

REPUBLIC OF VANUATU

Assent: 25/08/98
Commencement: 01/08/98

BUSINESS LICENCE ACT NO. 19 OF 1998

“negative list” means the list of activities in Schedule 1 of the Foreign Investment Act 1998;

“person” includes any company or association or body of persons corporate or unincorporated;

“premises” includes buildings, ships, vehicles or other places where a business is carried on, together with any place which constitutes a necessary annex to the principal place of business;

“proprietor” means the owner of a business or any natural person or corporation carrying on a business within Vanuatu on his or its own account, in association with others or on behalf of a person outside Vanuatu ;

“reserved occupation” means an occupation declared under section 9 of the Labour (Work Permits) Act to be a reserved occupation.

BUSINESS LICENCES

2. (1) Subject to the exemptions contained in Schedule 2, no person shall carry on a business without a licence issued under this Act.
- (2) Any person (other than a person exempted under Schedule 2) who carries on a business without a licence shall be guilty of an offence.

Penalty : fine not exceeding VT 500,000 or imprisonment not exceeding 1 year or both.

(a) in respect of a municipality, the Minister;

(b)

in any application made under this section shall be guilty of an offence.

the Minister must direct the Director to issue to the investor the

- (a) produces to the Director an approval certificate that specifies a business licence for a business not listed in section 13; and
- (b) gives the Director a completed application form; and
- (c) pays the business licence fee payable for the licence in accordance with section 18;

the Director must issue to the investor the licences specified in the certificate.

(2) If :

- (a) a person, other than a foreign investor, applies for a business licence not listed in section 13; and
- (b) the person pays the business licence fee payable for the licence in accordance with section 18; and

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- (c) the applicant is not a citizen and the business does not involve an activity that is a reserved occupation; and
- (d) the business does not involve an activity that is on the negative list;

the Director must issue the business licence to the person.

(3) The Director must issue the business licence within five (5) working days after the foreign investor complies with a citizen b)

(a) applies for the renewal of the licence; and

(b) pays the fee payable for the licence;

the Director or local government council, as the case requires, must renew the business licence.

- (5) However, the Director or local government council may issue the new business licence if :
- (a) to do so would result in the transferee having a monopoly of the business concerned in the area concerned; but
in the Director or council's opinion the monopoly would not be detrimental to the public interest,
 - (b) the Director or local government council must issue the new business licence within seven (7) days of receiving the application and the fee.

REASONS FOR DECISION

11. If :

- (a) the Minister refuses to direct the Director or the local government council to issue a business licence; or
- (b) the Director or the local government council refuses to issue, renew or transfer a business licence;

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the Minister, Director or local government council, as the case requires, must :

- (c) record the decision, and reasons for the decision, in writing; and
- (d) send a copy of the decision and the reasons :
 - (i) to the applicant; and
 - (ii) if the applicant is a foreign investor - to the Foreign Investment Board; and
 - (iii) if the applicant is a foreign investor for whom a local agent is acting to the agent;

within seven (7) days of making the decision.

APPEAL

12. (1) A person may appeal to the Minister against a decision of the Director or local government council refusing to issue, renew or transfer a business licence.
- (2) The Minister must consider and decide the matter within 30 days.
- (3) The Minister must :
- (a) record his or her decision, and the reasons for the decision, in writing; and
 - (b) send a copy of the decision and the reasons to the person within seven (7) days of making the decision.
- (4) A person may appeal to the Supreme Court against a decision of the Minister under section 7 or under subsections (2) and (3), refusing to direct the Director or local government council to issue, renew or transfer a business licence;
- (5) The Supreme Court has jurisdiction to hear and determine an appeal brought under this section.

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MINISTER TO APPROVE OR REFUSE APPLICATIONS IN CERTAIN CASES

13. (1) Where an application is made to a local government council or the Director for the issue or renewal of a licence to which this section applies, the local government council or the Director shall refer such application to the Minister for his or her decision.

