

REPUBLIC OF VANUATU

THE MARITIME (REGULATIONS) (AMENDMENT)
ORDER No. 17 OF 1989

To amend the Maritime (Regulations) Order, No. 104 of 1981.

IN EXERCISE of the powers contained in the Maritime Act, No.8 of 1981 as amended, I, SELA MOLISA, Minister of Finance and Housing, hereby make the following Order:-

AMENDMENT OF ORDER No. 104 OF 1981

1. The Maritime (Regulations) Order No. 104 of 1981, as amended, is further amended as follows:-

(1) Regulation 1 is amended -

(a) in the definition of 'Foreign trade' by substituting for the words 'and another;' of the words "and another and includes the transportation of goods between the ports of Vanuatu and ports of foreign country and between the ports of one foreign country and another";

(b) by inserting after the definition of 'minister', the following definition:-

"Marine Offence' means any act or offence contrary to the Act or any Orders thereunder".

(c) by adding after the definition of "Ship's 'Document'" the following definition:-

"'Special agent' means the special agent appointed under section 3A of the Act."

(2) Regulation 2 is amended in paragraph (a) of sub-regulation (1), by substituting for the word 'sextuplicate' of the word 'quintuplicate'.

(3) Regulation 3 is amended -

(a) in sub-regulation (3) -

(i) by inserting at the beginning of that sub-regulation, the words 'Certificates and'; and

(ii) by substituting for the words "Any License" of the words "Any Certificate or License";

(b) by repealing sub-regulation (4) and substituting the following:-

"(4) Renewals of Licences or Certificates shall not be granted more than one year after the expiry date of the previous Licence or Certificate."

(c) by repealing sub-regulation 5

(4) Regulation 4 is amended:-

(a) in paragraph (a) of sub-regulation (1) -

- (i) in item (iv) by substituting for the figure '300' of the figure '500';
- (ii) in item (v) by substituting for the figure '1,000' of the figure '1,250';
- (iii) in item (vi) by substituting for the figure '50' of the figure '150';

(b) in paragraph (b) of sub-regulation (1) -

- (i) in item (viii) by substituting for the figure '50' of the figure '100';
- (ii) in item (ix) by substituting for the figure '425' of the figure '475';
- (iii) in item (x) by substituting for the figure '150' of the figure '250';
- (iv) in item (xi) by substituting for the figure '100' of the figure '150';
- (v) in item (xii) by substituting for the figure '75' of the figure '100';

(c) in paragraph (c) of sub-regulation (1) -

- (i) in item (xiii) by substituting for the figures '25' and '15' respectively of the figures '75' and '50' respectively;
- (ii) in item (xiv) by substituting for the figure '10' of the figure '35';
- (iii) in items (xv) and (xvi) by substituting for the figures '50' and '100' of the figures '75' and '125' respectively;
- (iv) in item (xvii) by substituting for the figure '15' of the figure '25';
- (v) in item (xviii) by substituting for the figure '10' of the figure '25';

(vii) by inserting after item (xviii) the following new item:-

"(xviiiA) for issuing seaman's identification document\$50";

(d) in paragraph (e) of sub-regulation (1) -

(i) in items (xiv), (xii), (xiv) and (xv), by substituting for the figure '10' of the figure '25';

(ii) in item (xi) by substituting for the figure '20' of the figure '50';

(iii) in item (xiii) by substituting for the figure '5' of the figure '25';

(iv) in item (xvi) by substituting for the figure '2' of the figure '25';

(e) in paragraph (f) of sub-regulation (1) -

(i) in item (xvii) by substituting for the figure '25' of the figure '50';

(ii) in item (xviii) by substituting for the figure '15' of the figure '25';

(iii) in item (xix) by substituting for the figures '5' and '10' of the figure '25';

(5) Regulation 5 is repealed and the following regulation is substituted -

"Appeals

5. (1) Any person appealing under section 15 of the Act, against a decision of the Deputy Commissioner or a Special Agent shall send a memorandum of the appeal by registered post to the Commissioner within a period of 60 days from the date of such decision, and shall send a copy thereof to the Deputy Commissioner or Special Agent concerned. All documents in support of the appeal shall be attached with the memorandum of appeal.

(2) Any person appealing under section 15 of the Act, against a decision of the Commissioner shall send a memorandum of the appeal by registered post to the Minister within a period of 60 days from the date of such decision, and shall send a copy thereof to the Commissioner. All documents in support of the appeal shall be attached with the memorandum of appeal.

