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20/4/81*

**REPUBLIQUE  
DE  
VANUATU**



103

**REPUBLIC  
OF  
VANUATU**

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**OFFICIAL GAZETTE**

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SONT PUBLIÉS LES TEXTES SUIVANTS

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REPUBLIC OF VANUATU

THE FOOD (CONTROL) ACT No. 2 OF 1981

Arrangement of Sections

1. Interpretation.
2. Persons not to display, store or sell food unfit for human consumption.
3. Powers of health inspectors to enter premises and take samples.
4. Declarations and direction by Director of Health.
5. Voluntary disposal of food unfit for human consumption.
6. Seizure and destruction of food unfit for human consumption.
7. Compensation.
8. Identity cards.
9. Orders.
10. Offences and Penalties.

SCHEDULE

FORM A

EMBARGO

FORM B

DECLARATION AND DIRECTION BY DIRECTOR OF HEALTH

FORM C

CERTIFICATE OF DISPOSAL OF FOOD

FORM D

IDENTITY CARD

THE FOOD (CONTROL) ACT No. 2 OF 1981

To prevent the display, sale and storage of unfit food.

So it enacted by the President and Parliament as follows :-

Interpretation.

1. In this Act unless the context otherwise requires -
- "analyst" means a person appointed by the Minister as an analyst for the purpose of this Act and whose appointment has been notified in the Vanuatu Gazette;
  - Food? "Health Inspector" means a person appointed as such by the Minister and whose appointment has been notified in the Vanuatu Gazette;
  - "Director of Health" means either the Director of Health of the Government or the Principal Health Inspector;
  - "Minister" means the Minister responsible for public health or any Minister acting on his behalf;
  - "person" includes any corporate body, partnership or association of persons;
  - "premises" means any building or part of a building and any private forecourt yard or land to which members of the public have access for the purpose of retail or wholesale marketing of food or where food is stored for such purposes.

Persons not to display, store or sell food unfit for human consumption.

2. No person shall on any premises store, have on display or sell food for consumption by persons which is unfit for human consumption.

Powers of health inspectors to enter premises and take samples.

3. (1) A health inspector may enter any premises for the purpose of inspecting any food that is stored or for sale therein.
- (2) A health inspector who suspects that any food intended for consumption by persons and displayed for sale or stored on any premises is unfit for human consumption may -
- (a) take a sample for analysis by an analyst; and
  - (b) place an embargo on the sale of the remainder of the food from which the sample has been taken which shall be in form "A" in the Schedule.

(3) A health inspector shall submit the report of an analyst carried out in accordance with subsection (2) to the Director of Health.

**Declarations and direction by Director of Health.**

4. (1) When the Director of Health has examined a report submitted to him in accordance with section 3 (3) he shall declare in form B in the Schedule all or part of the food from which the analysed sample has been taken fit or unfit for human consumption.

(2) A declaration by the Director of Health made under subsection (1) that food is unfit for human consumption shall direct the manner of disposal under the supervision of a health inspector of the food declared unfit which may be either by -

- (a) sale for animal consumption;
- (b) destruction;
- (c) burial in the land or dumping at sea.

(3) A direction under subsection (2) shall be made to and served on the person who was displaying for sale or storing the food declared unfit for human consumption.

**Voluntary disposal of food unfit for human consumption.**

5. (1) Where a person storing or displaying for sale food for consumption by persons accepts after an inspection by a health inspector that the food is unfit for human consumption he may voluntarily agree to the disposal of the food with the Health Inspector in such of the ways provided for in Section 4 (2) as the health inspector shall consider suitable.

(2) Where food is disposed of in accordance with subsection (1) the health inspector shall sign a certificate to that effect in Form "C" in the Schedule.

**Seizure and destruction of food unfit for human consumption.**

6. (1) Where any person refuses or neglects to carry out a direction under Section 4 (2) the Director of Health may order the seizure and destruction of the food under police supervision.

(2) The expense of any seizure or destruction carried out under subsection (1) shall be a debt recoverable by the Government from the owner of the food.

**Compensation.**

7. Where any food has in accordance with Section 4 been declared fit for human consumption but owing to the delay in its sale by reason of an embargo made under section 3 (2) has either -

- (a) depreciated in value; or
- (b) become unfit for human consumption the owner of the food may claim compensation from the Government for any loss suffered by him.

Identity cards. 8. (1) A health inspector who enters any premises in the course of his duties shall carry an identity card in form "D".

(2) A health inspector shall produce his identity card before requiring admittance to any part of any premises where food is not displayed for sale or, if he has not already produced his identity card, before taking a sample.

Orders. 9. The Minister for the better carrying out of the provisions of this Act may make orders not inconsistent with this Act which shall be published in the Vanuatu Gazette.

Offences and Penalties. 10. (1) Any person who fails to comply with a lawful direction under this Act or who fails to comply with an embargo or obstructs a health inspector in carrying out the functions under this Act or contravenes this Act or an order made under Section 9 commits an offence and is liable on conviction to a fine not exceeding VT 60,000 or imprisonment not exceeding 3 years or both such fine and imprisonment.

(2) Where a person liable to conviction under subsection (1) becomes so liable when acting in the course of his employment by a corporate body by which he is employed it may be convicted and fined in his place or in addition to him.

SCHEDULE

FORM A

(Section 3 (2) (b))

FOOD (CONTROL) ACT 1981 No. 2

EMBARGO

Pe  
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and

I.....Health Inspector having this day taken a sample of.....from the premises known as.....  
.....HEREBY place an embargo on the display or sale of.....  
.....(here insert approximate quantity by weight or number of cases etc) of.....held by.....  
at the premises on this day.....  
dated.....198...

Signed.....Health Inspector.  
Name of officer in block letters.....

Page 1  
Page 127208PT  
up of eastward

FORM B

(Section 4 (1))

FOOD (CONTROL) ACT 1981 No. 2/

DECLARATION AND DIRECTION  
BY DIRECTOR OF HEALTH

I.....Director of Health/Principal Health Inspector  
having on the.....day of.....19.....examined the report  
of.....analyst declare that the sample of food taken by  
.....health officer at.....(District)  
from the premises of.....fit/unfit for human consumption\*  
and I DIRECT that the.....(quantity by weight, number of  
cases etc) in respect of which an embargo was made by.....  
health inspector on the.....day of.....19.....

- \* shall no longer be subject to embargo;
- \* be marked as unfit for human consumption but fit for animal consumption only;
- \* be taken under the supervision of a health inspector and buried in the land within.....days from the date hereof;
- \* be taken under the supervision of a health inspector and dumped at sea within.....days from the date hereof;
- \* be destroyed.

Dated the.....day of.....198.....

Signed.....

Director of Health/Principal Health Inspector.

\* Delete whichever is not applicable.

FOOD (CONTROL) ACT 1981 No. 2  
CERTIFICATE OF DISPOSAL OF FOOD

I.....Health Inspector HEREBY CERTIFY ON THIS.....  
day of.....198....that.....(quantity) of.....  
.....found by me at the premises of.....  
on the.....and in my opinion likely to be unfit for human  
consumption has this day been -

- \* marked as unfit for human consumption but fit for animal consumption;
- \* taken under my supervision and buried in the land at.....;
- \* taken under my supervision and dumped at sea;
- \* destroyed.

Dated the.....day of.....198.....

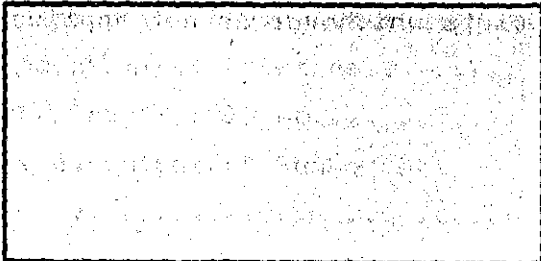
Signed.....Health Inspector

Name of Inspector in BLOCK LETTERS.....

FOOD (CONTROL) ACT 1981 No. 2

IDENTITY CARD

MR/MISS/MRS.....  
is a Health Inspector for the purpose of the  
Food(Control)Act 1981 No. and must be given  
every assistance in accordance with the Act.



Signed.....

Date of expiry of this Identity Card.....198.....

Renewed on.....198.....until.....198.....

(2) on 5

LOI N°2 DE 1991 RELATIVE AU CONTROLE ALIMENTAIRE

Sommaire

1. Définitions.
2. Interdiction d'étaler, d'entreposer, ou de vendre des denrées alimentaires impropres à la consommation.
3. Pouvoirs et attributions des inspecteurs sanitaires.
4. Décision et prescriptions du Directeur de la Santé.
5. Elimination spontanée de denrées alimentaires impropres à la consommation.
6. Saisie et destruction de denrées alimentaires impropres à la consommation.
7. Dommages - intérêts.
8. Carte professionnelle.
9. Arrêtés.
10. Infractions et peines.
11. Titre et entrée en vigueur.

ANNEXE

FORMULAIRE A

INTERDICTION TEMPORAIRE DE VENTE

FORMULAIRE B

DECISION ET PRESCRIPTIONS DU DIRECTEUR DE LA SANTE

FORMULAIRE C

CERTIFICAT

FORMULAIRE D

CARTE PROFESSIONNELLE.

LOI N° 2 DE 1981 RELATIF AU CONTROLE  
ALIMENTAIRE

relatif à l'étalage, à la vente et à l'entreposage de denrées alimentaires impropres à la consommation.

Le président de la République et le Parlement promulguent le texte suivant :

ARTICLE 1er.

"Directeur de la Santé" désigne soit le Directeur de la Santé publique, soit l'inspecteur sanitaire principal.

"expert" désigne toute personne nommée à ces fonctions par le Ministre aux fins d'application de la présente loi, et dont la nomination a été notifiée au Journal officiel ;

"inspecteur sanitaire" désigne toute personne nommée à ces fonctions par le Ministre, et dont la nomination a été notifiée au Journal officiel ;

"magasin" désigne tout bâtiment ou partie de bâtiment ainsi que toute aire, cour ou terrain privé ouvert au public et utilisé pour le commerce de gros ou de détail ou pour l'entreposage de denrées destinées à être commercialisées.

"Ministre" désigne le Ministre responsable de la santé publique ou tout Ministre agissant en son nom ;

"personne" comprend toute société, association ou groupe de personnes entreposer.

ARTICLE 2.

Nul ne peut/étaler ou vendre dans un magasin des denrées alimentaires impropres à la consommation.

ARTICLE 3.

1. L'inspecteur sanitaire peut pénétrer dans tout magasin afin d'examiner les denrées qui y sont entreposées ou mises en vente.
2. Lorsque l'inspecteur sanitaire est porté à croire que des denrées alimentaires mises en vente ou entreposées dans un magasin sont impropres à la consommation, il peut :
  - a) prélever un échantillon qu'il fera analyser par un expert, et
  - b) prononcer une interdiction provisoire de vente du lot de denrées sur lesquelles l'échantillon a été prélevé, cette interdiction est signifiée en la forme du Formulaire A figurant à l'Annexe.
3. L'inspecteur sanitaire est tenu de présenter au Directeur de la Santé le rapport établi par l'expert au titre du paragraphe 2 ci-dessus.

- ARTICLE 4.**
1. Après avoir examiné le rapport visé au paragraphe 3 de l'Article 3, le Directeur de la Santé remplit le Formulaire B figurant à l'Annexe en déclarant propre ou impropre à la consommation tout ou partie des denrées alimentaires ayant fait l'objet du prélèvement.
  2. Si les denrées alimentaires sont impropres à la consommation, le Directeur de la Santé prescrit dans la déclaration visée au paragraphe 1 la manière dont elles doivent être écoulées ou éliminées sous le contrôle d'un inspecteur sanitaire
    - a) en les mettant en vente comme produits de consommation animale,
    - b) en les détruisant, ou
    - c) en les faisant enterrer ou désorver en mer.
  3. Les prescriptions visées au paragraphe 2 ci-dessus sont notifiées à la personne qui a mis en vente ou entreposé les denrées alimentaires déclarées impropres à la consommation.

- ARTICLE 5.**
1. Lorsqu'une personne ayant fait l'objet d'une inspection sanitaire admet que les denrées alimentaires examinées sont impropres à la consommation, elle peut spontanément convenir de s'en défaire par celui des moyens prévus au paragraphe 2 de l'Article 4 que l'inspecteur sanitaire jugera approprié.
  2. Lorsque les denrées ont été écoulées ou éliminées en application du paragraphe 1 ci-dessus, l'inspecteur sanitaire signe un certificat en la forme du Formulaire C figurant à l'Annexe.

- ARTICLE 6.**
1. Lorsqu'une personne refuse ou omet de se conformer aux prescriptions visées au paragraphe 2 de l'Article 4, le Directeur de la Santé peut ordonner la saisie et la destruction des denrées sous le contrôle de la police.
  2. Les frais de saisie ou de destruction sont à la charge du propriétaire des denrées et peuvent être recouverts par l'Etat au moyen d'une action en justice.

- ARTICLE 7.**
- Lorsqu'en application de l'Article 4 le Directeur de la Santé déclare des denrées alimentaires propres à la consommation, mais qu'en raison de l'interdiction provisoire de vente prononcée en vertu du paragraphe 2 de l'Article 3, ces denrées
- a) se sont dépréciées ou
  - b) sont devenues impropres à la consommation,
- le propriétaire desdites denrées peut réclamer à l'Etat des dommages-intérêts pour toute perte encourue.

