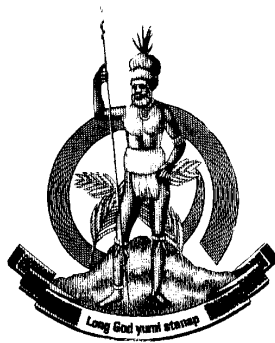


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- CUSTOMS (PROHIBITED EXPORT)
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REPUBLIC OF VANUATU

VANUATU QUALIFICATIONS AUTHORITY ACT NO. 1 OF 2014

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REPUBLIC OF VANUATU

Assent: 19/06/2014
Commencement: 23/06/2014

VANUATU QUALIFICATIONS AUTHORITY ACT NO. 1 OF 2014

An Act to establish the Vanuatu Qualifications Authority and to prescribe its functions, powers and duties.

Be it enacted by the President and Parliament as follows-

PART 1 PRELIMINARY

1 Interpretation

In this Act, unless a contrary intention appears:

accredited course means an education or training course accredited by the Authority under this Act;

approved form means a form approved by the Authority;

Authority means the Vanuatu Qualifications Authority established under section 2;

Board means the Vanuatu Qualifications Authority Board established under section 5;

Chief Executive Officer means the Chief Executive Officer of the Authority appointed under section 18;

course means a structured sequence of education and training designed to meet the requirements of a qualification;

Director General means the Director-General of the Ministry of Education and Training;

guidelines includes quality standards, standards, instructions, specifications, procedures, requirements and criteria;

learning outcome means any competency, end knowledge or skill achieved by a person as a result of an education or training activity;

Minister means the Minister or Ministers responsible for education;

post-school education and training means the educational level following the completion of a school providing a secondary education and includes universities as well as institutions that teach specific capacities of higher learning such as colleges, technical training institutes, community colleges, nursing schools, research laboratories and distance learning centres;

prescribed fee means a fee determined by the Authority;

provider means a person that intends to offer or is offering, post-school education and training in Vanuatu;

qualifications means certificates, diplomas or degrees awarded by a provider, having affirmed that a person has achieved the stated learning outcomes or competencies at the determined standard;

registered provider means a person that is registered to provide post-school education and training services under this Act;

scope of registration means the accredited courses a registered provider is approved to deliver;

TVET means Technical and Vocational Education and Training.

PART 2 VANUATU QUALIFICATIONS AUTHORITY

2 Establishment of Vanuatu Qualifications Authority

- (1) The Vanuatu Qualifications Authority is established.
- (2) The Vanuatu Qualifications Authority is to:
 - (a) have perpetual succession and a common seal; and
 - (b) be capable of suing and being sued in its corporate name.

3 Functions of the Authority

- (1) The Authority has the following functions:
 - (a) to provide policy advice to the Government on strategies and priorities for post-school education and training; and
 - (b) to monitor and report to the Government and the post-school education and training sector on the activities, resourcing, and overall performance of the sector in relation to national strategic goals for economic, social and cultural development; and
 - (c) to advise the Government and the post-school education and training sector on findings and implications arising from research, monitoring and evaluation conducted by the Authority or other agencies, bodies or persons; and
 - (d) to regulate the issuing of qualifications and ensure the maintenance of quality standards by all registered providers; and
 - (e) to co-ordinate and strengthen the post-school education and training sector, so as to better focus the sector on national development goals and to promote and develop articulation among programs; and
 - (f) to promote links and learning pathways between the school sector and the post-school education and training sector; and
 - (g) to promote different forms of learning including e-learning; and

- (h) to develop and facilitate partnerships between stakeholders in business, industry, professional, non-government and community organisations and post-school education and training organisations; and
- (i) to work with stakeholder groups to ensure appropriate standards and training requirements are established, in particular for trade, technician and professional occupations; and
- (j) to develop a Vanuatu qualifications framework for the post-school education and training sector, including the definition of terms to achieve and maintain the national and international credibility of qualifications and the good standing of post-school education and training organisations; and
- (k) to develop criteria and processes for the registration of all post-school education and training providers; and
- (l) to develop criteria and processes for the accreditation of courses delivered by registered providers; and
- (m) to promote quality assurance in non-formal education and training programs; and
- (n) to work collaboratively with registered providers, in particular to verify they are using quality management policies and processes that will enable their accredited courses to meet or exceed international standards, and that their accredited courses align with national priorities; and
- (o) to develop a system for recognising skills gained from prior learning and experience including non-formal, informal and traditional learning; and
- (p) to liaise with, advise and assist Professional Associations to develop and register their professional standards or criteria; and
- (q) to work with overseas Government agencies and other organisations to recognise overseas qualifications and to achieve international recognition for qualifications awarded in Vanuatu; and

- (r) to assure that post-school education and training in Vanuatu reaches and maintains international comparability; and
 - (s) to co-ordinate and conduct quality audit of registered providers and accredited courses; and
 - (t) to carry out research activities the Authority considers relevant for the performance of its functions; and
 - (u) to perform any other function as conferred on the Authority by this or any other Act.
- (2) The Authority, may consult with any other relevant person, State agency or Organisation, in carrying out its functions.

4 Powers of the Authority

- (1) The Authority has the power to do all things that are necessary or convenient to be done for or in connection with the performance of its functions under this Act.
- (2) Without limiting subsection (1), the Authority has the following powers:
- (a) to purchase, lease, sub-lease or otherwise acquire and hold any property, whether movable or immovable, required for the carrying out of its functions and dispose of any such property no longer required for such purposes; and
 - (b) to develop its land or other property and erect and maintain buildings or other structures; and
 - (c) to purchase, rent or erect houses for the use of its employees; and
 - (d) to enter into any contract with any person for the supply to or by it of any goods or services; and
 - (e) to produce, publish, issue, circulate and distribute, whether for payment or otherwise, such reports, papers, periodicals or other information as may be conducive to the carrying out of its functions; and

- (f) to utilise its property, whether movable or immovable, in such manner as it thinks fit, including the raising of loans by using such property as security for such loans; and
- (g) to do all things incidental to any of its powers and functions.

