

BILL FOR
THE POST OFFICE ACT No. 27 OF 1982

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BILL FOR
THE POST OFFICE ACT No. 27 OF 1982

An Act to provide for the operation of the postal services in Vanuatu and for matters incidental thereto.

BE IT ENACTED by the President and Parliament as follows :-

INTERPRETATION

1. (1) In this Act, unless the context otherwise requires,
 - "commander", in relation to an aircraft, includes the pilot or other person in charge of the aircraft;
 - "Director" means the Director of Posts and includes a person acting for the time being as Director;
 - "inland", in relation to a postal packet, means posted in, and addressed to, a place within, Vanuatu;
 - "mail bag" includes any form of container or covering in which postal packets in course of transmission by post are conveyed, whether or not it contains any such packets;
 - "master", in relation to a ship, includes every person (except a pilot) having command or charge of the ship;
 - "officer of the Post Office" includes the Director and any person employed in any business of the Post Office, whether employed by, or on behalf of, the Post Office;
 - "Post Office" means the department of the Government referred to in section 2;
 - "postage" means the charge for the transmission of postal packets by post;
 - "postage stamp" includes a stamp impressed by a stamping machine as well as an adhesive stamp;
 - "postal packet" means a letter, post-card, reply post-card, letter-card, newspaper, book, packet, printed paper, pattern or sample packet, small packet or parcel and every other packet or article when in course of transmission by post and includes a telegram when conveyed by post.
- (2) For the purpose of this Act -
 - (a) a postal packet shall be deemed to be in course of transmission by post from the time of its being delivered to a post office to the time of its being delivered to the person to whom it is addressed; and

- (b) the delivery of a postal packet of any description to a letter carrier or other person authorised to receive postal packets of that description for the post shall be a delivery to a post office; and
- (c) the delivery of a postal packet at the premises to which it is addressed or redirected or to the addressee's servant or agent or other person considered to be authorised according to the usual manner to receive postal packets of the addressee shall be a delivery to the addressee; and
- (d) delivery into a private letter box or private mail bag shall be in all respects equivalent to delivery to the addressee.

THE POST OFFICE

- 2. There shall be a Department of the Government to be known as the Post Office of Vanuatu.

DUTIES OF DIRECTOR

- 3. The Director shall, under the general supervision of the Minister, have control of the Post Office and it shall be his duty to -
 - (a) provide, maintain and operate postal services within Vanuatu; and
 - (b) provide, maintain and operate services by means of which money may be remitted including money orders, postal orders and similar instruments.

DIRECTOR MAY DELEGATE FUNCTIONS

- 4. The Director may delegate any of his powers, functions or duties under this Act (except this power of delegation) in relation to any particular matter or class of matter and may revoke such delegation at any time.

CONTRACTS FOR CARRIAGE OF MAILS

- 5. The Director may from time to time enter into contracts with any person for, or in respect of, the conveyance of mails by such means and on such terms as the Director shall think fit.

OBLIGATION TO CARRY MAILS IN SHIPS OR AIRCRAFT

- 6. (1) The master of any ship and the commander of any aircraft about to depart from any place in Vanuatu to any place within or outside Vanuatu -
 - (a) shall receive any mails which are tendered to him by any officer of the Post Office;
 - (b) shall, if required, give a written receipt for the mails;

- (c) shall cause a description of the mails to be entered on the manifest of the ship or aircraft;
 - (d) shall, as far as it is practicable, carefully deposit the mails on board in some place which is secure, dry and vermin proof, and lock up the mails and carry them apart from other things;
 - (e) shall deliver them, on arriving at the place of his destination without delay.
- (2) The proper officer of Customs may refuse clearance of the ship or aircraft if it appears to him that the master or the commander thereof, as the case may be, has refused to carry any mails contrary to the provisions of subsection (1).
 - (3) In the absence of a contract under section 5, there shall be paid to the owner of a ship or aircraft which carries mails under this section such fees and allowances as the Minister shall fix.
 - (4) Every master of a ship or commander of an aircraft who fails to comply with any provisions of this section shall be guilty of an offence.

