



**REPUBLIC OF VANUATU**

**FOREIGN SERVICE (AMENDMENT)  
ACT NO. 3 OF 2018**

**Arrangement of Sections**

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# REPUBLIC OF VANUATU

Assent: 06/07/2018  
Commencement: 12/07/2018

## FOREIGN SERVICE (AMENDMENT) ACT NO. 3 OF 2018

An Act to amend the Foreign Service Act No. 20 of 2013.

Be it enacted by the President and Parliament as follows-

### **1 Amendment**

The Foreign Service Act No. 20 of 2013 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 THE FOREIGN SERVICE ACT NO. 20 OF 2013

**1 Section 1 (definition of “Honorary Consul”)**

Delete “or 21A(1)”

**2 Paragraph 9(d)**

Repeal the paragraph, substitute

“(d) to consider the performance appraisals report of a Head of Mission or Consul General annually; and”

**3 Subsection 13(1)**

After “Minister”, insert “on the advice of the Board and”

**4 After subsection 13(1)**

Insert

“(1A) The Board must, in providing the advice to the Minister under subsection (1), state 2 names being for the applicant who has been recommended by the Board and the applicant whom the Board is satisfied is eligible, to be appointed as a Head of Mission.

(1B) The Minister is to submit both names that have been provided to him or her by the Board, to the Council.

(1C) The Minister must not appoint a Head of Mission under subsection (1), unless the Minister has received the Agrément from the receiving State.”

**5 At the end of section 13**

Add

“(5) For the purpose of this section, **Agrément** means the approval of a diplomatic representative by the State to which he or she is to be accredited.”

**6 Section 14**

Repeal the section, substitute

**“14 Term of Appointment**

- (1) A Head of Mission is to hold office for a period of 3 years and is eligible for reappointment by the Minister on the recommendation of the Board.
- (2) A person must be appointed as a Head of Mission within 6 months from the date on which the office became vacant.
- (3) If the Minister does not agree with the recommendation of the Board, he or she must refer the recommendation to the Council for consideration.
- (4) The Council may approve the recommendation for reappointment or reject the recommendation.
- (5) If the Council rejects the recommendation, the position must be readvertised in accordance with the provisions of this Act.”

**7 Subsection 17(1)**

Repeal the subsection, substitute

- “(1) The Minister is to appoint by Order, on the advice of the Board and on the approval of the Council, a person to be a Consul General.”

**8 After subsection 17(1)**

Insert

- “(1A) The Board must, in providing the advice to the Minister under subsection (1), state 2 names being for the applicant who has been recommended by the Board and the applicant whom the Board is satisfied is eligible, to be appointed as a Consul General.
- (1B) The Minister is to submit both names that have been provided to him or her by the Board, to the Council.
- (1C) The Minister must not appoint a Consul General under subsection (1), unless the Minister has received the endorsement from the receiving State.”

**9 Section 18**

Repeal the section, substitute

**“18 Term of Office**

- (1) The Consul General is to hold office for a period of 3 years and is eligible for reappointment by the Minister on the recommendation of the Board.
- (2) A person must be appointed as a Consul General within 6 months from the date on which the office became vacant.
- (3) If the Minister does not agree with the recommendation of the Board, he or she must refer the recommendation to the Council for consideration.
- (4) The Council may approve the recommendation for reappointment or reject the recommendation.
- (5) If the Council rejects the recommendation, the position must be readvertised in accordance with the provisions of this Act.”

**10 After subsection 21(1)**

Insert

- “(1A) The Minister must not appoint a Honorary Consul under subsection (1), unless the Minister has received an Exequatur from the receiving State.
- (1B) In this section **Exequatur** means an acceptance of a nomination of consular Commission by a State.”

**11 Subsection 21(2)**

Delete “(1), (2),”

**12 After paragraph 21(3)(b)**

Insert

- “(ba) the person is genuine in his or her commitments to assist and support the Government of Vanuatu in its development programs; and”

**13 Sections 21A and 21B**

Repeal the sections.

**14 Subsection 35(1)**

After “Head of Mission”, insert “or Consul General”

**15 Subsection 38(1)**

Repeal the subsection, substitute

“(1) The Director General may, after consultation with the relevant Director General or Director, submit a nomination of a public servant of a Ministry to the Commission for approval for secondment to a post in a Mission.”

**16 Subsection 38(2)**

- (a) Delete “officer” (wherever occurring), substitute “public servant”
- (b) Delete “Minister”, substitute “Board”

**17 Subsection 38(4)**

Repeal the subsection.

**18 Subsection 38(5)**

Repeal the subsection, substitute

“(5) The posting of a public servant on secondment to a post in a Mission must not exceed 6 years.”

**19 Subsection 38(6)**

After “equivalent”, insert “or higher”

**20 Section 42**

Delete “of the Ministry of Trade”

**21 After section 42**

Insert

**“42A Term of Office of Trade Commissioner**

- (1) A Trade Commissioner is to hold office for a period of 3 years and is eligible for reappointment following the process set out in section 42.
- (2) A person must be appointed as a Trade Commissioner within 6 months from the date on which the office became vacant.

**42B Reporting requirement of a Trade Commissioner**

- (1) A Trade Commissioner must report in writing to the Director General on a quarterly basis on the performance of his or her functions.
- (2) The Minister, the Director General of the Director General, may require a Trade Commissioner to report on a specific matter.

- (3) The Minister may summon a Trade Commissioner to return to Vanuatu for briefing on any specific matter.

**42C Revocation of Appointment of Trade Commissioner**

- (1) The Minister may on the recommendation of the Director General, revoke the appointment of a Trade Commissioner by providing the Trade Commissioner 1 month notice in writing of his or her intention to revoke the appointment.
- (2) Without limiting subsection (1), the Minister may revoke the appointment of the Trade Commissioner if he or she:
- (a) becomes bankrupt inside or outside Vanuatu; or
  - (b) is convicted of an offence inside or outside Vanuatu that is listed under subsection 27(2) of the Leadership Code Act [CAP 240]; or
  - (c) is convicted by a competent Court of Law for offences other than those under paragraph 27(2)(b) of the Leadership Code Act [CAP 240]; or
  - (d) is incapacitated by an illness; or
  - (e) commits the State to any bilateral agreement without clearance from the Minister or the Director General; or
  - (f) releases a sensitive information to the media without obtaining authorization from the Director General; or
  - (g) breaches the Public Finance and Economic Management Act [CAP 244]; or
  - (h) acts or has acted contrary to the instructions given by the Minister or the Director General; or
  - (i) by his or her actions or decisions, has brought into disrepute the integrity and reputation of Vanuatu; or
  - (j) acts or has acted contrary to the provisions of this Act.

**42D Resignation and Termination of Trade Commissioner**

- (1) A Trade Commissioner may resign at any time by giving 1 month notice in writing to the Minister.
- (2) The Minister may terminate the appointment of a Trade Commissioner without notice if he or she commits a serious misconduct.”