- ARTICLE 8.**
1. Tout inspecteur sanitaire en service pénétrant dans un magasin doit être porteur d'une carte professionnelle conforme au formulaire D.

.../...

2. L'inspecteur sanitaire ne peut ni pénétrer dans une section non réservée à la vente, ni prélever un échantillon d'un produit sans présenter préalablement sa carte professionnelle.

ARTICLE 9.

Le Ministre peut prendre des arrêtés visant à une meilleure application des dispositions de la présente loi ; ces arrêtés doivent être publiés au Journal officiel.

ARTICLE 10.

1. Celui qui ne se conforme pas aux prescriptions issues du présent texte ou à une interdiction provisoire de vente, qui entrave l'exercice des fonctions dont un inspecteur sanitaire est légalement investi ou qui enfreint les dispositions de la présente loi ou de tout arrêté pris en application de l'Article 9, commet une infraction passible, après établissement de sa culpabilité, d'une amende n'excédant pas 60.000 VT ou d'une peine d'emprisonnement ne dépassant pas 3 ans, ou des deux peines à la fois.

2. La société qui emploie une personne ayant commis pendant son service une infraction passible des peines prévues au paragraphe 1, peut être condamnée au paiement de l'amende à la place ou en plus de l'employé.

ARTICLE 11.

Le présent texte, appelé loi de 1981 relative au contrôle alimentaire, entrera en vigueur au jour de sa publication au Journal officiel.

ANNEXE

FORMULAIRE A

Article 3 (2) (b)

LOI N° 2 DE 1981 RELATIVE AU CONTROLE ALIMENTAIRE

INTERDICTION PROVISOIRE DE VENTE

Je soussigné, ..... , inspecteur  
sanitaire, ayant ce jour prélevé une échantillon de .....  
au magasin .....  
interdis temporairement l'étalage ou la vente de .....  
(quantité approximative en poids, en nombre de caisses, etc.)  
de ..... (type du produit  
interdit)  
détenu(e)s en magasin par M. ....

Le ..... 19....

Signature de l'inspecteur sanitaire :

Nom du fonctionnaire en lettre majuscule :

.../...

FORMULAIRE B

Article 4 (1)

LOI N° 2 DE 1981 RELATIVE AU CONTROLE ALIMENTAIRE

DECISION ET PRESCRIPTIONS DU DIRECTEUR DE LA SANTE

Je soussigné, ....., Directeur de la Santé /  
 inspecteur sanitaire principal, ayant examiné le ..... 19....  
 le rapport de M. .... ;  
 expert, déclare que l'échantillon prélevé au magasin .....  
 par M. ...., inspecteur  
 sanitaire de ..... (circonscription), est  
 propre / impropre\* à la consommation et ordonne que .....  
 (quantité en poids, nombre de caisses, etc.)  
 de ..... (type du produit) pour lequel(le)s  
 une interdiction provisoire de vente a été prononcée: par  
 M. ...., inspecteur sanitaire,  
 le ..... 19....,

- \*ne soient plus soumis(e)s à une interdiction de vente ;
- \*soient classé(e)s comme produits de consommation animale ;
- \*soient enlevé(e)s sous le contrôle d'un inspecteur sanitaire et  
enterré(e)s dans les ..... jours ;
- \*soient enlevé(e)s sous le contrôle d'un inspecteur sanitaire et  
déversé(e)s en mer dans les ..... jours ;
- \*soient détruit(e)s.

Le ..... 19....

Signature du Directeur de la Santé / de l'inspecteur sanitaire  
principal : .....

\* Rayez les mentions inutiles

FORMULAIRE C

Article 5 (2)

LOI N° 2 DE 1981 RELATIVE AU CONTROLE ALIMENTAIRE

CERTIFICAT

Je soussigné, ....., inspecteur sanitaire,  
 certifie avoir trouvé le ..... 19.... au magasin  
 ..... (quantité du  
 produit) de ..... (type du produit) que je  
 considère comme impropres à la consommation et qui ont été :

- \*classé(e)s comme produit de consommation animale ;
- \*enlevé(e)s sous mon contrôle et enterré(e)s à .....
- \*enlevé(e)s sous mon contrôle et déversé(e)s en mer ;
- \*détruit(e)s.

Le ..... 19....

Signature de l'inspecteur sanitaire :  
.....

Nom de l'inspecteur en lettre majuscule :  
.....

\*Rayez les mentions inutiles.

FORMULAIRE D

Article 8 (1)

LOI N° DE 1981 RELATIVE AU CONTROLE ALIMENTAIRE

CARTE PROFESSIONNELLE

Le présent document certifie que M. / Mme / Melle  
 ..... a été nommé(e)  
 aux fonctions d'inspecteur sanitaire  
 aux fins d'application de la loi n° .....  
 de 1981 relative au contrôle alimentaire.  
 Le titulaire de cette carte est  
 habilité à requérir le concours nécessaire  
 au bon exercice de ses fonctions.

Signature : .....

Cette carte expire le ..... 19....

Elle a été renouvelée le ..... 19....

Elle expire le ..... 19....

PUBLIC SERVICE ACT

NO 3. 1981

Arrangement of Sections

1. Interpretation.
2. Additional powers of the Commission.
3. Functions of the Commission in respect of the Public Service.
4. Commission to have power to provide services to statutory bodies.
5. Annual reports.
6. Delegation of powers and functions.
7. Transfers.
8. Disciplinary Offences.
9. Establishment of Public Service Disciplinary Board.
10. Hearing and confirmation of Disciplinary offences.
11. Rights of Appeal by officers appointed by the Commission.
12. Powers of Commission and Board to summon witnesses etc.
13. Offence to attempt to influence Commission or Board.
14. Membership of Trade unions and recognition of Staff Association.
15. Orders.
16. Public Service Instructions.
17. Offence to attempt to influence Commission.
18. Repeal and Saving.
19. Commencement.

REPUBLIC OF VANUATU

THE PUBLIC SERVICE

ACT NO 3 OF 1981

To confer powers and functions on the Public Service Commission in addition to those conferred upon it by the Constitution and to provide for a Public Service Disciplinary Board, for appeals therefrom and for other matters relating to the Public Service.

Be it enacted by the President and Parliament as follows :-

**Interpretation.**

1. (1) In this Act, unless the context otherwise requires -

"Board" means the Public Service Disciplinary Board established under Section 9;

"Association" means the staff association recognised by the Prime Minister in accordance with section 14;

"Commission" means the Public Service Commission established by Article 57 of the Constitution;

"Commissioner" means a member of the Commission;

"department" means a Ministry of the Government or a Department within a Ministry;

"officer" means a person holding or acting in any office in the Public Service;

"Public Service" means the service of the Republic in any capacity other than as a judge, or member of the armed forces, police or teaching services;

"Statutory body" means any statutory body, other than a Department, created by any written law and responsible to a Minister.

**Additional powers of the Commission.**

2. The Commission shall have all powers necessary to perform the functions and carry out the duties described in this Act in addition to the functions and duties vested in it by the Constitution.

Commission in respect of the Public Service.

3. (1) The Commission shall in respect of the Public Service, be responsible for -

- (a) reviewing the machinery of government, including the need for the establishment of new departments and the amalgamation or abolition of existing departments, the co-ordination of the activities of departments and, subject to the provisions of any other law, the extent and nature of the controls over the operations of a department;
- (b) reviewing the efficiency and economy of the Public Service, including the discharge by heads of departments of the responsibilities placed in them by this Act or any other law;
- (c) advising the Prime Minister on Public Service salaries and salary scales;
- (d) the provision of suitable office accommodation and the prescription and supervision of the physical working conditions of all officers in the Public Service;
- (e) for the purposes of efficient Government reviewing establishments and approving the grading of posts;
- (f) acting as the personnel authority for the Public Service;
- (g) prescribing training programmes for and assisting with the training of officers;
- (h) providing or causing to be provided management consultation services, including advice as to efficient work and control methods and techniques, data processing and organisation.

(2) The Commission shall be empowered at all times in respect of the Public Service to carry out such inspections and investigations, and to receive such reports, as it shall consider necessary to advise any head of department or to report to the Prime Minister on matters referred to in this section or on such other matters as the Prime Minister may direct.

Commission to have power to provide services to statutory bodies.

4. (1) The Commission may also provide any statutory body -

- (a) with advice on and assist in the training of its staff;

- (b) with management consultation services;
- (c) with assistance in recruitment of staff.

(2) The Commission may charge fees for any of the services it provides in accordance with subsection (1).

**Annual reports.**

5.(1) The Commission shall as soon as is practicable after the end of each financial year furnish to the Prime Minister a report on the state of the efficiency and economy of the Public Service and on the operations of the Commission for the year ending on that date.

(2) A copy of the report shall be laid before Parliament within 30 days after it is received by the Prime Minister but if the House is not sitting at the end of such 30 days it shall be laid before the House at the beginning of its next meeting.

**Delegation of powers and functions.**

6.(1) The Commission may from time to time either generally or particularly delegate any of its powers and functions under this Act except those contained in Sections 10 and 11 to a Commissioner or to any officer who in this section shall include a person appointed to any office under the Constitution.

(2) In any case where the Commission has delegated any of its powers to a Commissioner or any officer, that Commissioner or officer may, with the prior approval in writing of the Commission, delegate such of those powers to any other officer.

(3) Subject to any general or special directions given by the Commission, the Commissioner or officer to whom any powers or functions are delegated may exercise those powers or functions in the same manner and with the same effect as if they had been conferred on him directly by this Act and not by delegation.

(4) Every Commissioner and other person purporting to act in accordance with a delegation under this section shall, in the absence of proof to the contrary, be presumed to be acting in accordance with the terms of the delegation.

(5) Any delegation under this section may be made to a specified person or to persons of a specified class, or to the holder or holders for the time being of a specified office or of specified classes of offices.

(6) Every delegation shall be revocable in writing at will and no delegation shall prevent the exercise of any power or function by the Commission.

(7) Any dologetion shall, until it is revoked, continue in force notwithstanding any changes in the membership of the Commission.

(8) Any investigation or inquiry which the Commission is empowered to conduct under this Act may be conducted by the Commission acting in its own right or by a Commissioner or any officer or any other person specially or generally appointed by the Commission to conduct the investigation or inquiry and to report thereon to the Commission and for the purpose of any such investigation or inquiry the powers and authority conferred on the Commission by section 12 shall attach to and may be exercised by any officer or other person so appointed.

**Transfers.** 7. Subject to the power of the Prime Minister under Article 56 (2) of the Constitution the Commission may transfer any officer from one office or position to another office or position in the Public Service of equivalent rank, whether or not the transfer involves a change of location.

**Disciplinary Offences.** 8. Every officer commits a disciplinary offence for the purposes of disciplinary proceedings who -

- (a) by any wilful act or omission fails to comply with the requirements of this Act or of any order hereunder or of any official instrument made under the authority of the Commission or of the head of the Department in which the officer is employed;
- (b) in the course of his duties disobeys, disregards or makes wilful default in carrying out any lawful order or instruction given by any person having authority to give the order or instruction or by word or conduct displays insubordination;
- (c) is negligent, careless, indolent, inefficient, or incompetent in the discharge of his duties;
- (d) behaves in a manner calculated to cause unreasonable distress to other officers or to affect adversely the performance of their duties;
- (e) uses intoxicating liquors or drugs to excess or in such manner as to affect adversely the performance of his duties;

- (f) improperly uses or removes property, stores, monies, stamps, securities or negotiable instruments for the time being in his official custody or under his control, or fails to take reasonable care of any such property, stores, monies, stamps, securities or negotiable instruments;
- (g) otherwise than in the proper discharge of his duties directly or indirectly discloses or for private purposes uses any information acquired by him either in the course of his duties or in his capacity as an employee;
- (h) absents himself from his office or from his official duties during hours of duty without leave or valid excuse, or is habitually irregular in the time of his arrival or departure from his place of employment;
- (i) is guilty of any improper conduct in his official capacity, or of any other improper conduct which is likely to affect adversely the performance of his duties or is likely to bring the Public Service into disrepute;
- (j) is guilty of any other offence prescribed from time to time by orders made under this Act.

**Establishment of  
Public Service  
Disciplinary  
Board.**

9. (1) There is hereby established a Public Service Disciplinary Board which shall consist of five members appointed by the Public Service Commission who shall consist of :-
- (a) a member of the Commission who shall be chairman;
  - (b) two public officers from different departments to be nominated by the Association;
  - (c) two other members.
- (2) The members of the Board shall hold office for a term not exceeding three years, but may be re-appointed.
- (3) Notwithstanding the provisions of subsection (2) every member of the Board shall continue to hold office until his successor is appointed.
- (4) No member shall sit on the Board on any case affecting an officer of the Department in which the member is an officer, or on a case affecting himself.

(5) If any member of the Board dies, or by notice in writing addressed to the Commission resigns his office, or refuses or neglects without sufficient cause to attend any duly appointed meeting of the Board or (being a service member) becomes employed in the Department in which the other service member is already employed, his seat shall become vacant and the vacancy so created shall be filled in the manner in which the appointment to the vacant office was originally made.