DELIVERY OF MAILS FROM SHIP OR AIRCRAFT

- 7. (1) On the arrival of a ship or aircraft at any place in Vanuatu, whether or not from outside Vanuatu, all mails which are on board the ship or aircraft and are intended for discharge at that place shall be delivered to an officer of the Post Office, who shall, if required, give a written receipt for any such mails received by him.
- (2) The master of a ship or commander of an aircraft, who having charge of any such mails, refuses or neglects to deliver such mails as provided in subsection (1), or detains or permits the detention of the mails on board, or does not use due diligence in the delivery of the mails, or does not take due care for the proper custody of the mails while they are in his charge, shall be guilty of an offence.

POSTAGE

- 8. (1) Subject to the provisions of this Act, there shall be paid on every postal packet for transmission by post such postage as may be prescribed.
- (2) Subject to the provisions of this Act the postage in respect of any postal packet posted within Vanuatu shall be prepaid by means of adhesive postage stamps not previously used, obliterated or defaced, and, in default thereof, there shall be payable, at the time of delivery, upon every such postal packet double the amount of the deficiency due.

Provided that -

- (a) the postage upon business reply cards and upon large quantities of postal packets, may, with the approval of the Director, be either paid in cash at the time

of posting, or an agreed sum may be deposited with the Director on account of posting, or be paid or secured in such other manner as the Director shall direct;

- (b) the use of postage stamps perforated with initials may be permitted.

POSTAGE STAMPS AND IMPRINTING OF POSTAL STATIONERY

- 9. (1) The Director may, within the approval of the Minister, cause -
 - (a) postage stamps to be printed and sold indicating the amounts of postage;
 - (b) to be made and sold postcards, envelopes, lettercards, wrappers, and other postal stationery bearing thereon imprinted postage stamps.
- (2) The provisions of this Act relating to adhesive stamps and to postage stamps generally shall, as far as they are applicable, and with the necessary modifications, apply to stamps imprinted under subsection (1)(b).

AUTOMATIC STAMPING MACHINES

- 10. (1) The Director may on receiving such security as he thinks fit permit any person to use automatic stamping machines for making impressions denoting the sign of postage and the amount of stamp values and for recording any such amounts.
- (2) Impressions made by any such machine lawfully used shall be valid for the payment of postage in the same manner as if adhesive stamps were used.
- (3) The amount of stamp values recorded by any such machine shall be paid to the Post Office at such intervals as the Director shall determine.
- (4) The Director may make refunds of the amounts represented by impressions made and recorded by any such machine in error and not used.
- (5) There shall not be posted or conveyed by post any postal packet -
 - (a) containing or bearing any counterfeit impression purporting to be made by a stamping machine used in pursuance of this section;
 - (b) purporting to be prepaid with any stamping machine impression which has been previously used to prepay any other postal packet.
- (6) No stamping machine impression which is imperfect or mutilated or defaced in any way shall be used in payment or to denote payment of postage.

- (7) A person contravening any of the provisions of subsection (5) or (6) shall be guilty of an offence.

SPECIAL STAMPS

11. (1) The Director may, with the approval of the Minister, cause to be printed and sold special stamps of such denominations as he shall think fit, which shall be available only for the purposes mentioned in subsection (3), and for those purposes each such denomination shall have a value of such amount as the Director shall determine.
- (2) The use of special stamps instead of ordinary stamps shall be optional for the user.
- (3) The revenue additional to postage revenue from the sale of special stamps shall be applied for such purposes in relation to the promotion of public health or other special purposes beneficial to the community as the Council of Ministers may approve.
- (4) The purposes for which the additional revenue from the sale of special stamps is to be applied shall be determined before the creation of the stamps and shall be clearly indicated on such stamps.

LIABILITY FOR PAYMENT OF POSTAGE

12. (1) The person to whom any postal packet is tendered for delivery on which postage is due shall be legally bound to pay the postage on his accepting delivery of the packet unless he forthwith returns it unopened.
- (2) If any postal packet appears to the satisfaction of the Director to have been maliciously sent for the purpose of annoying the addressee, he may remit the postage due.
- (3) If any postal packet on which postage is due is refused by the addressee or if the addressee is dead or cannot be found then the sender shall be bound to pay the postage.