(6) In regulation 6 by repealing sub-regulation (5).

(7) The following regulation is inserted immediately after regulation 6:-

"Penalties for late payment.

6A. Any tax or fee payable under the Act or Regulations made thereunder shall be remitted in full. Any amount unpaid 90 days after the due date shall incur a penalty equal to 10% of the amount due for each month or part thereof for which the amount remains unpaid and the amount plus the penalty shall be payable notwithstanding any other measures which may be taken to ensure payment."

(8) Regulation 7 is amended as follows:-

(i) in the marginal note of that regulation, by substituting for the words 'permanant certificates' of the words 'Permanent or Provisional Certificates';

(ii) by repealing sub-regulations (2) and (3) and substituting the following sub-regulations:-

"(2) In all other cases no Permanent Certificate of Registry shall be issued in respect of a vessel seeking registration under the Act, unless:-

(a) to the extent required by any international convention ratified or acceded to by Vanuatu, a valid certificate is issued by any of the Classification Societies referred to in regulation 8 in respect of Cargo or Passenger Ship Safety Equipment; Cargo or Passenger Ship Safety Construction; International Loadline and Measurement; and such other certificates as may be applicable pursuant to the referenced conventions; and

(b) all officers employed on the vessel are duly licenced under the Act or Regulations made thereunder.

(3) In any case where a vessel is acceptable in the first instance for documentation or re-registration under the Act, and is eligible for a Provisional Certificate of Registry, the owner, in addition to filing the documents for the issue of a Provisional Certificate of Registry, shall file an affidavit that no further consent is required from the Government of a former Registry and Flag or, if such consent is required, file copies of such official consent.

(4) Prior to the issuance of any Provisional or Permanent Certificate of Registry the owner of each vessel shall furnish in respect of such vessel a Report of Ship's Officers in the Prescribed form."

(9) Regulation 8 is amended by repealing item (g) and substituting the following items -

"(g) Registro Italiani Navale; and

(h) Any other International Ship Classification Society as may be authorized by the Commissioner or the Deputy Commissioner."

(10) Regulation 8A is repealed.

(11) Regulation 11 is amended -

(a) in sub-regulation (1) -

(i) (1) by substituting for the word 'Oath' of the word 'declaration';

(ii) by substituting for the words 'Ship's Permanent Certificate' of the words 'Vessel's Permanent Certificate';

(iii) by substituting for the words "agent; the name of the person who, as or on behalf of the owner, countersigned the said Certificate of Measurement and agreed to the description and measurement there in stated" of the word "agent"; and

(b) in sub-regulation (2) -

(i) by substituting for the words 'Ships Provisional Certificate of Registry' of the words 'vessel's Provisional Certificate of Registry'; and

(ii) by substituting for the, word 'Oath' of the word 'declaration'.

(12) Regulation 13 is repealed.

(13) Regulation 14 is amended in sub-regulation (2) by substituting for the words 'Deputy Commissioner or with a Consular or Diplomatic officer' of the words 'Deputy Commissioner or with a Special agent or with a Consular or Diplomatic Officer'.

(14) Regulation 17 is amended by deleting the words 'to which Vanuatu is, or may become, signatory'.

(15) Regulation 18 is amended -

- (i) in the definition of 'Person' by substituting for the words 'employee of a' of the words 'other person employed on a vessel'; and
- (ii) in the definition of 'Prohibited Zone' by substituting for the figure '1954' of the figure '1973'.

(16) Regulation 19 is amended as follows:-

- (a) in sub-regulation (1) by repealing the proviso to paragraph (b) of that sub-regulation;
- (b) in sub-regulation (2) -
 - (i) by substituting for the figure '25,000' of the figure '100,000';
 - (ii) by substituting for the words 'in a Vanuatu Court of competent jurisdiction', of the words 'the Supreme Court of Vanuatu'.
- (c) by repealing sub-regulation (3) and substituting the following sub-regulation:-

"(3) Any violation of sub-regulation (1)(b), except where punished by local authorities having and exercising jurisdiction, shall be punishable by a penalty of not less than \$5,000 and not more than \$100,000. Such penalty shall be assessed by the Commissioner or the Deputy Commissioner against a vessel registered under the Act or her owner or operator when either the Commissioner or the Deputy Commissioner, as the case maybe, shall determine that such a violation has been committed".

