



COMPLIANCE GUIDELINE

2024

**MINISTRY OF CLIAMTE CHANGE ADAPTATION,
METEOROLOGY, GEO-HAZARDS, ENVIRONMENT,
ENERGY AND NMO**

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1. Introduction

The Ministry of Climate Change

The MOCC Compliance unit is responsible for enforcing government policies, legislations, and programs aimed at protecting and conserving the environment, promoting climate action and disaster risk management, and ensuring affordable and reliable energy in Vanuatu. It employs various approaches such as policy-making, regulation, program delivery, and scientific research to influence national outcomes. Compliance plays a crucial role in our regulatory system, ensuring that our laws effectively achieve their intended objectives.

MOCC regulatory context

The MOCC Compliance guideline provides a framework for developing and administering national laws related to the environment, energy, meteorology, geohazards, climate change and Disaster Risk Management. It outlines the principles that guide our regulatory approach. The Ministry of Climate Change and its departments are entrusted with the responsibility of administering national laws that safeguard the environment, human health, energy productivity, efficiency, security, and supply, as well as meteorological services and disaster response. The Compliance unit employs various activities to assist the public, including individuals and businesses operating in Vanuatu, in understanding and complying with these laws.

Under this guideline, Compliance collaborates with stakeholders to achieve desired outcomes while considering and addressing associated risks. The Compliance will continuously seek to improved approaches and processes. Moreover, Compliance maintains clear expectations and transparent processes, engaging with stakeholders honestly, clearly, and accurately.

A comprehensive list of legislations administered by each Department under the Ministry on the MOCC website <https://mocca.gov.vu/#>.

About this Guideline

The guideline supports the policy and legislative framework by outlining approaches to compliance. It also aims to guide the enforcement officers as well as help the stakeholders and the general public to understand how we encourage compliance and respond to potential contraventions of the national laws. This guideline will describe the principles to be follow when carrying out compliance activities.

The guideline is subject to changes and will be review on an annual basis in accordance with the changes or amendments to the national legislations, regulations or new policy directions and any circumstances that deem necessary to cause changes or review to this guideline.

2. Managing Compliance and Enforcement

2.1. Approach to compliance

Moving forward with compliance work, the compliance will work with co-regulators and stakeholders to improve compliance with the national laws. The team will use a range of compliance tools with the aim of supporting regulatory outcomes. Most of the compliance activities are risk-based, and informed by intelligence.

The Compliance will use the information collected and analyse to prioritise activities and allocate resources. The Compliance will identify the potential for environmental harm and make a determination on the likelihood and consequences of that harm happening (see Figure 1 below). The compliance activities may be informed by allegations, risk assessments, intelligence and monitoring programs. The guideline aims to encourage compliance, promote leading practice, establish trust with the regulated community, and assist businesses and individuals to understand and comply with the law.

All alleged contraventions of the national legislations or program requirements are assessed to determine the priorities for further action.

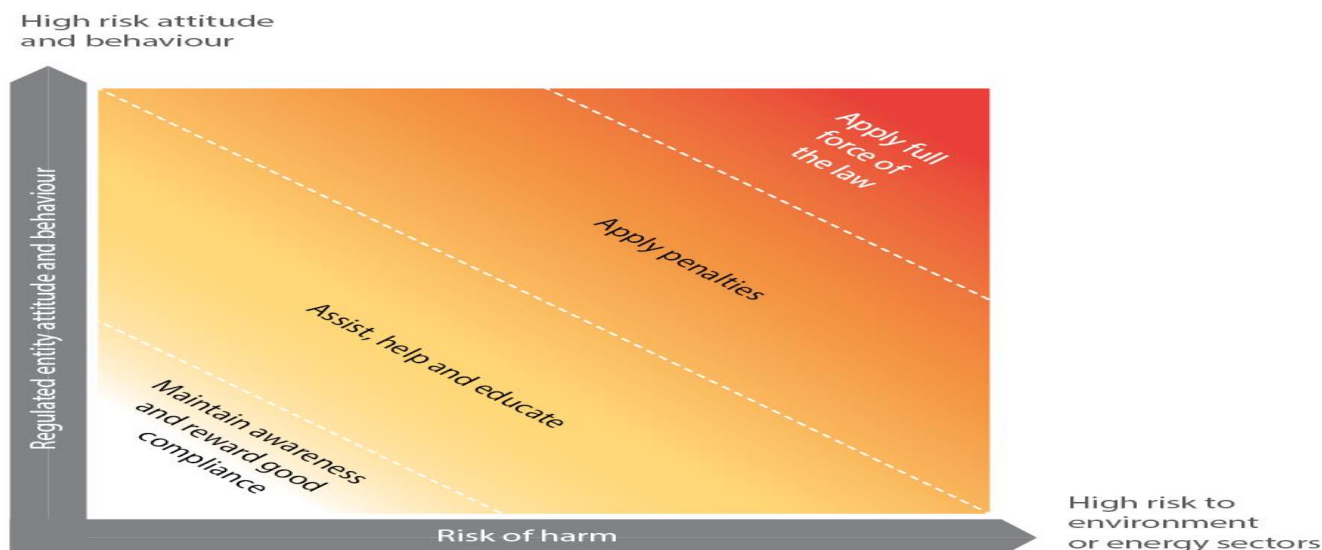


Figure 1: Figure 1: The risk-based approach to compliance

The compliance will use a broad range of compliance activities to deliver compliance outcomes. Some of the compliance activities are listed below.

2.1.1. *Routine Monitoring*

The Ministry through its compliance team, will routinely monitors compliance with administered legislation. Routine monitoring may include (but not necessarily be limited to) reviewing intelligence data, allegations made to the relevant Departments, and aerial or satellite imagery. The team may also conduct field inspections and check compliance with any reporting requirements.

The team will also conduct compliance audits. Compliance audits help to ensure that projects with the potential to impact on matters of national environmental significance are implemented in accordance with approval conditions.

2.1.2. *Preliminary enquiries*

Where allegations or intelligence indicates potential non-compliance with environmental laws, energy laws and or any relevant laws administered under the Ministry of Climate Change, the Compliance may make preliminary enquiries. Preliminary enquiries may include (but not necessarily be limited to) reviewing aerial or satellite imagery, field inspections, seeking expert advice, making enquiries with proponents and landholders, and making enquiries with co-regulators.

2.1.3. *Investigation*

Where the Compliance through each Departments has reasons to believe a breach of any relevant laws may have occurred, the Compliance may conduct an investigation. This may include (but not necessarily be limited to) site inspections (including site inspections under a monitoring warrant, or search warrants), conducting interviews, seeking expert assessments and requesting information (including under statutory notices).

2.1.4. *Enforcement action*

At the conclusion of an investigation, if a breach of a legislation has been determined, it may be appropriate to issue an infringement notice or warning, commence civil or criminal proceedings (depending on the nature of the case), or take other enforcement action.