(6) In the event of both service members of the Board being absent or unable for any reason to attend any meeting of the Board or to sit for the hearing of any particular case, an officer, nominated by the Association, or on failure of the Association to nominate, nominated by the Prime Minister, shall act in place of the service members of the Board at the meeting or at the hearing of the case as the case may be, and that officer shall for the purpose of this Act be considered a duly appointed service member of the Board for the purposes of the meeting or of the hearing of the case.

(7) Notwithstanding anything in this section, the Board may, if in its opinion a case involves matters of a professional, technical or specialised nature, appoint a person who in its opinion has expert knowledge of such matters to be an assessor for the purposes of the case, and the assessor shall sit with the Board and in all respects act as an extra member thereof for the hearing and determination of the case, except that he shall have no vote in the determination of the case.

Hearing and confirmation of Disciplinary offences.

10. (1) All disciplinary offences shall be heard by the Board in accordance with rules that shall be prescribed.

(2) Unless an appeal has been lodged in accordance with Section 11 (2) all decisions of the Board shall be subject to confirmation by the Commission not later than 30 days after they have been published or notified to the officer concerned.

(3) The Commission may confirm decisions of the Board, vary such decisions or quash them.

(4) If the Commission fails to confirm vary or quash a decision of the board within the time provided in subsection (2) it shall be considered to have quashed the decision.



**Powers of Commission and Board to summon witnesses etc.**

12. For the purpose of carrying out their functions in relation to disciplinary offences the Commission and the Board shall have the same powers and authority to summon witnesses and admit and receive evidence as does the Supreme Court.

**Offence to attempt to influence Commission or Board.**

13.(1) Except as provided in subsection (3) no person shall in any way attempt to influence the Commission, the Board or any member in respect of any disciplinary case or appeal.

**Offence to contravene provisions of this section**

(2) Any person who acts in contravention of the provisions of this section commits an offence and is liable on conviction to a fine not exceeding Vt 10,000.

(3) Nothing in this section shall be so construed as to prohibit any person from giving information or making representations in respect of any case or appeal at the request or invitation of the Board or the Commission or as a witness or as a defendant or appellant or the representative of an officer appearing at a hearing before the Board or the Commission.

**Membership of Trade Unions and recognition of Staff Association.**

14.(1) No officer may be a member of a trade union or body or association affiliated to a trade union.

(2) If any question arises as to whether or not a body or association is a trade union, body or association to which subsection (1) applies the question shall be decided by the Commission and its decision shall be final.

(3) For the purpose of enabling officers to bring to the notice of the Commission any matter affecting their service apart from matters of promotion or discipline officers may belong to a Public Service Staff Association recognised by the Prime Minister for that purpose.

**Orders.**

15.(1) The Prime Minister may make orders for the carrying out of the provisions of this Act and for the efficient management control and working of the Public Service.

(2) Different orders may be made in respect of different classes of officers.

(3) Without prejudice to the generality of subsections (1) and (2) the Prime Minister may in particular make orders with respect to a of the following matters -

- (a) the promotion of efficiency and economy in the Public Service;
- (b) for prescribing standards of and conditions relating to office accommodation and the physical working conditions of officers;
- (c) for facilitating the classification and grading of officers;
- (d) generally for prescribing the terms and conditions of service and employment of officers;
- (e) generally with regard to matters arising out of or in the course of the employment of officers;
- (f) generally for prescribing the terms and conditions which may be imposed in or in respect of any contracts or arrangements relating to the Public Service entered into between the Government on the one hand and its officers or any other person on the other hand;
- (g) generally for prescribing fees, allowances and expenses that may be paid to any person for carrying out any functions or duties prescribed or provided for by this Act;
- (h) for prescribing further disciplinary offences;
- (i) generally for prescribing the responsibilities and duties of officers;
- (j) generally providing for and facilitating the training and examination of officers;
- (k) for prescribing further matters or decisions in respect of which a right of appeal shall lie to the Commission.

**Public Service Instructions.**

- 16. (1) The Prime Minister or the Public Service Commission may from time to time issue Public Service Instructions covering every aspect of the work and privileges of officers.
- (2) Different Public Service Instructions may be made for and in respect of different classes of officers.
- (3) It shall not be necessary for instructions made under this section, which shall be for the internal use, guidance, assistance and general conduct of officers and which shall form part of the conditions of service of officers to be published in the Gazette.

Offence to attempt to influence Commission.

(4) Whenever there is any conflict between any instruction made under this section and any orders made under section 15 or any provision of this Act, the Constitution or any written law the orders or provisions shall prevail.

17.(1) Except as provided in subsections (3) and (4) of this section, every person shall commit an offence who directly or indirectly solicits or endeavours to influence the Commission or any Commissioner or any officer to whom any of the powers or functions of the Commission have been delegated under section 6, of this Act, with respect to its or their decisions.

(2) Every person who commits an offence against this section is liable on conviction to a fine not exceeding ~~Vt~~ 10,000.

(3) Nothing in this section shall apply to any person giving information advice or making representations to the Commission in respect of any matter whatsoever at the request or invitation of the Commission or in compliance with directives made by or procedures established by the Commission.

(4) Nothing in this section shall be construed so as to prevent the Association from making representation to the Commission on any matter affecting the salaries, wages or conditions of employment of any officer or class of officers.

Repeal and Saving.

18.(1) The Public Service Regulation No 7 of 1978 is hereby repealed.

(2) Any orders made under the Public Service Regulation No 7 of 1978 or Public Service Instructions made prior to the coming into force of this Act shall remain in force until revoked.

Commencement.

19. This Act shall come into force on the date of its publication in the Gazette.

RELATIVE A LA FONCTION PUBLIQUE

SOMMAIRE

1. Définitions.
2. Attributions extra-constitutionnelles de la Commission.
3. Fonctions de la Commission dans le cadre de la fonction publique.
4. Prestation de services aux corps constitués.
5. Rapports annuels.
6. Délégation de pouvoirs et attributions.
7. Mutations.
8. Infractions à la discipline.
9. Institution du conseil de discipline de la fonction publique.
10. Jugement des infractions à la discipline et confirmation des décisions.
11. Droit d'appel des agents nommés par la Commission.
12. Citation de témoins par la Commission et le Conseil.
13. Trafic d'influence sur les membres de la Commission ou du Conseil.
14. Droit syndical et reconnaissance officielle de l'Association du personnel de la fonction publique.
15. Arrêtés d'application.
16. Instructions de la fonction publique.
17. Trafic d'influence sur les membres de la Commission.
18. Abrogation et clause de sauvegarde.
19. Entrée en vigueur.

LOI N° 3 DE 1981 RELATIF

A LA FONCTION PUBLIQUE

conférant à la commission de la fonction publique des pouvoirs et des fonctions complétant ceux définis par la Constitution, portant création d'un conseil de discipline, établissant la procédure d'appel des décisions rendues par ce conseil et traitant d'autres questions relatives à la fonction publique.

Le président de la République et le Parlement promulguent le texte suivant :

ARTICLE 1er. Dans la présente loi, à moins que le contexte ne l'exige autrement :

"agent" désigne une personne titulaire d'un poste ou assurant un intérim dans la fonction publique.

"Association" désigne l'association du personnel reconnue par le Premier ministre conformément aux dispositions de l'article 14,

"Commission" désigne la commission de la fonction publique instituée en vertu de l'Article 57 de la Constitution,

"Conseil" désigne le conseil de discipline de la fonction publique institué aux termes de l'article 9,

"corps constitué" signifie tout organe autre qu'un Ministère établi par un texte législatif ou réglementaire et placé sous l'autorité d'un ministre.

"fonction publique" désigne toute fonction au service de la République autre que celle de juge, de membre des forces armées, du corps de police ou du corps enseignant.

"membre de la Commission" désigne un membre de la commission de la fonction publique,

"Service" désigne un ministère du Gouvernement ou un service d'un ministère.

ARTICLE 2. Sans préjudice des fonctions dont elle est constitutionnellement investie, la Commission jouit de tous les pouvoirs nécessaires à l'exécution des fonctions et attributions énoncées à la présente loi.

ARTICLE 3. 1. La Commission est chargée :

- a) de remanier les structures de l'Administration en étudiant notamment la nécessité de créer de nouveaux Services, de fusionner ou de supprimer des Services existants, de coordonner leurs opérations et, sous réserve des dispositions de tout autre texte législatif ou réglementaire, de définir la portée et la nature des contrôles exercés sur leurs activités

- b) de contrôler le bon fonctionnement et la saine gestion de la fonction publique en se penchant notamment sur l'exercice des responsabilités incombant aux chefs de service conformément aux dispositions de la présente loi ou de tout autre texte législatif ou réglementaire ;
- c) d'offrir ses conseils au Premier ministre sur toute question relative aux traitements et aux échelles de salaires de la fonction publique ;
- d) de mettre à disposition des bureaux adéquats, d'arrêter et de contrôler les conditions matérielles de travail de tous les agents ;
- e) d'approuver et de réviser le cadre permanent et la classification des postes ;
- f) de diriger le personnel de la fonction publique ;
- g) d'arrêter des programmes de formation à l'intention des agents et d'y apporter son concours ;
- h) de fournir ou d'organiser des services consultatifs de direction et de gestion ainsi que d'offrir ses conseils sur le traitement de données, les problèmes d'organisation et l'élaboration de techniques et méthodes permettant un travail et un contrôle efficaces.

2. La Commission a toute discrétion pour procéder aux inspections ou enquêtes et pour faire établir les rapports qu'elle estime nécessaires, en vue d'apporter ses conseils à tout chef de service et de faire rapport au Premier ministre sur l'action menée dans les domaines énoncés au présent article ainsi que sur toute autre question dont celui-ci pourrait la charger.

**ARTICLE 4.** 1. La Commission peut également faire bénéficier tout corps constitué :

- a) de ses conseils et de son concours en matière de formation de personnel ;
- b) de services consultatifs de direction et de gestion, et
- c) de son concours en matière de recrutement de personnel.

2. La Commission peut percevoir des droits au titre de tout service fourni conformément au paragraphe 1.

**ARTICLE 5.** 1. Dès que possible après la fin de chaque exercice financier, la Commission présente au Premier ministre un rapport sur l'efficacité du fonctionnement et de la gestion financière de la fonction publique ainsi que sur les activités conduites au cours de l'année achevée.

2. Un exemplaire du rapport est déposé devant le Parlement dans les 30 jours qui suivent sa réception par le Premier ministre. Si le Parlement ne siège pas au cours de cette période, le rapport est déposé au début de la session suivante.

ARTICLE 6. 1. A l'exception des compétences visées aux articles 10 et 11, la Commission peut périodiquement, et de façon globale ou spécifique, déléguer à l'un de ses membres ou à tout autre agent tout pouvoir ou fonction qu'elle détient en vertu de la présente loi, aux fins d'application du présent article, le terme "agent" comprend également toute personne nommée à une charge prévue à la Constitution.

2. Lorsqu'en vertu du paragraphe 1 la Commission a délégué des pouvoirs à l'un de ses membres ou à un agent, le mandataire peut les subdéléguer à tout autre agent avec l'accord préalable et écrit de la Commission.

3. Sous réserve de toute directive générale ou spécifique de la Commission, le mandataire peut exercer les pouvoirs ou les fonctions dont il est investi de la même manière et avec le même effet que s'il les détenait en vertu de la présente loi et non par délégation.

ARTICLE 7. Sous réserve des pouvoirs conférés au Premier ministre par le paragraphe 2) de l'Article 56 de la Constitution, la Commission peut muter tout agent à un autre emploi ou poste de catégorie équivalente au sein de la fonction publique, que cette mutation implique ou non un changement du lieu de travail.

ARTICLE 8. Commet une infraction disciplinaire passible de sanctions l'agent qui :

- a) par tout acte ou omission volontaire, ne se conforme aux dispositions de la présente loi, de tout arrêté pris en son application, ou de tout document officiel émanant de la Commission ou du chef de service dont il relève
- b) dans l'exercice de ses fonctions, désobéit, passe outre ou ne se conforme délibérément pas aux ordres ou instructions donnés par toute personne habilitée à cet effet, ou fait preuve d'insubordination par ses actes ou paroles
- c) se montre négligent, inattentif, paresseux, inefficace ou incompetent dans l'exercice de ses fonctions
- d) importune délibérément d'autres agents par son comportement ou entrave le bon exercice de leurs fonctions
- e) fait une consommation abusive de boissons alcooliques ou de drogues, préjudiciable à la bonne exécution de ses fonctions

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- f) utilise indûment, se dessaisit ou ne prend pas suffisamment soin des biens publics, fournitures, fonds, timbres-poste, titres ou effets négociables officiellement placés sous sa responsabilité ou son contrôle ;
- g) autrement que dans l'exercice normal de ses attributions, divulgue directement ou non, ou utilise à des fins personnelles, toute information dont il a eu connaissance de par ses fonctions ou en sa qualité d'agent de l'Etat ;
- h) s'absente de son bureau ou délaisse ses fonctions officielles durant les heures de service sans permission ou excuse valable ou tend généralement à ne pas respecter les horaires de travail ;
- i) dans l'exercice de ses fonctions, se conduit de manière inconvenante ou, en d'autres circonstances, a un comportement susceptible de porter atteinte à la bonne exécution de ses attributions ou de jeter le discrédit sur la fonction publique.
- j) se rend coupable de toute autre infraction définie périodiquement par des arrêtés pris en application de la présente loi.

