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BILL FOR  
THE BUSINESS LICENCE ACT No. 25 OF 1983

To provide for the licensing of businesses and for matters connected therewith.

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

**INTERPRETATION**

1. In this Act unless the context otherwise requires -

"business" means any lawful occupation (other than occupations specified in the second schedule) carried on for a profit, provided that a person shall not be deemed to carry on a business in respect of which his sole gain is by way of salary or wages or salary or wages plus commission;

"Minister" means the minister responsible for finance;

"proprietor" means the owner of a business or any natural person or corporation carrying on a business within Vanuatu on his or its own account, in association with others or on behalf of a person outside Vanuatu;

"premises" includes buildings, ships, vehicles or other places where a business is carried on, together with any place which constitutes a necessary annex to the principle place of business;

"person" includes any company or association or body of persons corporate or unincorporate.

**BUSINESS LICENCES**

2. (1) Subject to the exemptions contained in the second schedule, no person shall carry on a business without a licence issued under this Act.

(2) Any person (other than a person exempted under the second schedule) who carries on a business without a licence shall be guilty of an offence.

Penalty: Fine not exceeding VT 500,000 or imprisonment not exceeding one year or both.

(3) Where a person is charged under this section with carrying on any business without a licence, the burden of proving that a licence was issued to him in respect of the current year shall be on that person.

#### LICENSING AUTHORITY

3. There shall for the purposes of this Act be the following licensing authorities :-
- (a) in respect of a municipality, the Minister;
  - (b) in respect of all other areas of Vanuatu, local government councils.

#### APPLICATION FOR LICENCES

4. (1) Every application for the issue or renewal of a licence under this Act shall be made to the licensing authority in such form as may be prescribed by the Minister.
- (2) Any person who, without reasonable cause for believing it to be true, makes, or is privy to the making of, any false statement in any application made under this section shall be guilty of an offence.

Penalty: Fine not exceeding VT 100,000 or imprisonment not exceeding 3 months or both.

#### ISSUE OF LICENCE

5. (1) The issue or renewal of a licence under this Act shall be subject to such conditions and shall be in such form, as may be prescribed by the Minister and shall not be transferable.
- (2) Subject to subsection (3) a licence shall expire on the last day of December of the year of issue and may be renewed.
- (3) A renewal of a licence shall be for a period of one year or for such shorter period as the Minister may, by notification in the Gazette, determine in respect of any particular business activity.

#### ECONOMIC CONTROL

6. For the purposes of controlling economic development in Vanuatu the Minister may by Order prohibit the issue or the renewal of licences in respect of specified business activities in Vanuatu as a whole or in specified areas thereof.

#### LOCALISATION OF BUSINESSES

7. (1) The Minister may by Order declare certain categories of business activity to be closed to non-citizens either throughout the whole of Vanuatu or in specified areas thereof. Following the making of such an Order no licences shall be issued or renewed to non-citizens for such activities in respect of the areas specified in the Order.
- (2) For the purposes of this section "non-citizen" includes a partnership with a non-citizen partner and any association of persons corporate or unincorporate owned or controlled by non-citizens.

#### LICENCE TO BE DISPLAYED

8. (1) Every licence shall be displayed and kept displayed in a prominent place by the licence holder on the premises to which it relates and shall be made available at any hour at which such premises are normally open for business for inspection by any person authorised under this Act to demand its production.
- (2) Every licensing authority or person authorised in writing in that behalf by any licensing authority, and every police officer is authorised to demand the production of any licence issued under this Act.
- (3) A licence holder or other person having custody of a licence who, without reasonable excuse, fails to produce such licence upon lawful demand being made to him in that behalf shall be guilty of an offence.

Penalty: Fine not exceeding VT 10,000.

#### LICENCES LOST OR DESTROYED

9. Where it is shown to the satisfaction of the licensing authority by which a licence was issued that such licence has been lost or destroyed, it shall, upon payment of the prescribed fee issue a duplicate of such licence to the licence holder.

#### POWER OF SEARCH

10. A person authorised in writing in that behalf by any licensing authority and by the Public Prosecutor may without warrant enter and search premises during normal business hours for the purposes of ascertaining the category of the business or assessing the licence fee and the identity of the proprietor thereof. The proprietor shall make available for inspection on demand by any such person books, documents, or records relating to the business and copies thereof or extracts therefrom may be made. So, however, that the provisions of this section shall not derogate from any privilege or immunity arising with respect to such premises, proprietor, books, documents or records under the provisions of any law applicable thereto within Vanuatu.

#### CONFIDENTIALITY OF INFORMATION

11. Information relating to the business of any person obtained under section 10 shall be treated as strictly confidential and shall not be disclosed save for the purposes of any prosecution with respect to the business.