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- Mining for minerals;
- Quarrying and Other Mining;
- Logging;
- Abattoirs and meat packing;
- Canneries;
- Oil mills;
- Bakeries and confectioneries;
- Manufacturers of food products not elsewhere specified;
- Manufacturers of prepaid animal feeds;
- Distilleries;
- Breweries;
- Manufacturers of carbonated non02 Tw22-2a 0 TD ()Tj /TT4 1 Tf 2.036 0 TD

- Engineering and architectural services or practitioners, surveyors and draftsman;
- Core drilling, assaying, geological and prospecting support services;
- Business, financial and management services and consultants, advertising and marketing services.

LICENCE TO BE DISPLAYED

14. (1) Every licence shall be displayed and kept displayed in a prominent place by the licence holder on the premises to which it relates and shall be made available at any hour at which such premises are normally open for business for inspection by any person authorised under this Act to demand its production.
- (2) Every licensing authority or person authorised in writing in that behalf by any licensing authority, and every police officer is authorised to demand the production of any licence issued under this Act.
- (3) A licence holder or other person having custody of a licence who, without reasonable excuse, fails to produce such licence upon lawful demand being made to him in that behalf shall be guilty of an offence.

Penalty : a fine not exceeding VT 100,000.

LICENCES LOST OR DESTROYED

15. Where it is shown to the satisfaction of the licensing authority by which a licence was issued that such licence has been lost or destroyed, it shall, upon payment of the prescribed fee, issue a duplicate of such licence to the licence holder.

POWER OF SEARCH

16. A person authorised in writing in that behalf by any licensing authority and by the Public Prosecutor may without warrant enter and search premises during normal business hours for the purposes of ascertaining the category

of the business or assessing licence fee and the identity of the proprietor thereof. The proprietor shall make available for

inspection on demand by any such person books, documents, electronic records however recorded or any other records relating to the business and copies thereof or extracts therefrom may be made. The provisions of this section shall not derogate from any privilege or immunity arising with respect to such premises, proprietor, books, documents or records under the provisions of any law applicable thereto within Vanuatu.

CONFIDENTIALITY OF INFORMATION

17. Information relating to the business of any person obtained under section 16 shall be treated as strictly confidential and shall not be disclosed save for the purposes of any prosecution with respect to the business.

FEES

18. (1) Subject to the provisions of the Act, there shall be payable in respect of a licence issued under

- (b) the business becomes ~~sub~~ subject to unforeseen adverse trading conditions affecting its financial capability;
- (c) an inadvertent error or omission is made in good faith in the completion of a business licence application form or in the calculation of the fee; or
- (d) undue financial hardship would be caused by the

- (5) Where during the course of the year the nature or extent of a business changes for whatever reason thereby rendering the licence holder liable to the payment of a difference in licence fee he shall forthwith so inform the licensing authority and shall pay or receive such adjustment of fee as may be appropriate.

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- (6) A licence may be surrendered to the licensing authority at any time and thereupon the licence holder shall be entitled to a proportionate refund of the licence fee commencing from the first day of the month next following.

REVENUE FROM FEES

20. (1) All fees collected by a local government council under this Act shall become part of the revenue of such council.
- (2) All fees collected by the Director or the Minister under this Act shall be paid into the Public Fund.

ABATEMENT OF FEES

21. (1) The Director, with the approval of the Minister, having regard to the actual level of turnover or gross income of any business in order to avoid hardship may, at his discretion, abate the licence fee payable in respect of any person or business by such amount not exceeding 50 percent (50%) of the fee, as he may think fit.
- (2) A local government council, having regard to the probable level of turnover or gross income of any business within the area of its jurisdiction being a business of any of the categories specified in the First Schedule in order to avoid hardship may, at its discretion, abate the licence fee payable in respect of that business by such amount not exceeding 50 percent (50%) of the fee, as it may think fit.

