

# **REPUBLIC OF VANUATU**

## **BILL FOR THE TELECOMMUNICATIONS AND RADIOCOMMUNICATIONS REGULATION (AMENDMENT) ACT NO. OF 2018**

### **Explanatory Note**

This Bill amends the Telecommunication and Radiocommunications Regulation Act No. 30 of 2009. This amendment provides that the Telecommunications and Radiocommunications Regulator will also be responsible for regulating matters relating to broadcasting within Vanuatu.

Item 1 amends the heading of the Act by deleting the words “and Radiocommunications” and inserting the words “, Radiocommunications and Broadcasting”. The effect of this amendment would mean that this Act will now be titled “Telecommunications, Radiocommunications and Broadcasting Regulation Act No.30 of 2009.

Item 2 amends all references in this Act to the phrase “telecommunications and radiocommunications”, by deleting the words “and radiocommunications”, and substituting it with the words “, radiocommunications and broadcasting”. This amendment is necessary to reflect the intention that the Regulator will not only be responsible for regulating all telecommunication and radiocommunication service providers but also be responsible for regulating all broadcasting service providers.

Item 3 inserts after subsection 7(2), a new subsection (2A) setting out further functions of the Regulator to regulate broadcasting service providers.

Item 5 inserts a new Part 3A after Part 3 of the Act to provide for the licencing requirements for broadcasting. Part 3A comprises of sections 16A, 16B, 16C, 16D, 16E, 16F and 16G. Section 16A provides for the process for applying for a broadcasting licence under this Act. .

Section 16B provides for the circumstances where the Regulator may exempt any person or class of persons from the licensing requirements under this Act.

Section 16C provides for the process by which a person may apply for a broadcasting licence. This section also provides that the Regulator may grant a broadcasting licence only if he or she is satisfied that the person applying for the licence, has such technical, financial and professional qualifications to be a broadcasting service provider under this Act.

Section 16D provides that a broadcasting licence issued under this Part is valid for a period not exceeding 10 years.

Section 16E provides the Regulator with the power to vary or revoke an existing condition of a licence and to impose further conditions on the licence.

Section 16F provides the Regulator with the power to revoke or suspend a broadcasting licence.

Section 16G empowers the Regulator to require any further information from a licensee that is necessary to enable the Regulator to better regulate licensees under this Act.

**Prime Minister**



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**BILL FOR THE  
TELECOMMUNICATIONS AND  
RADIOCOMMUNICATIONS REGULATION  
(AMENDMENT)  
ACT NO. OF 2018**

**Arrangement of Sections**

<b>1</b>	<b>Amendment .....</b>	<b>2</b>
<b>2</b>	<b>Commencement.....</b>	<b>2</b>

**REPUBLIC OF VANUATU**

**BILL FOR THE  
TELECOMMUNICATIONS AND  
RADIOCOMMUNICATIONS REGULATION  
(AMENDMENT)  
ACT NO. OF 2018**

An Act to amend the Telecommunications and Radiocommunications Regulation Act No. 30 of 2009.

Be it enacted by the President and Parliament as follows-

**1 Amendment**

The Telecommunications and Radiocommunications Regulation Act No. 30 of 2009 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 TELECOMMUNICATIONS AND RADIOCOMMUNICATIONS REGULATION ACT NO. 30 OF 2009

#### **1 Heading of Act**

Delete “and Radiocommunications”, insert “, Radiocommunications and Broadcasting”

#### **2 References to “telecommunications and radiocommunications”**

Delete “and radiocommunications”, insert “, radiocommunications and broadcasting”

#### **3 After subsection 7(2)**

Insert

“(2A) In addition to subsection (2), the Regulator is to:

- (a) exercise licensing and regulatory functions in respect of the sale and use of television receivers and broadcasting receiving apparatus; and
- (b) act internationally as the national authority or representative of Vanuatu in respect of matters relating to broadcasting; and
- (c) regulate and set ethical standards for broadcasting and media services; and
- (d) secure proper standards of television and sound broadcasting with regard to both the programme content and technical performance of broadcasts; and
- (e) advise the Minister in respect of matters relating to broadcasting; and
- (f) implement the policies of the Government in relation to broadcasting.”

