



REPUBLIC OF VANUATU

NATIONAL SECURITY ACT NO. 41 OF 2019

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REPUBLIC OF VANUATU

Assent: 10/01/2020
Commencement: 06/02/2020

NATIONAL SECURITY ACT NO. 41 OF 2019

An Act to establish the National Security Council and to provide for other matters relating to national security.

Be it enacted by the President and Parliament as follows-

PART 1 PRELIMINARY

1 Interpretation

In this Act, unless the contrary intention appears:

Council means the National Security Council established under section 3;

Chairperson means the Chairperson of the Council;

Deputy Chairperson means the Deputy Chairperson of the Council;

government agency means:

- (a) a Ministry of the Government; or
- (b) a Department within a Ministry; or
- (c) an office or body established by the Constitution; or
- (d) an office or body established by or under an Act;

national security includes:

- (a) the protection of Vanuatu from any of the following, whether or not directed from or committed with Vanuatu:
 - (i) espionage;
 - (ii) sabotage;
 - (iii) seditious intention;

- (iv) active measures of foreign intervention;
- (v) terrorism; and
- (b) the protection of Vanuatu from climate change, health emergencies and environmental disasters; and
- (c) the carrying out of Vanuatu's responsibilities to any foreign country or international organisation in relation to a matter contained in paragraph (a) or (b);

National Security Advisor means the National Security Advisor referred to in section 18;

Secretariat means the Secretariat of the Council established under section 16.

2 Purpose

This Act has the following purposes:

- (a) to give effect to the national security objectives outlined in the National Security Strategy to:
 - (i) ensure a safe, stable and prosperous society in Vanuatu and protection of Vanuatu's values; and
 - (ii) protect and strengthen Vanuatu's sovereignty; and
 - (iii) secure Vanuatu's assets, infrastructure and institutions; and
 - (iv) ensure Vanuatu's foreign policy and external engagement maximise Vanuatu's national interests; and
- (b) to provide a comprehensive legislative framework for a well-co-ordinated and effective government machinery to manage national security issues.

PART 2 ESTABLISHMENT, FUNCTIONS AND POWERS OF THE NATIONAL SECURITY COUNCIL

3 Establishment of the National Security Council

The National Security Council is established.

4 Functions of the National Security Council

The functions of the Council are:

- (a) to advise, and make recommendations to, the Council of Ministers on national security, and law and order issues in Vanuatu; and
- (b) to make decisions or issue directives under section 6.

5 Function to provide advice and make recommendations

Without limiting paragraph 4(a), the Council may provide advice and make recommendations on any or all of the following:

- (a) matters affecting national security, and law and order;
- (b) the development and implementation of Government objectives, policies and programmes relating to national security, and law and order, including at government agency level;
- (c) the preparation of medium and long-term national security, and law and order, plans;
- (d) any action taken to address risks or threats to national security, or law and order;
- (e) the management of crisis situations arising from risks or threats to national security, and law and order;
- (f) any other matter relating to national security, and law and order, as requested or directed by the Prime Minister or as the Council considers necessary.

6 Urgent action if high risk or threat to national security

- (1) This section applies if the Council is satisfied that the circumstances require urgent action to be taken to address a high risk or threat to Vanuatu's national security.

- (2) Without limiting paragraph 4(b), the Council may do any or all of the following:
- (a) decide, manage and oversee a whole-of-Government response to the risk or threat;
 - (b) issue written directions to one or more of the following persons to take specified action to address the risk or threat:
 - (i) the Commissioner of Police;
 - (ii) the Commander of the Vanuatu Mobile Force;
 - (iii) the head of a government agency.
- (3) A person to whom a direction is given under paragraph 2(b), must comply with the direction so far as is practicable.

7 Powers

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.

8 Request for assistance

- (1) In performing any of its functions, the Council may request the assistance of any government agency.
- (2) The government agency must comply with the request, including providing any information required by the Council to perform its functions.

PART 3 MEMBERSHIP AND MEETINGS OF THE NATIONAL SECURITY COUNCIL

9 Membership

The members of the Council are:

- (a) the Prime Minister; and
- (b) the Deputy Prime Minister; and
- (c) the Minister responsible for internal affairs; and
- (d) the Minister responsible for foreign affairs; and
- (e) the Minister responsible for finance; and
- (f) the Minister responsible for climate change; and
- (g) the Commissioner of Police; and
- (h) the Attorney-General.

