



## REPUBLIC OF VANUATU

### PASSPORTS ACT NO. 20 OF 2009

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Assent: 23/07/2009  
Commencement: 17/08/2009

## REPUBLIC OF VANUATU

### PASSPORTS ACT NO. 20 OF 2009

An Act to provide for the issue and administration of Vanuatu passports, certificates of identity and other travel documents, and 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 -

**citizen** means a citizen of the Republic of Vanuatu;

**holder** means a person in whose name and to whom a passport, certificate of identity or travel document has been issued;

**Minister** means the Minister responsible for Internal Affairs;

**Principal Passport Officer** means the Principal Passport Officer appointed under section 2;

**Public Service Commission** means the Public Service Commission referred to in Article 59 of the Constitution;

**Vanuatu passport** means a Vanuatu passport issued under sections 4 and 5.

##### 2 Principal Passport Officer

- (1) The Minister of Internal Affairs is to appoint in writing a person to be the Principal Passport Officer.
- (2) A person must not be appointed to the position of the Principal Passport Officer unless he or she has:
  - (a) a degree in public administration from a recognised university; or
  - (b) 7 to 10 years experience in the field of immigration and passport services.

- (f) two or more certificates of identity or travel documents are in existence in respect of the holder and there is no longer any sufficient reason why that should continue to be the case; or
  - (g) a passport has been issued to the person; or
  - (h) in the case of a certificate of identity or travel document that was issued under subsection 8(1), the document was issued to the holder in the mistaken belief that the holder was, at the time of issue, a citizen; or
  - (i) in the case of a certificate of identity or travel document that was issued under subsection 8(2), the document was issued to the holder in the mistaken belief that the holder was, at the time of issue, stateless or a refugee; or
  - (j) in the case of a certificate of identity or travel document that was issued under subsection 8(1), the holder is no longer a citizen; or
  - (k) in the case of a certificate of identity or travel document that was issued under subsection 8(2), the holder is no longer stateless or a refugee; or
  - (l) the Principal Passport Officer reasonably believes that the holder:
    - (i) intends to engage in or has taken part in terrorist trainings; or
    - (ii) intends to facilitate or has facilitated a terrorist act within the meaning of section 3 of the Counter Terrorism and Transnational Organised Crime Act No. 29 of 2005; or
  - (m) authorised to do so in emergency regulations made under Article 69 of the Constitution.
- (2) A person who has possession or control of a certificate of identity or travel document to which subsection (1) applies must, on demand by the Principal Passport Officer, surrender the document to the Principal Passport Officer.
- (3) If the Principal Passport Officer retains or cancels a certificate of identity or travel document under paragraphs (1)(b), (c), (d), or (e), the Principal Passport Officer may, on application by the holder of that document, issue another certificate of identity or travel document to replace that document.
- (4) Section 8 applies to any application made under subsection (3).

#### **Division 4 - Power of the Court in relation to Vanuatu passport or travel document**

##### **12 Power of Court to order surrender of Vanuatu passport or travel document in criminal proceedings**

- (1) A Court may order any person to surrender to the Court the Vanuatu passport, certificate of identity or travel document of any person who is granted bail, remanded in custody or sentenced to a term of imprisonment or a fine.
- (2) The Court must return the Vanuatu passport, certificate of identity or travel document to the holder or the person who has lawful custody of the Vanuatu passport, certificate of identity or travel document when the holder is no longer subject to criminal proceedings, has completed the term of imprisonment or has paid the fine, as the case may be.
- (3) A Court may make an order under subsection (1) on its own motion or on application by a Prosecutor.

##### **13 Power of Court to order surrender of Vanuatu passport or travel document in civil proceedings**

- (1) A Court may, on its own motion or on the application of any party to civil proceedings, order any person to surrender his or her Vanuatu passport, certificate of identity or travel document to the court as security for payment of a judgment debt (including an order for periodic payments).
- (2) A Court may not make an order under subsection (1) if the holder provides other adequate security.
- (3) The Court must return a Vanuatu passport, certificate of identity or travel document delivered under subsection (1) when either adequate security has been provided or the Court is satisfied that security is no longer required.

