

# **Quarry (Amendment) Act 2016**

**REPUBLIC OF VANUATU**

**QUARRY (AMENDMENT)  
ACT NO. 17 OF 2016**

**Arrangement of Sections**

**REPUBLIC OF VANUATU**

**Assent: 20/12/2016**

**Commencement: 16/01/2017**

**QUARRY (AMENDMENT)  
ACT NO. 17 OF 2016**

An Act to amend the Quarry Act No. 9 of 2013.

Be it enacted by the President and Parliament as follows-

**1. Amendments**

The Quarry Act No. 9 of 2013 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 QUARRY ACT NO. 9 OF 2013**

**1. Section 1 (Interpretation)**

Insert in its correct alphabetical position:

“**disputing custom owners** means any lineage, family, clan, tribe or other group who are disputing ownership of custom land. It also refers to disputes between declared custom owners;”

2. **Section 1 (definition of “custom owner”)**

Repeal the definition, substitute

“**custom owner** has the same meaning as provided under the Custom Land Management Act No. 33 of 2013;”

3. **Section 1 (definition of “quarry company”)**

After “operations”, insert “or any overseas company operating under the public works department permit.”

4. **Paragraph 2(1)(g)**

Delete “.”, substitute

“; or

(h) in consultation with the Director for Environmental Protection and Conservation, impose a ban on quarry activities in an area if the quarry activity causes any adverse environmental impact to the natural environment or poses a threat to the livelihood of people in the area;

(i) conduct investigations and provide the Police and the Public Prosecutor with information to prosecute any illegal operators that operates quarry activities.”

5. **At the end of section 2**

Add

“(7) The Commissioner may, after consulting the Quarry Advisory Board, by Regulation prescribe a minimum rate per volume of building minerals that may be extracted.”

6. **After paragraph 5(d)**

Insert

“(da) to prospect for building minerals in a Public Works Department aggregate prospecting site.”

**7. After subsection 9(1)**

Insert

“(1A) A custom owner or disputing custom owners may give approval to the Public Works Department to explore building materials on a custom land or on a custom land that is in dispute.”

**8. Subsection 9(4)**

Delete “or a quarry company”, substitute “, disputing custom owner, quarry company or a person with whom the custom owner (s) or disputing custom owners have given consent”

**9. Paragraph 9(4)(c)**

Delete “.”, substitute

“; or

(d) a community conservation area registered under the Environmental Protection and Conservation Act [CAP 283]; or

(e) a site classified by the Minister under section 2 of the [Preservation of Sites and Artifacts Act](#) [CAP 39]; or

(f) a registered lease whose lease conditions does not include quarry activities.”

**10. Paragraph 10(3)(b)**

Delete “subsection 21(4)”, substitute “subsection 19(4)”

**11. Section 12**

After “a” (second occurring), insert “prospective”

**12. Subsection 17(4)**

Delete “person”, substitute “quarry company”

13. **At the end of section 17**

Add

“(5) To avoid doubt, an occasional quarry permit may be issued only to a quarry company.”

14. **Subsection 18(2)**

Delete “under this Act subsection (”

15. **At the end of section 18**

Add

“(3) The Commissioner must not issue a public works department quarry permit to a Company who is constructing public infrastructure developments under a Government initiated project, unless it has obtained the written consent of the Director of Public Works.”

16. **Paragraph 19(3)(b)**

Delete “.”, substitute

“; and

(c) an approved Preliminary Environmental Impact Assessment or an Environment Impact Assessment as required under the Environmental Protection and Conservation Act [CAP 283].”

17. **After subsection 19(5)**

Insert

“(5A) The Commissioner may impose general and special conditions for a quarry permit.”

18. **Paragraph 19(5)(b)**

Before “at”, insert “if”

19. **Subparagraph 19(5)(b)(iii)**

Delete “.”, substitute

“; or

(c) if the quarry activity will or is likely to cause significant adverse impacts to the natural environment, and pose a threat to the lives of people in the surrounding areas;  
or

(d) if the land is:

(i) a community conservation area registered under the Environmental Protection and Conservation Act [CAP 283]; or

(ii) a site classified by the Minister under section 2 of the [Preservation of Sites and Artifacts Act](#) [CAP 39]; or

(iii) a registered lease whose lease conditions does not include quarry activities.”

## 20. **After section 22**

Insert

### **“22A Suspension of a quarry permit**

(1) The Commissioner may, by notice in writing, suspend a quarry permit if the Commissioner is satisfied that:

(a) the permit holder has failed to comply with a general or special condition of the permit; or

(b) it is in the public interest that the permit be suspended.

(2) A notice issued under paragraph (1)(a) must:

(a) set out the reasons for the suspension and the period for the suspension; and

(b) specify the general or special condition that has been breached; and

(c) direct the permit holder to comply with the general or special condition within a specified period.

(3) A notice issued under paragraph (1)(b) must:

- (a) set out the reasons for the suspension and the period for the suspension; and
  - (b) direct the permit holder to resolve any dispute or remedy any damage caused by activities undertaken under that quarry permit, within a specified period.
- (4) To avoid doubt, if a quarry permit is suspended, the permit holder must cease any quarrying operation until the suspension ceases.

### **22B Cancellation of a permit**

- (1) The Commissioner may cancel a quarry permit, if a permit holder fails to comply with a notice issued under paragraph 22A(2)(c) or (3)(b).
- (2) The Commissioner must within 3 days inform the permit holder in writing of the reasons for the cancellation of the quarry permit.
- (3) A permit holder must cease all quarry operations upon being informed of the cancellation by the Commissioner.”

### **20A Subsection 51(1)**

Repeal the subsection, substitute

- (1) The Commissioner or an authorised officer may seize machinery belonging to a quarry company or any other person if that company or person is operating a quarry:
  - (a) without a permit issued under this Act; or
  - (b) without a valid permit; or
  - (c) in breach of the terms and conditions of the quarry permit; or
  - (d) contrary to subsection 22A(4) and 22B(3).
- (1A) The Commissioner or an authorised officer may request a police officer to assist him or her in seizing machinery belonging to a quarry company or any other person.
- (1B) A police officer must so far as practicable assist the Commissioner or an authorised officer whenever requested to do so.”

### **21. Section 52**

Repeal the section, substitute

## **“52 Penalty Notice**

(1) The Commissioner may serve a penalty notice if it appears to the Commissioner that a person has committed an offence under any provision of this Act or the Regulations.

(2) A penalty notice is a notice to the effect that, if the person served does not wish to have the matter determined by the Court, the person may pay within a time and amount of penalty prescribed by the Regulations for the offence if dealt with under this section.

(3) A penalty notice may be served personally or by post.

(4) If the amount of penalty prescribed for the purposes of this section for an alleged offence is paid under this section, no person is liable to any further proceedings for the alleged offence.

(5) Payment made under this section is not to be regarded as an admission of liability for the purpose of, or in any way affect or prejudice, any proceeding arising out of the same occurrence.

(6) The Regulations may:

(a) specify the offence by referring to the provision creating the offence under this Act; and

(b) prescribe the amount of penalty payable for the offence if dealt with under this section; and

(c) prescribe different amounts of penalties for different offences or classes of offences.

(7) The amount of a penalty prescribed under this section for an offence must not exceed the amount of penalty in this Act.

(8) This section does not limit the operation of any other provision of, or made under, this or any other Act relating to proceedings that may be taken in respect of offences.”