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LOI

LOI NO. 9 DE 2012 SUR LA LUTTE CONTRE LE
TERRORISME ET LE CRIME ORGANISE
TRANSNATIONAL (MODIFICATION)

LOI MODIFICATIVE NO. 17 DE 2012
(DISPOSITIONS DIVERSES)

NOTIFICATION OF PUBLICATION

ACT

COUNTER TERRORISM AND TRANSNATIONAL
ORGANISED CRIME (AMENDMENT) ACT NO. 9 OF
2012

STATUTE LAW (MISCELLANEOUS) PROVISIONS
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ORDER

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314]**

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REPUBLIC OF VANUATU

**COUNTER TERRORISM AND TRANSNATIONAL
ORGANISED CRIME (AMENDMENT)
ACT NO.9 OF 2012**

Arrangement of Sections

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REPUBLIC OF VANUATU

Assent: 30/05/2012
Commencement: 25/06/2012

COUNTER TERRORISM AND TRANSNATIONAL ORGANISED CRIME (AMENDMENT) ACT NO.9 OF 2012

An Act to amend the Counter Terrorism and Transnational Organised Crime Act [CAP 313].

Be it enacted by the President and Parliament as follows-

1 Amendment

The Counter Terrorism and Transnational Organised Crime Act [CAP 313] 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 COUNTER TERRORISM AND TRANSNATIONAL ORGANISED CRIME ACT [CAP 313]

**1 Section 2 (definition of “counter terrorism convention” and
“terrorist act”)**

(a) Repeal the definitions.

(b) Insert in its correct alphabetical position:

““transnational criminal activity” means an offence that is committed in:

- (a) more than one State; or
- (b) a State but a substantial part of its preparation, planning, direction or control takes place in another State; or
- (c) a State but involves an organised criminal group that engages in criminal activities in more than one State; or
- (d) a State but has substantial effects in another State;”

2 Subsections 2 (2), (3) and (4)

Repeal the subsections.

3 Section 3

Repeal the section, substitute

“3. Definition of terrorist act

(1) For the purposes of this Act, a “terrorist act” means an act or omission that:

- (a) qualifies to be an offence committed under this Act; or
- (b) is committed in or outside Vanuatu that:
 - (i) causes death or serious bodily harm to a person; or

SCHEDULE
AMENDMENTS OF THE COUNTER TERRORISM AND TRANSNATIONAL ORGANISED
CRIME ACT [CAP 313]

- (ii) causes serious damage to property; or
 - (iii) endangers a person's life; or
 - (iv) causes a serious risk to the health or safety of the public or part of the public; or
 - (v) involves the use of weapons; or
 - (vi) involves introducing into the environment and distributing or exposing the public to:
 - (A) dangerous, hazardous, radioactive or harmful substances; or
 - (B) toxic chemicals; or
 - (C) microbial or other biological agent or toxic; or
 - (vii) involves serious disruption to a system of normal operations or services relating to infrastructures; and
 - (c) which must be intended or by its nature and context, can reasonably be regarded as being intended:
 - (i) to intimidate the public or a part of the public; or
 - (ii) to compel a government or an international organisation to do or refrain from doing an act.
- (2) An act or omission mentioned in subsection (1) does not include an act or omission occurring in a situation of armed conflict in accordance with the applicable rules of International Laws.”

4 Section 4

Repeal the section, substitute

“4 Specified entities

- (1) The Minister may, on the advice of the Attorney General, make regulations prescribing a person or group as a specified entity if the person or group:
- (a) has threatened or committed or attempts to commit or participate in committing or facilitating the commission of a terrorist act; or
 - (b) is acting or has knowingly acted on behalf of or at the direction of or in association with a person or group referred to in paragraph (a).
- (2) A person or group that has been designated by the Security Council of the United Nations, acting under Resolutions of the Security Council relating to terrorism, is deemed to have been prescribed by the Minister as a specified entity under subsection (1) if approved by the Council of Ministers.”

4A. Revocation of prescription

The Minister may, on the advice of the Attorney General, by Order revoke a specified entity prescribed under section 4 if:

- (a) the person or group requests the Minister to do so and the Minister is satisfied on reasonable grounds that the revocation is necessary ; and
- (b) that person or group has not been listed by the Security Council of the United Nations acting under resolutions relating to terrorism.”