2.1.5. *Engagement*

Where patterns of potential non-compliance arise, the Compliance through relevant Department will engage with affected communities and industries to seek an understanding of potential drivers of non-compliance.

Where appropriate, the Compliance may implement the guideline or other practical solutions to enhance the effectiveness of national laws.

2.2. Regulatory principles

The Compliance activities under each department are guided by regulatory principles set out in legislations and regulations. The officers are to undertake compliance work in line with these principles, which means:

Regulatory responses will be consistent, efficient and proportionate to the risk

- Decisions and actions will be informed by evidence
- Decisions will be fair, reasonable, respectful and reliable
- Be transparent, and accountable for our decisions and actions
- Monitor, review and report on our effectiveness
- Continue to improve the way we regulate
- Engage to listen, learn and respond.

2.2.1. *Consistent, efficient and proportionate*

The approach to compliance activities will be consistent, efficient and proportionate to risk (see Figure 1). Any compliance action taken or will be taken, will consider the willingness to comply, the compliance history and the severity of the harm caused by non-compliance.

Having a range of compliance options creates an effective deterrent to non-compliance and provides a flexible regulatory system. The respective Departments will consider the circumstances to determine the most appropriate response.

Recognising that the majority of people comply with the laws hence the team will work hard to give much needed information to support them. Within appropriate limitations to protect private and sensitive data, the team will work to ensure access is available to the same information we use in our decision making.

2.2.2. *Determining response to non-compliance*

The compliance will assess all alleged contraventions of our legislation or program requirements to determine the priorities for further action.

The initial assessment may include a preliminary examination to decide:

- if there is an applicable offence
- the likelihood that the offence occurred
- any relevant history of non-compliance
- the likely consequences and seriousness of the non-compliance.

Serious non-compliance

Serious non-compliance is defined as any behaviour, action or omission that results in substantive harm (to the values protected by the legislation), an increased risk of substantive harm, or failure to prevent a substantive harm; and involves one or more of the following:

- Repeated actions of non-compliance
- Wilful or knowing misconduct
- Threatens the objectives of the regulatory system.

The compliance will determine the appropriate level of investigation and compliance response based on the outcome of the initial assessment.

The Compliance may:

- Elect to not pursue the matter further (for example, where an allegation does not relate to a breach of a law)
- Take action to increase awareness and encourage compliance (such as using educational materials and engaging relevant stakeholders' groups)
- Use a compliance response (such as seizing a prohibited item)
- Proceed with further investigation.

Investigate to:

- determine whether or not the law has been breached
- improve compliance to ensure the objects of the legislation are being met
- deter further or similar non-compliance
- maintain public confidence in the integrity of the regulatory system
- gather additional evidence that would assist in taking appropriate compliance and enforcement actions.

When we choose to use an enforcement measure, we consider factors such as:

- the nature and severity of the harm caused
- the co-operation and intent of the alleged offender
- the threat to the objectives of the legislation we administer.

A case may be referred to the Police, Public Prosecutor or other enforcement agencies as required by laws and guidelines. When this happens, we may support the investigating agencies if needed. We only share information as required or permitted by law.

2.2.3. *Informed by evidence*

Being informed by evidence means that we analyse all available information to target our compliance activities and make informed, objective decisions.

2.2.4. *Fair, reasonable, respectful and reliable*

The Compliance will help clients to be aware of and understand their obligations by providing them with the right tools and information so that they can comply with our laws.

2.2.5. *Transparent and accountable*

The MOCC Compliance will operate in accordance with the Vanuatu Government procedures and standards, and in accordance with the legislations we administer.

The team will undertake compliance activities in a manner that is procedurally fair and ethical. Where possible, we are open about what we do.

2.2.6. *Invest in enforcement officers and processes*

The Compliance office will train, facilitate or coordinate trainings for staff to ensure they are experts in compliance and enforcement. The aim to build and maintain a competent, experienced and technically skilled workforce, and look for creative and innovative ways to support the public and stakeholders to comply with our laws.

2.2.7. *Responding to requests for information*

The Compliance will answer requests for information whenever is possible, subject to confidentiality obligations, and the laws about information security and privacy.

Confidential information must not be release to the public about compliance and enforcement activities, such as investigations, unless it is absolutely necessary or required by the investigative process. We do not release any information that might:

- prejudice a person's right to a fair hearing or legal process
- impinge upon the privacy or safety of others involved in the investigation (such as complainants,
- prejudice any of our past or future activities

Even once complete, the details of investigation activities normally remain confidential. Compliance reports may be publish particularly the outcomes from court decisions and enforcement actions as permitted by legislation.

The *Right to Information Act, 2016*, provides a legislative framework to request information from the officer responsible. Pursuant to section 13 of the Act, a person who wishes to obtain information from the Ministry of Climate Change or its line departments, he or she must apply to the relevant Right to Information Officer for access to information. The application may be made in writing, orally or through any electronic means, in any official language, and to the Ministry of Climate Change or its line departments, specifying the information required.

The Ministry and its line departments through the RTI Officer will consider each RTI request on a case-by-case basis and will decide to release or refuse to release information in accordance with the provisions of the RTI Act.

Further information concerning the Right to Information can also be access in the MOCC Communication guideline through the link attached here: <https://mocca.gov.vu/index.php/resources/guidelines>

2.2.8. *Monitor, review and report on our effectiveness*

The Compliance aims to continually improve the effectiveness of our compliance activities. To do this, we monitor, review and report on our activities.

We use the information and intelligence available to the respective Departments to determine our compliance priorities. We then monitor our activities and outcomes against our priorities, and review our outcomes to inform an assessment of our effectiveness.

2.2.9. *Continue to improve the way we regulate*

The Compliance will work towards national outcomes for Vanuatu's environment, society and economy. We work together with other regulators at all levels of government, and internationally, to maximise our impact and efficiency, and where possible avoid duplication.

2.2.10. *Collaboration*

Sometimes our regulations intersect with other government agencies and stakeholders. Where multiple jurisdictions are involved, we work with co-regulators to ensure an appropriate approach is taken. We:

- build strategic partnerships to support our compliance outcomes.
- may share information and analysis with other agencies, where required or permitted by law.

The Compliance will ensure its active participants in environmental enforcement including relevant legislations within the compliance network. Through these networks we maintain awareness of, and contribute to, the development of leading practices in compliance and regulation.

2.2.11. *Engage, listen and learn*

The compliance will engage broadly to build understanding of the purpose and intended outcome of regulation, and to ensure our approach to regulating is effective and efficient in achieving those outcomes. We will listen to improve our understanding of the client's business needs.

The Compliance welcomes any feedback so to improve our internal processes. We will use what we learn from clients to regularly review our processes and procedures.

