVERNMENT**

12 The Board must within 7 days of granting an approval certificate send a copy thereof to:

- (a) the Principal Immigration Officer;
- (b) the Commissioner of Labour;
- (c) the Director of Customs;
- (d) the Director of the Department of Statistics
- (e) any other department that will have an interest in the approval.

APPEAL FROM BOARD'S DECISION

- 13 (1) A person dissatisfied with all or part of the Board's decision or any conditions imposed may within 14 days of being notified request the Board to reconsider its decision or the imposition of the conditions and the Board must within 14 days of the request reconsider its decision and notify the person of the outcome of that reconsideration and the reasons therefor.
- (2) A person who remains dissatisfied with the outcome of the Board's reconsideration may appeal to the Supreme Court against the decision or the imposition of any conditions and the Supreme Court has jurisdiction to hear and determine an appeal brought under this subsection.

PART 3

FOREIGN INVESTMENT BOARD

PURPOSE OF PART

14 This Part establishes the Foreign Investment Board.

ESTABLISHMENT OF THE FOREIGN INVESTMENT BOARD

15 (1) The Foreign Investment Board is established.

 (2) The Board will comprise:

- (a) the Director responsible for Industry;
- (b) the Commissioner of Labour;
- (c) the Director responsible for Customs;
- (d) the Principal Immigration Officer;
- (e) the Director of National Planning Office;
- (f) the CEO who will be an ex-officio member.

(3) A member may be represented at meetings of the Board by a nominee who shall be that member's immediate subordinate.

(4) The Chairperson of the Board will be selected by the Board from amongst the members of the Board.

(5) No member of the Board will be paid any remuneration for reason of his or her membership.

(6) The Board:

- (a) will be a body corporate, with perpetual succession; and
- (b) will have a common seal; and

- (c) may sue and be sued.

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FUNCTIONS OF BOARD

16 The functions of the Board are to:

- (a) receive and appraise investment proposals in accordance with this Act;
and
- (b) issue approval certificates to foreign investors in accordance with this Act;
and
- (c) carry out any other functions conferred on it by this Act or another Act.

POWERS OF BOARD

17 The Board has all the powers necessary to perform its functions.

FEES

- 18
- (1) The Board may prescribe application fees payable to the Board.
 - (2) Fees received by the Board must be paid into the Public Fund.

PART 4 ADMINISTRATION

MEETINGS

- 19
- (1) The Board must meet within 14 days of the date of filing of an application for an approval certificate.
 - (2) Meetings of the Board will be convened by the CEO who will cause a written record of each meeting to be kept.
 - (3) The procedure at meetings will be as determined by the Chairperson.
 - (4) A quorum of the Board is 4 voting members.

- (5) If the Chairperson is absent (whether by reason of a vacancy in the chairperson's office, disability, death or otherwise) then the members present will select from amongst themselves a chairperson who will have all the powers of the Chairperson for as long as that absence continues.
- (6) Each member present, including the CEO, will have a vote and decisions will be carried by a simple majority of the votes cast and in the event of an equality of votes the Chairperson shall have a casting vote.
- (7) A member who has an interest over and above any other member of the Board in any matter before the Board must declare that interest, absent himself or herself during deliberation of that matter by the Board and shall not vote on the matter. The member's declaration must be recorded in the minutes of the Board and minutes relating to that matter will not be available to that member unless the Board decides otherwise.

APPLICATIONS TO BE CONSIDERED EXPEDITIOUSLY

- 20
- (1) It is the duty of the Board to consider and deal with an application within 14 days of the receipt of the application.
 - (2) Where an application is deferred the Board must cause the reasons for that deferral to be notified to the applicant.
 - (3) For the purposes of section 13(2) a deferral of an application shall be deemed to be a decision.