5 Section 6

Repeal the section, substitute

“ 6. Terrorist Financing

- (1) A person must not provide or collect, by any means, directly or indirectly, any property intending, knowing or having reasonable grounds to believe that the property will:
- (a) be used in full or part to carry out a terrorist act; or

- (b) benefit a terrorist group.
- (2) In any prosecution for an offence under this section, any knowledge, intent or purpose required as an element of the offence may be inferred from objective factual circumstances.
- (3) Any person who contravenes subsections (1) or (2) is guilty of an offence and is punishable on conviction by a term of imprisonment of not more than 25 years or a fine of not more than VT 125 million, or both.”

6 Subsection 8 (3)

Repeal the subsection, substitute

- “(3) A person must not provide or collect, by any means, directly or indirectly, any property intending, knowing or having reasonable grounds to believe that it will benefit a terrorist group.

7 After subsection 8(3)

Add

- (4) If a person contravenes subsection (1) or subsection (3), the person is guilty of an offence punishable on conviction by a term of imprisonment of not more than 20 years or a fine of not more than VT 100 million, or both.”

8 Section 12

Repeal the section, substitute

“12. Direction to take control of property

- (1) The Minister may, on the advice of the Attorney General, by order issue directions to the Administrator to seize any property if he or she on reasonable grounds believes that the property is a terrorist property owned and controlled by a person or group that has been prescribed under section 4.
- (2) The Minister may, on the advice of the Attorney General, apply to the Court for direction to seize any property that he or she believe on reasonable grounds to be a terrorist property subject to section 4 of the Act.

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AMENDMENTS OF THE COUNTER TERRORISM AND TRANSNATIONAL ORGANISED
CRIME ACT [CAP 313]

- (3) If the Court is satisfied that a property is a terrorist property, the Court may order the Administrator to take custody and control of the property.
- (4) The direction referred to in subsection (1):
 - (a) must provide details of the existence of the property; and
 - (b) must provide details of the person in possession of the property; and
 - (c) may be subject to conditions prescribed by Minister.
- (5) A person who is in possession of the property specified in the direction must allow the Administrator to take custody and control of the property in accordance with the direction.

12A. Application of the Proceeds of Crime Act [CAP 284]

The direction referred to under subsection 12 (1) has the same effect as a restraining order made pursuant to section 42 of the Proceeds of Crime Act [CAP 284] and the provisions of that Act shall apply to such directions with all necessary modifications.”

9 PART 3 DIVISION 3

Repeal the division.

10 After section 51

Insert

“51A. Application of the Penal Code Act [CAP 135]

An offence committed under this Act may be dealt with in accordance with the provisions of the Penal Code Act [CAP 135].”

11 Schedule

Repeal the Schedule.



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LOI N° 9 DE 2012 SUR LA LUTTE CONTRE LE TERRORISME ET LE CRIME ORGANISÉ TRANSNATIONAL (MODIFICATION)

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RÉPUBLIQUE DE VANUATU

Promulguée : 30/05/2012

Entrée en vigueur : 25/06/2012

LOI N° 9 DE 2012 SUR LA LUTTE CONTRE LE TERRORISME ET LE CRIME ORGANISÉ TRANSNATIONAL (MODIFICATION)

Portant modification de la Loi sur la lutte contre le terrorisme et le crime organisé transnational [CAP 313].

Le Président de la République et le Parlement promulguent le texte suivant :

1 Modification

La Loi sur la lutte contre le terrorisme et le crime organisé transnational [CAP 313] est modifiée telle que prévue à l'Annexe.

2 Entrée en vigueur

La présente Loi entre en vigueur à la date de sa publication au Journal officiel.

ANNEXE

MODIFICATION DE LA LOI SUR LA LUTTE CONTRE LE TERRORISME ET LE CRIME ORGANISÉ TRANSNATIONAL [CAP 313]

1 Article 2 (définition de "convention sur la répression du terrorisme" et "acte terroriste")

a) Supprimer les définitions

b) Insérer selon l'ordre alphabétique

“activité criminelle transnationale” désigne une infraction commise dans :

a) beaucoup d'états ;

b) un état mais une partie importante de sa préparation, planification, direction ou de son contrôle a lieu dans un autre état ;

c) un état mais implique un groupe criminel organisé qui s'engage dans des activités criminelles dans beaucoup d'états ; ou

d) un état mais a des effets importants dans un autre état ;”.