POWER TO WITHHOLD UNSTAMPED POSTAL PACKET

13. If a person refuses to pay any postage which he is legally bound to pay in respect of any postal packet the Director may withhold from that person any such packet until the postage has been paid, and if the default continues the packet shall be dealt with or disposed of, in such manner as may be prescribed.

POST OFFICE MARK EVIDENCE OF REFUSAL ETC.

14. In every proceeding for the recovery of any postage alleged to be due the production of a postal packet having thereon the official mark of the Post Office denoting that the packet has been refused or that the addressee is dead or cannot be found shall be prima facie evidence of the fact so denoted.

OFFICIAL MARK TO BE EVIDENCE OF POSTAGE DUE

15. The official mark on a postal packet denoting that any postage is due in respect thereof to the Post Office or to the postal authority of any other country shall be prima facie evidence that the postage so denoted is due.

REGISTRATION OF POSTAL PACKETS

16. (1) The sender of any postal packet (other than a parcel addressed to a place outside Vanuatu) may, upon payment of a prescribed registration fee in addition to the ordinary postage, have that packet registered and obtain a receipt for the same, but no such registration or receipt shall confer on any person a right to compensation except as provided in section 22.
- (2) Every postal packet containing coin, bank notes, currency notes, negotiable instruments payable to bearer, platinum, gold or silver manufactured or not, precious stones, jewels and other valuable articles shall, if posted unregistered, be liable to compulsory registration and to a charge on delivery equal to double the amount of any deficiency in prepayment as a registered packet but no compensation shall be paid in case of the loss of such packet or of the contents thereof.

INSURANCE OF POSTAL PACKETS

17. The Director may provide for the insurance of postal packets subject to such terms and conditions as may be prescribed.

MONEY ORDERS AND POSTAL ORDERS

18. (1) The Minister may provide for the remitting of money through the Post Office by means of money orders and postal orders and may make regulations in relation thereto and, in particular, may prescribe -
- (a) the limit of the amount for which money orders and postal orders may be issued;
 - (b) the period during which money orders and postal orders shall remain valid; and
 - (c) the rates of commission or the fees to be charged on money orders and postal orders or in respect thereof.
- (2) The Director may from time to time determine at what post offices money orders or postal orders may be issued and paid.

RECOVERY OF MONEY PAID TO WRONG PERSONS

19. If any person without reasonable excuse, the burden of proving which shall lie on him, neglects or refuses to refund -
- (a) any amount paid to him in respect of a money order or postal order by an officer of the Post Office in excess of what ought to have been paid, or
 - (b) the amount of a money order or postal order paid by an officer of the Post Office to him instead of to some other person to whom it ought to have been paid,

such amount shall be recoverable at the suit of the Director from the person so neglecting or refusing.

POSTAL PACKETS DELIVERED TO HOTELS ETC

20. (1) Notwithstanding the provisions of section 1(2), every postal packet delivered to a hotel, shipping or airline office, bank or travel agency, shall be deemed to be under control of the Post Office until it reaches the hands of the addressee or his agent.
- (2) If a postal packet delivered to any place referred to in subsection (1) has not reached the addressee or his agent within one month after delivery, the person in charge of such place shall, if no instructions to the contrary have been received by him from the addressee, return the packet to the Post Office with the reasons therefor.
- (3) A person who contravenes or fails to comply with the provisions of subsection (2) shall be guilty of an offence.

EXCLUSION OF LIABILITY OF THE POST OFFICE

21. (1) Except as provided in the next following section, no proceedings shall lie against the Post Office in respect of any loss or damage suffered by any person by reason of
 - (a) detention, delay, opening, forfeiture, loss, destruction, or disposal of a postal packet or its contents;
 - (b) any delay in the payment of a money order or postal order or other irregularity in connection with a money order or postal order.
- (2) No officer of the Post Office shall be subject, except at the suit of the Director, to any civil liability for any loss or damage in respect of which liability of the Post Office is excluded by subsection (1).
- (3) The detention, destruction or disposal under this Act of a postal packet or its contents shall not relieve any person from his liability for any offence against this Act or any other enactment.

