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Industrial Development Act 2014

REPUBLIC OF VANUATU INDUSTRIAL DEVELOPMENT ACT NO. 19 OF 2014

Arrangement of Sections

REPUBLIC OF VANUATU Assent: 19/06/2014 Commencement: 02/07/2014 INDUSTRIAL DEVELOPMENT ACT NO. 19 OF 2014

An Act to make provision for the implementation of the National Industrial Policy to promote, facilitate and support the growth of sustainable and value added industry in Vanuatu and to provide for related matters.

Be it enacted by the President and Parliament as follows-

PART 1 PRELIMINARY MATTERS

1 Interpretation

In this Act, unless the context otherwise requires:

Department means the Department of Industry established by the Public Service Commission;

Development Programmes means programmes designed for any industrial undertaking or international trading services undertakings;

Director means the Director of the Department of Industry;

industry includes industrial undertakings and internationally traded services undertakings;

industrial undertaking means a manufacturing undertaking producing secondary products by adding value to raw materials;

internationally traded services undertaking means an undertaking in services other than tourism and financial services, which provide services capable of being exported;

Minister means the Minister responsible for industrial development;

National Industrial Policy means the official Government policy document formulated by the Department, which outlines strategic efforts to encourage the development and growth of the industry;

primary products means any product of the farm, forest or fishery, or any mineral, in its natural form or which has undergone such basic preparation as is customarily required, including washing, drying and packaging, to prepare it for sale;

value-added means increasing the value of manufactured output either by the expansion of the utilisation of manufacturing capacity or by the additional processing of products, including primary products.

PART 2 FUNCTIONS OF THE DEPARTMENT

2 Functions of the Department

The Department has the following functions:

- (a) to implement the National Industrial Policy of Vanuatu; and
- (b) to advise the Minister on all matters relating to the National Industrial Policy in Vanuatu, including the review and revision of the National Industrial Policy of Vanuatu; and
- (c) to advise the Minister on the development and maintenance of a regulatory and business environment contributing to the growth and competitiveness of industries in Vanuatu; and
- (d) to liaise with all relevant bodies in and outside Vanuatu in formulating its advise under paragraph (c); and
- (e) to assess and evaluate all Programmes of support through Government incentives for industries in Vanuatu; and
- (f) to carry out researches, surveys and studies relating to the National Industrial Policy of Vanuatu; and
- (g) to design Programmes and activities to promote, facilitate and support the growth of sustainable and value-added manufacturing and internationally traded services undertakings in Vanuatu; and
- (h) to assess and approve new industrial projects; and
- (i) to formulate and protect policies relating to infant industries; and
- (j) to issue industrial permits in accordance with section 4; and

(k) to administer the Industrial Development Fund established under section 11.

3 Review of the National Industrial Policy

(1) The Department is to carry out a review of the National Industrial Policy every 5 years and may make proposals to the Minister for any necessary changes to the National Industrial Policy.

(2) Any change to be made to the National Industrial Policy must be approved by the Council of Ministers.

PART 3 POWERS OF THE DEPARTMENT

4 Industrial Permit

(1) A person operating an industrial undertaking and internationally traded services undertaking in Vanuatu must apply in the prescribed form and pay the prescribed fee for an industrial permit in respect of the activities and operations of the industrial undertaking and internationally traded services undertaking in Vanuatu.

(2) The Director is to issue industrial permits in accordance with this Act.

(3) The Director is to issue an industrial permit within 15 working days from the receipt of the application.

(4) An industrial permit is valid for a period of 5 years and may be renewed.

(5) It is an offence for a person to operate any industrial undertaking and internationally traded services undertaking in Vanuatu without a valid industrial permit.

(6) A person who contravenes subsection (5) is guilty of an offence punishable on conviction:

(a) in the case of an individual- by a fine not exceeding VT600,000 or imprisonment for a term not exceeding 1 year or both; or

(b) in the case of a body corporate- by a fine not exceeding VT1,000,000.

5 Suspension of an industrial permit

(1) The Director may suspend in writing an industrial permit if he or she is satisfied that the holder of an industrial permit has breached a term or condition of the industrial permit.

(2) The Director must, by written notice, inform the holder of the industrial permit of the term or condition of the industrial permit that has been breached and is to request the holder of the industrial permit to comply with the relevant term or condition within a period specified by the Director in the notice.

(3) If the holder of the industrial permit complies with the term or condition within the period specified by the Director in the notice issued under subsection (2), the Director must remove the suspension of the industrial permit.

6 Cancellation of an industrial permit

If the holder of an industrial permit fails to comply with the relevant term or condition of the industrial permit within the period specified in the notice under subsection 5(2), the Director must cancel the industrial permit in writing and must inform the holder of the industrial permit within 3 days of cancelling the industrial permit.

7 Appointment of other person to perform specific tasks on behalf of the Department

The Director may appoint a suitable person to perform specific tasks on behalf of the Department to ensure the National Industrial Policy is being implemented and the holders of industrial permit are complying with the terms and conditions of the industrial permit.

8 Inspection of industries

The Director, an officer of the Department or a person appointed under section 7 may enter a premises at any reasonable time for the following purposes:

(a) to inspect the premises and prescribed records relating to the operation of an industry that has an industrial permit; or

(b) to ensure that the holder of an industrial permit is complying with the terms and conditions of an industrial permit.

PART 4 INTERACTION WITH OTHER GOVERNMENT BODIES AND PRIVATE SECTOR

9 Consultation with other Government bodies and the private sector

The Director, in ensuring the implementation and review of the National Industrial Policy, is to carry out consultations with the relevant Government bodies and the private sector by:

- (a) conducting workshops, conferences and meetings with the public and private sector organisations and their representatives; or
- (b) conducting surveys and forming focus groups to gather and analyse opinions and to report on the results of the survey; or
- (c) publishing papers, studies, pamphlets and other materials, in paper or electronic form; or
- (d) the use of public media.