2.3. Response to non-compliance

2.3.1. *Our response to non-compliance*

When we detect non-compliance, we take action. Our response is proportionate to risk, and is determined on a case-by-case basis. When we take enforcement action, we consider factors such as the nature and severity of the harm caused, the compliance history and cooperation of the offender, public concern and the deterrence value of the enforcement measure.

The compliance will use a range of enforcement actions. Although we work hard to give you the information you need to comply with the laws we administer, however, if this approach fails, we may apply significant administrative, civil and/or criminal sanctions.

2.3.2. *What is expected from an enforcement officer*

When enforcing compliance, an enforcement officer will:

- help the client understand his or her obligations under relevant national laws
- act in a manner that is procedurally fair and ethical
- collect, store and use a wide range of information to inform compliance decisions
- ensure our decision-making is consistent and proportionate to risk.

We will work with other regulators, where appropriate, and we welcome your feedback.

2.3.3. *What is expect from the client*

When we seek to resolve a potential breach of our laws, we engage with you in good faith and ask the same in return.

We work to help you understand our laws; however, the final responsibility for complying with the laws of Vanuatu rests with the individuals or organisations affected.

We understand that dealing with a compliance matter may create uncertainty for you. If you need further information, we recommend that you obtain independent, professional advice relevant to your circumstances.

2.3.4. *Addressing non-compliance*

In managing and conducting all compliance activities, we aim to make decisions that are lawful, evidence-based and transparent. We consider factors relevant to each case and the implications for other cases. Our approach seeks to balance appropriate fairness for regulated entities with achieving regulatory outcomes.

Our compliance activities operate across a continuum that travels from establishing compliance conditions and standards to responding to non-compliance. In practice, our approach to managing compliance is outlined in figure 2.

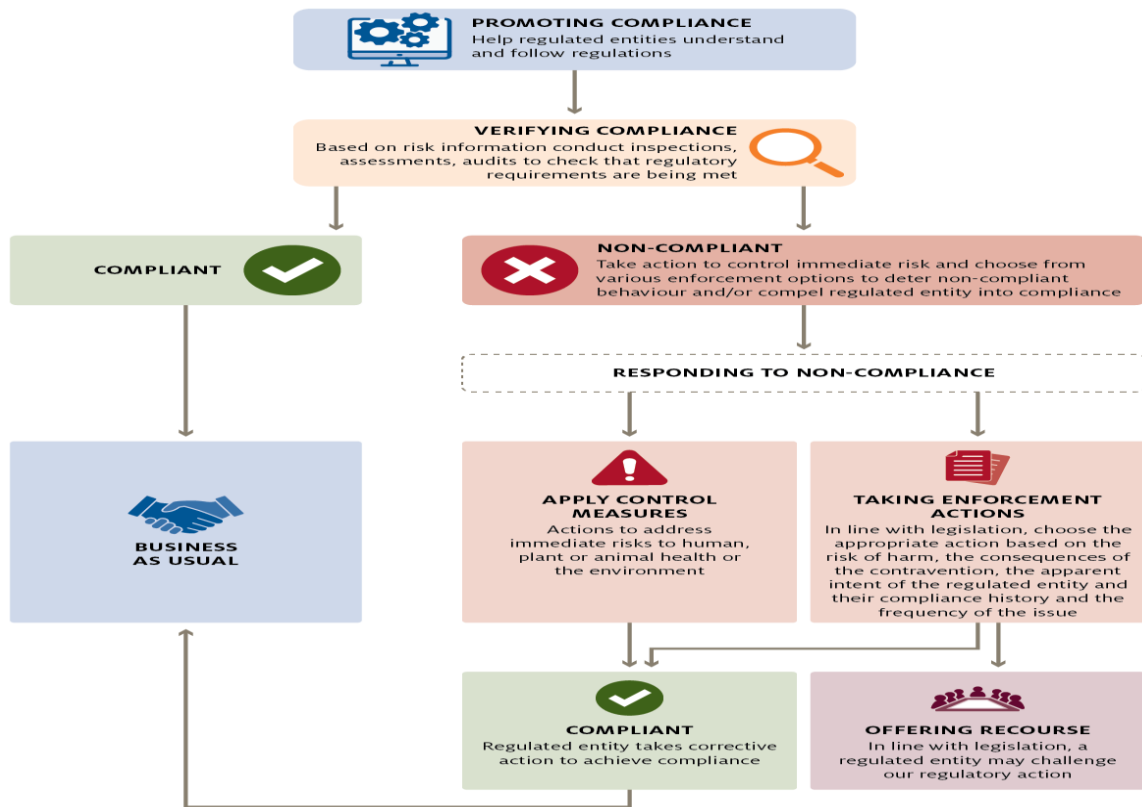


Figure 2. Compliance Management

3. Managing Staff Disciplinary Process

To effectively handle staff discipline, compliance plays a role in assisting the Human Resource Unit in dealing with human resources matters. Working in conjunction with the HR unit, the team will adhere to the internal guidelines outlined in the Managing Staff document from 2022.

The disciplinary process primarily draws from the regulations established in the Public Service Act and the Public Service Staff Manual. Specifically, Chapter 6 of the Staff Manual provides clear instructions on the disciplinary procedures to be followed when handling disciplinary cases.

The purpose of this section is to reinforce the current guidelines and foster sound staff management practices, while also promoting a positive and conducive work environment.

The chart below shows the general procedure of addressing disciplinary matter. Detail procedure is in the Managing Staff guideline.

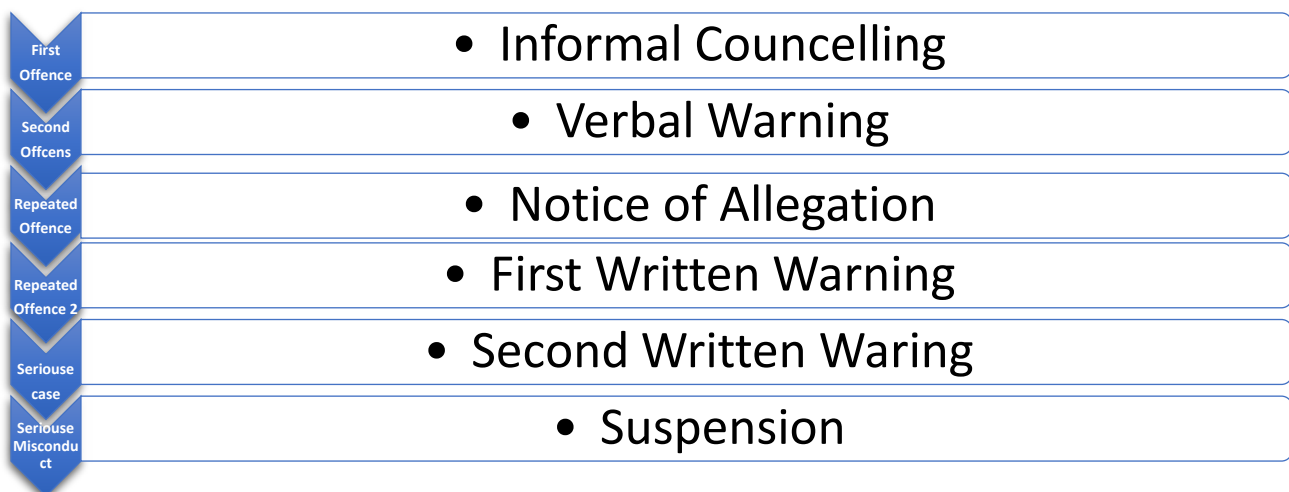


Figure 3: General disciplinary procedure

Except in serious misconduct cases, an officer can be suspended from duty on half pay and it can only be done by the Director, Director General or the Commission. Go to the link below to access full disciplinary guideline: <https://mocca.gov.vu/index.php/resources/guidelines>.