**5 After Part 3**

Insert

**“PART 3A BROADCASTING LICENCE**

**Division 1 General prohibition and exemption**

**16A Prohibition**

- (1) A person must not:
- (a) install or use any broadcasting apparatus in any place in Vanuatu or on board any ship, aircraft or vehicle registered in Vanuatu; or
  - (b) offer for sale, sell or have in his or her possession, with a view to sell, any broadcasting apparatus; or
  - (b) establish or maintain a broadcasting station,
- unless the person is issued with a valid broadcasting licence under section 16C.
- (2) Subsection (1) does not apply to any person who uses a broadcasting apparatus:
- (a) in the course of his or her duty as a member of the Vanuatu Police Force; or
  - (b) for the purposes of carrying out his or her functions at any Government Ministry or Department; or
  - (c) on board any ship registered in Vanuatu for the purposes of carrying out transmission of broadcast matter outside the territorial waters of Vanuatu.
- (3) To avoid doubt, this section applies in relation to a broadcasting apparatus whether used or installed before, on or after the commencement of this Act.

- (4) The Regulator may prescribe different fees in relation to licences for different broadcasting apparatus and licences for different classes of broadcasting apparatus.
- (5) A person who contravenes this section, commits an offence punishable on conviction to a fine not exceeding VT 5,000,000 or to imprisonment for a term not exceeding 5 years and in either case is liable to forfeit any broadcasting apparatus sold, installed or used without a licence.

### **16B Exemption**

- (1) Despite section 16A, the Minister may, after consultation with the Regulator grant an exemption to any person or class of persons from any licensing requirements under this Act, in the following circumstances:
- (a) if it is in the public interest to grant that exemption; or
  - (b) if it is reasonable to grant an exemption in the context of the business and market environment; or
  - (c) if there is a natural disaster or an emergency; or
  - (d) if there is a sports event; or
  - (e) for the purposes of national security.
- (2) An exemption granted under this section must not distort competition in the broadcasting market.

## **Division 2 Licensing**

### **16C Broadcasting Licence**

- (1) A person who intends to:
- (a) install or use any broadcasting apparatus in any place in Vanuatu or on board any ship, aircraft or vehicle registered in Vanuatu; or
  - (b) offer for sale, sell or have in his or her possession, with a view to sell, any broadcasting apparatus; or

- (b) establish or maintain a broadcasting station,
- must apply to the Regulator for a broadcasting licence.
- (2) An application under subsection (1), must be in the form and must be accompanied with the fees, as determined by the Regulator.
- (3) The Regulator may require such other documents as are necessary to assist him or her in making a determination under this section.
- (4) The Regulator must not issue a broadcasting licence under this section unless he or she is satisfied that the person applying for a licence has such technical, financial and professional qualifications as may reasonably be required for the purpose of that application.
- (5) The Regulator may at any time determine the terms and conditions that will be applicable to each broadcasting licence.

**16D Validity of licence**

A broadcasting licence is valid for a period not exceeding 10 years from the date of the issue of that licence.

**16E Power of Regulator to vary or revoke existing conditions and to impose further conditions**

- (1) Subject to subsection (2), the Regulator may:
- (a) vary or revoke any existing conditions; or
- (b) impose any further conditions,
- on a broadcasting licence .
- (2) The Regulator must give 14 days written notice of his or her intention to vary or to impose a further condition on a broadcasting licence and must specify in the notice the proposed variation or the conditions to be revoked or imposed.



**16F Revocation or suspension of licence**

- (1) Subject to subsection (2), the Regulator may, by notice in writing to the licensee, suspend or revoke a broadcasting licence granted under this Part if he or she is satisfied that any of the following grounds exists:
- (a) the licensee has failed to comply with the provisions of this Act; or
  - (b) the licensee is no longer a fit and proper person to hold the licence; or
  - (c) the licensee no longer has the financial, technical and management capacity which are necessary to operate the broadcasting station; or
  - (d) the licensee has failed to comply with any direction given by the Regulator; or
  - (e) the licensee has failed to comply with any conditions of the licence; or
  - (f) it is in the public interest, to do so.
- (2) The Regulator must, before suspending or revoking any licence under subsection (1), give the licensee notice in writing of his or her intention to do so and must provide a reasonable opportunity for the licensee to respond to any allegations being made against the licensee.

**16G Requirement to provide information**

The Regulator may, by notice in writing, require a licensee to provide him or her with any information as the Regulator considers necessary to enable him or her to regulate licensees under this Act.”