LIABILITY IN RESPECT OF REGISTERED INLAND PACKETS

22. (1) Subject to the provisions of this section, proceedings shall lie against the Post Office under this section, but not otherwise, in respect of loss of, or damage to, a registered inland packet in so far as the loss or damage is due to any wrongful act done or any neglect or default committed by an officer of the Post Office while performing or purporting to perform his functions as such in relation to the receipt, carriage, delivery or other dealing with the packet; but no proceedings shall lie under this section unless begun within twelve months from the day on which the packet was posted.

- (2) For the purposes of any proceedings under this section it shall be presumed, until the contrary is shown, that loss of, or damage to, a packet was due to a wrongful act done, or neglect or default committed, by an officer of the Post Office while performing or purporting to perform such functions of his as aforesaid.
- (3) The amount recoverable in any proceedings under this section shall not exceed such maximum amount as may be prescribed.
- (4) The Post Office shall not be liable under this section in respect of a registered postal packet unless the conditions, if any, prescribed to be complied with in relation to registered inland packets have been complied with in the case of the packet.

PROHIBITION OF CERTAIN ARTICLES

23. (1) No person shall send or attempt to send or procure to be sent a postal packet which -
- (a) except as the Director may either generally or in a particular case allow, contains any explosive, dangerous or noxious substance, any filth, any sharp instrument not properly protected, or any creature or thing which is likely to damage other postal packets in course of transmission or injure an officer of the Post Office;
 - (b) contains any indecent or obscene article whatsoever;
 - (c) has on the packet, or on the cover thereof, any words, marks or designs which are seditious, grossly offensive, indecent or obscene.
- (2) Any person contravening any of the provisions of subsection (1) shall be guilty of an offence.

DETENTION AND OPENING OF PROHIBITED PACKETS

24. If the Director has reason to believe that a postal packet contains any matter in contravention of the provisions of section 23, he may cause such packet to be detained and opened, and, if it is found to contain such matter, he may cause it to be destroyed;

Provided that a sealed letter shall not be so opened without the consent in writing of the Attorney General.

DETENTION AND OPENING OF POSTAL PACKETS BELIEVED TO CONTAIN DUTIABLE ARTICLES

25. If the Director has reason to believe that a postal packet contains any articles on which customs duty is payable or which are in contravention of the law relating to Customs, he may detain such packet and may open the same in the presence of the addressee or his agent; if the addressee

or his agent, after being duly notified fails to attend, it shall be lawful for the Director to open and examine the same; if any articles on which customs duty is payable or which are in contravention of the law relating to Customs are found in such packet, the Director shall deliver such articles to the Collector of Customs for the purposes of proceeding in respect thereof according to law, and if no such articles are found the packet shall be delivered to the addressee or his agent if present, and, if absent, shall be forwarded to the addressee subject in either case to the payment of any postage thereon.

STEALING AND DESTRUCTION OF MAILS BY OFFICERS OF POST OFFICE

26. An officer of the Post Office who steals, or destroys a postal packet in course of transmission by post or any contents thereof shall be guilty of an offence.

Penalty: Imprisonment for seven years.

OPENING OR DELAYING OF POSTAL PACKETS BY OFFICERS OF POST OFFICE

27. (1) An officer of the Post Office, who, contrary to his duty, opens, or causes or suffers to be opened, any postal packet in course of transmission by post, or without lawful excuse detains or delays, or causes or suffers to be detained or delayed, any such postal packet, shall be guilty of an offence.

Penalty: Imprisonment for two years.

(2) Nothing in subsection (1) shall apply to the opening, detaining or delaying of a postal packet returned for want of a true direction, or returned by reason that the addressee thereof has refused it, or has refused or neglected to pay the postage thereon, or that the packet cannot for any other reason be delivered, or to the opening, detaining or delaying of a postal packet under the provisions of this Act.

WRONGFUL DISCLOSURE OF INFORMATION

8. (1) An officer of the Post Office who without lawful excuse divulges to any person any information as to a postal packet or the contents thereof that has come to his knowledge in the course of his duty shall be guilty of an offence.

Penalty: Imprisonment for two years.

(2) Any person, other than an officer of the Post Office acting in the course of his duty, who having examined the contents of a postal packet not intended for him, divulges without lawful excuse to any person information obtained by him from or as to the postal packet or contents thereof, shall be guilty of an offence.