4. Managing Procurements and Assets

4.1. Procurement Process

The ministry of Climate Change introduced a procurement guideline in 2022, aligning it with the Public Finance and Economic Management (PFEM) Act, No.8 of 2002, Financial Regulations Order No.21 of 2012, and Financial Regulation Order No.88 of 2021.

The procurement guideline serves several purposes, including fostering transparency and fairness, ensuring compliance, achieving cost savings, managing risks, maintaining consistency and efficiency, and managing relationships with suppliers. By implementing this guideline, the Ministry of Climate Change aims to optimize its procurement activities, improve governance, and attain desired outcomes in terms of cost-effectiveness, risk mitigation, compliance, and stakeholder satisfaction.

For detail information on the procurement procedure and process, please refer to Part B of the Procurement guideline, accessible through this link: <https://mocca.gov.vu/index.php/resources/guidelines>.

4.2. Asset management

The purpose of the asset guideline or policy is to establish a comprehensive framework for the management and maintenance of assets within the Ministry. These assets encompass physical assets (such as buildings, equipment, and infrastructure), financial assets (such as investments, and cash reserves), and intangible assets (such as intellectual property and brand reputation).

In essence, the asset guideline enables the Ministry to efficiently oversee its assets throughout their entire lifecycle, while mitigating risks, optimizing performance and maximizing the value derived from its asset portfolio. Furthermore, it provides a strategic framework for asset management, ensuring that asset-related decision align with the goals of the Ministry and its departments, as well as facilitating the effective and sustainable utilization of resources.

Further detail information on Asset guideline can be access on this link: <https://mocca.gov.vu/index.php/resources/guidelines>.

5. Managing Contracts, Agreements, and Memorandum of Understandings

This component outlines the mandatory review and approval process for contracts, Memorandum Agreements (MOAs), and Memorandums of Understanding (MOUs) on behalf of the Vanuatu government. To ensure legal compliance and safeguard the government's interests, all relevant documents must undergo a thorough review by the MOCC Compliance and the Office of the Attorney General prior to signing. This process aims to uphold the principles of transparency, accountability, and legal compliance in contract management for the Vanuatu government.

5.1. Contracts and Agreements

Contracts and agreements are legally binding documents that establish the rights and obligations of involved parties. Although the terms "contract" and "agreement" are often used interchangeably, their usage can vary slightly depending on the context and legal jurisdiction. In contrast, an agreement is a broader term that encompasses any understanding or arrangement between parties, whether or not it is legally binding.

5.2. Memorandum of Understandings

A Memorandum of Understanding (MOU) typically does not carry legal enforceability; rather, it serves as a document outlining the general agreement between two or more parties. It acts as an initial step toward establishing a formal contract or agreement but is generally not intended to be legally binding on its own. The MOU is commonly utilized when parties wish to clarify their mutual understanding, intentions, and areas of cooperation before proceeding to a more detailed and formal contractual arrangement.

In accordance with subsection 10(1) of the Office of the Attorney General Act [CAP 242], the Attorney General holds the position of the principal legal officer and serves as the primary legal advisor to the State. Therefore, it is crucial that all contracts and agreements undergo a thorough review and seek advice from the Office of the Attorney General.

Process Overview

1. *Document Identification:*

Any document involving contractual obligations, partnerships, or agreements on behalf of the Vanuatu Government should be identified and marked for review.

2. *Document Submission:*

The responsible party, which may include government departments, agencies, or project leads, is responsible for submitting the document to the Office of the Director General. The Office of the Director General through Compliance, for preliminary review then facilitate it to the Office of the Attorney General for a thorough review. The submission should include the complete document, supporting materials, and any pertinent background information.

3. *Review by the Office of the Attorney General:*

The Office of the Attorney General will conduct a comprehensive review of the document to ensure its legal validity, regulatory compliance, and alignment with government's objectives and policies.

4. *Evaluation and Recommendations:*

Based on the review, the Office of the Attorney General will evaluate the document and provide recommendations. These recommendations may include amendments, clarifications, or additional requirements to ensure legal compliance, protect the government's interest, and mitigate potential risks.

5. *Feedback and Collaboration:*

The responsible party will receive the recommendations from the Office of the Attorney General and collaborate with Compliance to address any required changes or clarifications.

6. *Final Approval:*

Once the recommended changes have been incorporated, the final version of the document will be resubmitted to the Office of the Attorney General for final approval. The Attorney General will review the document, assess its compliance with the recommendations, and make the ultimate decision regarding signing or further revisions.

7. *Execution and Documentation:*

Upon receiving the Attorney General's approval, the responsible party will proceed with the execution of the document on behalf of the Vanuatu Government. A comprehensive record of all approved contracts, MOAs and MOUs, along with the corresponding approvals, will be maintained for audit and compliance purposes.

Below is a general process of reviewing contracts, Memorandum of Agreements and Memorandum of Understandings.