CEO AND OTHER STAFF OF BOARD

- 21
- (1) The CEO is to be chosen by the Selection Committee under subsection (11) and appointed by the Minister for a period of not less than 1 year and not more than 3 years.
 - (2) A person is not entitled to be appointed as CEO unless the person:
 - (a) has significant experience and competence in business and investment; and
 - (b) has an understanding of the investment environment; and
 - (c) is fluent in English or French, and has a reasonable command of the other; and

- (d) has been chosen by the Selection Committee.
- (3) The Minister must appoint as CEO the person chosen by the Selection Committee.
- (4) The CEO may be reappointed if he or she is chosen again by the Selection Committee.
- (5) The functions of the CEO are:
 - (a) to record the proceedings of Board meetings; and
 - (b) to manage the staff of the Board; and
 - (c) generally to assist the Board in the performance of its functions; and
 - (d) to carry out the other functions conferred on him by this Act or delegated to him by the Board.
- (6) The CEO must not disclose any information about an investment proposal except:
 - (a) as required or permitted by this Act; or
 - (b) as required by or under any other law of Vanuatu.
- (7) The CEO is to be appointed on the same terms and conditions, and at the same remuneration, as a First Political Adviser.
- (8) The CEO's salary and allowances are payable out of the Revenue Fund, which is appropriated accordingly.
- (9) A person is not entitled to be appointed or to continue as CEO if the person:
 - (a) is or becomes a member of Parliament, a local government council or a municipal council; or
 - (b) is or becomes a member of the National Council of Chiefs; or

- (c) is convicted, or at any time in the previous 10 years has been convicted, of an offence involving moral turpitude punishable by a term of imprisonment for 3 months or more; or

- (d) is or becomes an undischarged bankrupt; or
 - (e) in the case of a person having professional qualifications - is disqualified or suspended from practising his or her profession on the grounds of professional misconduct.
- (10) The CEO may resign his position by giving not less than 90 days written notice to the Minister, and CEO must give a copy of the notice to the Board as soon as possible after giving it to the Minister.
- (11) The Selection Committee is to consist of:
- (a) the Chairperson of the Vanuatu Financial Centre Association Limited, who is to be the chair of the Committee; and
 - (b) the Chairperson of the Chamber of Commerce; and
 - (c) the Financial Services Commissioner; and
 - (d) the Director of National Planning.
- (12) The function of the Selection Committee is to choose the CEO. To do this, the Committee must decide on a job description and selection criteria for the position.
- (13) In choosing the CEO, the Selection Committee must choose a person who complies with the requirements of subsection (2).
- (14) The Selection Committee:
- (a) must meet as often as is necessary to perform its function; and
 - (b) is not entitled to any remuneration or allowances.
- (15) The staff of the Board are to be provided by the Department of Trade.

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SECRECY

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A member or employee of the Board must not:

- (a) disclose any information that may come into that member's or that employees possession while acting as a member of or employed by the Board other than in accordance with law;
- (b) use any such information in a manner that is inconsistent with that member's or that employee's duty and responsibility to the Board or duty to a foreign investor to act fairly and impartially;
- (c) engage in any activity that is inconsistent with that member's appointment as a member or the employee's employment with the Board.

ANNUAL REPORT AND QUARTERLY REPORTS

- 23 (1) The Board must publish an annual report of its activities no later than 3 months after the end of each financial year for the immediately preceding year.
- (2) The report must be published in the Gazette and presented by the Minister to Parliament no later than 14 sitting days after the report has been received.
- (3) The Board must publish quarterly statistical reports which must include the following information:
- (a) the number of applications received by the Board;
 - (b) the number of approval certificates granted by the Board together with an analysis of the capital investments to be undertaken;
 - (c) the number of persons granted work and residence permits;
 - (d) the number of citizens of Vanuatu employed or to be employed as a consequence of the approvals granted.
- (4) The CEO must forward a copy of the report under subsection (3) to the Minister, Director-General of the Ministry of Finance and Economic Management and to the Director of the Department of Statistics, and to the Director of the Department of Strategic Management.

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DELEGATION

- 24 (1) The CEO may delegate his or her functions, except this power of delegation, to any responsible senior office or employee of the Board.
- (2) Where the CEO delegates a function or power:

- (a) the delegation may be made to a person by name or to the person holding, or performing the duties of, a specified office or position;
- (b) the delegation may be made generally or limited as may be specified in the instrument of delegation;
- (c) the function or power delegated, when performed by the delegate, will be taken to have been performed by the CEO;
- (d) the delegation of a function does not prevent the CEO from performing the function or exercising the power;
- (e) if the function delegated requires the forming of an opinion by the CEO, the delegate on the delegate's opinion may perform the function.