## PART 3 OFFENCES

### 14 False documents

A person commits an offence if he or she:

- (a) makes a false Vanuatu passport certificate of identity or travel document; or
- (b) knowing a document to be a false Vanuatu passport certificate of identity or travel document, without reasonable excuse:
  - (i) uses, deals with, or acts upon it as if it were genuine; or
  - (ii) causes another person to use, deal with, or act upon it as if it were genuine; or
- (c) without reasonable excuse:
  - (i) has in his or her possession or under his or her control a document that he or she knows or has reason to suspect is a false Vanuatu passport certificate of identity or travel document; or
  - (ii) sells, hires, lends, gives, or otherwise disposes of a document that he or she knows or has reason to suspect is a false Vanuatu passport, certificate of identity or travel document; or
- (d) without lawful authority or reasonable excuse, makes or uses or has in his or her possession or disposes of any paper or other material that he or she knows is specially provided for any purpose relating to Vanuatu passport, certificate of identity or travel documents.

### 15 Making false or misleading statements

A person commits an offence if:

- (a) the person makes a statement (whether orally, in writing or any other way) to another person that he or she knows to be false or misleading; and
- (b) the statement is made in, or in connection with, an application for a Vanuatu passport, certificate of identity or travel document.

### 16 Improper use or possession of Vanuatu passport, certificate of identity or travel document

- (1) A person commits an offence if he or she:
  - (a) for purposes of travel and without reasonable excuse, uses a Vanuatu passport, certificate of identity or travel document, that

he or she knows or has reasonable cause to suspect has expired or has been cancelled; or

- (b) for purposes of travel or identification and without reasonable excuse, uses a Vanuatu passport, certificate of identity or travel document that he or she knows or has reasonable cause to suspect was issued to, or in respect of, another person; or
- (c) being a person to whom a Vanuatu passport, certificate of identity or travel document has been issued, without reasonable excuse permits another person to have possession of that document in circumstances where he or she knows or has reasonable cause to suspect that the person intends to use it for purposes of travel or identification; or
- (d) without lawful authority or reasonable excuse, takes or retains in his or her possession or under his or her control a Vanuatu passport, certificate of identity or travel document, against the will of the holder; or
- (e) without reasonable excuse, has in his or her possession or under his or her control within Vanuatu:
  - (i) a passport issued by or on behalf of the Government of any country other than Vanuatu, being a passport that he or she knows or has reason to suspect has been falsified or has been obtained by false representation; or
  - (ii) a document purporting to be a passport issued by or on behalf of the Government of any country other than Vanuatu that he or she knows or has reason to suspect is not such a passport.

**17     Unauthorised alteration, destruction or sale of Vanuatu passport, certificate of identity or travel document**

A person commits an offence if he or she intentionally and without lawful authority:

- (a) makes any alteration, addition, deletion or endorsement to a Vanuatu passport, certificate of identity or travel document; or
- (b) destroys a Vanuatu passport, certificate of identity or travel document; or
- (c) sells a Vanuatu passport, certificate of identity or travel document.

**18     Offences relating to document information and material**

- (1) In this section:

**travel document database** means a file, register, or device in or on which information is or is to be recorded for the purposes of this Act.

