



## REPUBLIC OF VANUATU

### STATE LAW OFFICE (AMENDMENT) ACT NO. 25 OF 2021

#### Arrangement of Sections

1	Amendment .....	2
2	Commencement.....	2

# REPUBLIC OF VANUATU

**Assent:** 10/12/2021  
**Commencement:** 17/12/2021

## STATE LAW OFFICE (AMENDMENT) ACT NO. 25 OF 2021

An Act to amend the State Law Office Act [CAP 242].

Be it enacted by the President and Parliament as follows-

### **1 Amendment**

The State Law Office Act [CAP 242] is amended as set out in the Schedule.

### **2 Commencement**

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

## SCHEDULE

### AMENDMENTS OF STATE LAW OFFICE ACT [CAP 242]

**1 Title of the Act**

Repeal the title, substitute “Office of the Attorney General Act”

**2 References to “State Law Office”**

Delete all references to “State Law Office”, substitute “Office of the Attorney General”

**3 Section 2 (Definitions of “legal officer” and “Trust Fund”)**

Repeal the definitions.

**4 Section 4**

Delete “or a Minister appointed by the Prime Minister for that purpose”

**5 Section 6**

Repeal the section, substitute

**“6. Principal functions of the Office**

The principal functions of the Office are:

- (a) to provide legal advice to the Prime Minister, the Council of Ministers, the President, a Director General, a Director, and a First Political Advisor; and
- (b) to represent the President and Government on legal matters; and
- (c) to provide legislative drafting services to the Government; and
- (d) to provide advice to the Government on policy matters relating to the development of legislation; and
- (e) to issue and maintain records of Vanuatu Gazettes.”

**6 Section 8**

Repeal the section, substitute

**“8. Criteria of appointment of the Attorney General**

A person must not be appointed to the position of the Attorney General unless he or she has:

- (a) been in practice as a barrister or solicitor in Vanuatu for periods amounting in aggregate to, not less than 10 years; and
- (b) at least 7 years’ experience in managing a legal office; and
- (c) has not occupied a position of responsibility within a political party; and
- (d) no prior conviction.”

**7 Subsection 9(3)**

Repeal the subsection, substitute

“(3) The Attorney General may be removed from Office by the President, on the advice of the Judicial Service Commission if he or she:

- (a) is incompetent; or
- (b) is declared bankrupt; or
- (c) is incapacitated; or
- (d) is involved in a serious misconduct; or
- (e) is convicted of an offence; or
- (f) is actively involved in politics in Vanuatu; or
- (g) neglects to carry out his or her functions under the Act or any other Act.”

**8 Section 10**

Repeal the section, substitute

**“10. Functions and powers of the Attorney General**

- (1) The Attorney General is the principal legal officer and the principal legal adviser to the State.
- (2) The Attorney General is to participate in all meetings and deliberations of the Council of Ministers for the purpose of providing legal advice.
- (3) The Attorney General has a right of audience in, and is to take precedence over, any other person appearing before any court or tribunal.
- (4) All courts and tribunals, and all judges, magistrates and members of tribunals are to take judicial notice of the signature of a person who is, or was the Attorney General or who is, or has been, authorised by the Attorney General to act under section 12.
- (5) Subject to the Government Contracts and Tenders Act [CAP 245], and with the prior approval of the Council of Ministers, the Attorney General has the power to do all things necessary or convenient to be done, in the name of the Office, for or in connection with the principal functions of the Office including:
  - (a) acquiring, holding and disposing of property; and
  - (b) entering into contracts, agreements or arrangements.”

**9 Section 11**

Repeal the section, substitute

**“11. Independence of the Attorney General**

The Attorney General is not subject to the direction of any person in the exercise of his or her functions.”

**10 Subsection 12(1)**

After “Solicitor General”, insert “, the Parliamentary Counsel, the General Counsel”

**11 Subsections 12(3) and (4)**

Repeal the subsections, substitute

- “(3) Any function authorised or required by this Act and any other Act to be performed by the Attorney General may be discharged by the Solicitor General, the Parliamentary Counsel or the General Counsel if:
- (a) the position of the Attorney General is vacant; or
  - (b) the Attorney General is unable to act due to his or her absence or illness; or
  - (c) the Attorney General authorises the Solicitor General, the Parliamentary Counsel or the General Counsel to act in any particular matter.”