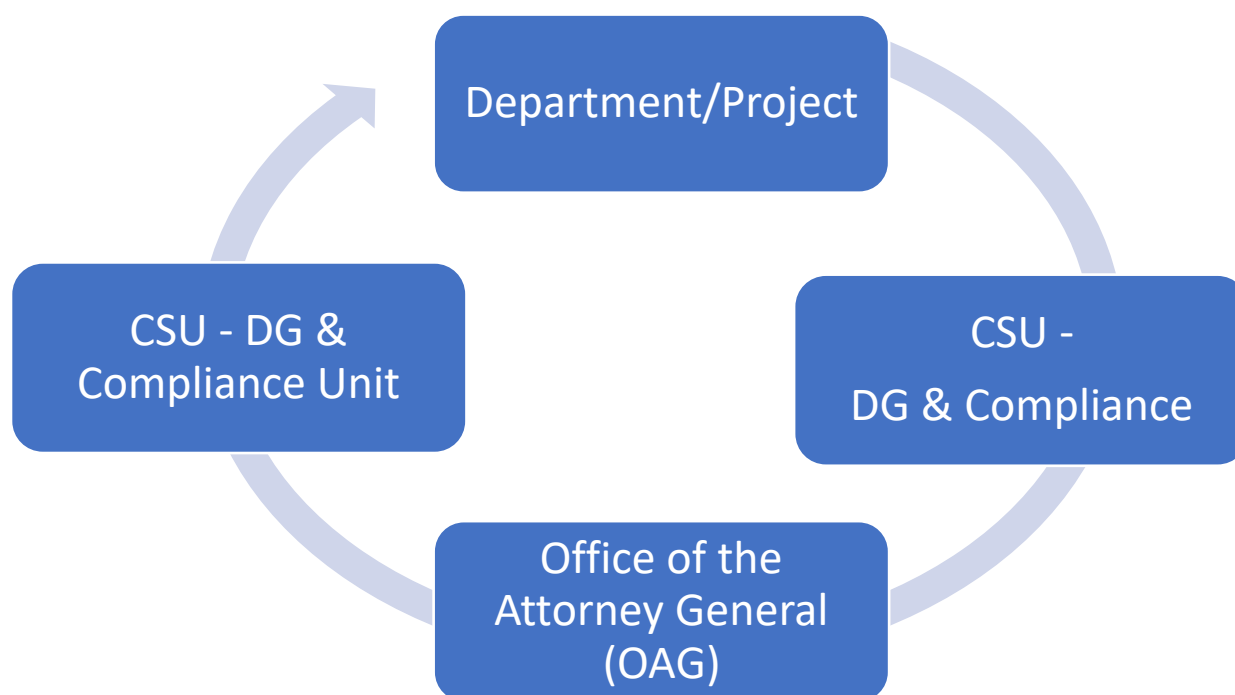


Figure 4: Reviewing procedure for contracts, MOAs and MO

5.3. Council of Minister (COM) Paper

A council of Ministers (COM) paper is typically needed when a government department or ministry proposes a new policy, program, project, or any significant decision that requires approval from the highest level of government. It serves as a formal document presenting the proposal, its rationale, implementation plan, and financial implications to seek endorsement or approval from the Council of Ministers or Executive.

The process of developing a COM paper can vary depending on the specific government's procedures, but here is a general outline:

Identify the Need: The first step is to identify the need for the proposed policy or decision. This could be driven by various factors, such as addressing a pressing issue, fulfilling legal requirements, meeting development goals, or improving service delivery.

Research and Analysis: Conduct thorough research and analysis to gather data, relevant information, and expert opinions related to the proposal. This may include stakeholder consultation, feasibility studies, cost-benefit analysis, and impact assessments.

Formulate and Proposal: Based on the research, develop a comprehensive proposal that outlines the objectives, expected outcomes, scope, timeline, and resource requirements of the initiative.

Draft the COM Paper: Use the gathered information and proposal to draft the Council of Ministers paper. The paper should be clear, concise, and well structured, addressing all essential aspects of the proposal.

Approval from Line Ministries: Before submitting the COM paper, it may need to go through internal approvals within the originating department or ministry. Line ministries and relevant stakeholders should review and provide input on the proposal.

Finalize the COM Paper: Incorporate any necessary changes or improvements based on feedback and finalize the COM paper for submission.

Submit to the Executive Secretary: The COM paper is then submitted to the Executive Secretary or secretary to the Prime Minister, who oversees the executive meetings and agenda.

Present the Proposal to the Council of Ministers: During the Executive meeting, the originating department or ministry, through its Minister, present the COM paper to the Council of Minister, explaining the proposal, its merits, and the expected impact.

Deliberation and Decision: The Council of Ministers discusses the proposal, asks questions, seeks clarifications, and debates its merits. A decision is then made, either endorsing, approving, modifying, or rejecting the proposal.

Implementation: If the proposal is approved, the responsible department proceeds with its implementation, adhering to the timelines and guidelines outlined in the endorsed COM paper.

The process of developing a COM paper is rigorous to ensure that decisions at the highest level of government are well informed, transparent, and align with the national policy objectives and interests of the country.

6. Legislative and Regulatory drafting process

Legislation, also known as statutory law or traditionally as an ordinance, refers to laws established by a legislative body. It plays a crucial role in establishing societal standards and norms across all levels of government and serves various purposes. Legislation is utilized to regulate activities, authorize specific actions, allocate resources such as funding, impose sanctions, and permit or prohibit certain activities. Before a bill can be considered for passage, it must undergo a drafting process that ensures all requirements are met before receiving parliamentary approval.

During the enforcement of legislation, weaknesses and loopholes may sometimes be identified, requiring legislative review to address them. To tackle such situations, a legislative review is conducted, which recommends amendments to existing legislation. In these instances, compliance, in collaboration with each department, provides assistance in the review process.

The first chart below is a basic process for legislative drafting and review.