2 Paragraphes 2.2), 3) et 4)

Abroger ces paragraphes.

3 Article 3

Supprimer et remplacer l'article par

“3 Définition de l'acte terroriste

1) Aux fins de la présente Loi, un “acte terroriste” désigne un acte ou omission qui :

a) s'avère être une infraction commise à la présente Loi ;

b) est commise à Vanuatu ou à l'étranger et qui :

i) occasionne la mort ou des blessures corporelles graves à une personne ;

- ii) occasionne des dommages graves à des biens ;
 - iii) met en danger la vie d'autrui ;
 - iv) expose gravement la santé ou la sécurité du public ou une partie du public ;
 - v) implique l'utilisation d'armes ;
 - vi) implique le fait de libérer dans l'environnement, de diffuser ou d'exposer le public à :
 - A) des produits dangereux, radioactifs ou des substances dangereuses ;
 - B) des produits chimiques toxiques ; ou
 - C) un agent bactériologique ou autre agent biologique ou des toxines ;
 - vii) implique toute perturbation grave dans un système de fonctionnement normal ou de prestation des services liés une infrastructure ; et
- c) doit prévoir être prévu ou par sa nature ou son contexte, peut normalement être considéré comme ayant été prévu pour :
- i) intimider le public ou une partie du public ; ou
 - ii) contraindre un état ou une organisation internationale de faire ou de ne pas faire quelque chose.
- 2) Un acte ou une omission cité au paragraphe 1) n'inclut pas un acte ou une omission qui a lieu dans une situation de conflit armé et est conforme aux règles du droit international."

4 Article 4

Supprimer et remplacer l'article par :

“4 Arrêtés spécifiant des entités

- 1) Le Ministre peut sur avis de l’Attorney général prendre un règlement pour préciser qu’une personne physique ou morale est une entité précisée lorsque celle-ci :
 - a) menace, commet ou tente de commettre ou participer à la commission ou à favoriser la commission d’un acte terroriste ; et
 - b) agit ou agit sciemment au nom de ou sous la direction ou en association avec une personne physique ou morale citée à l’alinéa a).
- 2) Une personne physique ou morale désigné par le Conseil de Sécurité de l’Organisation des Nations Unies conformément aux résolutions du Conseil de sécurité relatives au terrorisme, est censée être prescrite par le ministre comme étant une entité précisée conformément au paragraphe 1) sur approbation du Conseil des Ministres.

4A Révocation de la prescription

Le Ministre peut sur avis de l’Attorney général prendre un arrêté pour révoquer une personne physique ou morale précisée prévue à l’article 4 si :

- a) la personne physique ou morale demande au ministre de le faire et le ministre a des bonnes raisons d’être certain que la révocation est nécessaire ;
- b) cette personne physique ou morale est inscrite par le Conseil de Sécurité de l’ONU conformément aux résolutions relatives au terrorisme.”

5 Article 6

Supprimer et remplacer l’article par :

“6. Financement du terrorisme

- 1) Nul ne doit fournir ou recevoir, par tout moyen, directement ou indirectement, tout bien, en sachant, en connaissant ou ayant des bonnes raisons de croire que le bien :
 - a) servira entièrement ou en partie à commettre un acte terroriste ; ou
 - b) profitera à un group terroriste.

- 2) Dans toute procédure pour infraction selon le présent article, toute connaissance, intention ou fin requis comme élément de l'infraction peut se dégager des circonstances factuelles objectives.
- 3) Quiconque enfreint le paragraphe 1) ou 2) commet une infraction et s'expose, sur condamnation, à une peine d'emprisonnement n'excédant pas 25 ans, à une amende n'excédant pas 125 millions VT, ou aux deux peines à la fois."

6 Paragraphe 8.3)

Supprimer et remplacer le paragraphe par :

- "3) Nul ne doit fournir ou recevoir, par tout moyen, directement ou indirectement, tout bien, en sachant, en connaissant ou ayant des bonnes raisons de croire qu'il profitera à un groupe terroriste."