## **12 Section 13**

Repeal the section, substitute

### **“13. Legal officers**

- (1) The Attorney General is to appoint the following officers based on a fair and transparent selection process:
- (a) the Solicitor General; and
  - (b) the Parliamentary Counsel; and
  - (c) the General Counsel; and
  - (d) State Counsels as are required to assist in fulfilling the functions of the Office.
- (2) A person appointed to the Office under this section must have:
- (a) a law degree from a recognized tertiary institution or similar qualification; and
  - (b) sufficient experience and ability to fulfil the role to which he or she is to be appointed.”

**13 Section 14**

After “proceedings”, insert “and to perform such other functions”

**14 Section 15**

After “Government”, insert “and to perform such other functions”

**15 Sections 16 and 17**

Repeal the sections, substitute

**“16. General Counsel**

The principal function of the General Counsel is to be in charge of other general legal functions of the Office and to perform such other functions as directed by the Attorney General.

**17. State Counsels**

The principal function of the State Counsels is to assist in the functions of the Solicitor General, the Parliamentary Counsel and the General Counsel, as directed by the Attorney General.”

**16 Subsection 18(2)**

Delete “in consultation with the Judicial Service Commission”

**17 Subsection 18(3)**

Repeal the subsection.

**18 Section 19 (Heading)**

Delete the heading, substitute “Independence of legal officers and support staff”

**19 Subsection 19(1)**

Repeal the subsection, substitute

“(1) A legal officer or any other private legal practitioner engaged by the Attorney General on legal matters of the State, must carry out his or her duties under this Act or any other Act.”

**20 Subsection 19(2)**

After “legal officer”, insert “, any other legal practitioner referred to under subsection (1) and a support staff”

**21 Part 5 (Heading)**

Repeal the heading, substitute “Heads of Units Committee and support staff”

**22 Section 20**

Repeal the section, substitute

**“20. Heads of Units Committee**

- (1) The Heads of Units Committee is established.
- (2) The Committee consists of:
  - (a) the Attorney General; and
  - (b) the Solicitor General; and
  - (c) the Parliamentary Counsel; and
  - (d) the General Counsel; and
  - (e) the Director of Corporate Services.
- (3) The Committee is responsible to consider administrative matters brought to it by the Attorney General or any other Heads of Units.
- (4) The decision of the Attorney General on any administrative matter brought to the Heads of Units under subsection (3) is final.

**20A. Director of Corporate Services**

- (1) The Attorney General is to appoint the Director of Corporate Services based on a fair and transparent selection process.
- (2) The Director of Corporate Services is responsible for managing the corporate services of the Office and to perform such other functions as directed by the Attorney General.

**20B. Support staff**

The Attorney General may appoint such support staff based on a fair and transparent selection process, and is to determine the terms and conditions of employment of the support staff as may be necessary for the efficient carrying out of the functions of the Office.”



**23 Section 21**

Repeal the section, substitute

**“21. Interference with the Attorney General and the Office prohibited**

A person must not interfere or attempt to interfere in the performance and independence of the Attorney General and the Office.”

**24 Subsection 22(2)**

Delete “without the prior written approval of the Attorney General”

**25 At the end of section 22**

Add

“(4) A legal practitioner referred to under subsection (3), is only entitled to costs approved by the Attorney General for services rendered pursuant to that subsection.”

**26 Section 24**

Repeal the section.

**27 Section 24A (Heading)**

Delete the heading, substitute “Office of the Attorney General’s Development and Training Fund”

**28 Subsection 24A(1)**

Repeal the subsection, substitute

“(1) For the purposes of sections 24A and 24B, “Development and Training Fund” means the Office of the Attorney General’s Development and Training Fund established under subsection (1A).

(1A) An account to be known as the Office of the Attorney General’s Development and Training Fund is established.”

**29 Subsections 24A(2) and (3) and section 24B**

Delete “Trust” (wherever occurring), substitute “Development and Training”

**30 Paragraphs 24A(4)(a) and (b)**

Delete “and the Director and staff of the Financial Intelligence Unit”

**31 Paragraph 24A(4)(da)**

Repeal the paragraph.

**32 Subsection 24A(5)**

Repeal the subsection, substitute

“(5) Money standing to the credit of the Development and Training Fund may be invested with the National Bank of Vanuatu or such other financial institution as approved by the Attorney General.”

**33 Section 25 (Heading)**

Delete “and others”

**34 Subsection 25(1) and paragraph 25(2)(a)**

Delete “or any legal officer”, substitute “, Parliamentary Counsel, General Counsel or State Counsels”

**35 Section 25A**

Repeal the section, substitute

**“25A. Regulations**

The Prime Minister may, on the recommendation of the Attorney General, by Order in writing, make Regulations not inconsistent with this Act for the better carrying out or giving effect to the provisions of this Act.”