REDUCTION OF FEES

22. The licensing authority may reduce the fee in respect of :
- (a) part time businesses; or
 - (b) newly formed businesses.

Provided that no reduction shall be in excess of 50 percent (50%) of the fee and provided further that no such reduction shall be granted to newly formed businesses for more than three (3) consecutive years, in respect of any one licence holder.

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PENALTIES

23. (1) Any person who fails to pay requisite licence fee including any increase imposed in accordance with section 18 (4) within a period of six (6) months from the date when the fee is due shall be guilty of an offence and liable on conviction to a fine not exceeding VT 500,000.
- (2) Any person who fails to comply with any condition imposed in accordance with section 5 shall be guilty of an offence and liable on conviction to a fine not exceeding VT 50,000.

of the offence as he ought to have exercised having regard to the nature of his functions and capacity and in all the circumstances.

CANCELLATION OF LICENCE

24. Where a licence holder is convicted of any offence under this Act or any law providing for the payment of a tax, or value added tax or customs or excise duty, the Minister may cancel his licence, and no refund of fees shall be payable.

RULES

25. The Minister may make rules and may prescribe anything which is necessary or convenient to be prescribed for the carrying out or giving effect to but which is not inconsistent with, this Act.

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REPEALS

26. The Business Licence Act [CAP. 173] is repealed.

COMMENCEMENT

27. This Act shall be deemed to have come into force on the first day of August 1998.

Section 18

SCHEDULE 1

RATES OF BUSINESS LICENCE FEE

CLASSES AND CATEGORIES OF BUSINESS	ANNUAL FEE (VATU)	REMARKS
CLASS A		
MINING, QUARRYING AND LOGGING		
Category A. Mining, Quarrying and Logging	20 000	1. Class A licence includes the importing of materials required in mining, quarrying, logging and sawmill business operations.
plus for each non-citizen employee, principal or partner engaged in the business	90 000	2. Includes the extraction, dressing, smelting, crushing, etc. and the beneficiation in any way of any mineral or mineral ore other than stone, gravel, clay or sand. 3. (i) Includes the extraction, dressing, crushing or otherwise treating to render marketable stone, gravel, clay or sand. (ii) Excludes the manufacture of

structural clay and cement products such as bricks, concrete blocks and tiles, which is licensed under Category B.

- 4. (i) Includes logging camps, logging contractors and lodgers engaged in cutting timber and in producing rough, round, hewn or riven forest or wood raw materials.
- (ii) Logging and woods operations conducted in combination with saw mills, pulp mills or otherwise converting establishments which are beneficially owned by the same persons, are classified under Category B.

CLASSES AND CATEGORIES OF BUSINESS	ANNUAL FEE (VATU)	REMARKS
CLASS B		
MANUFACTURING INDUSTRIES AND TRADE		
Category B. Manufacturing Industries and Trades	20 000	
plus for each non-citizen employee, principal or partner engaged in the business	20 000	20 000 (Tj 0 -1.1.9(partn)-5.3(e)6(r)-3.1(L

Licence is required for all such imports plus a D3 Licence is required for direct resale).

4. Holders of a Class B Licence are permitted to sell, wholesale or retail, without a D3 Licence, through one outlet, those goods or products which they have processed, produced or manufactured in Vanuatu. The one outlet is restricted to the manufacturing business headquarters or adjacent premises.

CLASSES AND CATEGORIES OF BUSINESS

ANNUAL FEE
(VATU)

REMARKS

required for all such imports, plus a D2 licence is required for direct resale).

3. Holders of Class C Licences are not permitted to import and directly re-sell any materials, supplies etc., without holding D1 and D2 Licences.