**ARTICLE 9. 1.** Il est institué un conseil de discipline de la fonction publique composé de cinq membres nommés par la Commission et répartis comme suit

- a) un président désigné parmi les membres de la Commission,
- b) deux agents proposés par l'Association et appartenant à des services différents, et
- c) deux autres personnes.

2. Le mandat des membres est de trois ans et est reconductible.

3. Nonobstant les dispositions du paragraphe 2), les membres du Conseil restent en fonctions jusqu'à la nomination de leurs successeurs.

4. Nul membre ne peut siéger lorsque le Conseil statue sur une affaire le concernant ou mettant en cause un agent appartenant au même Service que lui.

5. Dans les cas de décès d'un membre, de démission adressée par écrit à la Commission ou d'absence injustifiée à toute réunion dûment arrêtée par le Conseil, le siège est déclaré vacant et un nouveau membre est nommé selon la procédure initialement suivie. La présente disposition est également applicable lorsque l'un des deux membres proposés par l'Association est muté dans le même Service que l'autre.

6. Si les deux membres proposés par l'Association sont absents ou empêchés pour une raison quelconque lors d'une réunion du Conseil ou de l'audience d'une affaire, un agent désigné par l'Association ou, à défaut, par le Premier ministre, assure leur suppléance à cette occasion. Aux fins d'application de la présente loi, il est réputé avoir été dûment nommé membre du Conseil à cet effet.

7. Nonobstant toute disposition du présent article, le Conseil peut nommer un expert en qualité d'assesseur lorsque l'affaire dont il est saisi touche à un domaine professionnel, technique ou spécialisé. L'assesseur siège avec le Conseil, participe à ses travaux en tant que membre mais n'a pas voix délibérative.

**ARTICLE 10.**

1. Le Conseil connaît de toutes les infractions disciplinaires conformément au règlement de procédure établi.
2. Sous réserve d'un appel interjeté conformément au paragraphe 2 de l'Article 11, la Commission se prononce sur les décisions du Conseil dans les 30 jours de leur publication ou de leur notification à l'intéressé.
3. La Commission peut confirmer, réformer ou casser les décisions du Conseil.
4. Si le délai imparti au paragraphe 2 n'est pas respecté, la décision est réputée cassée par la Commission.

**ARTICLE 11.**

1. Sous réserve des dispositions du paragraphe 2) ci-dessous, tout agent, autre que stagiaire, nommé par la Commission, peut, en vertu du présent article, interjeter appel devant la Commission de toute sanction prise contre lui par le Conseil ou par un agent.
2. L'appel visé au paragraphe 1) est interjeté par requête écrite exposant les moyens d'appel et adressée sous pli recommandé au secrétaire de la Commission, dans les 15 jours de la publication de la décision

ou de sa notification à l'intéressé, selon le cas. Le délai d'appel peut être prolongé par la Commission, si l'appelant en présente à bon droit, la demande écrite.

3. La Commission peut recevoir ou rejeter tout appel.
4. En matière d'appel la charge de la preuve incombe à l'appelant.
5. En appel, la Commission siège à huis clos mais peut toutefois autoriser toute personne à assister à tout ou partie des débats.
6. Lors de l'audience de l'appel, l'appelant peut comparaître en personne, se faire représenter ou être assisté par un conseil ou par tout agent.
7. La Commission détermine sa propre procédure en tous points sauf ceux expressément prévus par la présente loi ou par tout arrêté pris en son application.
8. Les délibérations de la Commission ne peuvent être invalidées pour vice de forme. La Commission juge en dernier ressort et appel de ses décisions ne peut être interjeté qu'au seul motif d'incompétence. Aucun tribunal n'est habilité pour contester la validité de ses délibérations ou pour réviser ou casser ses décisions.
9. Nonobstant toute disposition contraire prévue par la présente loi ou par tout autre texte législatif ou réglementaire, la Commission peut, à tout stade de la procédure, rejeter l'appel, sommairement ou non, au motif que ledit appel est abusif, futile ou non fondé.

ARTICLE 12.

Dans toute procédure disciplinaire, la Commission et le Conseil jouissent des mêmes pouvoirs que la Cour suprême pour citer des témoins et recevoir des dépositions.

ARTICLE 13.

1. Sauf les cas prévus au paragraphe 3 ci-dessous, nul ne peut tenter d'influencer les membres de la Commission ou du Conseil lors de toute instance disciplinaire.
2. Celui qui contrevient aux dispositions du présent article commet une infraction passible, après établissement de sa culpabilité d'une amende n'excédant pas 10.000 VT.
3. Aucune des dispositions du présent article ne peut être interprétée comme étant de nature à interdire à quiconque de fournir des informations ou de présenter des conclusions lors de toute instance disciplinaire, soit à la demande du Conseil ou de la Commission, soit en qualité de témoin, d'intimé, d'appelant ou de représentant d'un agent cité à comparaître devant le Conseil ou la Commission.

**ARTICLE 14.** 1. Nul agent ne peut être membre d'un syndicat ou d'une organisation ou association affiliée à un syndicat.

2. En cas de doute quant à la nature syndicale des organisations ou associations visées au paragraphe 1, la Commission statue en dernier ressort.

3. Afin de permettre aux agents de porter à la connaissance de la Commission toute question relative à leur activité professionnelle, hormis les cas d'avancement et de discipline, il leur est permis d'adhérer à une association du personnel de la fonction publique reconnue par le Premier ministre.

**ARTICLE 15.** 1. Le Premier ministre peut prendre les arrêtés d'application nécessaires à un bon fonctionnement et à une gestion et administration efficaces de la fonction publique.

2. Chaque arrêté d'application peut ne porter que sur certaines catégories d'agents.

3. Sans préjudice du caractère général des dispositions des paragraphes 1) et 2), le Premier ministre peut prendre des arrêtés d'application visant à :

a) promouvoir le bon fonctionnement et la saine gestion de la fonction publique ;

b) définir les normes des locaux à usage de bureau et les conditions matérielles de travail des agents ;

c) faciliter la classification des postes et déterminer la catégorie des agents ;

d) fixer de façon générale les conditions et modalités de service et d'emploi des agents ;

e) régler de façon générale les différentes questions relatives au service des agents.

f) fixer de façon générale, les modalités et conditions applicables aux contrats ou accords afférents à la fonction publique et conclus entre l'Administration d'une part et ses agents ou tout autre personne d'autre part.

g) fixer, de façon générale, les droits, allocations et indemnités payables à toute personne exerçant des fonctions ou attributions prévues ou définies par la présente loi.

h) définir d'autres infractions disciplinaires.

i) définir de façon générale les responsabilités et attributions des agents.

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- j) assurer et faciliter de façon générale le lancement de programmes de formation et le contrôle professionnel des agents.
- k) définir toute autre question ou décision pouvant faire l'objet d'un appel devant la Commission.

ARTICLE 16.

1. Le Premier ministre et la Commission peuvent périodiquement donner des directives portant sur le travail et les droits des agents. Ces directives sont diffusées sous la forme d'Instructions de la fonction publique.
2. Chaque catégorie d'agents peut faire l'objet d'Instructions différentes.
3. Les Instructions visées au présent article sont d'usage interne et sont destinées à servir de guide général offrant conseil et assistance aux agents. Elles font partie intégrante de leurs conditions d'emploi et ne sont pas soumises à l'obligation de publication au Journal officiel.
4. En cas d'incompabilité, les textes législatifs ou réglementaires prévalent toujours sur les Instructions de la fonction publique.

ARTICLE 17.

1. Sauf les cas prévus aux paragraphes 3 et 4 ci-dessous, se rend coupable d'une infraction celui qui tente ou s'efforce d'influencer, directement ou non, les décisions des membres de la Commission ou de tout agent investi des pouvoirs et attributions de la Commission en vertu des dispositions de l'article 6.
2. Celui qui contrevient aux dispositions du présent article commet une infraction passible, après établissement de sa culpabilité, d'une amende n'excédant pas 10.000 VT.
3. Les dispositions du présent article ne s'appliquent pas aux personnes qui, à la requête de la Commission ou conformément à ses directives et règles de procédure, lui communiquent des informations, des avis, ou lui présentent des conclusions sur un point quelconque.
4. Aucune des dispositions du présent article ne peut être interprétée comme étant de nature à empêcher l'Association de présenter ses observations à la Commission sur toute question relative aux traitements, salaires ou modalités d'emploi d'un agent ou d'une catégorie d'agents.

ARTICLE 18.

1. La présente loi abroge le Règlement Conjoint n°7 de 1978 portant statut de la fonction publique.
2. Les arrêtés pris en application du Règlement Conjoint n° 7 de 1978 ainsi que les Instructions de la fonction publique antérieurs à l'entrée en vigueur de la présente loi restent applicables tant qu'ils n'ont pas été expressément abrogés.

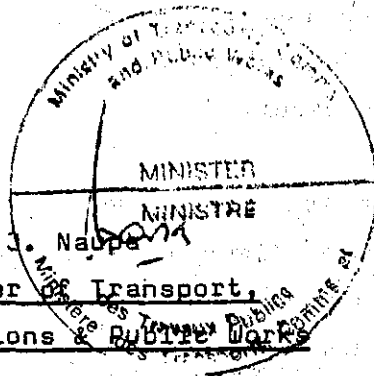
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**ARTICLE 19.** La présente loi entrera en vigueur à la date de sa publication au Journal officiel.

THE POSTAL TARIFF ACT No.5 OF 1981

NOTICE OF COMMENCEMENT

Notice is hereby given that the Postal Tariff Act No.5 of 1981 shall come into force on the <sup>22ND</sup> ~~15th~~ day of April, 1981.



Minister of Transport,  
Communications and Public Works

REPUBLIC OF VANUATU

THE POSTAL TARIFF ACT No. 5 OF 1981

Arrangement of Sections

1. Application.
2. Repeal.

REPUBLIC OF VANUATU

THE POSTAL TARIFF ACT No. 5 OF 1981

To amend the rates of postage on articles conveyed by post within and beyond the Republic of Vanuatu.

Be it enacted by the President and Parliament as follows :-

- Application.      1.      The rates and conditions of postage set out in the Schedule shall apply to the conveyance of articles by post to places within and beyond the Republic of Vanuatu.
- Repeal.            2.      The Postal Tariff Regulation, Joint Regulation No.3 of 1977, is hereby repealed.

SCHEDULE

PART 1

In this part -

"internal rates" means rates applicable to articles other than parcels addressed to any place within Vanuatu sent by surface route, and where available, by airmail;

"international rates" means rates applicable to articles other than parcels addressed to any foreign country sent by surface route.

INTERNAL RATES			INTERNATIONAL RATES			GENERAL CONDITIONS
<u>Category</u>	<u>Unit of Weight</u> <u>gr.</u>	<u>Rates in Vatu</u>	<u>Category</u>	<u>Unit of Weight</u> <u>gr.</u>	<u>Rates in Vatu</u>	
<u>Letters</u>			<u>Letters</u>			<u>Limits</u>
Not exceeding 20 grammes	20	15	Not exceeding 20 grammes	20	20	<u>Of size:</u>
Exceeding 20 gr. up to	50	25	Exceeding 20 grms. up to	100	40	<u>Maxima:</u> Length, width and depth combined;
" 50 gr. up to	100	30	" 100 grms. up to	250	95	900 mm, but the greatest dimension may not exceed
" 100 gr. up to	250	60	" 250 grms. up to	500	180	600 mm.
" 250 gr. up to	500	90	" 500 grms. up to	1.000	320	<u>In roll form:</u> Length plus twice the diameter 1040 mm but the greatest dimension may not exceed 900 mm.
" 500 gr. up to	1.000	180	" 1.000 grms. up to	2.000	535	<u>Minima:</u> to have a surface measuring not less than 900 mm x 140 mm, with a tolerance of 2mm. In roll form: length plus twice the diameter: 170 mm but the greatest dimension may not be less than 100 mm.
" 1.000 gr. up to	2.000	300				<u>Of weight:</u> 2 kg. .../3.