5 Establishment of Vanuatu Qualification Authority Board

The Board of the Vanuatu Qualification Authority is established.

6 Functions of the Board

The Board has the following functions:

- (a) to develop (with assistance from the Chief Executive Officer) and approve policies related to the functions of the Authority; and
- (b) to ensure that these policies are implemented by the Authority and followed by providers; and
- (c) to develop and approve terms and conditions of employment for the Authority; and
- (d) to develop and agree on the remuneration packages for the employee's of the Authority; and
- (e) to ensure that the provisions of this Act are implemented and enforced; and
- (f) to approve provider registration and course accreditation.

7 Composition of the Board

The Board consists of the following members appointed in writing by the Minister:

- (a) the Director General of the Ministry of Education and Training; and
- (b) the Director of the Department of Youth Development, Training and Sport; and

- (c) the Director of the Department of Strategic Policy, Planning and Aid Coordination; and
- (d) the Director of the Department of Finance and Economic Management; and
- (e) the Director General of the Ministry of Trade, Tourism, Commerce and Industry; and
- (f) the Director General of the Ministry of Agriculture, Quarantine, Livestock, Forestry and Fisheries; and
- (g) the Director of the Department of Woman's Affairs; and
- (h) a representative from the Prime Minister's Office nominated by the Prime Minister; and
- (i) Commissioner of Labour; and
- (j) Chairperson of the Vanuatu Hotels and Resorts Association; and
- (k) President of the National Council of the Chambers of Commerce and Industry of Vanuatu; and
- (l) a representative of the education and training providers nominated by the responsible Minister.

8 Chairperson and Deputy Chairperson

- (1) The Director General of the Ministry responsible for Education and Training is the Chairperson of the Board.
- (2) The Director responsible for Technical, Vocational Education and Training is the Deputy Chairperson of the Board.
- (3) A member appointed under paragraphs 7(h) and (l) is to hold office for 3 years and is eligible for reappointment.

9 Secretary of the Board

- (1) The Chief Executive Officer is to be the Secretary of the Board and has the following functions:

- (a) to convene meetings of the Board at the request of the Board; and
 - (b) to prepare and circulate agendas and issue papers for meetings of the Board; and
 - (c) to take minutes of meetings and circulate them at least 3 weeks after each meeting; and
 - (d) to coordinate and facilitate the implementation of the decisions of the Board; and
 - (e) to coordinate the presentation of monitoring reports on the implementation of decisions of previous meetings of the Board; and
 - (f) to ensure that meetings are held according to the approved schedule of the meetings; and
 - (g) to mobilise appropriate resources for the efficient implementation of all decisions of the Board; and
 - (h) to prepare annual work programmes of the Board; and
 - (i) such other functions that are conferred on the Secretary by this Act or any other Act.
- (2) To avoid doubt, the Secretary has no voting rights at a meeting of the Board.

10 Removal of member

- (1) A member appointed under paragraphs 7(h) and (l) may be removed as a member by the Minister, in consultation with the relevant Minister or the Prime Minister if he or she:
- (a) fails to attend three consecutive meetings of the Board without the permission of the Board; or
 - (b) is suspended from his or her profession for misconduct; or
 - (c) is incapable of performing his or her duties; or

- (d) is a member of Parliament or a member of a Provincial Government Council.
- (2) A member appointed under paragraph 7(h) or (l) may resign at any time by giving 2 weeks notice in writing to the Minister.

11 Alternate members

- (1) A member may authorise a senior officer from his or her Ministry or Department, agency, firm, society or corporation to attend meetings on his or her behalf as an alternate member.
- (2) The Chief Executive Officer of the Authority is to maintain a register of alternate members which is to be available for public inspection at the Authority's head office during normal business hours.
- (3) If a member of the Board is temporarily incapacitated and unable to attend a meeting of the Board, the alternate member may attend the meeting on his or her behalf.
- (4) An alternate member acting on behalf of a member of the Board is deemed to be a member of the Board.
- (5) The appointment of an alternate member, and any act done by the alternate member as a Board member is not to be:
 - (a) challenged in any proceedings on the ground that the occasion for the alternate's appointment had not arisen or had ceased; or
 - (b) a ground to invalidate the decisions of the Board made during any meeting at which such alternate purported to have acted as appointed.

12 Allowances

A member or an alternate member is to be paid a sitting allowance as prescribed by the Minister.

13 Meetings of the Board

- (1) The Board is to meet at least 4 times in a year and at a place and time to be determined by the Chairperson.

- (2) The Chairperson must, on the written request of at least 4 members, call a meeting of the Board (other than a meeting in subsection (1)), not more than 14 days after receiving the request.
- (3) The quorum for a meeting is 7 members present at the meeting.
- (4) Any matters arising at a meeting of the Board is to be decided by a majority of the members present and voting, and in the case of an equality of votes, the Chairperson is to have a casting vote.
- (5) Any order or direction of the Board is to be executed by the Chief Executive Officer.
- (6) The Board is to keep proper minutes of its meetings.
- (7) A meeting of the Board is to be presided by the Chairperson, or in the Chairperson's absence, by the Deputy Chairperson.
- (8) The Board may invite any person to assist it at any of its meetings.
- (9) To avoid doubt, the person invited under subsection (8) has no right to vote in a meeting of the Board.
- (10) Subject to this Act, the Board may determine and regulate its own procedures.