10 Coordination of National Industrial Policy

(1) The Director, in exercising his or her functions, is to ensure the National Industrial Policy and related Programmes do not conflict with or duplicate the policies and Programmes of other public bodies in Vanuatu, and in particular such policies and Programmes directed at primary product sectors or other specific sectors.

(2) The Minister may make Regulations for the continuous coordination of the National Industrial Policy and its related Programmes.

(3) If the Director is of the view that the policies or Programmes of another public body conflicts with or duplicates the National Industrial Policy and its related Programmes, the Director must provide a written report on the matter to the Minister and the Minister is to present the report to the Council of Ministers for a resolution to remove the conflict.

PART 5 FINANCIAL PROVISIONS

11 The Industrial Development Fund

(1) The Industrial Development Fund is established.

(2) The Industrial Development Fund is to be administered by the Director.

(3) The Industrial Development Fund consists of the following:

(a) monies appropriated to it by Parliament; and

(b) international donor funds.

(4) The Industrial Development Fund is to be used for the following purposes:

(a) continuing industrial policy research and project monitoring by the Department; and

(b) contributing to financing Industrial Development Programmes to be implemented in accordance with section 13.

(5) All monies of the Industrial Development Fund are to be deposited into a bank account in Vanuatu, which is to be named as *the Industrial Development Fund Account*, upon the approval of the Director General of the Ministry of Finance and Economic Management in accordance with subsection 43(4) of the [Public Finance and Economic Management Act](#) [CAP 244].

12 Establishment and administration of selected export levies

(1) The Minister may prescribe, on the recommendation of the Director, export levies up to 40% on primary products, for a period not exceeding 5 years.

(2) In making a recommendation under subsection (1), the Director is to consider market studies to be undertaken by the Department or any other Government body or the private sector, to assess the capability of the domestic industry to add value to specific primary products by means of manufacturing processes together with indications of the under-supply of these products to the domestic industry.

(3) All levies are to be collected by the Department of Customs and Inland Revenue and are to be paid into the Industrial Development Fund.

PART 6 INDUSTRIAL DEVELOPMENT PROGRAMMES

13 Industrial Development Programmes

(1) The Industrial Development Programmes are to be developed by the Department with regards to industrial developments after consultation with other relevant Government bodies and the private sector.

(2) The Development Programmes are to focus on the development needs of industry and have particular regard to international best practices in the measures designed to support industry.

(3) Notwithstanding subsections (1) and (2), Development Programmes may include:

(a) the provision of targeted support for investment in fixed assets for the purposes of establishing or expanding an industrial undertaking or an internationally traded services undertaking; and

(b) the provision of business advisory supports to an industrial undertaking or an internationally traded services undertaking; and

(c) the provision of targeted advisory support for the commencement of initial export activities or the expansion of existing export activities of an industrial undertaking or an internationally traded services undertaking; and

(d) assistance for an industrial undertaking or an internationally traded services undertaking to access finance on reasonable terms for the purposes of expanding its commercial operations; and

(e) support for the creation of indigenous brands for manufactured products; and

(f) support for the adoption of internationally recognised quality standards for manufactured products;

and

(g) support for innovation in respect of manufactured products and energy efficiency across the industrial sector.

(4) A Development Program is to be implemented by the Department or by another public body as may be prescribed by the Minister after consultation with the Director.

(5) The Minister may prescribe by Order, the terms and conditions for different types of support, including eligibility criteria and the procedures to be carried out by the Department or another designated public body for the selection of projects to be supported.

(6) All support provided to the industry under Development Programmes are to:

(a) apply only to new activities; and

(b) be justified in terms of their incentive effect; and

(c) be subject to pre-determined and clearly verifiable indicators and criteria regarding the results to be achieved; and

(d) operate for a sufficient but limited time period to achieve the intended results; and

(e) be continuously monitored by the Department of Industry; and

(f) be subject to cancellation at any time where the Director is satisfied that the intended results of the support will not or cannot be achieved.

(7) Industrial undertakings and internationally traded services undertakings may only participate in or benefit from approved Development Programmes if they hold a valid industrial permit.

(8) The Director, from time to time or at the request of the Minister, is to report to the Minister on matters regarding the Development Programmes.

(9) The Director must provide a report on the Development Programmes for the previous year to the Minister within 3 months after the end of each year.

PART 7 MISCELLANEOUS PROVISIONS

14 Annual Reports

The holder of an industrial permit is to provide an annual report to the Department within 4 months after the end of each year.

15 Immunity

(1) A civil or criminal proceedings must not be brought against the Director or an officer of the Department including a suitable person under section 7, over anything done or omitted to be done in good faith by him or her in the execution or purported executions of his or her functions and powers under this Act.

(2) Subsection (1) does not apply if the Director or an officer of the Department including a suitable person under section 7 acted in bad faith in executing his or her functions or powers or in dereliction of his or her functions and powers under this Act.

16 Regulations

The Minister may, on the advice of the Director, make Regulations:

- (a) required or permitted by this Act to be prescribed; or
- (b) necessary or convenient to be prescribed for carrying out or giving effect to this Act.

17 Transitional Provision

(1) Within 6 months after the commencement of this Act, a person operating an industrial undertaking and internationally traded services undertaking which is registered, certified or licensed and is actively trading prior to this Act coming into force, is to apply in the prescribed form for an industrial permit.

(2) The Director is to issue an industrial permit to the person and exempt the person from paying the prescribed permit fee under subsection 4(1).

18 Commencement

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

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