



REPUBLIC OF VANUATU

NATIONAL SECURITY (AMENDMENT) ACT NO. 7 OF 2023

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REPUBLIC OF VANUATU

Assent: 09/06/2023
Commencement: 21/06/2023

NATIONAL SECURITY (AMENDMENT) ACT NO. 7 OF 2023

An Act to amend the National Security Act No. 41 of 2019.

Be it enacted by the President and Parliament as follows-

1 Amendment

The National Security Act No. 41 of 2019 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 NATIONAL SECURITY ACT NO. 41 OF 2019

1 Section 1

Insert in their correct alphabetical positions:

“**high risk** means a threat and the high possibility of suffering harm or loss of significant consequence. It includes espionage and foreign interference;

intelligence information means the information and data collected, analysed and processed, regarding threats to Vanuatu, the Government and its people;

security threat means someone, or something that poses danger to the security and safety of Vanuatu, the Government of the Republic of Vanuatu, or an individual. It includes natural and man-made disasters, pandemic, corruption, transnational organized crime, money laundering, terrorism, environmental crime, espionage or cybercrime;”

2 Section 7

Repeal the section, substitute

“7 Powers of the Council

- (1) The Council has the power to do all things necessary or convenient to be done for or in connection with the performance of its functions under this Act.
- (2) Without limiting subsection (1), the Council has the power to do all or any of the following to address a risk or threat to Vanuatu’s national security:
 - (a) despite the provisions of any other Act, to instruct a Minister to stop events, ceremonies or other social activities under his or her prerogative;
 - (b) to instruct a Director General or a Director to take immediate actions;

- (c) to request the presence of a public servant or an officer of a statutory body to appear before it on any matter involving national security;
- (d) to prohibit the entry into Vanuatu waters of any military or research vessel or Vanuatu airspace of any military aircraft, if their entry into Vanuatu is not for purposes that are of national interest;
- (e) to close Vanuatu borders;
- (f) to prohibit a government agency from entering into a contract or agreement.”

3 After section 8

Insert

“8A Independence of the Council

The Council is not subject to the direction of any other person or body in the exercise of its functions.”

4 After paragraph 9(f)

Insert

“(fa) the Minister responsible for health; and”

5 Subsection 11(1)

Delete “quarterly”, substitute “monthly”

6 Subsection 12(2)

Repeal the subsection, substitute

“(2) Representatives from the following organisations may attend meetings of the Council whenever required or approved by the Council:

- (a) the Malvatumauri Council of Chiefs; and
- (b) the Vanuatu Christian Council; and
- (c) organisations representing youth and women.”

7 After section 14

Insert

“14A Resolutions adopted by the Council

- (1) Resolutions adopted by the Council, upon the endorsement of the Council of Ministers, are legally binding.
- (2) Resolutions with budgetary consequences must be submitted to the Council of Ministers for consideration.”

8 After section 18

Insert

“18A Functions of the National Security Advisor

The National Security Advisor has the following functions:

- (a) to lead the national intelligence effort to promote national security objectives; and
- (b) to provide strategic intelligence assessments to the Prime Minister, the Council or any Minister as is required; and
- (c) to ensure and coordinate the implementation of the decisions of the Council; and
- (d) to coordinate and oversee the performance of the Government in the national security sector; and
- (e) such other functions as may be conferred on the National Security Advisor under this Act or any other Act.

18B Powers of the National Security Advisor

- (1) The National Security Advisor has the power to do all things that are necessary or convenient to be done for or in connection to the performance of his or her functions under this Act or any other Act.

- (2) Without limiting subsection (1), the National Security Advisor has the power to direct and coordinate intelligence collection and assessment on issues of national security.

18C Independence of the National Security Advisor

The National Security Advisor is not subject to the direction of any other person or body (other than the Chairperson of the National Security Council and the Council), in the exercise of his or her functions.”

9 After Part 4

Insert

“4A ESTABLISHMENT OF THE NATIONAL SECURITY SENIOR OFFICIALS COMMITTEE

18D Establishment of the National Security Senior Officials Committee

- (1) The National Security Senior Officials Committee is established.
- (2) The Committee consists of the following members:
- (a) the Director General of the Prime Minister’s Office who is to be the Chairperson of the Committee; and
 - (b) the Director General of the Ministry in which the Deputy Prime Minister is responsible for; and
 - (c) the National Security Advisor; and
 - (d) the Director General of the Ministry of Foreign Affairs and External Trade; and
 - (e) the Director General of the Ministry of Finance and Economic Management; and
 - (f) the Director General of the Ministry of Climate Change; and
 - (g) the Director General of the Ministry of Health; and

- (h) the Director General of the Ministry of Infrastructure and Public Utilities; and
- (i) the Director General of the Ministry of Internal Affairs; and
- (j) the Deputy Commissioner of the Vanuatu Police Force; and
- (k) the Parliamentary Counsel of the office of the Attorney General.

18E Meetings of the Committee

- (1) The Committee must meet on a monthly basis on a date which must be before the date set for the monthly meeting of the Council or at any time as required.
- (2) The Chairperson of the Committee is to convene the monthly meetings and is to preside over all meetings of the Committee.
- (3) If the Chairperson is unable to attend a meeting of the Committee, he or she must nominate a member to preside at the meeting of the Committee.
- (4) At a meeting of the Committee, a decision is taken by majority votes of the members physically or virtually present at the meeting.
- (5) The Chairperson and Deputy Chairperson of the Committee are entitled to a sitting allowance of VT10,000 for each day on which a meeting of the Committee is held. The Chairperson and Deputy Chairperson must be present for the duration of the meeting to be entitled to be paid this allowance.
- (6) A member of the Committee is entitled to a sitting allowance of VT5,000 for each day on which a meeting of the Committee is held. A member must be present for the duration of the meeting to be entitled to be paid this allowance.
- (7) The Committee may determine its own procedures.

18F Other committees

The Chair of the Council, on the recommendation of the National Security Advisor, may appoint such committees as are necessary to ensure implementation and monitoring of the national security pillars.”

10 Section 20

Repeal the section, substitute

“20 Regulations

- (1) The Prime Minister may, on the recommendation of the Council, 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.
- (2) The Prime Minister is to issue by Order, the Security Classification Handbook providing guidelines for protecting Government information.”