CLASSES AND CATEGORIES OF BUSINESS

use in the business and not purchased for resale ;

- (b) the direct importing of equipment, materials or supplies for use or for transformation by the business in mining, manufacturing, construction or repairing processes (Class A, B & C), or for use in transport operations (Class E), or for use in businesses of Classes F, G or I;
- (iii) Resale or wholesale under Category D1 includes acting as agents in buying or selling merchandise to other business.

engaged in the business

Category D5. Open-Air Vendors, Mobile Shops and
Door-to-door Sales 5 000

plus for each non-citizen employee, principal or partner
engaged in the business 90 000

D5. (i) Applies to all vendors, carry-
ing out their trade in the open
air or under movable shelters
including vendors of cooked
foodstuffs.

(ii) Does not apply to vendors of
local agricultural products,
raw fish (including shells) or
locally made artifacts.

CLASSES AND CATEGORIES OF BUSINESS	ANNUAL FEE (VATU)	REMARKS
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CLASS **E**

TRANSPORTATION, STORAGE
FACILITIES AND TO URISM SERVICES

Category E. Transportation, Storage Facilities and
Tourism Services 20 000

plus for each non citizen, principal or partner engaged in
the business 90 000

CLASSES AND CATEGORIES OF BUSINESS

ANNUAL FEE
(VATU)

REMARKS

(ii) "Turnover" means net interest income (interest income

plus for each non citizen, principal or partner engaged in the business 90 000

Category F4. Other Professional and Business Services 20 000

plus for each non citizen, principal or partner engaged in the business 90 000

'Turnover' means:

(a) net interest income (interest

CLASSES AND CATEGORIES OF BUSINESS	ANNUAL FEE (VATU)	REMARKS
	2.00%	income less interest expenses)
		(b) all other operational gross income including trustee, corporate, administration management fees and commissions plus all other operational charges made by the institution;
		where that operational gross income is charged at a rate of zero percent or an exempt supply under the Value Added Tax Act 1998

CLASSES AND CATEGORIES OF BUSINESS

ANNUAL FEE
(VATU)

REMARKS

CLASS **G**

CLASSES AND CATEGORIES OF BUSINESS	ANNUAL FEE (VATU)	REMARKS
CLASS I		
UTILITIES		
Category I1 Electricity Generation and Distribution Companies	20 000	
plus for each non-citizen employee, principal or partner, engaged in the business	90 000	
Category I 2. Telegraphic and Communication Services Companies and Providers	20 000	I2. Includes both national and international telephone, tele- graphic and telecommunica- tion services.
plus for each non citizen employee, principal or partner, engaged in the business	90 000	
Category I 3. Water Works, Distribution and Supply Companies and Providers	20 000	
plus for each non citizen employee, principal or partner, engaged in the business	tion servisnI2. aged 6.7(n)-5 coll7(n)-5ci6	

SCHEDULE 2

EXEMPTION FROM LICENCES

Teachers and professors in schools or institutions not conducted for profits

Artist and sculptors

Planters, farmers and dairymen, market and orchard growers, stock breeders, vegetable and fruit hawkers

Fishermen

Masters, officers and crews of merchant and fishing vessels unless they are engaged in business

Non-proprietary clubs, whose main purpose is cultural, sporting or educational and are not conducted for profit

Religious missions and ministers of religion

Exporters of any products from Vanuatu



REPUBLIC OF VANUATU

BILL FOR THE

BUSINESS LICENCE ACT NO. _____ OF 1998

Arrangement of Sections

1. Interpretation
2. Business licences
3. Licensing authority
4. Application for licences
5. Issue of licence
6. Foreign investors' entitlement to business licence
7. Issue of business licence - business listed in section 13
8. Issue of business licence - business not listed in section 13
9. Renewal of business licences
10. Transfer of business licences
11. Reasons for decision
12. Appeal
13. Minister to approve or refuse applications in certain cases
14. Licence to be displayed
15. Licences lost or destroyed
16. Power of search
17. Confidentiality of information
18. Fees
19. General provisions
20. Revenue from fees
21. Abatement of fees
22. Reduction of fees
23. Penalties
24. Cancellation of licence
25. Rules
26. Repeals
27. Commencement