FEES

12. (1) There shall be payable upon the issue of a licence under this Act an annual fee in respect thereof as prescribed in the first schedule.
- (2) The fee shall be due on the first day of the month in which the business is first commenced and on the first day of January thereafter. The fee together with the increase provided for in subsection (4) shall be recoverable by the licensing authority as a civil debt.
- (3) The fee shall be paid within one month from the date when the fee is due.
- (4) If the fee has not been paid in full within the time limit provided in subsection (3), that part of the fee remaining unpaid shall be increased by 10 per centum for each month or part thereof during which the fee remains unpaid.

GENERAL PROVISIONS

13. (1) A licence shall be required in respect of each and every premises at which a business is carried on other than premises used for storage or other purposes which are incidental to the carrying on of the business:

Provided that one licence shall suffice for premises which are immediately adjacent and intercommunicating.

- (2) Where a person carries on more than one business or category of business in the same premises, he shall take out a licence in respect of each business or category of business:

Provided that where by virtue of the foregoing provision of this subsection a person is liable to pay more than one licence fee he shall pay the fee prescribed in the first schedule to this Act for the licence attracting the highest fee applicable thereunder and shall pay two thirds of the fee prescribed for each other licence which lesser fee shall be rounded up to the nearest VT 1,000:

And provided further that in any case where a person is liable to pay more than one licence fee as aforesaid and where any business is of such minor extent that it is only incidental to another business or a necessary adjunct thereto, such person shall be exempted from the obligation to take out a licence or pay any fee therefor.

- (3) Where two or more persons are carrying on a business independently of each other at the same premises a licence shall be taken out in respect of each business.
- (4) Where a licence is taken out for a newly formed business for part of a year only the fee payable shall be proportionate to the period covered by the licence and for the purpose of the assessment of that proportion any part of a month shall count as a whole month.

- (5) Where during the course of the year the nature or extent of a business changes for whatever reason thereby rendering the licence holder liable to the payment of a different licence fee he shall forthwith so inform the licensing authority and shall pay or receive such adjustment of fee as may be appropriate.
- (6) A licence may be surrendered to the licensing authority at any time and thereupon the licence holder shall be entitled to a proportionate refund of the licence fee commencing from the first day of the month next following.

#### REVENUE FROM FEES

14. (1) All fees collected by the local government council under this Act shall become part of the recurrent revenue of such council.
- (2) All fees collected by the Minister under this Act shall be paid into the central Government's Revenue Fund.

#### REDUCTION OF FEES

15. The licensing authority may reduce the fee in respect of,
  - (a) part time business; or
  - (b) newly formed businesses:

Provided that no reduction shall be in excess of fifty per centum of the fee and provided further that no such reduction shall be granted to newly formed businesses for more than 3 consecutive years, in respect of any one licence holder.

#### PENALTIES

16. (1) Any person who fails to pay a requisite licence fee including any increase imposed in accordance with section 12(4) within a period of six months from the date when the fee is due shall be guilty of an offence and liable on conviction to a fine not exceeding VT 500,000.
- (2) Any person who fails to comply with any condition imposed in accordance with section 5 shall be guilty of an offence and liable on conviction to a fine not exceeding VT 50,000.
- (3) Any person who obstructs the proper exercise of the powers of an authorised person under section 10 shall be guilty of an offence and liable on conviction to a fine not exceeding VT 50,000 or to imprisonment not exceeding 3 months or to both.
- (4) Any person who knowingly makes a false declaration for the purposes of evading or attempting to evade all or any part of the licence-fee payable under this Act shall be guilty of an offence and liable on conviction to a fine not exceeding VT 500,000 or to imprisonment not exceeding 1 year or to both.

- (5) Where any offence under subsections (4) and (5) of this section has been committed by a corporate body every person who at the time of the commission of the offence was a director, general manager, secretary or other senior officer of that body corporate or acting or purporting to act in any such capacity shall be guilty of the offence unless he proves that the offence was committed without his consent or knowledge and that he exercises all such diligence to prevent the commission of the offence as he ought to have exercised having regard to the nature of his functions in such capacity and in all the circumstances.

#### CANCELLATION OF LICENCE

17. Where a licence holder is convicted of any offence under this Act or any law providing for the payment of a tax or customs or excise duty, the Minister may cancel his licence, and no refund of fees shall be payable.

#### RULES

18. The Minister may make rules and may prescribe anything which is necessary or convenient to be prescribed for the carrying out or giving effect to this Act.

#### REPEAL

19. The Business Licence Regulation, Joint Regulation No. 18 of 1978 is repealed.

#### COMMENCEMENT

20. This Act shall come into force on the first day of January, 1984.