7 Après le paragraphe 8.3)

Insérer

- "4) Quiconque enfreint le paragraphe 1) commet une infraction et s'expose, sur condamnation, à une peine d'emprisonnement n'excédant pas 20 ans, à une amende n'excédant pas 100 millions VT, ou aux deux peines à la fois."

8 Article 12

Supprimer et remplacer l'article par :

"12. Instruction pour saisir un bien

- 1) Le ministre peut, sur avis de l'Attorney Général, prendre un arrêté imposant à l'administrateur de saisir tout bien s'il a des bonnes raisons de croire qu'il s'agit d'un bien terroriste possédé et contrôlé par une personne physique ou morale précisé à l'article 4.
- 2) Le ministre peut sur avis de l'Attorney Général demander au tribunal une instruction pour saisir tout bien qu'il a des bonnes raisons de croire qu'il s'agit d'un bien terroriste sous réserve de l'article 4 de la Loi.
- 3) Lorsque le tribunal est certain qu'un bien est un bien terroriste, il peut ordonner à l'administrateur de prendre la charge et le contrôle du bien.
- 4) L'instruction citée au paragraphe 1) :
 - a) doit préciser les détails de l'existence du bien ;

- b) doit préciser les détails de la personne ayant la possession du bien ;
et
 - c) peut être soumise à des conditions prévues par le ministre.
- 5) Une personne qui a la possession du bien précisé dans l’instruction doit permettre à l’administrateur de prendre la charge et le contrôle du bien conformément à l’instruction.

12A Application de la Loi sur les produits d’activité criminelle de 2002

L’instruction citée au paragraphe 12.1) s’applique comme une injonction rendue en vertu de l’article 42 de la Loi sur les produits d’activité criminelle de 2002 et les dispositions de ladite Loi s’appliquent à toute instruction avec toute modification nécessaire.”

9 TITRE 3 Sous-titre 3

Abroger le Sous-titre.

10 Après l’article 51

Insérer

“51A Application de la Loi sur le Code pénal (CAP 135)

Une infraction à la présente Loi sera instruite conformément aux dispositions de la Loi sur le Code pénal [CAP 135].”

11 Annexe 1

Abroger l’Annexe.



REPUBLIC OF VANUATU

STATUTE LAW (MISCELLANEOUS) PROVISIONS ACT NO.17 OF 2012

Arrangement of Sections

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REPUBLIC OF VANUATU

Assent: 30/05/2012

Commencement: 25/06/2012

STATUTE LAW (MISCELLANEOUS) PROVISIONS ACT NO.17 OF 2012

An Act to provide for amendments to certain Acts.

Be it enacted by the President and Parliament as follows-

1 Amendments

The following Acts are amended as set out in the Schedule:

- (a) Forestry Act [CAP 276];
- (b) Decentralization Act [CAP 230].

2 Repeal of Act

- (1) This Act is repealed on the day following the day on which all the provisions of this Act have commenced.
- (2) The repeal of this Act does not, because of the operation of section 11 of the Interpretation Act [CAP 132], affect any amendment made by this Act.

3 Commencement

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

SCHEDULE

AMENDMENTS TO CERTAIN ACTS

1 Forestry Act [CAP 276]

Subsection 72(4)

Delete "and if there is any inconsistency between the 2 Acts, this Act prevails."

2 Decentralization Act [CAP 230]

Section 31A (Inquiries and suspension)

Repeal the section.



RÉPUBLIQUE DE VANUATU

LOI MODIFICATIVE N° 17 DE 2012 (DISPOSITIONS DIVERSES)

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RÉPUBLIQUE DE VANUATU

Promulguée : 30/05/2012

Entrée en vigueur : 25/06/2012

LOI MODIFICATIVE N° 17 DE 2012 (DISPOSITIONS DIVERSES)

Portant des modifications de certaines lois.

Le Président de la République et le Parlement promulguent le texte suivant :

1 Modification

Les Lois suivantes sont modifiées telles que prévues à l'Annexe.

- a) Loi sur la sylviculture [CAP 276] ;
- b) Loi sur la décentralisation [CAP 230].