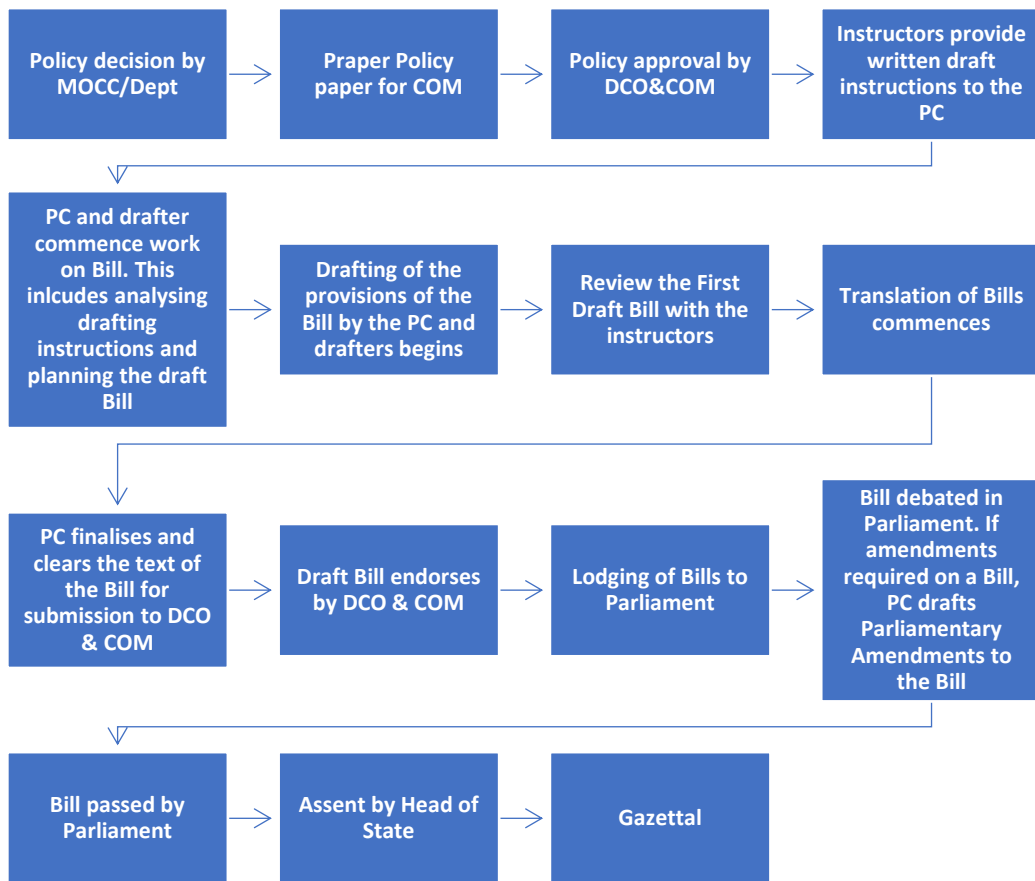


Figure 5: Legislative drafting process (PSU drafting process)

The second flow chart indicates the process of drafting or amending a Regulations, Orders, Rules and other Subsidiary Legislation.

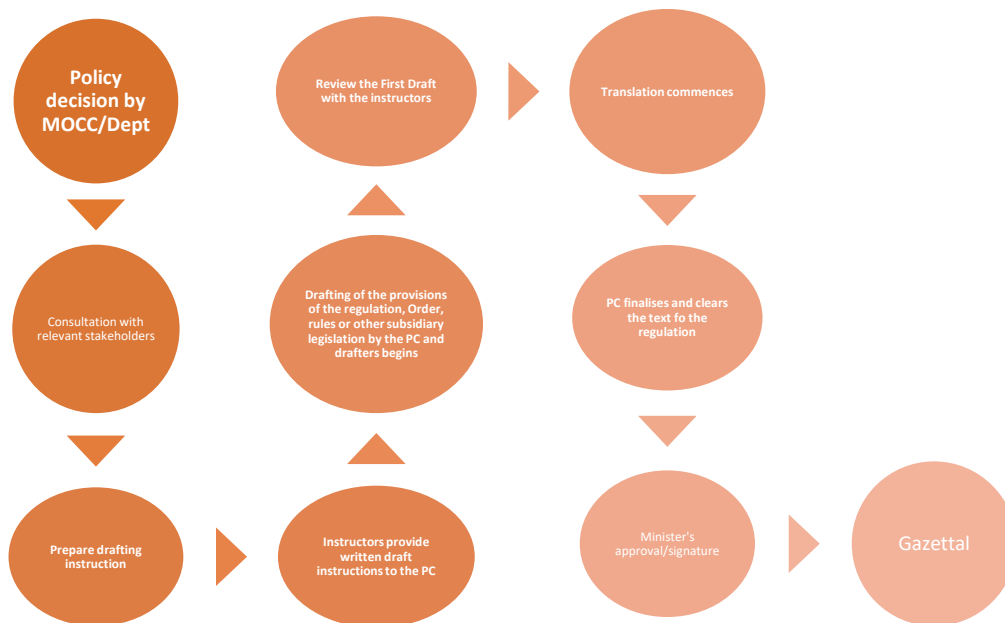


Figure 6: Procedure for drafting Regulation, Order, Rules and other Subsidiary Legislation

7. Awareness and Training

In our commitment to maintaining the highest standards of compliance, we will conduct comprehensive awareness and training programs focused on MOCC policies and legislative requirements. These initiatives extend to the wider public, stakeholders, and our dedicated MOCC staff. By fostering understanding and adherence to established guidelines, we aim to ensure transparency, legal compliance, and the highest quality standards in our working environment.

7.1. Awareness:

Objective: Raise understanding and consciousness among stakeholders, the public, and MOCC staff regarding the policies and legislative requirements governing Massive Open Online Courses (MOCC).

Methods:

Communication Campaigns: Employ various channels such as newsletters, social media, and official announcements to disseminate key policy information.

Information Sessions: Conduct webinars, seminars, or town hall meetings to provide overviews and insights into the MOCC policies, emphasizing their significance and impact.

Documentation: Develop easily accessible and user-friendly documentation that outlines policies, legislative requirements, and their implications.

Public Relations: Engage with the MOCC Public Relation Officer to share information about MOCC policies, promoting transparency and understanding.

Collaboration: Foster partnerships with educational institutions, regulatory bodies, and industry associations to create a broader awareness network.

Awareness involves systematically informing and enlightening stakeholders, the public, and MOCC staff about the governing principles. This is achieved through targeted communication campaigns, information sessions, accessible documentation, public relations efforts, and collaborative partnerships. The goal is to create a broad understanding of the policies, fostering transparency and a shared commitment to compliance within the MOCC community.

7.2. Training:

Objective: Equip MOCC staff and relevant stakeholders with the necessary knowledge and skills to implement and adhere to MOCC policies and legislative requirements effectively.

Methods:

Structured Workshops: Develop training sessions that provide in-depth insights into specific policies, ensuring participants understand the nuances and practical implications.

Interactive Modules: Create online modules that simulate real-world scenarios, allowing participants to apply policy knowledge in practical situations.

Certification Programs: Offer certification for completing comprehensive training courses, recognizing and validating individuals who have mastered the intricacies of MOCC policies.

Role-Specific Training: Tailor training programs for different roles within the MOCC ecosystem, ensuring that staff and stakeholders receive targeted and relevant information based on their responsibilities.

Regular Updates: Implement ongoing training to keep staff and stakeholders abreast of any updates or changes in policies and legislative requirements.

Testing and Evaluation: Integrate assessments and evaluations to measure the effectiveness of training programs and identify areas for improvement.

Training allows for a more nuanced and focused approach, ensuring that stakeholders are not only informed about policies but also equipped with the necessary skills to implement and adhere to them effectively.

8. MOCC Channel of Communication

In accordance with section 20 of the Public Service Act, the Director General is entrusted with the responsibility of overseeing the administration of the Ministry. Essentially, the director-general assumes the role of executing the functions and duties of the Ministry. This includes implementing government policies, carrying out lawful directives, regularly briefing the minister, and managing the overall administration of the Ministry.

Consequently, the Office of the Director-General serves as the central hub for all communications, aligning with the principal duties and functions. The established channel of communication should be consistently followed, observed, and respected by the cabinet, CSU (Corporate Service Unit), and the line departments. Any matters of relevance to the Ministry should be at least brought to the attention of the director-general. Communications initiated by either the cabinet or departments that pertain to the Ministry must be duly communicated to the director-general. This ensures the Ministry fulfills its reporting obligations, upholds transparency, and provides guidance when necessary. Furthermore, this practice safeguards the government's interests at all times.