14 Disclosure of interest

- (1) A member of the Board who has any direct or indirect personal or financial interest in any matter coming before the Board must declare his or her interest in the matter.
- (2) A disclosure under subsection (1) is to be recorded in the minutes of the meeting of the Board and the member must not:
 - (a) be present during any deliberation of the Board with respect to that matter; or
 - (b) take part in any deliberations or vote of the Board with respect to that matter.

15 Industry Skills Councils and other committees

- (1) The Authority may establish an Industry Skills Council to advise the Authority in relation to particular industries.
- (2) The Authority may establish other committees.
- (3) The Authority is to determine the functions and procedures of the Industry Skills Council and the committees.
- (4) The establishment of Industry Skills Council and other committees under subsections (1) and (2) are to be published in the Gazette.
- (5) A member of the Industry Skills Council and a member of other committee appointed under this section are to be paid a sitting allowance as prescribed by the Authority.

16 Staff of the Authority

- (1) The Chief Executive Officer may employ any staff of the Authority as it considers necessary for the proper and efficient performance of the functions of the Authority.
- (2) The Board is to determine the terms and conditions of the employment of the staff of the Authority.
- (3) The appointment of a staff must follow a fair and transparent selection process and must be based on merit.
- (4) The Chief Executive Officer may, on the approval of the Board, produce the staff manual of the Authority.
- (5) The Chief Executive Officer may, according to the disciplinary procedures set out in the staff manual, suspend or dismiss a staff of the Authority.
- (6) The Chief Executive Officer is to inform the Board on matters involving the staff of the Authority including but not limited to:
 - (a) the recruitment of a staff; or
 - (b) the disciplinary action taken against a staff of the Authority.

17 Delegation of functions and powers

- (1) Subject to this section, the Board may delegate its functions and powers to the Chief Executive Officer or a member of the Board.
- (2) The Board cannot delegate the power of delegation.
- (3) A delegation made under subsection (1) is subject to instructions, guidelines or conditions imposed by the Board.
- (4) A delegation under this section does not prevent the exercise of any powers by the Board.
- (5) A delegation under this section may be revoked by the Authority at any time.

18 Chief Executive Officer

- (1) The Chief Executive Officer is to be appointed by the Board on such terms and conditions as may be determined by the Board.
- (2) The Chief Executive Officer is to hold office for a period of 5 years and is eligible for reappointment.
- (3) The Chief Executive Officer of the Authority is to perform such functions and exercise such powers as are conferred on him or her under this Act.
- (4) The Chief Executive Officer may, with the approval of the Board, delegate any functions or powers of the Chief Executive Officer to a staff of the Authority.
- (5) The Chief Executive Officer may be disqualified from his or her appointment if he or she:
 - (a) is or becomes a member of Parliament, a Provincial Government Council or a Municipal Council; or
 - (b) is bankrupt; or
 - (c) has been convicted of an offence and sentenced to a term of imprisonment of 6 months or more, whether or not it is a suspended sentence.

- (6) The Chief Executive Officer ceases to hold office if:
- (a) he or she is disqualified for appointment under subsection (5); or
 - (b) he or she becomes permanently incapable of performing his or her functions under this Act; or
 - (c) he or she resigns from his or her office by notice in writing addressed to the Board; or
 - (d) his or her appointment is terminated by the Board for a serious breach of the terms and conditions of his or her employment.
- (7) If there is a vacancy in the office of the Chief Executive Officer, the Board is to appoint a senior staff of the Authority, as the Acting Chief Executive Officer until the Chief Executive Officer is appointed.
- (8) The Chief Executive Officer is to have custody of the common seal which is to be affixed to a document pursuant to the Chief Executive Officer's delegation as determined by the Board from time to time.

PART 3 PROVINCIAL GOVERNMENT TRAINING BOARDS

19 Provincial Government Training Boards

- (1) The Authority is to establish a Provincial Government Training Board for each Provincial Government Region.
- (2) A Provincial Government Training Board is required to:
 - (a) convene multi-sectoral conferences, meetings and other opportunities to discuss TVET issues and concerns; and
 - (b) participate in meetings and discussions with the Authority.
- (3) A Provincial Government Training Board is to provide sectoral advice to its local TVET centre to ensure training delivery is in line with Provincial Government economic development demand.
- (4) The Authority is to determine, in writing, the responsibilities of a Board.

20 Members

- (1) A member of the Provincial Government Training Board is to be appointed in writing by the Authority.
- (2) The appointment of a member of a Provincial Government Training Board under subsection (1) is to be published in the Gazette.

21 Chairperson and Vice Chairperson

- (1) A Provincial Government Training Board is to elect its Chairperson and Vice Chairperson from amongst its members.
- (2) The Chairperson and Vice Chairperson are to hold office for a period of 2 years and may be re-elected.
- (3) A Provincial Government Training Board may:
 - (a) establish committees and refer to a committee, any matters for its consideration, inquiry or management; and

- (b) by resolution at a Provincial Government Training Board meeting, adopt rules of procedure of a committee.
- (4) A member of a Provincial Government Training Board appointed under section 20 is to be paid a sitting allowance prescribed by the Authority.

22 Secretary of a Provincial Government Training Board

- (1) The Provincial Government TVET Centre Manager is the Secretary of a Provincial Government Training Board.
- (2) The Secretary has the following functions:
 - (a) to keep and maintain a proper record of all the correspondences and minutes of the meetings of a Provincial Government Training Board; and
 - (b) to take minutes at all meetings of a Provincial Government Training Board; and
 - (c) to send minutes of all meetings to the Chief Executive officer.

23 Meetings

- (1) Any member of the Authority may attend Provincial Government Training Board meetings.
- (2) A Provincial Government Training Board may invite resource persons to participate in its meetings on specific subject matters which are critical to its discussions.