2 Caducité de la Loi

- 1) La présente Loi devient caduque à la date où toutes ses dispositions entreront en vigueur.
- 2) La caducité de la présente Loi, à cause de l'application de l'article 11 de la Loi sur l'interprétation [CAP 132], n'affecte aucune modification qui découle de son application

3 Entrée en vigueur

La présente Loi entre en vigueur à la date de sa publication au Journal officiel.

ANNEXE

MODIFICATIONS DE CERTAINES LOIS

1 Loi sur la Sylviculture [CAP 276]

Paragraphe 72.4)

Supprimer "et en cas d'incompatibilité entre les deux lois, la présente loi prévaut."

2 Loi sur la décentralisation [CAP 230]

Article 31A (Enquêtes et suspension)

Abroger l'article



REPUBLIC OF VANUATU

IMMIGRATION ACT NO. 17 OF 2010

Vanuatu Immigration Service Code of Conduct Order No. 75 of 2012

In exercise of the powers conferred on me by paragraph 91(1)(b) of the Immigration Act No. 17 of 2010, I, the Honourable GEORGE ANDRE WELLS Minister of Internal Affairs, make the following Order.

1 Vanuatu Immigration Service Code of Conduct

The Vanuatu Immigration Service Code of Conduct is prescribed as set out in the Schedule.

2 Commencement

This Order commences on the day on which it is made.

Made at Port Vila this 21 day of June 2012


Honourable GEORGE ANDRE WELLS
Minister of Internal Affairs



SCHEDULE

SCHEDULE
VANUATU IMMIGRATION

SERVICE



CODE OF CONDUCT

PART 1 - INTRODUCTION

This code of conduct has been developed for officers working within the Vanuatu Immigration Service. It does not replace the existing Vanuatu Government Public service code of conduct. Instead, it builds on that code and addresses Immigration specific issues. All officers working within the Immigration are bound by the code and must ensure that they maintain the highest levels of professionalism and integrity. Each officer is required to report breaches of the code to the head of Vanuatu Immigration Service, through his/her immediate officer in charge immediately.

PART 2 - CODE OF CONDUCT

1 PERFORMANCE OF DUTIES

As an employee of the Vanuatu Immigration Service I will:

- (a) Obey the laws and regulations of Vanuatu
- (b) be present for all my contracted hours of work and not be absent without the appropriate authorization;
- (c) be honest, fair, impartial, competent and efficient in the performance of my assigned duties;
- (d) treat all colleagues and customers equally, with courtesy, respect, consideration, dignity and without harassment;
- (e) ensure that all administrative procedures for dealing with people are applied in a consistent manner;
- (f) comply with the policies and procedures of Immigration service and undertake all my duties in accordance with the relevant legislation and regulations; and
- (g) Strive for the highest ethical standard not just the minimum required to meet legal or procedural requirements.

2 DRESS

The dress and appearance of Immigration Officers should reflect a professional image. Public perceptions of work practices can be influenced by the professional appearance of officers. As an employee of the Immigration service I will:

- (a) ensure that I wear my uniform to work whenever I am required to undertake airport, counter or other representational duties; and
- (b) ensure that my uniform is clean and presentable.
- (c) ensure that my dress and bearing are neat and tidy at all times.

3 CONFLICT OF INTEREST

As an employee of the Vanuatu Immigration Service I will:

- (a) ensure there is no bias, or perception of bias, in my decision making; and
- (b) avoid any situation where a conflict of interest may arise or where there may be an appearance of a conflict of interest; and
- (c) advise my head of section or supervisor immediately if my duties involve matters in which I, or my family or friends also have an interest.

4 CONFIDENTIALITY

As an employee of the Immigration Service I will:

- (a) maintain the confidentiality of the work I do for Immigration service both within and outside the organization;
- (b) ensure that information and knowledge gained in my employment is not used for personal or private gain or any other advantage;
- (c) take reasonable steps to ensure that information obtained through the course of my duties is not made available to non-authorized people;
- (d) ensure that confidential and sensitive information is only released to those Government employees who have lawful access to it; and

SCHEDULE

- (e) not remove, alter or destroy any official records without following lawful procedures.