FRAUDULENT RETENTION OF MAIL BAG OR POSTAL PACKET

29. A person who fraudulently retains, or wilfully secretes or keeps, or detains, or who, when required by an officer of the Post Office, neglects or refuses to deliver up -
- (a) any postal packet which is in course of transmission by post and which ought to have been delivered to any other person; or
 - (b) any postal packet which is in course of transmission by post or any mail bag which has been found by him or by any other person,
- shall be guilty of an offence.

CRIMINAL DIVERSION OF LETTERS FROM ADDRESSEE

30. (1) If a person not being an officer of the Post Office steals or wilfully and maliciously opens or causes to be opened any postal bag or any postal packet which ought to have been delivered to another person, or does any other act whereby the due delivery of the packet to its addressee is prevented or impeded, he shall be guilty of an offence.
- (2) Nothing in this section shall apply to a person who does any act to which this section applies if he is a parent, or in the position of parent or guardian, of the addressee.
- (3) In this section the expression "postal packet" means a postal packet which is in course of transmission by post or which has been delivered by post.

PROHIBITION OF FICTITIOUS STAMPS

31. (1) Except for such purposes as may be approved by the Director in writing and in accordance with such (if any) conditions as may be attached to the approval, a person shall not -
- (a) make, knowingly utter, deal in or sell any fictitious stamps;
 - (b) have in his possession, unless he shows a lawful excuse, any fictitious stamp; or
 - (c) make or, unless he shows a lawful excuse, have in his possession any die, plate, instrument or materials for making a fictitious stamp.
- (2) A person shall not knowingly use for the purpose of prepayment of postage any fictitious stamp.
- (3) Any person who acts in contravention of this section, shall be guilty of an offence.
- (4) Any stamp, die, plate, instrument or materials found in the possession of any person in contravention of subsection (1) may be seized and shall be forfeited.

(5) The importation into Vanuatu -

- (a) of any facsimile, imitation or representation, whether on paper or otherwise, of any stamp for denoting a rate of postage of any country; or
- (b) of any die, plate, instrument or materials for making such a facsimile, imitation or representation.

is prohibited.

(6) In this section "fictitious stamp" means a facsimile, imitation or representation, whether on paper or otherwise, of any stamp for the time being authorised or required to be used for the purposes of the Post Office or of any current stamp for denoting a rate of postage of any country.

PROHIBITION OF IMITATION OF POST OFFICE STAMPS, ENVELOPES ETC.

32. (1) A person shall not without due authority -

- (a) make, issue, or send by post any envelope, wrapper, card, form or paper in imitation of one issued by or under the authority of this Act or of any other postal administration, or having thereon any words, letters or marks which signify, or are likely to lead the recipient to believe, that a postal packet bearing them is sent on Government service;
- (b) make on any envelope, wrapper, card, form or paper for the purpose of being issued or sent by post, any mark in imitation of, or similar to, or purporting to be, any stamp or mark of the Post Office or of any other postal administration, or any words, letters or marks which signify, or are likely to lead the recipient to believe, that a postal packet bearing them is sent on Government service; or
- (c) issue or send by post or otherwise any envelope, wrapper, card, form or paper so marked.

(2) Any person who acts in contravention of this section shall be guilty of an offence.

FRAUDULENT USE AND REMOVAL OF STAMPS

33. (1) A person who with intent to defraud -

- (a) removes from any postal packet any postage stamp affixed thereon;
- (b) removes from any postage stamp previously used any mark made thereon by the Post Office;
- (c) uses for prepayment of postage an obliterated or defaced postage stamp;

shall be guilty of an offence.

- (2) In proceedings for an offence under subsection (1) proof that the person charged is the writer of the address of the postal packet on which the stamp is affixed shall, unless the contrary is proved by him, be evidence that he is the person who affixed the postage stamp.

PROHIBITION OF AFFIXING NOTICES, ETC. ON POST OFFICE LETTER BOXES, ETC.