24 Provincial Government Training Board Guidelines

- (1) The Authority may issue guidelines concerning the membership, functions, meetings and management of a Provincial Government Training Board.
- (2) A Provincial Government Training Board must comply with any guideline issued under this section.

25 Reporting

A Provincial Government Training Board is to submit to the Authority a report of its meeting once every 3 months.

PART 4 REGISTRATION OF PROVIDERS

26 Application for registration

- (1) A provider must apply to the Authority for registration for the purposes of this Act.
- (2) A registered provider must apply to the Authority for the scope of its registration to be amended.
- (3) An application under subsections (1) and (2) must be in the approved form and accompanied by the prescribed fee.
- (4) The Authority may require the applicant to provide any further information as it considers necessary for the application.
- (5) A registered provider is to pay the prescribed annual registration fee during the period of its registration.

27 Authority to decide application for registration

- (1) On receiving an application for registration as a provider, the Authority may:
 - (a) register the applicant as a provider; or
 - (b) refuse to register the applicant as a provider.
- (2) On receiving an application from a registered provider for the scope of its registration to be amended, the Authority may:
 - (a) amend the scope of registration; or
 - (b) refuse to amend the scope of registration.
- (3) The Authority must consider the relevant guidelines issued by the Authority under section 56 when deciding an application.
- (4) In considering whether an applicant complies with any guideline issued by the Authority under section 56, the Authority may conduct a quality audit of the applicant.

- (5) Despite this section, the Authority may refuse to register an applicant as a provider if the Authority is satisfied that the applicant is not suitable to be registered as a provider.

- (6) If the Authority decides to grant an application for registration, the Authority must:
 - (a) register the applicant as a provider; and
 - (b) register the provider's scope of registration; and
 - (c) if the Authority imposes any conditions under section 28, register those conditions in relation to the provider; and
 - (d) issue the provider with a statement of registration.

- (7) If the Authority decides to grant an application for amendment of the scope of registration, the Authority must:
 - (a) amend the registered provider's scope of registration; and
 - (b) if the Authority makes any change to the conditions imposed on the registered provider, amend the register to reflect that change in the conditions; and
 - (c) provide the provider with an amended statement of registration.

28 Conditions of registration

- (1) The registration of a provider is subject to the following conditions:
 - (a) the provider must comply with any relevant guidelines issued by the Authority under section 56; and
 - (b) the provider must notify the Authority in writing of any substantial change to the provider's control, management or operation before, or as soon as practicable after, the change occurs; and
 - (c) the provider must submit to any Quality audit conducted by the Authority; and

- (d) the provider must not contravene any provision of this Act or any other Act; and
- (e) the provider must provide the Authority any information the Authority reasonably requires in relation to:
 - (i) the providers operations; or
 - (ii) a condition of its registration.
- (2) A provider must not contravene a condition of its registration.
- (3) Without limiting subsection (1), the Authority may prescribe further conditions.

29 Period of registration and renewal

- (1) A provider is registered for a period not exceeding 5 years.
- (2) Subsection (1) does not apply if the registration is cancelled earlier by the Authority.
- (3) The registration of a provider may be renewed by the Authority if:
 - (a) an application for renewal is made to the Authority not less than 3 months before the period of registration expires; or
 - (b) such other period as the Authority may, if it thinks fit, determine in any particular case, before the period of registration expires.
- (4) If an application for renewal of the registration of a provider is made under this section, the registration of a provider continues to have effect until such time the Authority decides on the application.
- (5) An application for renewal of registration as provider is to be accompanied by a prescribed fee.

30 Authority may amend, suspend or cancel registration

- (1) Subject to subsection (2), the Authority may:

- (a) amend the scope of registration or conditions of registration of a provider; or
 - (b) suspend the registration, or part of the scope of registration of a provider; or
 - (c) cancel the registration of a provider.
- (2) The Authority may take an action under subsection (1), if the provider:
- (a) requests the Authority to suspend or cancel its registration; or
 - (b) no longer provides the courses in respect of which it is registered; or
 - (c) ceases to exist; or
 - (d) fails to comply with any guideline issued by the Authority under section 56; or
 - (e) has financial arrangements or ethical standards that would not warrant the registration of the provider if it were now to apply for registration; or
 - (f) does not have the financial capacity to continue to meet its contractual obligations to its students, staff or other persons; or
 - (g) does not have the resources to competently provide the accredited courses in respect of which it is registered; or
 - (h) has contravened any provision of this Act or a condition of its registration under section 28; or
 - (i) does not adequately provide information when requested by the Authority.
- (3) The register is to be amended if the Authority:
- (a) amends the scope of registration or the registration conditions of a provider; or

- (b) suspends the registration, or part of the scope of registration, of a provider; or
- (c) cancels the registration of a provider.

31 Requirements relating to decisions of the Authority under this Part

- (1) If the Authority intends to make a decision under this Part, the Authority must:
 - (a) notify the provider concerned; and
 - (b) give the provider not more than 14 days, to make representations to the Authority in relation to the proposed decision.
- (2) A decision referred to under subsection (1) does not include a decision:
 - (a) to require a person or organisation to provide further information in relation to an application for registration; or
 - (b) to grant an application for registration unconditionally.
- (3) Paragraph (1)(b) does not apply if the Authority decides that it is in the public interest for the decision to have effect immediately.
- (4) In making a decision under this Part, the Authority must take into consideration:
 - (a) any guideline issued by the Authority under section 56; and
 - (b) any representation made under this section in relation to the proposed decision.
- (5) The Authority must, within 1 month from the date on which a decision is made, serve a written notice of the decision with the reasons for the decision to the provider concerned.

32 Only registered providers to deliver post-school education and training

- (1) A person must not deliver post-school education and training unless he or she is registered as a provider under this Act.