5 GIFTS AND FAVOURS

As an employee of the Immigration Service I will:

- (a) not personally accept any gifts or favours, whatever their nature and values, except in situations where it would be offensive or culturally insensitive to decline or in a public setting where it may cause embarrassment to decline it; and
- (b) report the delivery or offer of such gifts or favours to the Head of VIS who will decide whether it is appropriate to accept the gift or favour; and
- (c) ensure that the details of all gifts or favours accepted, and the method of disposal, are entered into a register kept at VIS office; and
- (d) agree to any such gifts accepted becoming property of the Vanuatu Immigration Service.

6 OTHER PAID EMPLOYMENT

As an employee of the Immigration Service I will:

- (a) obtain official approval from the Head of VIS prior to engaging in any secondary paid employment; and
- (b) ensure that any secondary employment does not create a conflict of interest or adversely affect the performance of my official duties; and
- (c) ensure that I will not engage in any dealings that may create a conflict of interest or adversely affect the performance of my duty or damage the integrity of the VIS.

7 MEDIA RELATIONS

As an employee of the Immigration Service I will:

- (a) not discuss Immigration matters with any member of the news media unless I am authorized to do so; and
- (b) direct all media enquiries to the head of Vanuatu Immigration Service or His appointed representative.

8 RELATIONS WITH EXTERNAL AGENCIES

As an employee of the Immigration Service I will:

- (a) always act in a professional manner when dealing with people from external agencies; and
- (b) Ensure that I put the interests of the Immigration above all else.

9 OFFICIAL TRAVEL

As an employee of the Immigration service I will:

- (a) undertake official travel after appropriate authorization has been granted.
- (b) represent the Vanuatu immigration service to the highest possible level when travelling on official business; and
- (c) ensure that expenditure is within the official travel allowance and in accordance with financial regulation.

10 DRUGS AND ALCOHOL

As an employee of the Immigration Service I will:

- (a) not work while affected by alcohol, drugs or other intoxicants, or while my ability to work competently and safely is affected by the use of medication; and
- (b) advise my supervisor if prescription drugs may impair my performance.

11 USE OF IMMIGRATION PROPERTY

As an employee of the Immigration Service I will:

- (a) treat all Immigration service property with care and use it only in an official capacity unless specifically authorized;
- (b) not remove Immigration property from the workplace without proper authorization;
- (c) return all Immigration property if I proceed on leave, resign or leave the organization;
- (d) not use Immigration vehicles for personal use or favour;
- (e) use the internet in accordance with the Immigration web guidelines to access work related information only;
- (f) report any instances of inappropriate use of the Internet to the Head of VIS; and
- (g) use e-mail and telephones for official work related purposes and only essential personal purposes.

12 CORRUPTION

As an employee of the Immigration service I will:

- (a) not engage in corrupt activities of any kind;
- (b) report any instances of corruption that I witness to the Head of the VIS, regardless of perceived significance or impact; and
- (c) lead by example, both to those that work directly for me and those that work with me.

13 CONCLUSION

All heads of sections and supervisors are expected to lead by example. They must develop and instil values as a cornerstone of service and proper conduct and should take appropriate action when staffs fall short of the required standards.

SCHEDULE

Any officer who fails to comply with this code or any lawful directive shall be asked to explain their actions. Should their conduct be contrary to the code requirements, and where it does not involve an honest mistake they will be subject to disciplinary action.

.....

YOUR CODE OF CONDUCT ACKNOWLEDGEMENT

I (print full name).....hereby acknowledge that I have received, read and understand my copy of the Immigration service code of conduct.

Sign.....Date.....of.....20.
(Day) (Month)



REPUBLIC OF VANUATU

VANUATU AGRICULTURE COLLEGE ACT [CAP 314]

Instrument of Removal- Members of the Vanuatu Agriculture College Council Order No. 76 of 2012

In exercise of the powers conferred on me by subsection 13(2) of the Vanuatu Agriculture College Act [CAP 314], I, the Honourable JAMES NGWANGO, Minister of Agriculture, Quarantine, Forestry and Fisheries order:

1 Removal of members of the Vanuatu Agriculture College


The following persons are removed as members of the Council:

- (a) Joel Path;
- (b) Thomas Pakoa; and
- (c) Joely Daniel

2 Commencement

This instrument of removal comes into force on the day on which it is made.

Made at Port Vila this 7th day of June 2012.


Honourable JAMES NGWANGO
Minister of Agriculture, Quarantine, Forestry and Fisheries