- (2) A person commits an offence if he or she knowingly, and without lawful authority or reasonable excuse:
- (a) deletes, alters, or copies any information recorded in or on a travel document database; or
  - (b) allows any information recorded in or on a travel document database to be deleted, altered, or copied; or
  - (c) records any information (whether correct or incorrect) in or on a travel document database; or
  - (d) allows any information (whether correct or incorrect) to be recorded in or on a travel document database; or
  - (e) takes from where it is officially kept:
    - (i) a Vanuatu passport, certificate of identity or travel document or a blank or incomplete Vanuatu passport, certificates of identity or travel document; or
    - (ii) a seal, stamp, or other authenticating device or thing, that is specially used for a purpose relating to Vanuatu passports, certificate of identity or travel documents; or
    - (iii) any paper or other material that is specially provided for a purpose relating to Vanuatu passports, certificates of identity or travel documents; or
  - (f) takes from where it is officially kept a file or register in or on which information is or is to be recorded for the purposes of this Act.
- (3) Paragraphs (2)(a) to (d):
- (a) apply to the deletion or alteration of information recorded in an electronic travel document database, or the recording of information in an electronic travel document database, whether it is achieved:
    - (i) directly; or



- (ii) by altering or damaging the database, its programming, another device, the programming of another device, or any electronic storage; and
- (b) apply to the copying of information recorded in an electronic travel document database whether it is achieved directly from the database, by means of another device, by the interception or copying of an electronic message, or from any form of electronic storage.

#### **19 Improper issue of documents**

A person commits an offence if he or she, without lawful authority or reasonable excuse, issues a Vanuatu passport, certificate of identity or travel document (whether or not to the person to whom it relates) knowing that the person to whom it relates is not entitled to be issued it.

#### **20 Failure to surrender document**

A person commits an offence if he or she knowingly fails, without reasonable excuse, to comply with a demand to surrender a Vanuatu passport, certificate of identity or travel document to the Principal passport officer in accordance with subsections 9(2), 10(2) or 11(2).

#### **21 Penalties**

A person who commits any offence specified in sections 14 to 20 is liable on conviction to a term of imprisonment not exceeding 5 years or to a fine not exceeding VT5,000,000 or both.

#### **22 Jurisdiction in respect of actions taken outside Vanuatu**

Proceedings may be brought for an offence under subsection 14(1), any of paragraphs 16(1)(a) to (d), section 17, subsection 18(2) or section 19, even if the act or omission alleged to constitute the offence did not occur in Vanuatu.

## PART 4 ADMINISTRATIVE MATTERS

### Division 1 - Review of decisions in relation to Vanuatu Passports

#### 23 Review of decisions by Minister

(1) In this section:

reviewable decision means any decision of the Principal Passport Officer to:

- (a) refuse to issue a Vanuatu passport under section 4 or 5;
  - (b) cancel, and take and retain possession of, a Vanuatu passport under section 9 or 10;
  - (c) refuse to issue a certificate of identity or travel document under section 8;
  - (d) cancel, and take and retain possession of, a certificate of identity or travel document under section 11.
- (2) If a reviewable decision is made, a person affected by the decision may apply in writing to the Minister for a review of the decision.
- (3) An application for review must be made within 28 days after the person is notified of the decision (or such longer period as the Minister allows, whether before or after the end of the 28 days).
- (4) An application for review of a decision must set out the reasons for making the application.
- (5) Within 15 days of receiving an application for review of a decision, the Minister must consult the State Law Office and, taking into account any advice received from the State Law Office, must:
- (a) affirm the decision under review; or
  - (b) vary the decision under review; or
  - (c) set aside the decision under review and make a decision in substitution for it.
- (6) The Minister must:

- (a) record in writing any decision made under subsection (5), and the reasons for the decision; and
- (b) give a copy of the decision and the reasons to the applicant within 7 days of making the decision.

**24 Appeal to Supreme Court**

- (1) If an applicant for review under section 23 is dissatisfied with any decision of the Minister made under subsection 23(5), that person may appeal to the Supreme Court against that decision.
- (2) An appeal under this section must be made within 28 days after the date on which notice of the decision that is the subject of the appeal has been received by the person seeking to bring the appeal, or within such extended time as the Supreme Court allows.
- (3) On any appeal under this section, the Supreme Court may affirm, vary or set aside the decision that is the subject of the appeal, and may give all such directions (if any) to the Minister or any other person concerned as may be necessary to give effect to the Court's decision.
- (4) The decision made by the Supreme Court under this section is final.