INTERNAL RATES			INTERNATIONAL RATES			GENERAL CONDITIONS
Category	Unit of Weight gr.	Rates in Vatu	Category	Unit of Weight gr.	Rates in Vatu	
<u>Postcards</u>			<u>Postcards</u>			<u>Of size:</u> <u>Maxima:</u> 105mm x 148mm with a tolerance of 2mm.  <u>Minima:</u> as per letters. Postcards exceeding the maxima may be accepted at letter rates.
Single		15			15	
<u>Printed Papers</u>			<u>Printed Papers</u>			<u>Of size:</u> as per letters  <u>Of weight:</u> 3 kg. (internal) 5 kg. for books 2 kg. (international)
Not exceeding 20 grammes		10	Not exceeding 20 grammes	20	15	
Exceeding 20 gr. up to 50	50	15	Exceeding 20 gr. up to 100	100	30	
" 50 gr. up to 100	100	20	" 100 gr. up to 250	250	45	
" 100 gr. up to 250	250	25	" 250 gr. up to 500	500	80	
" 250 gr. up to 500	500	45	" 500 gr. up to 1.000	1.000	125	
" 500 gr. up to 1.000	1.000	65	" 1.000 gr. up to 2.000	2.000	175	
" 1.000 gr. up to 2.000	2.000	85				
Each succeeding 1.000 gr. or fraction thereof.		50	Each succeeding 1.000 gr. or fraction thereof.		100	<u>Of size:</u> as per letters  <u>Of weight:</u> 7 kg.  <u>Of size:</u> as per letter
<u>Literature For The Blind</u>		Exempt	<u>Literature For The Blind</u>		Exempt	

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INTERNAL RATES			INTERNATIONAL RATES			GENERAL CONDITIONS
<u>Category</u>	<u>Unit of Weight</u> <u>gr.</u>	<u>Rates in Vatu</u>	<u>Category</u>	<u>Unit of Weight</u> <u>gr.</u>	<u>Rates in Vatu</u>	
<u>Small Packets</u>			<u>Small Packets</u>			<u>Of weight: 3kg. (internal)</u>  1 kg. (international except for the following countries):  500 g. Australia, Bolivia, Burma, Canada, Chile, Columbia and Cuba.
Not exceeding 20 grammes	20	10	Not exceeding 100 grammes	100	25	
Exceeding 20 gr. up to	50	20	Exceeding 100 gr. up to	250	45	
" 50 gr. up to	100	25	" 250 gr. up to	500	80	
" 100 gr. up to	250	30	" 500 gr. up to	1.000	130	
" 250 gr. up to	500	50				
" 500 gr. up to	1.000	80				
Each succeeding 1.000 gr. or fraction thereof.		60				
<u>Registration Fee</u>		75	<u>Registration Fee</u>		75	
<u>Advice Of Delivery Fee</u> (At time of posting)		50	<u>Advice Of Delivery Fee</u> (At time of posting)		50	
<u>Enquiry Fee</u>		50	<u>Enquiry Fee</u>		50	
<u>Express Delivery</u>		75	<u>Express Delivery</u>		75	Not available to all places

PART 2

The rate payable for the conveyance of aerogrammes to any country shall be 20 Vatu.

The Airmail Rates for articles other than parcels or aerogrammes sent from Vanuatu to any foreign country shall consist of the international rate as set out in Part 1, in addition to the following airmail surcharge rate :-

.../5.



ZONES AND COUNTRIES	SURCHARGE RATES	GENERAL CONDITIONS
<p><u>ZONE B (cont'd)</u></p> <p>Colombia            Costa Rica            Cuba            Cyprus            Dominica            Dominican Republic            Easter Is.            Equador            El Salvador            Falkland Is.            French Guyana            Grenada            Guam - Guadeloupe            Guatemala            Guyana            Haiti            Hawaii            Honduras (Rep.)            Hong Kong            India            Indonesia            Iran            Iraq            Israel            Jamaica            Japan</p> <p>Paraguay            Peru            Philippines            Puerto Rico            Qatar            Reunion            St. Helena            St. Kitts            St. Lucia            St. Pierre and Miquelon            St. Vincent            Saudi Arabia            Singapore            Sri Lanka            Surinam            Syria            Taiwan            Thailand            Timor (East)            Trinidad and Tobago            Vietnam            Wake Is.            Turkey            Turks and Caicos            United Arab Emirates            U.S.A.            Uruguay            Venezuela            Virgin Is.</p>		
<p><u>ZONE C</u></p> <p>Afare and Issas (Djibouti)            Albania            Andorra            Angola</p> <p>Italy            Ivory Coast            Kenya            Lesotho</p>		

ZONES AND COUNTRIES	SURCHARGE RATES	GENERAL CONDITIONS
<p><u>ZONE C (cont'd)</u></p> <p>Aeension Austria Belgium Benin Bielo-Russia Botswana Bulgaria Burundi Cameroon Cape Verde Is. Central African Empire Chad Comores Is. Congo Czechoslovakia Denmark Ethiopia Egypt Equatorial Guinea Finland France Gabon Gambia Germany Ghana Gilbreter Great Britain including Northern Ireland, Guerneey Jersey and Isle of Man Leoce Nenland Norea (Rep.) Norea-Bissau nd y d</p> <p>Liberia Lilya Liechenstein Luxembourg Malawi Mali Malta Mauritania Mayotte Monaco Mozambique Mongolia Morocco Niger Nigeria San Marino St. Thomas and Principe Senegal Seychelles Sierra Leone Somalia South Africa South West Africa Spain Sudan Swaziland Sweden Switzerland Tanzania Togo Tristan Da Cunha Tunisia Uganda Ukraine Upper Volta U.S.S.R.</p>		

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..../8.

ZONES AND COUNTRIES	SURCHARGE RATES	GENERAL CONDITIONS
<p><u>ZONE C (cont'd)</u></p> <p>Norway Poland Portugal Romania Rwanda</p> <p>Vatican Yemen Yugoslavia Zaire Zambia Zimbabwe</p>		

PART 3

Rates and general conditions applicable to parcels addressed to any place within Vanuatu by surface route shall be as follows :-

<u>Category</u>	<u>Unit of Weight</u> <u>kg.</u>	<u>Rates in Vatu</u>	<u>Limits of Weight</u>	<u>Limits of size</u>
<u>Parcels (Internal)</u>				
Not exceeding	3	100	20 kg.	1.25m. for any one dimension and one of the following volumes: 60 cubic decimetres for parcels up to 5 kg; 80 cubic decimetres for parcels exceeding 5 kg. but not 10 kg; 100 cubic decimetres for parcels exceeding 10 kg. but not 15 kg; 120 cubic decimetres for parcels exceeding 15 kg. but not 20 kg.
Exceeding 3 kg. up to	5	130		
" 10 kg. up to	10	200		
" 15 kg. up to	20	330		

PART 4

1. Rates and general conditions applicable to parcels addressed to any place outside Vanuatu will be notified by the Director of the Posts & Telecommunications Department.

2. The following rates shall be payable for the hire of postal boxes -

For each postal box a subscriber shall pay in advance an annual rental and deposit to the Post Office according to the following rates:

		<u>Deposit</u> <u>one key</u>	<u>Deposit</u> <u>second key</u>
Small Box	750 VT	500 VT	200 VT
Medium Box	1.000 VT	500 VT	200 VT
Large Box	1.500 VT	500 VT	200 VT

Half the above rentals shall be payable if the box is rented after June 30th in any year. There shall be no refunds if the box is surrendered during the course of a year.

3. The following rate shall be payable for a telegram within Vanuatu -

5 VT per word, subject to a minimum charge of 35 VT per telegram.

4. Redirection of correspondence (excluding parcels to overseas destinations) for a period of one month, 200 Vatu and, for each succeeding month or part thereof 100 Vatu.

LOI N° 5 DE 1981 RELATIVE AUX TARIFS POSTAUX

AVIS D'ENTREE EN VIGUEUR

La loi n° 5 de 1981 relative aux tarifs postaux entrera en vigueur  
à compter du <sup>22</sup> 5 avril 1981.

M. John *ROCK*

Ministre des Transports, des Communications  
et des Travaux publics

REPUBLIQUE DE VANUATU

LOI N° 5 DE 1981 RELATIVE AUX TARIFS POSTAUX

SOMMAIRE

1. Application.

2. Abrogation.

LOI N° 5 DE 1981 RELATIVE AUX TARIFS POSTAUX

portant modification du tarif des taxes postales applicables au régime intérieur de la République et au régime international.

Le Président de la République et le Parlement promulguent le texte suivant :

ARTICLE 1ier. Les conditions ainsi que les taxes et surtaxes postales énumérées à l'annexe sont applicables au régime intérieur de la République et au régime international.

ARTICLE 2. Le Règlement Conjoint N° 3 de 1977 est abrogé.

ANNEXE

TITRE 1

Dans le présent Titre, on entend par -

"régime intérieur" les taxes applicables aux articles, autres que les colis postaux, expédiés à l'intérieur de la République par voie postale normale, et lorsque cela est possible, par avion ; et par

"régime international". les taxes applicables aux articles, autres que les colis postaux, expédiés à destination de tout pays étranger par voie postale normale.

REGIME INTERIEUR			REGIME INTERNATIONAL			CONDITIONS GENERALES
<u>Objets</u>	<u>Unité de Poids</u>	<u>Taxes en VT</u>	<u>Objets</u>	<u>Unité de Poids</u>	<u>Taxes en VT</u>	<u>LIMITES de dimensions :</u>
	g			g		
<u>LETTRES</u>			<u>LETTRES</u>			
Jusqu'à 20 grammes	20	15	Jusqu'à 20 grammes	20	20	! <u>Maxima</u> : Longueur, largeur et
Au-dessus de 20g jusqu'à	50	25	Au-dessus de 20g jusqu'à	100	40	! épaisseur additionnées : 90cm, sans
" de 50g jusqu'à	100	30	" de 100g jusqu'à	250	95	! que la plus grande dimension puisse
" de 100g jusqu'à	250	60	" de 250g jusqu'à	500	180	! dépasser 60 cm.
" de 250g jusqu'à	500	90	" de 500g jusqu'à	1000	320	! <u>En rouleaux</u> : longueur plus 2 fois le
" de 500g jusqu'à	1000	180	" de 1000g jusqu'à	2000	535	! diamètre : 104cm, sans que la plus grande
" de 1000g jusqu'à	2000	300				! dimension puisse dépasser 90cm.
						! <u>Minima</u> : comportant une face dont
						! les dimensions ne soient pas inférieures
						! à 90x 14cm, avec une tolérance de 2mm.
						! <u>En rouleaux</u> : longueur plus 2 fois le
						! diamètre : 17cm, sans que la plus grande
						! dimension soit inférieure à 10 cm.
						! <u>de poids</u> : 2 kg.

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REGIME INTERIEUR			REGIME INTERNATIONAL			CONOITIONS GENERALES
<u>Objets</u>	<u>Unité de Poids</u>	<u>Taxes en VT</u>	<u>Objets</u>	<u>Unité de Poids</u>	<u>Taxes en VT</u>	<u>LIMITES</u>
	g			g		
<u>CARTES POSTALES</u>			<u>CARTES POSTALES</u>			
Simple		15	Simple		15	<p><u>Maxima</u> : 14,8 x 10,5cm, avec une tolérance de 0,2cm.</p> <p><u>Minima</u> : comme pour les lettres. Les taxes applicables aux lettres peuvent être utilisées lorsque les cartes postales dépassent les dimensions maxima.</p> <p><u>de dimension</u> : comme pour les lettres.</p>
<u>IMPRIMES</u>			<u>IMPRIMES</u>			
Jusqu'à 20 grammes	20	10	Jusqu'à 20 grammes	20	15	<p><u>de poids</u> : 3 kg (régime intérieur) 5 kg pour les livres 2 kg (régime international)</p>
Au-dessus de 20g jusqu'à 50	50	15	Au-dessus de 20g jusqu'à 100	100	30	
" 50g jusqu'à 100	100	20	" 100g jusqu'à 250	250	45	
" 100g jusqu'à 250	250	25	" 250g jusqu'à 500	500	80	
" 250g jusqu'à 500	500	45	" 500g jusqu'à 1000	1000	125	
" 500g jusqu'à 1000	1000	65	" 1000g jusqu'à 2000	2000	175	
par 1000g ou fraction de 1000g supplémentaires		50	par 1000g ou fraction de 1000g supplémentaires		100	
<u>CECOGRAMMES</u>		<u>Exempt</u>	<u>CECOGRAMMES</u>		<u>Exempt</u>	<p><u>de dimension</u> : comme pour les lettres. <u>de poids</u> : 7 kg</p>

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REGIME INTERIEUR			REGIME INTERNATIONAL			CONDITIONS GENERALES
<u>Objets</u>	<u>Unité de Poids</u>	<u>Taxes en VT</u>	<u>Objets</u>	<u>Unité de Poids</u>	<u>Taxes en VT</u>	<u>LIMITES</u>
	g			g		
<u>PETITS PAQUETS</u>			<u>PETITS PAQUETS</u>			<u>de poids</u> : 3kg (régime intérieur) 1kg (régime international, sauf pour les pays suivants) :
Jusqu'à 20 grammes	20	10	Jusqu'à 100 grammes	100	25	500g Australie, Birmanie,
Au-dessus de 20g jusqu'à	50	20	Au-dessus de 100g jusqu'à	250	45	Bolivie, Canada, Chili,
" 50g jusqu'à	100	25	" 250g jusqu'à	500	80	Colombie et Cuba.
" 100g jusqu'à	250	30	" 500g jusqu'à	1000	130	
" 250g jusqu'à	500	50				
" 500g jusqu'à	1000	80				
par 1000g ou fraction de 1000g supplémentaires		60				
<u>DROIT DE RECOMMANDATION</u>	-	75	<u>DROIT DE RECOMMANDATION</u>	-	75	
<u>AVIS DE RECEPTION</u> (Au moment du dépôt)	-	50	<u>AVIS DE RECEPTION</u> (Au moment du dépôt)	-	50	
<u>DEMANDE DE RENSEIGNEMENTS ET RECLAMATIONS</u>	-	50	<u>DEMANDE DE RENSEIGNEMENTS ET RECLAMATIONS</u>	-	50	
<u>LETTRES EXPRESS</u>	-	75	<u>LETTRES EXPRESS</u>	-	75	Service limité à certains pays.

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TITRE 2

taxe applicable aux aérogrammes expédiés à destination de tout pays est fixée à 20 VT.