PART 5 MISCELLANEOUS

PROTECTION FOR ACTION TAKEN UNDER THIS ACT

25 (1) No suit or prosecution lies:

- (a) against the Board for anything done in good faith by the Board under this Act or regulations; or
 - (b) against a member, officer, servant or agent of the Board for anything done by him or her in good faith in the performance of his or her duties under this Act or the regulations.
- (2) A member of the Board is not personally liable for any legal expenses or court costs incurred by the Board in any action by or against the Board in a court. Any moneys paid to the Board as a result of an action by or against the Board are to be paid into the Public Fund.

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- (4) Any expenses incurred by a person referred to in paragraph (1)(b) in an action brought against him or her in a court in respect of anything done or purported to have been done by the person under this Act or the regulations may be paid out of the Public Fund if the court holds that the act was done in good faith, unless the expenses are recovered by the person in the action.

OFFENCES

- 26 (1) Every person who contravenes the provisions of this Act is guilty of an offence and on conviction is liable to a fine not exceeding VT500,000.
- (2) Where a body corporate is guilty of an offence and that offence is proved to have been committed with the connivance of, or attributable to the neglect on the part of a director, manager, secretary, or other officer or any person purporting to act in any such capacity, that person as well as the body corporate will be guilty of that offence and be liable to be punished accordingly.

ACT TO BIND STATE

- 27 This Act shall bind the State.

REGULATIONS

- 28 The Minister may make regulations, not inconsistent with this Act, for all matters necessary to give effect to this Act.

COMMENCEMENT

- 29 This Act shall commence on the date that it is published in the Gazette.

SCHEDULES

SCHEDULE 1

PART 1

Section 3

Prohibited Investments

List of activities not to be undertaken

Manufacture of nuclear weapons
Manufacture of chemical weapons
Arms manufacture
Dumping or storage of nuclear waste
Dumping or storage of toxic chemicals

PART 2

Reserved Investments

Reserved Investments make references to the Business License Act and business activities contained therein. All classes of reserved investments are to be read in conjunction with business license categories contained in Schedule 1 of the Business License Act.

Home manufacturers and purveyors of pies, meat balls, nems, sweet meats and similar prepared foods.

Kava bars

Bricklayers, electricians, painters and decorators, jobbing plumbers, masons, plumbers, welders, fitters, turners or other artisans where the number of full time employees per year is less than 7.

Carpenters, joiners and mechanics where the number of full time per employees per year is less than 10.

Hotels and motels where the number of rooms to let is less than 10 rooms.

-2 -

Restaurants where the number of seats is less than 20.

Takeaway food outlets.

General retail and wholesale merchandising - less than 20 million turnover per year.

Open air vendors.

Mobile shops.

Exporters of controlled products.

Door to door sales.

Ship and boat owners and operators transporting goods and passengers.

Road transport operators - public taxi and bus services.

Local tour operators.

Category F of Business Licensing Act of less than VT5 million turnover per year.

Cinema & theatre - less than 30 seats.

Riding and Diving Schools - less VT4 million turnover per year.

Hire of Video Cassettes.

Note: Existing foreign businesses operating with the above license categories prior to the date of this Bill being enacted, will continue to operate thereafter.

: Ni-Vanuatu will not be granted a business license should they either intend to form a partnership incorporated with, or in association with a foreign investor(s).

Export of kava in root form.

Wokabaot sawmills.

Coastal fishing.

SCHEDULE 2

Section 3

Reserved Occupations

List of occupational activities declared under section 9 of the Labour (Work Permits) Act as reserved for citizens, as at the date of commencement of this Act

Able seaman/ordinary seaman

Boatswain

Bus driver

Carpenter/joiner

Clerical supervisor

Dock worker and freight handler

Driver

Earth moving and related machinery operator

Hotel receptionist

Housemaid/domestic worker
Lorry and van driver
Receptionist
Street vendor
Typist
Waiter/waitress/bar tender