- (2) A person who fails to comply with subsection (1) commits an offence punishable on conviction by a term of imprisonment of not more than 3 years, or by a fine not exceeding VT10,000,000, or both.

PART 5 REGISTRATION AND ACCREDITATION OF POST SCHOOL EDUCATION AND TRAINING COURSES

33 Interpretation

For the purposes of this Part, unless the context otherwise requires,

course or **courses** means post school education and training course.

34 Register of accredited courses

- (1) The Authority is to maintain a register of accredited courses.
- (2) The register is to include information in relation to each accredited course as determined by the Authority.
- (3) The Authority is to remove from the register any course that ceases to be an accredited course.
- (4) The Authority may publish annually, a copy of the registered accredited course in its annual report.
- (5) A person who:
 - (a) provides any information misrepresenting the purpose, title, outcomes or level of a course accredited by the Authority; or
 - (b) falsely or fraudulently claims, whether verbally or in writing, that a course has been accredited by the Authority,

commits an offence punishable on conviction by imprisonment of a term not exceeding 3 years, or by a fine not exceeding VT7,000,000, or both.

35 Application for course accreditation

- (1) A registered provider is to apply to the Authority for the accreditation of a course.

- (2) An application under this section is to be in the approved form and accompanied by the prescribed fee.
- (3) The Authority may require the applicant to provide any further information it considers relevant to the application.

36 Accreditation courses by the Authority

- (1) If the Authority receives an application to have a course accredited, the Authority may:
 - (a) accredit the course; or
 - (b) refuse to accredit the course.
- (2) In deciding whether to approve the application for a course, the Authority must take into consideration the guidelines for course accreditation, the Vanuatu Qualifications Framework or any regulations made under this Act.
- (3) The Authority may refuse to accredit a course if it is satisfied that:
 - (a) the course does not meet the standards of accreditation as required and set by the Authority; or
 - (b) the course does not comply with the registration and accreditation guidelines.
- (4) If the Authority decides to accredit a course, it must notify the applicant and register the course as an accredited course.

37 Accreditation subject to conditions

- (1) A course accredited by the Authority may be subject to conditions imposed by the Authority at the time the Authority accredits the course or at any later time.
- (2) Without limiting subsection (1), the Authority may require that specific information be provided to the Authority within a specified period.

38 Cancellation of accreditation

- (1) The Authority may cancel a course that has been accredited by the Authority if:
- (a) the course no longer meets the standards of accreditation as required and set by the Authority to warrant accreditation; or
 - (b) the course no longer complies with the accreditation guidelines or any regulation made under this Act;
 - (c) the registered provider:
 - (i) requests the cancellation; or
 - (ii) no longer exists; or
 - (iii) has contravened a condition of the accreditation; or
 - (iv) no longer maintains the standards of accreditation required by the Authority; or
 - (v) has contravened the Act or any Regulations made under the Act.
- (2) If the Authority cancels the accreditation of a course for any of the reasons under subsection (1), the Authority must amend the Register accordingly.

39 Requirements relating to decisions of the Authority

- (1) If the Authority does not accredit a course, or imposes a condition on an accredited course or cancels an accredited course (other than at the request of the registered provider), it must:
- (a) notify the applicant or the registered provider of the decision within 28 days of making the decision and set out the reasons for the decision; and
 - (b) give the person reasonable time to make representations to the Authority in relation to the decision.

- (2) Paragraph 1(b) does not apply if the Authority is of the opinion that it is in the public interest for the decision to have effect immediately.
- (3) In making a decision under subsection (1), the Authority must take into consideration the accreditation guidelines and any representations made in relation to the decision.

40 Registered providers to deliver accredited courses

- (1) A provider must not deliver an accredited course unless it is a registered provider.
- (2) A person who contravenes subsection (1), commits an offence punishable on conviction by a term of imprisonment of not more than 1 year, or by a fine not exceeding VT10,000,000, or both.

41 Period of accreditation and renewal

- (1) Unless earlier cancelled, the accreditation of a course accredited by the Authority under this Part is valid for a period specified by the Authority which must not exceed 5 years.
- (2) The application for the renewal of an accredited course must be made not less than 6 months before the expiry of the accreditation or such other period as the Authority determines.
- (3) If an application for renewal is not made within the period specified in subsection (2), the Authority is to remove the course from the registry on the expiry of the accreditation of that course.
- (4) If an application is made within the period specified in subsection (2), the accreditation of that course continues to have effect until such time the Authority decides on the application.
- (5) The application for the renewal of an accreditation must be accompanied by a fee prescribed by the Authority.
- (5) The Authority must not renew the accreditation of a course unless it is satisfied that the course continues to meet the accreditation guidelines and standards.

42 Registered provider to notify Authority of changes

- (1) A registered provider must, within 1 month after making any changes to an accredited course, inform the Authority in writing of the changes.
- (2) A registered provider who fails to comply with subsection (1) commits an offence and is liable on conviction to a fine not exceeding VT6,000,000.

43 Providing false information about a course

A registered provider who provides false or misleading information about a course to the Authority commits an offence and is liable on conviction to a fine not exceeding VT8,000,000.

44 Record of individual achievement

- (1) The Authority may maintain a record of:
 - (a) accredited courses, including components of such courses; and
 - (b) learning outcomes or units of competency undertaken by a person in Vanuatu.
- (2) A person who wishes to obtain information from the record may request the Authority to issue a confirmation relating to the record of achievement of that person.
- (3) The Authority may, after receiving a request under subsection (2), issue a confirmation relating to the record of achievement of that person if:
 - (a) upon being satisfied that it is appropriate to do so in the circumstances; and
 - (b) it has received the prescribed fee.
- (4) A person who without lawful excuse, tampers with a:
 - (a) record of achievement kept by the Authority under this Act; or L
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 - (b) certificate issued by the Authority under this Act,

so as to mislead or provide fraudulent information relating to a qualification awarded to a person, commits an offence punishable on conviction by a term of imprisonment of not more than 5 years, or by a fine not exceeding VT8,000,000, or both.