34. (1) A person shall not without due authority affix or attempt to affix any placard, advertisement, notice, list, document, board or thing in or on any post office, Post Office letter box, or other property belonging to or used by the Post Office and shall not in any way disfigure any such office, box or other property.
- (2) Any person who acts in contravention of this section, shall be guilty of an offence.

FALSE RECORDING OF TIME OF POSTING

35. A person who falsely marks a postal packet so as to lead any person to believe that it was posted at a time other than the time when it was in fact posted shall be guilty of an offence.

MINISTER MAY MAKE ARRANGEMENTS WITH OTHER COUNTRIES WITH RESPECT TO POSTAL SERVICES

36. The Minister may make arrangements with the proper postal authority of any country with respect to -
- (a) the transmission of mails between Vanuatu and any other country;
 - (b) the appointment, determination and collection of postage, fees and other charges upon postal packets conveyed between Vanuatu and any other country;
 - (c) the division and mutual accounting for and payment of the moneys collected under any such arrangement;
 - (d) the purposes above mentioned in the case of postal packets transmitted through Vanuatu to or from any other part of the world;
 - (e) the prepayment (in full or otherwise) of the postage payable on postal packets;
 - (f) the transmission to places outside Vanuatu free of postage or upon such terms as to the amount of postage or fine to be collected and paid on delivery, and as to the application and payment thereof as may be agreed upon, of postal packets posted in Vanuatu, or as to the collection, application and payment of postage or fines on postal packets received from places outside Vanuatu on which no postage or insufficient postage has been paid;

- (g) the payment of compensation for the loss or injury of any registered postal packets;
- (h) payment in Vanuatu of money orders and postal orders issued in any country outside Vanuatu and for the payment in that country of money orders and postal orders issued in Vanuatu and for the accounting for, and transmission of, moneys for those purposes.

MINISTER'S POWER TO MAKE REGULATIONS

37. (1) The Minister may make regulations, not inconsistent with this Act, prescribing all matters which are necessary or convenient to be prescribed for the carrying out or giving effect to this Act, and, in particular, may make regulations for all or any of the following purposes -
- (a) providing for the establishment and management of post offices and the receipt, despatch, carriage and delivery of postal packets;
 - (b) prescribing the maximum weight and dimensions of postal packets;
 - (c) providing for -
 - (i) transmission and delivery of parcels;
 - (ii) the conditions under which parcels may be received, transmitted, delivered, returned to the senders or otherwise disposed of;
 - (iii) the maximum weight, rates or fees to be charged for the transmission, delivery, return, insurance or registration of parcels; and
 - (iv) the manner in which such rates or fees are to be paid and the arrangements for the collection of any customs duties or any other duties or fees which may be payable in respect of any parcel;
 - (d) prescribing fees to be paid upon postal packets registered under this Act or posted after the time appointed for closing the mails;
 - (e) providing for private boxes and private bags and prescribing the rentals or fees payable therefor;
 - (f) prescribing the form of and the mode of issuing licences for the sale of stamps and the commission to be allowed thereon;
 - (g) prescribing the mode of defacing or obliterating stamps on postal packets;

- (h) prescribing -
 - (i) the manner of dealing with postal packets believed to contain articles in respect of which Customs duties are payable; and
 - (ii) fees to be paid in respect of the delivery of postal packets that contain such articles;
- (i) prescribing the mode of sale, distribution or destruction of undelivered newspapers;
- (j) providing for the management of philatelic services;
- (k) exempting any class, however defined, of postal packets from postage;
- (l) prescribing forms to be used in relation to any matter in connection with the operation or use of the postal service.

REPEAL AND SAVING

38. (1) The following Joint Regulations are repealed -
- (a) The New Hebrides Postal Services Prevention of Fraudulent Practices Regulation No. 4 of 1931;
 - (b) The Postal Tariff Regulation No. 3 of 1977 as amended by Regulation No. 17 of 1977;
 - (c) The Postal Services (Amendment) Regulation No. 15 of 1977.
- (2) Notwithstanding the provisions of subsection (1) the postal tariffs in force immediately before the date of the commencement of this Act shall continue in force after that date until amended, repealed or replaced in pursuance of and in accordance with the provisions of this Act.

COMMENCEMENT

39. This Act shall come into operation on such date as the Minister shall by order appoint.