- (d) by repealing sub-regulation (5) and substituting the following sub-regulation:-

"(5) Any penalty assessed pursuant to sub-regulation (3) shall constitute a maritime lien against the vessel and until such lien has been satisfied or remitted, clearance of such vessel from a port in Vanuatu shall be denied."

(17) Regulation 20 is amended -

- (i) in sub-regulation (4) by substituting for the figure '1954' of the figure '1973'; and
- (ii) in sub-regulation (5) by substituting for the figure '1000' of the figure '10,000'.

(18) Regulation 21 is amended in sub-regulation (2) by substituting for the words, 'annual basis' of the words 'at least once within any twelve months'.

(19) Regulation 22 is repealed and the following regulation is substituted:-

"Costs of Marine Investigation, International Participation and Nautical Training

(1) The costs of marine investigation, nautical training and international participation shall be defrayed by the annual payment of a fee of seven hundred and twenty five dollars plus four cents per net ton of the vessel's registered tonnage by the owner of each vessel. Payment of the fees due under this section shall be made at the time of first registration of a vessel and on 1st January of each subsequent year.

(2) The fees collected under this regulation shall be applied as follows:

(a) the costs of marine investigations which relate only to investigations which culminate in formal proceedings or the imposition of a fine or penalty;

(b) the costs of international participations which relate to assessments and dues payable under the terms of international maritime conventions and maritime agreements to which Vanuatu is a party, to attendance and support of delegations or representatives of the Republic of Vanuatu at international maritime meetings and conferences, and in support of diplomatic negotiations;

(c) an amount computed at one per cent per net ton shall be placed in a trust fund administered by the Minister and dedicated solely to covering the costs of nautical vocational training for seafaring personnel in support of the Vanuatu maritime programme."

(20) Regulation 23 is amended in sub-regulation (1) by substituting for the words 'Notary public (or Deputy Commissioner, Vanuatu Consul, or other person designated in section 51 of the Act) ' of the words '(Commissioner or a Deputy Commissioner or a Consul or Consular Agent of Vanuatu or a Notary Public or other officer authorised by the laws of the place where the acknowledgement is made to take acknowledgements of deeds.)'.

(21) Regulation 25 is amended by substituting for the word 'five' the word 'four'.

(22) Regulations 26 and 27 are repealed.

(23) Regulation 28 is amended -

(a) in sub-regulation (3), by deleting the last sentence of that sub-regulation and substituting the following sentence:-

"Failure of such co-operation on the part of any holder of a licence or certificate shall be a marine offence and in addition to any other penalty the Commissioner or the Deputy Commissioner may suspend or revoke the licence or certificate of the holder."

(b) in sub-regulation (4) -

(i) in paragraph (a), by substituting for the figure '250', of the figure '350'; and

(ii) in paragraph (b) by substituting for the figure '525' of the figure '725'.

(24) Regulation 29 is amended by repealing the definition of 'Maritime Offence'.

(25) Regulation 31 is amended as follows:-

(a) in sub-regulation (2) -

(i) by substituting for the words 'Vanuatu Flag' in sub-paragraph (iv) of the word 'Act';

(ii) by substituting for the figure '3,000' in sub-paragraph (v) of the figure '10,000'.

(b) in sub-regulation 8, in paragraphs (a) and (b) by substituting for the words 'for reason of public security' of the words 'for any reason including public security'.

(26) Regulation 32 is amended -

(a) in sub-regulation (1) by repealing paragraph (f);

(b) in sub-regulation (2) by repealing paragraph (e) and substituting the following:-

"(e) Nothing in this regulation shall be so construed as to prevent the Commissioner or the Deputy Commissioner from otherwise stipulating the required number of licensed deck officers or licensed engineers for any vessel if in his judgment such vessel is sufficiently manned for her safe navigation with the stipulated number of licensed officers or engineers";

- (c) in sub-regulation (3) in paragraph (a) by substituting for the words 'Commissioner declares' of the, words 'Commissioner or the Deputy Commissioner declares'.
- (27) Regulation 32A is amended - by the substitution for the words 'Vanuatu flag oil and mineral service vessels' of the words 'fishing vessels or oil and mineral service vessels, registered under the Act'.
- (28) By substituting for the words 'Vanuatu vessel' and 'Vanuatu Flag Vessel' or 'vessel of Vanuatu' wherever they appear in the Order, of the words 'Vessel registered under the Act'.

COMMENCEMENT

This Order shall come into force on the 1st day of January, 1990.

MADE at Port Vila this 22nd day of December, 1989.



S. MOLISA

Minister of Finance and Housing