Les surtaxes applicables aux articles, autres que les aérogrammes et colis postaux, expédiés en poste aérienne de Vanuatu à destination des pays étrangers sont les suivantes :

ZONES ET PAYS	REGIME	CONDITIONS GENERALES
<u>ZONES A</u>	<u>Objets</u>	<u>Surtaxes en VT.</u>
AUSTRALIE y compris COCUS (KEELING) et LORD HOWE.	<u>LETTRES</u>	Mêmes conditions qu'au Titre 1.
COOK	par échelon de 10g.	
FIDJI	ZONE A	5
KIRIBATI	ZONE B	15
NAURU	ZONE C	25
NIUE		
NORFOLK	<u>IMPRIMES ET PETITS PAQUETS</u>	Mêmes conditions qu'au Titre 1.
NOUVELLE-CALÉDONIE	par échelon de 20g.	
NOUVELLE-ZÉLANDE		
PAPOUASIE-NOUVELLE GUINEE	ZONE A	5
	ZONE B	10
	ZONE C	20
<u>ZONE B</u>		
AFGHANISTAN	JAPON	
ANGUILLA	JORDANIE	
ANTIGUA	KAMPUCHEA	
ARABIE SAOUDITE	DEMOCRATIQUE	
ARGENTINE	KOWEIT	
BAHAMAS	LAO (REP. POP)	
BAHREIN	LIBAN	
BANGLADESH	MACAO	
BARBADE	MALAISIE	
BELIZE	MALDIVES	
BERMUDES	MALGACHE (REP.)	
BHOUTAN	MARIANNES (ILES)	
BIRMANIE	MARSHALL (ILES)	
BOLIVIE	MARTINIQUE	
BRESIL	MAURICE	
BRUNEI	MEXIQUE	
	MONTSERRAT	

ZONES ET PAYS	REGIME	CONDITIONS GENERALES
<u>ZONE B</u> (Suite)		
CANADA	NEPAL	
CAROLINES (ILES)	NEVIS	
CAYMAN (ILES)	NICARAGUA	
CHILI	OMAN	
CHINE (REP.POP.)	PAKISTAN	
CHYPRE	PANAMA	
COLOMBIE	PAQUES (ILE)	
COREE	PARAGUAY	
COSTA RICA	PEROU	
CUBA	PHILIPPINES	
DOMINICAINE (REP.)	PORTORICO	
DOMINIQUE	QATAR	
EL SALVADOR	REUNION	
EMIRATS ARABES UNIS	ST. CHRISTOPHE	
EQUATEUR	STE. HELENE	
ETATS-UNIS D'AMERIQUE	STE. LUCIE	
FALKLAND (ILES)	ST. PIERRE ET MIQUELON	
GRENADE	ST.VINCENT ET GRENADINES	
GUADELOUPE	SINGAPOUR	
GUAM	SRI LANKA	
GUATEMALA	SURINAM	
GUYANE	SYRIE	
GUYANE FRANCAISE	TAIWAN	
HAITI	THAILANDE	
HAWAI	TIMOR (EST)	
HONDURAS	TRINITE-ET-TOBAGO	
HONG KONG	TURKS ET CAICOS	
INDE	TURQUIE	
INDONESIE	URUGUAY	
IRAN	VENEZUELA	
IRAQ	VIERGES (ILES)	
ISRAEL	VIETNAM	
JAMAIQUE	WAKE (ILE)	

ZONES ET PAYS	REGIME	CONDITIONS GENERALES
ZONE C		
AFRIQUE DU SUD	KENYA	
AFRIQUE DU SUD OUEST (NAMIBIE)	LESOTHO	
ALBANIE	LIBERIA	
ALLEMAGNE (REP.FED. et REP.DEM.)	LIECHENSTEIN	
ANDORRE	LUXEMBOURG	
ANGOLA	MALAWI	
ASCENSION (ILE)	MALI	
AUTRICHE	MALTE	
BELGIQUE	MAROC	
BENIN	MAURITANIE	
BIELORUSSIE	MAYOTTE	
BOTSWANA	MONACO	
BULGARIE	MONGOLIE	
BURUNDI	MOZAMBIQUE	
CAMEROUN	NIGER	
CAP VERT	NIGERIA	
CENTRAFRICAINE (RE.)	NORVEGE	
COMORES	OUGANDA	
CONGO	PAYS-BAS	
COTE D'IVOIRE	POLOGNE	
DANEMARK	PORTUGAL	
DJIBOUTI	ROUMANIE	
ESPAGNE	RWANDA	
ETHIOPIE	ST. MARIN	
EGYPTE	ST. THOMAS ET PRINCE	
FINLANDE	SENEGAL	
FRANCE	SEYCHELLES	
GABON	SIERRA LEONE	
GAMBIE	SOMALIE	
GHANA	SOUDAN	
GIBRALTAR	SUEDE	
GRANDE BRETAGNE y compris	SUISSE	
IRLANDE DU NORD, GUERNESEY,	SWAZILAND	
JERSEY et ILE DE MAN	TANZANIE	
GRECE	TCHAD	
	TCHECOSLOVAQUIE	

ZONES ET PAYS	REGIME	CONDITIONS GENERALES
<u>ZONE C (Suite)</u>		
GROENLAND	TOGO	
GUINEE	TRISTAN DA CUNHA	
GUINEE - OISSAU	TUNISIE	
GUINEE EQUATORIALE	UKRAINE	
HAUTE VOLTA	U.R.S.S.	
HONGRIE	VATICAN	
IRLANDE	YEMEN	
ITALIE	YUGOSLAVIE	
JAMAHIRIYA ARABE	ZAIRE	
LYBIENNE	ZAMBIE	
	ZIMBABWE	

TITRE 3

taxes et conditions générales applicables aux colis postaux expédiés à l'intérieur de la République par voie postale  
sont les suivantes :

<u>Objets</u>	<u>Limite de poids</u> g	<u>Taxes en VT</u>	<u>Limite de poids</u>	<u>Limite de dimensions</u>
<u>COLIS POSTAUX</u>				
Jusqu'à	3 kg	100	)	1,25 mètre pour l'une quelconque des dimensions et l'un des volumes ci-dessous
3 kg jusqu'à	5 kg	130	)	
5 kg jusqu'à	10 kg	200	) 20 kg	60 dm <sup>3</sup> pour les colis jusqu'à 5 kg ;
10 kg jusqu'à	15 kg	270	)	80 dm <sup>3</sup> pour les colis au-dessus de 5 kg jusqu'à 10 kg
15 kg jusqu'à	20 kg	330	)	100 dm <sup>3</sup> pour les colis au-dessus de 10 kg jusqu'à 15 kg
				120 dm <sup>3</sup> pour les colis au-dessus de 15 kg jusqu'à 20 kg

TITRE 4

ARTICLE 1ier. Les taxes et conditions générales applicables aux colis postaux expédiés de Vanuatu à destination de tout pays étranger sont indiquées par le Directeur du Service des postes et télécommunications.

ARTICLE 2. Les tarifs suivants sont applicables à la location de boîtes postales :

Pour chaque boîte postale, le titulaire est redevable par avance d'un droit annuel payable à la poste selon le tarème suivant :

	<u>Caution pour une clé.</u>	<u>Caution pour une 2ième clé</u>
Petite boîte 750 VT	500 VT	200 VT
Boîte moyenne 1000 VT	500 VT	200 VT
Grande boîte 1500 VT	500 VT	200 VT

Les tarifs de location ci-dessus sont réduits de moitié si la boîte postale est louée après le 30 juin. Aucun remboursement ne peut être réclamé si la boîte est rendue en cours d'année.

ARTICLE 3. Le tarif des télégrammes expédiés à l'intérieur de la République est fixé à 5 VT par mot, avec un minimum de 35 VT par télégramme.

ARTICLE 4. Une somme de 200 VT pour le premier mois et de 100 VT pour chaque mois ou fraction de mois eurent, est perçue pour faire suivre le courrier (à l'exception des colis postaux à destination de l'étranger).

REPUBLIC OF VANUATU

THE LAND REFORM (AMENDMENT) ACT No. 6 OF 1981

Arrangement of Sections

1. Amendment of JR. 31 of 1980.
2. Commencement.

THE LAND REFORM (AMENDMENT) ACT No. 6 OF 1981

To provide for amendments to the Land Reform Regulation No.31 of 1980.

Be it enacted by the President and Parliament as follows :-

Amendment of  
JR. 31 of  
1980.

1. The Land Reform Regulation No.31 of 1980 is amended as follows :-
  - (a) In Section 1, in paragraph (2) of the definition of 'alienator',
    - (i) at the end of paragraph 2 (i) the word 'or' shall be deleted, and the word 'and' substituted therefor.
    - (ii) at the end of paragraph 2 (ii) the word 'or' shall be deleted, and the words 'and, where applicable,' substituted therefor.
  - (b) In Section 3 by adding the following proviso at the end thereof,

'Provided that where such land is undeveloped land, an alienator, ~~without~~ prejudice to his right to enter into a lease of that land, shall not be entitled to remain on such land.'
  - (c) In Section 8 (1),
    - (i) by adding the word 'or' at the end of paragraph (b);
    - (ii) by adding the following new paragraph,

'(c) not occupied by an alienator, and which in the opinion of the Minister is inadequately maintained.'

Commencement.

2. This Act shall be deemed to have come into operation on the 31st day of July, 1980.

LOI N° 6 DE 1981 RELATIVE A LA REFORME FONCIERE (AMENDEMENT)

SOMMAIRE

1. Amendement du Règlement Conjoint N° 31 de 1980.

2. Entrée en vigueur.

REPUBLIQUE DE VANUATU

PROJET DE LOI N° 6 DE 1981 RELATIF A LA REFORME FONCIERE (AMENDEMENT)

portant modification du Règlement n° 31 de 1980 relatif à la réforme foncière.

Le président de la République et le Parlement promulguent le texte suivant :

ARTICLE 1er. Le Règlement n° 31 de 1980 est modifié comme suit :

1. Au paragraphe 2 de l'article 1er portant sur la définition du mot "aliénateur" ..
  - a) à la fin de l'alinéa i) du paragraphe 2, remplacer le mot "ou" par le mot "et".
  - b) à la fin de l'alinéa ii) du paragraphe 2, remplacer le mot "ou" par les mots "et, s'il y a lieu".
2. A la fin de l'article 3, ajouter les dispositions suivantes :  
"Sans préjudice de son droit de conclure un bail portant sur lesdites terres, l'aliénateur ne peut toutefois y demeurer s'il s'agit de terres en friche".
3. Le paragraphe 1 de l'article 8 est modifié :
  - a) en ajoutant le mot "ou" à la fin de l'alinéa b) ;
  - b) en ajoutant l'alinéa suivant :  
"c) non occupées par un aliénateur et qui, de l'avis du Ministre, sont entretenues de façon inadéquate"

ARTICLE 2. La présente loi est réputée être entrée en vigueur au 31 juillet 1980.

THE MARITIME ACT NO. 8 OF 1981

Arrangement of Sections

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REPUBLIC OF VANUATU

THE MARITIME ACT NO. 8 OF 1981

To provide for the establishment of a shipping register for vessels of Vanuatu engaged in foreign trade and for matters connected therewith.

Be it enacted by the President and Parliament as follows :-

CHAPTER 1 - GENERAL

Inter-  
pretation.

1. In this Act, unless the context otherwise requires -

"Administrator" means the Maritime Administrator appointed under section 4;

"Commissioner" means the Commissioner of Maritime Affairs appointed under section 2 ;

"Deputy Commissioners" means the Deputy Commissioners appointed under section 3;

"Documented" means registered, enrolled or licensed;

"Dollars" means the United States Dollar;

"Foreign Trade" means trade between Vanuatu and a foreign country or between one foreign country and another;

"Minister" means the Minister of Finance;

"Ship's Document" means the Certificate of Registry whether permanent or provisional.

CHAPTER 2 - ADMINISTRATION

Commissioner  
of  
Maritime  
Affairs.

2. The Minister with the approval of the Prime Minister shall appoint a suitably qualified person to exercise the powers and perform the duties of Commissioner of Maritime Affairs under this Act.

- Deputy  
Commissioner  
of  
Maritime  
Affairs.
- Maritime  
Administrator.
- Records  
relating  
to vessels.
- Authority  
to admin-  
ister Oaths  
and take  
Acknowledge-  
ments.
- Authority  
to issue  
radio  
station  
licenses.
3. (1) The Commissioner may from time to time appoint Deputy Commissioners of Maritime Affairs.
- (2) The Commissioner may delegate to the Deputy Commissioners any of his powers and duties under the Act to be exercised in foreign ports.
4. The Minister may appoint on such terms and conditions as he deems fit, any person or persons, or body corporate to perform the functions of Maritime Administrator.
5. There shall be maintained in the office of the Commissioner at Port Vila, Vanuatu and at the office of every Deputy Commissioner a central office where there shall be recorded or filed, in properly indexed public registers, all documents of the following nature :
- (a) bills of sale and other instruments of conveyance of vessels;
- (b) mortgages or hypothecations of vessels;
- (c) assignments of mortgages;
- (d) certificates of permanent and provisional registry and licenses;
- (e) licenses and certificates of officers and members of ship's crew;
- (f) all other documents relating to vessels which are entitled to be recorded.
6. The Commissioner and every Deputy Commissioner are authorised to administer all oaths and take all acknowledgements required by this Act.
7. (1) Until such time as a permanent ship Radio Station License is issued by the Minister of Transport, Communications and Public Works, the Commissioner and every Deputy Commissioner are authorised to issue temporary Ship Radio Station Licenses in respect of radio transmitting apparatus located on board vessels registered under this Act.
- (2) The Minister of Transport, Communications and Public Works may, by order, make such rules and regulations as he deems necessary to implement the provisions of this Section.