45 Vanuatu Qualifications Framework

- (1) The Authority is to develop the Vanuatu Qualifications Framework.
- (2) The Vanuatu Qualifications Framework:
 - (a) is a classification structure indicating levels and types of quality assured post-school education and training qualifications; and
 - (b) may incorporate the current Vanuatu TVET Qualifications Framework and include other post-school education and training qualifications; and
 - (c) may categorise qualifications as determined by the Authority or as prescribed by a Government policy.

PART 6 COURSES FOR OVERSEAS STUDENTS

46 Registration to provide courses to overseas students

- (1) A person or organisation intending to provide courses for overseas students is to apply to the Authority for registration as a provider for overseas students.
- (2) An application to provide courses for overseas students is to be in an approved form and be accompanied by the prescribed fee.
- (3) The Authority may require an applicant to provide further information in relation to the application.

47 Conditions for registration

- (1) The Authority may grant a registration unconditionally or subject to such conditions as may be imposed when the approval is granted or at any later time as the Authority determines.
- (2) The conditions imposed under subsection (1) may include conditions that:
 - (a) specify the period of the registration; or
 - (b) specify the premises in or from which the registration relates; or
 - (c) require the payment (including periodic payment while the registration remains in force) of any prescribed fees to the Authority in respect of the registration.

48 Authority may refuse application

- (1) The Authority may refuse an application for registration to provide courses for overseas students on one or more of the following grounds:
 - (a) the applicant has not provided further information in relation to the application as required by the Authority; or
 - (b) the applicant does not have the resources to provide the courses competently; or

- (c) the applicant's financial arrangements or ethical standards do not warrant the registration of the applicant; or
- (d) the applicant does not have sufficient resources to ensure that it complies with the guidelines issued by the Authority under section 56.

49 Authority may amend, suspend or cancel registration

- (1) The Authority may amend, suspend or cancel the registration of a provider if:
 - (a) the provider requests the Authority to cancel or suspend the registration; or
 - (b) the provider no longer provides courses for overseas students; or
 - (c) the provider ceases to exist; or
 - (d) the provider has failed to comply with a guideline issued by the Authority under section 56; or
 - (e) the provider's financial arrangements or ethical standards may not warrant the registration of the provider if the provider applies for registration; or
 - (f) a reasonable doubt exists on the training provider's financial capacity to continue to meet its contractual obligations to its students, staff or other persons; or
 - (g) the provider does not have the resources to provide the courses competently; or
 - (h) the provider has engaged in misleading or deceptive conduct in connection with the recruitment of intending overseas students; or
 - (i) the provider has contravened a condition of registration under section 47; or
 - (j) the provider has contravened this Act or any regulations made under this Act.

50 Period of registration and renewal

- (1) The registration of a provider for overseas students by the Authority is to have effect for a period not exceeding 5 years.
- (2) Subsection (1) does not apply if the registration is cancelled earlier by the Authority.
- (3) The registration of a provider may be renewed by the Authority if:
 - (a) an application for renewal is made to the Authority not less than 3 months prior to the expiry of the registration; or
 - (b) such other period as the Authority determines.
- (4) If an application for renewal of the registration of a provider for overseas students is made under this section, the registration of that provider continues to have effect until such time the Authority determines the application.

51 Requirements on decisions of the Authority under this Part

- (1) If the Authority intends to make a decision under this Part, other than the decision to require a person or organisation to provide further information in relation to an application for registration to the Authority, the Authority must, prior to making the decision:
 - (a) notify the person concerned of the proposed decision; and
 - (b) give the person not more than 14 days, to make representations to the Authority in relation to the proposed decision.
- (2) Paragraph 1(b) does not apply if the Authority is of the opinion that it is in the public interest for the decision to take effect immediately.
- (3) In making a decision under this Part, the Authority must take into consideration:
 - (a) any guideline issued under section 56; and
 - (b) any representation made under this section in relation to the proposed decision.

- (4) The Authority must, within 1 month from the date on which a decision is made, serve a written notice of the decision with the reasons for the decision to the person concerned.

52 Security bonds

- (1) A person applying to the Authority for registration to provide courses for overseas students must also submit evidence of a security bond to the Authority.
- (2) The security bond referred to in subsection (1) must be an amount prescribed by the Authority and is to be in:
- (a) a form of a guarantee bond; or
 - (b) a form of a letter of credit; or
 - (c) any other form deemed acceptable by the Authority.
- (3) The security bond must be sufficient to cover the costs of course fees paid by the overseas students, and the reasonable costs of repatriating the overseas students to their respective countries.
- (4) If the Authority has reasonable cause to believe that a security bond provided by the applicant under this section is no longer sufficient, the Authority may at any time require the applicant to provide an additional security bond.
- (5) If an amount of security bond is not sufficient to repatriate overseas students under this section, the Authority is not allowed to make any additional cost payment to repatriate the overseas students.
- (6) If an applicant is registered by the Authority to provide courses for overseas students, the applicant must ensure that a security bond is in force for as long as the overseas students remain in Vanuatu.

53 Forfeiture of security bond

- (1) The Authority may forfeit the security bond of a provider of to overseas students if the provider is unable to, or refuses to:
- (a) refund the student's fees; or

- (b) repatriate the students to their respective countries in circumstances where a refunded or repatriation are reasonably required.

- (2) The Authority is to prescribe an amount to be distributed to a student and if an amount of a student fee is to be refunded and his or her repatriation costs exceeds the amount of the security bond, the Authority is to distribute the security bond on a pro-rata basis.