10 Chairperson and Deputy Chairperson

The Prime Minister is the Chairperson of the Council and the Deputy Prime Minister is the Deputy Chairperson of the Council.

11 Meetings

- (1) The Council is to meet on a quarterly basis on such dates and at such times as the Chairperson determines.
- (2) The Council may meet at such other times as the Chairperson determines is necessary for the proper performance of the Council's functions.
- (3) The Chairperson is to preside at any meeting of the Council.
- (4) If the Chairperson is absent from a meeting of the Council, the Deputy Chairperson is to preside at that meeting.
- (5) If the Chairperson and the Deputy Chairperson are both absent from a meeting, the other members of the Council present at that meeting are to elect a member to preside at the meeting.

- (6) The quorum for a meeting of the Council is 5 members present at the meeting.

12 Other persons may be invited to Council meetings

- (1) The Council may invite other persons, including Ministers, to attend meetings of the Council.
- (2) The Council is to ensure that representatives from the following organisations are invited to meetings on a regular basis:
- (a) the Malvatumauri Council of Chiefs; and
 - (b) the Vanuatu Christian Council; and
 - (c) organisations representing women and youth.
- (3) A Minister or other person invited to attend a meeting of the Council has no voting right at the meeting.

13 Council to operate by consensus

- (1) So far as practicable, the Council is to operate by consensus.
- (2) However if consensus is not reached at a meeting of the Council, each member present at a meeting has 1 vote and questions arising at a meeting are to be decided by a simple majority of votes of members present at the meeting.
- (3) If, at a meeting of the Council, the voting is equal, then:
- (a) the Chairperson has a casting vote if the Chairperson is presiding at that meeting under subsection 11(3); or
 - (b) the Deputy Chairperson has a casting vote if the Deputy Chairperson is presiding at that meeting under subsection 11(4); or
 - (c) if another member of the Council is presiding at that meeting under subsection 11(5), that other member has a casting vote.

14 Conflict of interest

- (1) A member of the Council who has a direct or indirect interest in a matter being considered, or about to be considered, at a meeting of the Council must disclose the nature of the interest at the meeting.

- (2) A disclosure is to be recorded in the minutes of the meeting of the Council and the member concerned must not:
- (a) be present during any deliberation of the Council in relation to that matter; or
 - (b) take part in any decision of the Council in relation to that matter.

15 Meeting procedures

Subject to this Act, the Council is to determine and regulate its own procedures, including conducting meetings by electronic means of communication.

PART 4 SECRETARIAT TO THE NATIONAL SECURITY COUNCIL

16 Establishment of Secretariat

- (1) A Secretariat to the Council is established within the Office of the Prime Minister.
- (2) The National Security Advisor is the head of the Secretariat.
- (3) The staff of the Secretariat are to be employed or seconded to the Secretariat under the Public Service Act [CAP 246].

17 Functions of the Secretariat

- (1) The functions of the Secretariat are:
 - (a) to provide, through the National Security Advisor, strategic policy support and recommendations to the Council; and
 - (b) to provide operational support to the Council.
- (2) Without limiting paragraph (1)(b), operational support includes the following:
 - (a) to prepare, in consultation with the chairperson, and circulate the agenda for Council meetings;
 - (b) to keep records of advices, recommendations, decisions and directives made by the Council;
 - (c) to coordinate the implementation of Council decisions and directives;
 - (d) to liaise with government agencies which are represented on the Council regarding matters to be considered by the Council;
 - (e) to coordinate the preparation of submissions, reports, papers and briefs on national security matters for consideration by the Council;
 - (f) to keep minutes of the Council meetings;
 - (g) to prepare, in consultation with the, an annual work plan for the, Council;

- (h) to prepare reports, on a monthly basis, on matters considered by the Council for submission to the Prime Minister;
- (i) to provide other administrative and secretarial support to meetings of the Council as required;
- (j) to perform such other functions as prescribed by the Regulations.

18 National Security Advisor

- (1) A National Security Advisor is to be appointed under the Public Service Act [CAP 246].
- (2) The National Security Advisor is also the secretary of the Council.

PART 5 MISCELLANEOUS

19 Official Secrets Act [CAP 111]

The Official Secrets Act [CAP 111] applies to a person performing a function for the purposes of this Act.

20 Regulations

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.

21 Commencement

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