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Authority  
to Issue  
licenses,  
certificates.

- 8.(1) The Commissioner and every Deputy Commissioner are authorised to issue all such licenses, certificates or other documents for officers and ship's personnel on vessels registered under this Act, as are necessary or proper for carrying out the purposes of the maritime law or of any international convention to which Vanuatu is or may become a party.
- (2) In carrying out the licensing, certification and upgrading of ship's officers and personnel, the Minister upon the recommendation of the Commissioner shall from time to time, establish such standards, rules and regulations as he deems necessary and appropriate for maintaining a high standard for the merchant marine of Vanuatu.
- (3) Failure of an owner of a vessel registered under this Act to file any required report relating to officers employed on the vessel shall result in an automatic fine of 250 dollars for each offence and until paid, each such fine shall constitute a maritime lien on the vessel.
- (4) Failure of an owner of a vessel registered under this Act, to ensure that each officer employed on the vessel holds a valid license of competence to fill the position held by him duly issued under the provisions of this Act shall subject the owner thereof to a fine of 100 dollars for each officer so employed who does not hold such license. Where such failure is admitted or is established by any required report, the fine shall be automatic. If a proper license is obtained within 30 days of notice, from the Commissioner or Deputy Commissioner, the fine with respect thereto shall be remitted. Until paid or remitted, each fine shall constitute a Maritime lien on the vessel.

Suspension and  
revocation  
proceedings.

- 9.(1) The Commissioner shall have power to suspend or to revoke any license, certificate, permit or document issued under the provisions of this Act.
- (2) The Minister, on the recommendation of the Commissioner may from time to time make such rules and regulations as he deems necessary and appropriate to the conduct of suspension and revocation proceedings.

Fees.

10. The Minister may, on the recommendation of the Commissioner, establish by Order all necessary and proper fees except in cases where the fee is already provided for in this Act.

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CHAPTER 3 - CONSTRUCTION

- Adoption of general maritime law. 11. Insofar as it does not conflict with any other provisions of this Act or any statutory law of Vanuatu, the non-statutory general maritime law of the United States of America is hereby declared to be and is hereby adopted as the general maritime law in respect of all vessels registered under this Act.
- Separability. 12. If any provision of this Act, or the application of any such provision to any circumstances or persons, natural or corporate, shall be held invalid, the validity of the remainder of this Act and the applicability of such provisions to other circumstances or persons, individual or corporate, shall not be affected thereby.
- General penalty for violation. 13. Except as expressly provided in this Act, any person who is convicted by a court of competent jurisdiction of a violation of any of the provisions of this Act or of rules and regulations thereunder shall, upon conviction, be liable to a fine not exceeding 10,000 dollars or imprisonment for a term not exceeding ten years, or both.
- Jurisdiction. 14. All causes of action arising out of, or under, this Act are hereby declared and shall be cognizable before the Supreme Court of Vanuatu but, except as otherwise specifically provided in this Act, the provisions of this section shall not be deemed to deprive other courts elsewhere, of jurisdiction to enforce such causes of action.
- Appeal from Commissioner's Decision. 15. Appeal from any decision of the Commissioner pursuant to any provision of this Act or any rules and regulations made thereunder, may be made to the Minister. Upon exhaustion of administrative remedies, appeal may be taken to the Supreme Court of Vanuatu.

CHAPTER 4 - DOCUMENTATION AND IDENTIFICATION

OF VESSELS

- General provisions. 16. No self-propelled or sailing vessel engaged in foreign trade shall fly the flag of Vanuatu or be accorded the rights and privileges of a vessel of Vanuatu unless such vessel shall be registered in accordance with the provisions of this Chapter. The home port of every vessel so registered shall be Port Vila, and the name of the home port shall be shown on the Certificate of Registry.

- Vessels  
Eligible to be  
documented or  
redocumented.
- 17.(1) Vessels of the following classes are eligible to be documented or redocumented under this Act :-
- (a) any sea-going vessel of more than 500 net tons engaged in foreign trade owned by a citizen or national of Vanuatu;
  - (b) any yacht or other vessel used exclusively for pleasure, of 50 net tons or over, owned by a citizen or national of Vanuatu;
  - (c) vessels referred to in paragraphs (a) and (b) shall not be eligible for documentation if, on January 1 of the year in which documentation is sought, such vessels are over 20 years of age, computed from completion of first construction;
- (2) Anything in this Section to the contrary notwithstanding, the 500 net tons minimum requirement referred to in subsection (1) (a), may be waived by the Commissioner or Deputy Commissioner, and a vessel of lesser net tonnage may be registered in exceptional cases where it has been demonstrated to the satisfaction of the Commissioner or Deputy Commissioner either that,
- (i) (a) the vessel meets all other requirements for registration; and
  - (b) the vessel is needed to implement the operations of an owner of a ship registered in Vanuatu or its registration is otherwise desirable to carry out the objectives of the maritime programme of Vanuatu,
- or
- (ii) the vessel is used or intended to be used solely for commercial fishing.
- (3) Anything in this section to the contrary notwithstanding, the ownership requirement referred to in subsection (1) (a) may in exceptional cases be waived by the Commissioner or Deputy Commissioner where :
- (i) the vessel meets all other requirements for registration; and
  - (ii) it has been satisfactorily demonstrated that there is an absolute and genuine need for such waiver.
- (4) In this section, the words "citizen" or "national" shall include corporations, partnerships and associations of individuals.

Registry fee  
tonnage taxes.

18. (1) The following registration fee shall be payable upon registration :

For vessels of 5,000 tons or less	.....	1.50 dollars per net ton
For vessels of 5,001 tons and up to 25,000 tons	.....	1.25 dollars per net ton
For vessels of 25,001 tons and over	.....	1.00 dollars per net ton

(2) There shall be an annual tonnage tax of 0.25 dollars per net ton; provided, however, that as to any vessel of less than 500 net tons registered under this Act, the registration fee, and annual tonnage tax shall be equal to that required for a vessel of 500 net tons; and further provided that, where dual gross and net tonnages are shown in the certificate of measurement of the vessel for the purposes hereof such fee and annual tonnage tax shall be assessed on the basis of the greater of the two net tonnages assigned. All unpaid tonnage taxes and all other charges (not to exceed 1,000 dollars) due to the Office of the Commissioner or Deputy Commissioner shall constitute a maritime lien on the vessel second only to liens for wages and salvage.

(3) Tonnage taxes may be reviewed once only every three years, provided that where an increase is made it shall not take effect until the first day in January in the year next following such increase.

Annual  
tonnage  
tax.

19. (1) Except as herein otherwise provided, the annual tonnage tax on vessels provided for in section 18 shall be due on the first day in January in each year and may be paid in two equal instalments, the first of which is payable on the first day in January and the second on the first day in July.

(2) Upon failure to pay the tonnage tax as provided in subsection (1), the Commissioner or any Deputy Commissioner may invalidate the Certificate of Registry of the vessel with respect to which such tax is payable.

(3) No Certificate of Registry, either permanent or provisional, shall be issued for a vessel not previously registered under the provisions of this Act, unless a sum equal to the tonnage tax for one year has been paid in respect of the vessel. In the case of a vessel initially registered, the amount payable on the first day in January of the year immediately following the date of its initial registration shall be computed at the rate of 0.25 dollars per net ton for the year remaining between the first anniversary of the date of its initial registration and the close of the calendar year.

- (4) The Commissioner and each Deputy Commissioner are authorised to collect the tonnage tax and to issue receipts therefor.
- (5) No Certificate of Registry shall be returned to the master or commander of a vessel by any official of Vanuatu with whom it may have been deposited until proof is furnished that the annual tonnage tax for the then current year has been paid.

Conditions precedent to issuance of permanent certificate of registry.

20.

Upon receipt of a written application of an owner of a vessel eligible for documentation under the provisions of this Act requesting the issuance of a Certificate of Registry for the vessel, accompanied by the oath or oaths required by section 21, the Commissioner or any Deputy Commissioner, upon payment of the prescribed fees, may issue a permanent Certificate of Registry for the vessel provided that the owner furnishes proof satisfactory to the issuing officer :

- (a) as to his ownership of the vessel;
- (b) that any foreign marine document for the vessel has been surrendered with the consent of the government that had issued it; or has been legally cancelled;
- (c) that the vessel is in a seaworthy condition;
- (d) that the owner has paid to the Administrator the registration fees due in respect of the vessel;
- (e) that the markings of name, official number, net tonnage or tonnages, home port and draft required by section 40 have actually been made;
- (f) that a Certificate of Measurement as required by section 23 has been issued.

Oaths.

21.

- (1) In order to document a vessel, the owner, managing owner, part owner, or his agent, authorised by power of attorney, where such vessel is owned by individuals, or, in the case of a corporate owned vessel, a director, secretary or assistant secretary of the corporation or other officer or agent authorised in writing shall take an oath declaring the name of the vessel; its net tonnage or tonnages; the place where built; the name and residence of any other owner and his citizenship; each owners proportion; the name of the affiant and his citizenship.
- (2) The oath may be taken before the Commissioner or a Deputy Commissioner or a Consul or Consular Agent of Vanuatu or before a notary public or other officer authorised to administer oaths by the laws of the place where the oath is administered or before any other person designated by the Commissioner for the administration of such oaths.

- (3) The names of the persons owning shares in an incorporated company owning such vessel need not be stated. The oath of any other person interested and concerned in the vessel shall not be required. An agent or attorney who purchases any vessel shall take oath to the ownership of the vessel and that he is the agent or attorney for the owner and in such capacity has made such purchase in good faith.
- (4) Whenever the document of any vessel is lost or destroyed, the master, or other person in command, may take the following oath before any consular or diplomatic officer or other person appointed by the Minister at or nearest to the port where the vessel is first located after such loss or destruction:
- "I, (insert the name of the person swearing) being master or in command of the (insert type of vessel) or vessel called the (insert the name of vessel) Official No (insert number) owned by (insert name of owner) of (insert domicile of the owner) do swear (or affirm) that the said vessel has been, as I verily believe, registered according to the laws of Vanuatu by the name of (insert again name of vessel), and that a Permanent (or Provisional) Certificate of Registry bearing No. (insert number of lost certificate) was issued for such vessel pursuant to the laws of Vanuatu at (insert place of issuance of lost Certificate) on (insert date of issuance of lost Certificate) which Certificate has been lost (or destroyed); and that the same, if found, and within my power, will be delivered up to the Commissioner or Deputy Commissioner."
- (5) When an oath is taken as provided in subsection (4), the officer or person administering such oath shall grant to the vessel a temporary provisional document of registry and insert therein that it is issued in lieu of the one lost or destroyed. Such officer or person shall forthwith send to the Commissioner or to any Deputy Commissioner a written notice, accompanied by a copy of the oath, advising that such oath has been taken and such temporary provisional document issued. Upon receipt of such notice the Commissioner or such Deputy Commissioner upon being satisfied that the vessel is entitled to a Certificate of Registry, may grant a new Certificate of Registry, identical with that which was lost or destroyed. As soon as practicable after the issuance of such Certificate of Registry, the temporary provisional document hereinbefore referred to shall be surrendered to the Commissioner or to a Deputy Commissioner for cancellation.

- Measurement. 22. A vessel shall not be permanently registered until measured by a person appointed by the Commissioner or by the Deputy Commissioner. A vessel registered under this Act shall not be required to be measured anew unless her burden has been changed.
- Certificate of measurement. 23. The person or agent appointed under section 22 to measure a vessel shall certify, specifying the building of the vessel, number of decks and masts, length, breadth, depth, tonnage or tonnages, and such other particulars usually descriptive of the identity of a vessel, and that the markings required by section 40 have actually been made.
- Measurement of vessels. 24. The Minister on the recommendation of the Commissioner shall by Order prescribe the method of measurement for all vessels registered under this Act.
- Treatment of shelter-deck and certain other spaces. 25. The "Recommendations on the Treatment of Shelter-Deck and other 'Open' Spaces", adopted on October 18, 1963, by the Assembly of the Intergovernmental Maritime Consultative Organisation, are hereby adopted and the Minister on the recommendation of the Commissioner may issue Orders for the purpose of effectuating those Recommendations.
- Tonnage statements in certificate of registry. 26. (1) Each ship's certificate of registry shall state the gross and net tonnage or tonnages determined in accordance with such rules and regulations as the Commissioner may prescribe.  
(2) Upon application by the owner or master of a vessel registered under this Act engaged in foreign trade, the Commissioner or his duly authorised agent may attach to the document an appendix for use in foreign ports, stating separately, the measurement of such space or spaces as are there permitted to be deducted from gross tonnage or tonnages.
- Forms of documents. 27. The Minister on the recommendation of the Commissioner shall prescribe and furnish forms of Provisional and Permanent Certificates of Registry and other ship documents; and may prescribe forms of endorsements that may be made on ship documents from time to time, without issuance of a new document or surrender of the old document, to show liens and encumbrances.