54 Offence

A person, who, not being a registered provider for overseas students, provides courses to overseas students, commits an offence punishable on conviction by a term of imprisonment of not more than 3 years, or by a fine not exceeding VT7,000,000, or both.

PART 7 USE OF PROTECTED TERMS

55 Applications for consent for use of protected terms

- (1) Subject to subsection (2), a registered provider must apply to the Authority for its consent to use the term “**certificate**”, “**diploma**”, “**degree**”, “**bachelors degree**”, “**doctoral or doctorate degree**”, “**masters degree**”, “**college**”, “**institute**”, “**university**”, “**Vanuatu**”, or “**national**”, including translations of these terms in other languages, if the provider intends to use any of these words for the purposes of naming:
 - (a) the provider; or
 - (b) a qualification to be awarded by the provider.
- (2) If a provider is established by an Act of Parliament, the provider is not required to seek consent for the purpose of naming the provider using a term under this section.
- (3) The Authority may, upon receiving an application under subsection (1) and upon payment of the prescribed fee, grant, withdraw or suspend its consent.
- (4) A person who contravenes subsection (1), commits an offence punishable on conviction by a term of imprisonment of not more than 2 years, or by a fine not exceeding VT1,000,000, or both.

PART 8 GUIDELINES AND QUALITY AUDITS

56 Authority may issue guidelines

- (1) The Authority may from time to time issue guidelines in relation to any of the following matters:
 - (a) the registration of providers;
 - (b) the accreditation of courses;
 - (c) the quality audit of providers and courses;
 - (d) the registration to provide courses for overseas students;
 - (e) work attachment, experience, or internship for students;
 - (f) the recognition of overseas qualifications;
 - (g) the recognition of prior learning and experience;
 - (h) cross border post school-education and training;
 - (i) the assessment for qualifications including quality assurance of assessment.

- (2) A guideline issued under subsection (1) may relate to all or any of the following matters:
 - (a) registration and accreditation requirements and procedures;
 - (b) course programs and classification;
 - (c) qualifications required to be held or standards required to be met by trainers engaged by registered providers to deliver qualifications;
 - (d) resources required in providing courses in a competent manner;

- (e) financial requirements and ethical standards to be satisfied by providers;
 - (f) conditions for a security bond;
 - (g) quality audit procedure.
- (3) Registered providers must comply with any guideline issued under this section.
- (4) A registered provider who contravenes subsection (3) is liable to pay a fine prescribed by the Authority or have its registration status suspended or cancelled, or both a fine and suspension or cancellation.
- (5) A copy of a guideline issued under this section is to be kept at the office of the Authority and is to be made available for public inspection or free of charge.

57 Quality audits

- (1) The Authority may conduct a quality audit of a registered provider or accredited course at any time.
- (2) The purpose of conducting an audit under this section is to:
- (a) evaluate a provider's effectiveness against a guideline issued by the Authority under section 56; and
 - (b) monitor the provider to ensure that it continues to comply with the guidelines.
- (3) Any costs incurred by the Authority for carrying out a quality audit under subsection (1) is to be incurred by the provider and is a debt due to the Authority if the provider fails to make payment within 2 months after the completion of the audit.

58 Authority may appoint auditors

The Authority may appoint a suitably qualified person to be an auditor for the purpose of this Act.

59 Powers of auditor

- (1) The auditor may, for the purpose of conducting a quality audit or ascertaining whether or not a provision of this Act has been complied with, at all reasonable times:
 - (a) enter the premises of a training provider; and
 - (b) inspect the premises, inspect any documents found on the premises and the conduct of any course provided at the premises; and
 - (c) remove or make copies of any such document found on the premises.
- (2) To avoid doubt, the powers of an auditor under subsection (1) may be exercised only during the ordinary operating hours of the premises of the registered provider concerned.
- (3) An auditor when exercising his or her powers must:
 - (a) on the demand of a person, produce to that person a document establishing his or her identity as an auditor; and
 - (b) avoid as far as practicable, carry out any act that is likely to impede the conduct of any course at the premises.
- (4) A person who assaults, delays, obstructs, hinders or impedes an auditor in the performance of his or her duties under this Act, commits an offence punishable on conviction by imprisonment for a term of not more than 2 years, or by a fine not exceeding VT5,000,000, or both.

60 Compliance with audit report

If the Authority, upon receiving a report made by an auditor, identifies that a provider has not complied with the prescribed requirements for maintaining its registration status and accreditation of its courses, it must issue a compliance notice under subsection 62(1) to the provider to rectify the non-compliance.

61 Power to obtain information

- (1) For the purposes of exercising its functions and powers under this Act, the Authority may direct a registered provider by way of a notice, to provide information relating to any person.

- (2) A provider is to collect and store information in a format specified by the Authority.
- (3) Despite anything in this Act, a registered provider must on an annual basis and no later than 15 December of each year, submit all information for the previous year as prescribed by regulations, to the Authority.
- (4) A person who obtains any information for the Authority under this section must take reasonable steps to ensure that the information is kept in such a manner that is:
 - (a) confidential; and
 - (b) used only for the purposes of performing the functions of the Authority.
- (5) A person who contravenes this section commits an offence punishable on conviction by a term of imprisonment of not more than 1 year, or by a fine not exceeding VT3,000,000, or both.

PART 9 COMPLIANCE AND PENALTIES

62 Compliance notices

- (1) The Authority is to issue a compliance notice to a provider if the Authority is satisfied that the provider is not complying with any prescribed requirements for maintaining its registration status and accreditation of its courses.
- (2) Subject to section 69, the Authority may suspend or cancel the accreditation of courses or the registration of a provider if the provider fails to comply with a compliance notice.
- (3) This section does not prevent a provider from re-applying for registration or re-accreditation of its courses, once registration or accreditation requirements have been complied with.