**Division 2 - Disclosure of Vanuatu Passport, certificate of identity or travel document information**

**25 Disclosure of Vanuatu passport, certificate of identity or travel document information**

- (1) The Principal Passport officer may disclose Vanuatu passport, certificate of identity or travel document information to any Government agency or other organisation approved by the Minister, for any of the following purposes:
  - (a) aiding border security; or
  - (b) facilitating the processing of passengers; or
  - (c) law enforcement; or
  - (d) verifying the identity of the holder.
- (2) The Vanuatu passport, certificate of identity or travel document information that may be disclosed is as follows:
  - (a) the passport or document number; or
  - (b) the passport or document type; or

- (c) the date of issue of the passport or document; or
- (d) the date of expiry of the passport or document; or
- (e) the place of issue of the passport or document; or
- (f) the status of the passport or document (for instance, whether it is valid, or has been reported lost or stolen); or
- (g) the passport or document holder's surname, given name or names, and sex; or
- (h) the passport or document holder's nationality or citizenship; or
- (i) the passport or document holder's date of birth; or
- (j) the passport or document holder's place of birth; or
- (k) the passport or document holder's photograph; or
- (l) the passport or document holder's signature; or
- (m) the passport or document holder's eye colour and hair colour; or
- (n) the passport or document holder's height; or
- (o) any distinguishing physical feature of the document holder (for instance, any scar or mark).

**26 Other Acts not affected**

Nothing in this division prevents or limits any other disclosure of information that may otherwise be required or authorised by or under any law.

## **PART 5 MISCELLANEOUS**

### **27 Passports and other travel documents are the property of the Republic of Vanuatu**

- (1) All Vanuatu passports and travel documents, whether issued before or after the commencement of this Act, are the property of the Republic of Vanuatu.
- (2) The right in a Vanuatu passport or travel document conferred on the Republic of Vanuatu by subsection (1) is not defeated or affected by any security, pledge, deposit, or encumbrance given, made or accepted in respect of the Vanuatu passport or travel document by the holder or by any other person.
- (3) No holder or any other person must give, make, or accept as a security, pledge, or deposit, or otherwise encumber, a Vanuatu passport or travel document issued by or on behalf of the Republic of Vanuatu, and any term of an agreement which would otherwise have that effect is void.

### **28 Regulations**

The Minister may by Order make regulations prescribing matters:

- (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.

### **29 Penal Code Act not affected**

Except as expressly provided in this Act, nothing in this Act is to be construed so as to limit or affect the operation of any provision of the Penal Code Act [CAP 135].

### **30 Transitional provision relating to endorsement of name of child on passport of parent or guardian**

- (1) If, prior to the commencement of this Act, the name of a child under the age of 16 years was endorsed on the passport of a parent or guardian, that endorsement continues to have effect while the passport remains valid until either:
  - (a) the child attains the age of 16 years; or
  - (b) a separate passport is issued in the name of the child;

whichever occurs first, and the Principal Passport Officer must then cancel the endorsement.

- (2) For the purposes of the cancellation of any endorsement, the holder or other person who has the endorsed passport in his or her possession or under his or her control must, on demand by the Principal Passport Officer, deliver the passport to the Principal Passport Officer.

### 31 Repeals

The Passports Act [CAP 108] is repealed.

### 32 Savings

- (1) Subject to the provisions of this Act, the regulations made under the Passports Act [CAP 108] remain in force as if they were made under this Act.
- (2) At the commencement of this Act:
- (a) an application for a passport or other travel document made under the Passports Act [CAP 108] the processing of which had not been completed, is to be processed under this Act; and
  - (b) any valid passport or travel document issued under the Passports Act [CAP 108] continues in full force and effect as if issued under this Act until expiry, or until it is cancelled under this Act, and the provisions of this Act apply to it.

### 33 Commencement

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