Further information on channel of communication within the Ministry and the line departments is provided in the Communication Guideline. The Communication guideline can be access through this link: <https://mocca.gov.vu/index.php/resources/guidelines>.

9. Conclusion

Finally, the Compliance guideline serves as a comprehensive framework to ensure that the Ministry of Climate Change and its line departments adheres to all relevant laws, regulations, and guidelines. By implementing the guidelines outlined herein, we aim to maintain the highest levels of integrity, transparency, and accountability. Compliance is not just a legal requirement but a fundamental aspect of our commitment to ethical business practices and building trust with our stakeholders. As we move forward, it is crucial to foster a culture of compliance, where every staff of the Ministry actively participates in upholding these principles. With this dedication to compliance, we can navigate complexities and challenges, while safeguarding our reputation and securing a sustainable and successful future.

10. Annexes – Templates

Administrative Penalty Forms – enforcement notices

Enforcement notices

1. Instrument of Authorisation – **CT1**
2. Warning letter – **CT2**
3. Stop Notice – **CT3**
4. Penalty Notice – **CT4**
5. Abatement Notice – **CT5**
6. Restoration Notice – **CT6**
7. Cancellation of Stop Notice – **CT7**
8. Notice of seizure – **CT8**

INSTRUMENT OF APPOINTMENT OF AUTHORISED OFFICER TO EXERCISE ENFORCEMENT POWERS UNDER S.#

I,, Director of the Department of (The Department) appointed under section xxx of Act [CAP.#] (the Act), hereby make the following appointment pursuant to section # of the Act.

Appointment of authorized officer

I appoint [**insert name of officer**] of the Department of [**insert name of Department**], to exercise the following powers for the purposes of implementing, enforcing or ensuring compliance with the provisions of the Act and its regulations, in accordance with section #:

[**include any of the following powers that you consider appropriate**]

	Power	Section
1.	enter any land	s.#
2.	enter private premises after notifying the owner of his or her intention to do so	s.#
3.	examine any plant, facility, substance or thing	s.#
4.	take or remove samples of any matter, substance or thing required for testing and analysis	s.#
5.	take possession of any machinery, equipment, plant or other thing for further examination or testing or for use as evidence	s.#
6.	take pictures, photographs or measurements or make sketches or recordings in any form	s.#
7.	require the production of records and information relevant to the requirements of this Act and its regulations, and to make and take copies of such records and information	s.#
8.	order that the operation of whole or part of a Ministry, department, statutory authority, local authority, plant or facility be stopped for the purposes of inspection	s.#
9.	interview any person for the purposes of inspection	s.#
10.	Other	s.#

Please note:

1. This delegation takes effect immediately and remains in force until [**insert date**].
2. Section # of the Act limits the power of delegation to the Director. Authorized officers may not delegate any power delegated to them under the Act.
3. In accordance with section # of the Act, the Public Service Commission was consulted on [**insert date**] in relation to the appointment of this authorized officer.

Signed by Director

Dated:

(Legislation) ACT WARNING LETTER

WARNING LETTER

Our ref: *^insert file number^*

^insert date^

Attention: *^name^*

^address^

^By hand/by post/by facsimile^

Dear *^insert name^*

Re: Warning letter relating to activity at *^insert description of premises and location^*

At a recent site visit conducted by enforcement officers from the Department of (the Department) on *^insert date^*, at *^insert location^*, being *^insert description of premises^*, the following activity was detected: *^describe the activity observed by the enforcement officer/s^*.

^Insert one of the following two paragraphs:^

^Activities without approval under Part 3 ^ I advise that it is the view of the Department that the carrying out of this activity is unlawful and an offence against section 24 of the Act.

^OR^

^Non-compliance with terms and conditions of approval under Part 3: ^ I advise that it is the view of the Department that the carrying out of this activity is unlawful and an offence against section # of the Act.

I understand that you were spoken to on *^insert^* date regarding the matter and you were given the opportunity to explain the circumstances of the offending conduct.

In the circumstances, and taking into account all relevant matters, the Department has decided NOT to issue a penalty notice or to prosecute you on this occasion. However, the Department has decided to issue this Warning Letter to you.

Please note that the carrying out of the above activity is an offence against the Act and carries with it significant penalties. Should you be detected engaging in this activity in the future the Department will consider all available enforcement options including prosecution. In making its decision, the Department may take into account the fact that you have been issued with this Warning Letter.

Yours sincerely

^insert name^

^insert position^

Department of

STOP WORK NOTICE

Issued under section ____ of the _____ Act [CAP. ____]

TO THE ATTENTION OF

NAME:	
ADDRESS:	

REGARDING

TYPE OF ACTIVITY/PROJECT NAME:	
LOCATION OF WORK:	

_____ PERMIT DETAIL (If an EP is obtained – tick the box and provide detail of Permit)

Licence/Permit Type:	
Licence/Permit #:	
Expiry date of condition:	

TAKE NOTICE THAT

Pursuant to section ____ of the _____ Act, you are hereby directed to suspend or stop work as indicated below:

Grounds for issuing Stop Work Notice

a.	<input type="checkbox"/>
b.	<input type="checkbox"/>

Action(s) to be taken

c. All operations on the project above are to be suspended effective _____, 20____, and shall remain under suspension until further directed.
_____ Or _____
d. The following portions of the project above are to be suspended effective _____, 20____, and shall remain under suspension until further directed.

Portions of project to be suspended under paragraph d

1.
2.
3.

Take note

An activity that is subject to a stop notice must not restart until the Director cancels the stop notice and notifies the project proponent accordingly in writing

STOP WORK NOTICE ISSUED BY

Signature:		Title:	
Name:		Date:	

STOP WORK NOTICE ACKNOWLEDGED BY

Signature:		Title:	
Name:		Date:	

CANCELLATION OF STOP WORK NOTICE

Issued under section _____ of the _____ Act [CAP. ____]

TO THE ATTENTION OF:

NAME:	
ADDRESS:	

REGARDING:

TYPE OF ACTIVITY/PROJECT NAME:			
LOCATION OF WORK:			
STOPPED WORK NOTICE #:		SWN/PN ISSUED DATE:	
PENALTY NOTICE #: (if applicable)		DATE OF CANCELLATION	

TAKE NOTICE THAT:

Pursuant to section _____ of the _____, you are hereby being notified of the cancellation of the suspended or stopped work notice as indicated below:

1. That you have complied with the instructions specified in the Stop Work Notice in relation to your action and that you have taken necessary steps to remedy violation or breach taken.	<input type="checkbox"/>
2. That you have taken the necessary measures to restore the affected area	<input type="checkbox"/>
3. That you have complied with the general conditions of the Permit (if obtain)	<input type="checkbox"/>
4. That you have complied with the instruction and directives of the Director of _____ (department).	<input type="checkbox"/>

CANCELLATION OF STOP WORK NOTICE ISSUED BY:

Signature:			Title:	
Name:		Date:		

CANCELLATION OF STOP WORK NOTICE ACKNOWLEDGED BY:

Signature:			Title:	
Name:		Date:		

ABATEMENT NOTICE

[Date]

[Recipient's Name] [Recipient's Address]

Subject: Abatement Notice

Dear [Recipient's Name],

Re: [Description of Violation]

This letter serves as an official Abatement Notice issued by [Your Regulatory Authority or Organization], in accordance with [Relevant Regulation or Statute]. It has come to our attention that you are in violation of the following provision(s):

[Clearly state the specific regulation or requirement that has been violated. Provide details about the nature of the violation, including date, time, and location if applicable.]

