

GOUVERNEMENT
DE LA
REPUBLIQUE DE VANUATU

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GOVERNMENT
OF THE
REPUBLIC OF VANUATU

MINISTRY OF LANDS AND NATURAL
RESOURCES

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GOOD INTENTIONS: VERY POORLY DESIGNED POLICIES

The land law reform package masterminded by the then former Minister of Lands, Hon Ralph Regenvanu is proving to be an economic, social and security disaster that requires urgent attention by all stakeholders. Since gazettal in March 2014, there has been less than 5 new rural leases registered nor 5 custom land owning group and/or users being identified under the new procedures. It is well over 6 years now.

As the Minister responsible for land leasing in Vanuatu, let me confirm that land law reforms had very good intentions prompted out of the 2006 National Land Summit Resolutions. However, very poorly designed operational procedures coupled with high implementation costs resulted in bad policies. Therefore, legal, procedural and costs reviews and proposed amendments are inevitable.

What are the issues? The Land Reform (Amendment) Act No 31 of 2013 and Custom Land Management Act No 33 of 2013 are trying to administer too many roles and responsibilities that creates the most complex, lengthy, unsecured, and expensive lease making process in the world. Apart from the details, major areas of which the existing land law reform is trying to address includes, but not limited to:

- Custom owners and/or use-rights determination in accordance with the rules of custom processes and procedures;
- Negotiator's certificate acquisition and lease making processes and procedures;
- Land use planning and development controls requirements; and
- Fair land dealings enabling environment in Vanuatu

The preliminary findings of the reviews have identified some key issues that need to be considered immediately.

Summary of preliminary findings:

- It is a fact that since enactment in 2013 and gazettal in March 2014, there has been less than 5 new rural leases were registered under the new processes and procedures;
- Similarly there has been less than 5 custom owners and/or users being identified under new processes and procedures;
- The minimum operational costs for both the Ministry of Lands and Ministry of Justice would be in the vicinity of VT230,200,000 per annum on top of the current ministerial budget ceiling of VT37,000,000;
- Individual applicant may spend over VT2 – 3 million in the process. These amount does not include the cost of premium or advanced rental, 2% stamp duty to Vanuatu Financial Service Commission (VFSC) and 5% registration fees at the Land Registry; and
- If all goes well, an applicant may take over two years to get a lease to be legally registered. However if there are disputes over customary ownership or between family members land leasing as a tool for land development in Vanuatu may cease completely under the current processes and procedures.

All in all, Vanuatu as a country in terms of land development through leasing has come to a standstill. Accordingly the situation brings forth some social and economic impacts on to the country and its people such as;

- Shutdown land development professional businesses such as surveyors, valuers, and others;
- Increases potential for squatter settlements and social conflicts;
- Prevents expansion of economic activity base into the rural areas through much talked decentralisation;
- Restricts the Government ability to raise additional revenues to fund its forever increasing demand for social services;
- Removes ability of both custom owners and/or users to use registered leases as collateral with financial institutions;
- Destroys many years of hard work to promote Vanuatu to attract foreign investments; and
- Moves Vanuatu as a country socially and economically backwards.

Joint efforts by the Ministry of Lands and Natural Resources, and the Ministry of Justice and Community Services with technical

assistance from a team of local consultants mandated by the Council of Ministers are undertaking the reviews and national consultations.

The underlying principles of the reviews are as follows:

- Create effective, efficient, transparent and cost-effective custom owners and/or users determination mechanisms and negotiator's certificate acquisition and lease making processes;
- Create enabling environment for customary institutions, authorities and rules to flourish and be respected;
- Raise security of tenure to the people of Vanuatu both through custom and leasing;
- Empowering custom owners and/or users to develop their own customary land;
- Establish common decentralisation platforms to enable social and economic development into the rural areas; and
- Vanuatu to remain as a regional competitor in the area of foreign investments.

The public consultations have commenced as part of the review process prior to tabling the proposed amendments to the National Parliament in the coming months. Given time and financial constraints, it has been decided to undertake provincial consultations in only 4 provinces with high number of custom owners or use rights dispute cases and also high number of negotiator certificate applications. These are Sanma, Malampa, Shefa and Tafea. Apart from provincial consultations there are some key face-to-face consultations that will be undertaken such as;

- Ministry of Lands and Natural Resources
- Ministry of Justice and Community Services
- Department of Lands
- Custom Land Management Office
- Vanuatu Investment Promotion Authority Office
- Head of the Judiciary
- State Law Office
- Members Chamber of Commerce
- Members of Parliament residing in Port Vila
- Malvatumauri Council of Chiefs

The success of a policy depends on the clarity of the issues and also the design and architecture of implementing mechanisms that are realistic, meaningful, practical and cost-effective. Therefore I urge the people of Vanuatu from different walks of life and sectors of the society to contribute constructively and meaningfully to the review processes. At the end of the day, it is the sincere wish of the

Government to formulate policies that are relevant and applicable to advance in its social and economic development in a sustainable manner for the benefit of current and future generations.

For further information, please contact the Ministry of Lands and Natural Resources.

Authorised by:



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