63 Penalty notices

- (1) The Authority is to serve a penalty notice to a person if it appears to the Authority that a person has committed an offence under this Act.
- (2) A penalty notice has the effect of when a person served with a penalty notice does not want to have a matter determined by a Court, the person must pay to the Authority the amount of a penalty within a time as specified in the penalty notice.
- (3) The amount of a penalty imposed under this section must not exceed the maximum amount of the penalty imposed under the Act.
- (4) If the amount of a penalty imposed under this section for an alleged offence is paid, a person is not liable to any further proceedings for the alleged offence.
- (5) A penalty notice may be served personally, by post or electronically.
- (6) This section does not limit the operation of any other provision of this Act or any other Act relating to proceedings that may be taken in respect of offences.

PART 10 FINANCIAL ARRANGEMENTS AND REPORTING

64 Funds of the Authority

- (1) The funds of the Authority consists of:
 - (a) the prescribed fees, charges and penalties payable under this Act or any other Act or regulation;
 - (b) funds appropriated by the Government;
 - (c) any other funds received by the Authority from any other source.
- (2) The Government must ensure there is a sufficient budget allocated to the Authority to enable the Authority to perform its functions efficiently, effectively and professionally.
- (3) Subject to the express authorisation of the Director General of the Ministry of Finance and Economic Management under subsection 43(4) of the Public Finance and Economic Management Act [CAP 244], the Board may open and maintain such bank accounts on behalf of the Authority as it considers necessary.
- (4) The funds of the Authority are to be deposited into its bank accounts in the manner determined by the Authority.
- (5) Subject to the Public Finance and Economic Management Act [CAP 244] and the Government policy, the Authority may invest any of its monies that are not immediately required for the discharge of its functions.
- (6) The Authority may from time to time determine the:
 - (a) types of fees payable; and
 - (b) rate at which the fees are to be calculated; and
 - (c) amounts of such fees, in respect of any matter under this Act.

65 Accounts and audit

- (1) The Authority must keep proper accounting records in relation to its financial affairs, and must have the annual statements of account prepared for each financial year.
- (2) The Authority's accounts for each financial year must be audited within 3 months after the end of the financial year by the Auditor General or a person authorised by the Auditor General.

66 Annual report

- (1) The Authority must, before 31 March of each year, give a report to the Minister relating to the operations of the Authority for the preceding year.
- (2) The Minister must table a copy of the report in the Parliament at the next sitting of the Parliament after receiving the report.

PART 11 MISCELLANEOUS

67 Disclosure of information

- (1) The Authority may disclose to the public, any information the Authority has on or that arises from:
 - (a) an application by a person under this Act; or
 - (b) the registration of a provider or course; or
 - (c) any action taken by the Authority in relation to a provider or course; or
 - (d) a quality audit conducted by the Authority; or
 - (e) any report prepared by or for the Authority.
- (2) In making a decision to release information to the public under subsection (1), the Authority must carefully consider any commercially sensitive or confidential content of the relevant information.

68 Evidence

A certificate signed by the Chief Executive Officer purporting to record a determination, resolution or decision of the Authority is proof of the making of that determination, resolution or decision by the Authority unless the contrary intention is established.

69 Appeal

- (1) A provider may apply in writing to the Minister for a review of any decision made by the Authority under this Act within 14 days after receiving the decision.
- (2) In determining an appeal under this section the Minister must consider all available information concerning the matter, including the Authority's file, relevant correspondence and reports and any representations made by the provider.

- (3) The Minister may appoint a competent person with no previous involvement in the matter to make any enquiries or conduct any investigation the Minister may require and to report back to the Minister.
- (4) The Minister in determining an appeal under this section is to consider any report made under subsection (3).
- (5) The Minister may confirm, vary, or quash a decision of the Authority.

70 Protection from liability

- (1) A person is not liable to any civil or criminal action or other proceeding for damages for or in respect of an act done or omitted to be done in good faith in the exercise or performance, or purported exercise or performance of a power, function or duty conferred on him or her by this Act.
- (2) The legal costs of defending any action instituted against the Authority, the Chief Executive Officer or any Board member, employee or agent of the Authority or any person acting pursuant to any authority conferred by the Authority or the Chief Executive Officer, as the case may be, is to be incurred by the Authority.

71 Regulations

The Minister may make regulations not inconsistent with this Act, prescribing matters required or permitted by this Act to be prescribed or necessary or convenient to be prescribed for carrying out or giving effect to this Act.

72 Repeal

The Vanuatu National Training Council Act [CAP 255] is repealed.

73 Savings and transitional

- (1) A reference in any Act or any document or Act to the Vanuatu National Training Council Act [CAP 255] made before the commencement of this Act is taken to be a reference to this Act, on and after the commencement of this Act.
- (2) An authorisation, registration, appointment, approval, cancellation, suspension, condition, declaration, petition, permit, prohibition, exemption, order, advice, direction or act of power made under the Vanuatu National Training Council Act [CAP 255] before the

commencement of this Act is to continue and have effect under this Act, on and after the commencement of this Act, until such time it is altered, amended, or cancelled by this Act.

- (3) A person who was employed under the Vanuatu National Training Council Act [CAP 255] immediately before the commencement of this Act continues to be employed as an employee of the Authority under this Act, on and after that commencement, on the same terms and conditions of service with accrued entitlements.
- (4) Despite the provisions of this Act, an application for registration or accreditation and other matters arising under the provisions of the Vanuatu National Training Council Act [CAP 255] that is not determined on the commencement of this Act, is to be determined under the provisions of the Vanuatu National Training Council Act [CAP 255].
- (5) An advisory body or committee which is established before the commencement of this Act is deemed to be an advisory body or committee established by the Minister under this Act.

74 Commencement

This Act commences on the day on which it is published in the Gazette.