The violation poses a risk to [public health, safety, environment, etc.], and immediate corrective action is required to bring your operations into compliance with the relevant regulations.

Abatement Action Required:

[Clearly specify the corrective actions that need to be taken to address the violation. Include a reasonable deadline for compliance.]

Deadline for Compliance: [Specify a reasonable deadline for compliance, taking into consideration the severity of the violation and the time required for corrective action.]

Consequences of Non-Compliance:

Failure to comply with this abatement notice within the stipulated timeframe may result in [Specify the potential consequences or enforcement actions that may be taken, such as fines, legal action, or other penalties].

Contact Information:

If you have any questions or require clarification regarding this abatement notice, please contact [Your Contact Person] at [Contact Information].

We trust that you will treat this matter with the urgency it demands and take the necessary actions to rectify the violation promptly.

Sincerely,

[Your Name]

[Your Title]

[Your Organization]

[Contact Information]

(Insert letterhead)

RESTORATION NOTICE

[Date]

[Recipient's Name] [Recipient's Address]

Subject: Restoration Notice

Dear [Recipient's Name],

Re: [Description of Restoration Requirement]

This letter serves as an official Restoration Notice issued by [Your Regulatory Authority or Organization], in accordance with [Relevant Regulation or Statute]. It has come to our attention that a condition exists on your property or within your operations that requires restoration to comply with the following provision(s):

[Clearly state the specific regulation or requirement that necessitates restoration. Provide details about the nature of the condition, including any relevant dates, observations, or references to applicable laws.]

Restoration Action Required:

[Clearly specify the restoration actions that need to be taken to bring the property or situation into compliance. Include a detailed description of the required restoration work.]

Deadline for Restoration:

[Specify a reasonable deadline for completing the restoration work, taking into consideration the nature of the restoration and any potential impacts on public health, safety, or the environment.]

Consequences of Non-Restoration:

Failure to complete the required restoration within the specified timeframe may result in [Specify the potential consequences or enforcement actions that may be taken, such as fines, legal action, or other penalties].

Contact Information:

If you have any questions or require clarification regarding this restoration notice, please contact [Your Contact Person] at [Contact Information].

We trust that you will treat this matter with the urgency it demands and undertake the necessary restoration actions to bring the property or situation into compliance.

Sincerely,

[Your Name] [Your Title] [Your Organization] [Contact Information]

PENALTY NOTICE

Issued under section _____ of the _____ Act [CAP. ____]

TO THE ATTENTION OF

NAME:	
ADDRESS:	

PENALTY AMOUNT:	
DUE DATE:	

REGARDING

TYPE OF ACTIVITY/PROJECT NAME:			
LOCATION OF WORK:			
DATE:		TIME:	

ENV PERMIT DETAIL (If an Permit is obtained)

Licence/Permit Type:	
Licence/Permit #:	
Expiry date of condition:	

3. TAKE NOTICE THAT

Pursuant to section _____ of the _____ Act, you are hereby notified of the Penalty imposed on you on the ground(s) as indicate below:

s.		<input type="checkbox"/>
s.		<input type="checkbox"/>
s.		<input type="checkbox"/>
s.		<input type="checkbox"/>
s.		<input type="checkbox"/>
s.		<input type="checkbox"/>
s.		<input type="checkbox"/>
		<input type="checkbox"/>
other -		<input type="checkbox"/>

Location:		Date/Time:		Day of the wee	
Nature of alleged offence/description of alleged	1.	2.	XXXXXXXXXXXXXXXXXX	3.	XXXXXXXXXXXXXXXXXXXX
		4.	XXXXXXXXXXXXXXXXXXXX	5.	XXXXXXXXXXXXXXXXXXXX

offender/other relevant details		
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4. DETAILS OF ALLEGED OFFENCE

This notice serves to inform you that you have failed to comply with Environmental requirements prior and/or during the construction phase, particularly section(s) **xxxxxx** as stated in clause 3 above. Therefore, the department of Environmental Protection and Conservation imposes a fine of **xxxxx** (in words) against you for breaching and violating provisions of **xxxxx** Act.

5. PENALTY NOTICE ISSUED BY

Signature:		Title:	
Name:		Date:	

6. PENALTY NOTICE RECEIVED AND ACKNOWLEDGED BY

Signature:		Title:	
Name:		Date:	

IMPORTANT NOTICE – DO NOT IGNORE

Payment

This penalty notice must be paid by the due date specified at the top of the Penalty Notice. Failure to do so may incur further costs and enforcement action.

Court election

Should you wish to challenge this Penalty Notice in court, please check the box below and return the document to:

_____ (officer)

_____ (Department)

PMB _____, Port Vila

I have read and understood this Penalty Notice and elect to have the matter heard in court

Signed:

Dated:

Please tick: Served in person Alleged Offender’s copy
 Sent by post Department copy

Seizure Notice

NOTICE OF SEIZURE OF SUBSTANCES, GOODS AND EQUIPMENT

Pursuant to section # of the Act No. # of # ('the Act'), the following substances, goods and/or equipment were seized from:

NAME: _____

ADDRESS: _____

ON (date): _____

AT (place): _____

BY (officer & department): _____

for suspected breaches of section(s) _____ of the Act.

Seizure receipt no.	Description of seized:	Interim details	storage	Seizure register no.

Note: description of seized substances, goods or equipment MUST include quantity, weight, volume, serial no/registered no. and make and model of equipment.

Retention of substances, goods and equipment (s.# of theAct)

The above seized substances, goods or equipment may be retained until the Director of the Department of is satisfied by the owner or the person from whom the substances, goods or equipment have been seized, that they are not or have not been the subject of any breach of a prohibition under the Act.

Disposal or destruction of substances, goods and equipment (s.# of the Act)

If it is agreed by the owner of the substances, goods or equipment that they are in breach of a prohibition under the Act, or the owner has not satisfied the Director under subsection # **within 6 months from the date of seizure**, the substance, goods or equipment may be disposed of or destroyed in a matter directed by the Director.

Signed by seizing officer: _____ Date: _____