Numbering certificates of registry and licences. 28.

The Commissioner or his duly authorised agent shall progressively number the licenses and Certificate of Registry, respectively, granted by him, beginning anew at the commencement of each year, and shall make a record thereof in a book kept for that purpose. He shall also retain permanently copies of all such documents issued by or surrendered to him.

Provisional Certificate of Registry to vessels abroad. 29.

- (1) Upon compliance with the provisions set forth in section 30, a Provisional Certificate of Registry may be issued by the Commissioner or any Deputy Commissioner, by a Vanuatu consular or diplomatic officer or consular agent upon direction by the Commissioner or any Deputy Commissioner, or by any other person designated by the Minister, to vessels abroad which are to be documented under the flag of Vanuatu.
- (2) Copies of Provisional Certificates of Registry issued by persons other than the Commissioner or Deputy Commissioner shall be furnished as soon as practicable by the issuing officer to the Commissioner and all Deputy Commissioners.
- (3) Unless sooner invalidated, a Provisional Certificate of Registry shall entitle the vessel to the privileges of a vessel of Vanuatu in the foreign trade until the expiration of one year from its date.
- (4) The Commissioner or his duly authorised agent shall prescribe the conditions in accordance with which Provisional Certificates of Registry shall be issued and renewed and the manner in which they shall be surrendered in exchange for permanent Certificate of Registry.

Conditions precedent to issuance of provisional certificate. 30.

- (1) Upon receipt by the Commissioner or Deputy Commissioner of a written application of an owner of a vessel eligible for documentation under the provisions of this Act requesting the issuance of a Certificate of Registry for the vessel, accompanied by the oath or oaths required by section 24, and upon payment of the prescribed fees to the officer receiving such application, the Commissioner or any Deputy Commissioner or any issuing official listed in section 29 (1) may issue a Provisional Certificate of Registry for the vessel, provided the owner shall furnish proof satisfactory to the officer receiving such application :

- (a) as to his ownership of the vessel;
- (b) that if there is an outstanding foreign marine document for the vessel, the government that had issued it has consented to its surrender and that either the marine document has been surrendered for cancellation or that the owner has issued orders to the master of the vessel to surrender the foreign marine document for cancellation immediately upon receipt of the Provisional Certificate of Registry on board the vessel; or that the outstanding

document has been legally cancelled;

- (c) that the vessel is in a seaworthy condition;
  - (d) that the owner has paid to the Administrator the registration fees due in respect of the vessel being the initial registration fee;
  - (e) that the markings of name, official number, net tonnage or tonnages, home port and draft required by section 40 have either actually been made or that the owner has issued orders to the master of the vessel to have such markings made immediately upon receipt of the Vanuatu Provisional Certificate of Registry on board the vessel.
- (2) Unless the owner within 30 days after issuance of the Provisional Certificate of Registry shall furnish satisfactory proof to the officer to whom the application for documentation has been presented, showing that the vessel's outstanding foreign marine document has actually been surrendered for cancellation and that the markings required by section 40 have actually been made, or if before such 30 day period it is established that any of the obligations hereunder will not or cannot be complied with, such officer may declare the Provisional Certificate of Registry to be null and void.
- (3) As soon as reasonably practicable after admeasurement of the vessel and the surrender for cancellation of any outstanding foreign marine document for the vessel and the making of the markings required by section 40, a Permanent Certificate of Registry shall be issued in place of any Provisional Certificate theretofore issued, and such Provisional Certificate shall be surrendered as promptly as circumstances permit to the Commissioner or Deputy Commissioner. When the Permanent Certificate of Registry is issued after the issuance of a Provisional Certificate, the charges originally paid shall be adjusted in accordance with the tonnage established by the Certificate of Measurement.
- (4) For good cause shown the Commissioner or any Deputy Commissioner may, from time to time, renew a Provisional Certificate of Registry for a period not exceeding one year.

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Surrender of documents of vessel subject to preferred mortgages.

37.

The Certificate of Registry of a vessel subject to a preferred mortgage shall not be accepted for surrender without the consent of the mortgagee except in the case of a Provisional Certificate of Registry for the purpose of issuing a Permanent Certificate in which case the mortgage endorsement on the Provisional Certificate shall be transferred to the Permanent Certificate of Registry.

New document.

38.

- (1) Whenever a documented vessel is sold or transferred wholly or partly, without change of flag, or is altered in form or burden, by being lengthened or built upon, or from one denomination to another, by the mode or method of rigging or fitting, she shall be documented anew, by her former name.

Every such sale or transfer shall be evidenced by a written instrument in the nature of a bill of sale reciting the entire Certificate of Registry. Otherwise the vessel shall not be documented anew.

- (2) In cases of a combination vessel that can be used either for the carriage of liquid cargo in bulk or dry cargo in bulk, if the Certificate of Registry shows the vessel in the condition or use providing the greater net and gross tonnage and has attached thereto an addendum showing the vessel in the other condition or use with the lesser gross and net tonnage, then a change of a vessel from one condition or use to the other, would not require the vessel to be documented anew.
- (3) When the Commissioner or his duly authorised agent determines that any vessel has been sold or transferred by process of law, and that her document is retained by the former owner, he may grant a new document, under such sale, upon the owner complying with the requirements of this Chapter, excepting only the delivering up of the former document. This subsection shall not remove the liability of any person to any penalty for not surrendering the papers belonging to any vessel on a transfer or sale of such vessel.
- (4) Any vessel required to be documented anew which is not so documented shall not be deemed a vessel of Vanuatu. If a former document has not been delivered up, except where it has been lost or destroyed and the oath thereto has been taken, the owner of such vessel shall be liable to a fine of not more than 500 dollars.

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Builder's  
certificate.

39.

In order for the first time to register a vessel newly built and previously undocumented under any flag, the builder by whom or under whose direction the vessel has been built, shall certify as follows :-

- (a) that it was built by him or under his direction;
- (b) the place where built;
- (c) the time when built;
- (d) the person for whom built;
- (e) build;
- (f) number of decks and masts;
- (g) length;
- (h) breadth;
- (i) depth;
- (j) tonnage or tonnages; and
- (k) such other circumstances as are usually descriptive of the identity of a vessel.

Names,  
numbers and  
marks on  
vessel.

40.

- (1) Every documented vessel shall have her name marked upon each bow and upon the stern. The home port of the vessel shall also be marked upon the stern. These names shall be painted or gilded, or consist of cut or carved or cast Roman letters in light colour on a dark background, or in a dark colour on a light background, secured in place and distinctly visible. The smallest letters used shall not be less than four inches in size. If any such vessel is found without these names being so marked, the owner shall be liable to a fine of 10 dollars for each name omitted.
- (2) Each vessel of Vanuatu, in addition to having her name painted on her stern, shall have such name conspicuously placed in distinct plain letters of not less than six inches in length, on each side of the pilot house, if any, and in case the vessel has sidewheels, also on the outer side of each wheelhouse. Any such vessel found without having her name so marked shall be subject to a fine of 10 dollars for each marking omitted.
- (3) The Commissioner or his duly authorised agent may prescribe a system of numbering documented vessels. The designated number and the net tonnages of each vessel shall be carved deeply or otherwise marked permanently on her main beam. If at any time such vessel ceases to be so marked, she shall be liable to a fine of 30 dollars on every arrival in Vanuatu.
- (4) The draft of every registered vessel shall be marked upon the stern post, in English feet or in decimeters, in either Arabic or Roman numerals. The bottom of each numeral shall indicate the draft to that line.

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Numbering  
of  
vessels.

41. Upon the initial registration (either permanent or provisional) of a vessel, the Commissioner either directly or through the Deputy Commissioner issuing the Certificate, shall assign to the vessel an official number.

Change in  
name of  
vessel.

42.(1) The Commissioner or his duly authorised agent may change the name of a vessel of Vanuatu on application of the owner.

(2) The Commissioner or his agent shall establish necessary rules and regulations and procure necessary evidence as to age, condition, where built, and pecuniary liability of the vessel so as to prevent injury to public or private interest. Upon granting permission the Commissioner or his agent shall cause the order for changing of name to be published in the Vanuatu Gazette. The person desiring the change of name shall pay the cost of procuring evidence and advertising.

(3) A fee of 200 dollars shall be payable by the owners of vessels for securing such changes of name.

(4) Whenever the name of a vessel of Vanuatu is changed, or any device, advertisement, or contrivance is used with intent to deceive as to its true name or character, such vessel shall be forfeited.

Inspection  
of  
document.

43. Any officer concerned in the collection of revenue may at all times inspect the document of a vessel. A master who fails to exhibit the same, when required by such officer shall be liable to a fine of 100 dollars, and if his failure is wilful shall be liable to a fine of not more than 1,000 dollars, or imprisonment for not more than one year, or both.

Display of  
ship's  
paper to  
consul.

44.(1) Upon arrival during customary business hours of a documented vessel at any foreign port where there is located the principal consular office of a Vanuatu consul or vice consul, the Master, ship's agent or other authorised person shall, upon request of such consul or vice consul, display to him, without payment of any fee, the vessel's Certificate of Registry and Annual Tonnage Tax Receipt.

(2) Where a request has been made and the ship's papers have not been properly displayed, the vessel shall not be detained therefor by the Vanuatu consul or vice consul making the request, but he shall immediately notify the Commissioner or a Deputy Commissioner of such non-compliance.

(3) Subsection 1 shall not apply to a vessel whose papers have been displayed in a foreign port within the previous 90 days.

(4) Whether local port regulations do or do not require clearance of a vessel from a Vanuatu consul or vice consul, it shall not be required in relation to such clearance that the signing on or off of crew or the execution of any ship's papers or documents be done before a Vanuatu consul or vice consul, or that any ship's papers or documents be witnessed, visaed, stamped or otherwise legalized by a Vanuatu consul or vice consul.

Perjury.

45. (1) If any owner, agent, or attorney commits perjury in the oath taken to obtain documentation of a vessel, her tackle, apparel and furniture shall be forfeited, or the value thereof recovered from such person.
- (2) A master who commits perjury in taking such oath shall be liable to a fine of 1,000 dollars, but the vessel shall not thereby be forfeited.

Rules and regulations.

46. The Minister on the recommendation of the Commissioner may make such rules and regulations, not inconsistent with the provisions of this Act, for the registration, identification and regulation of transfers of vessels as he may be deemed in the best interests of the Vanuatu merchant marine and the domestic and foreign commerce of the nation.

Standards of seaworthiness.

47. The Minister on the recommendation of the Commissioner may from time to time by Order establish standards of seaworthiness required for the registration of vessels and may appoint Classification Societies or others to determine any questions involved.

## CHAPTER 5 - PREFERRED SHIP MORTGAGES AND

### MARITIME LIENS

Contents of record.

48. (1) A sale, conveyance, hypothecation, mortgage or assignment of mortgage of any vessel shall not be valid in respect to such vessel, against any person other than the grantor or mortgagor, his heirs or devisees and persons having actual notice thereof, until the instrument evidencing such transaction is recorded in the office of the Commissioner or Deputy Commissioner.
- (2) The Commissioner or Deputy Commissioner shall record such instruments in the order of their reception in books to be kept for that purpose and indexed to show :-

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- (a) the name of the vessel;
- (b) the name of the parties;
- (c) the time and date of reception of the instrument;
- (d) the interest in the vessel transferred or affected; and
- (e) the amount and date of maturity of any mortgage.

Documentary endorsement of preferred mortgage. 49.

A valid mortgage, which at the time it is made, includes the whole of any vessel, shall have a preferred status in respect to such vessel as of the date of its recording, if :-

- (a) the mortgage is endorsed upon the vessel's document;
- (b) the mortgage is recorded as provided herein;
- (c) an affidavit is filed with the record of such mortgage to the effect that the mortgage is made in good faith and without any design to hinder, delay, or defraud any existing or future creditor of the mortgagor or any lienor of the mortgaged vessel; and
- (d) the mortgage does not stipulate that the mortgagee waives the preferred status thereof.

Termination of mortgagee's interests. 50.

The interest of a mortgagee in a vessel registered under this Act shall not be terminated by a forfeiture of the vessel for a violation of any law of Vanuatu, unless the mortgagee authorised, consented, or conspired to effect the illegal act, failure, or omission which constituted such violation.

Conditions precedent to recording. 51.

A bill of sale, conveyance, or mortgage shall not be recorded unless it states the interest of the grantor or mortgagor in the vessel, and the interest so sold, conveyed or mortgaged. A Bill of Sale, conveyance, mortgage, notice of claim of lien, or certificate of discharge thereof shall not be recorded unless previously acknowledged before the Commissioner or a Deputy Commissioner or a consul or consular agent of Vanuatu or before a notary public or other officer authorised by the laws of the place where the acknowledgement is made to take acknowledgements of deeds.

Recording of bills of sale. 52.

The Commissioner or any Deputy Commissioner may accept for recording in his office upon payment of the prescribed fee any bill of sale of a vessel which recites the interest of the grantor in the vessel and the interests sold or conveyed, provided it has previously been acknowledged in accordance with the provisions of section 51, and provided further than any bill of sale of a vessel already documented under the laws of Vanuatu must have incorporated therein a true copy of its latest Certificate of Registry.

Recording  
of  
mortgages.

53. The Commissioner or any Deputy Commissioner may accept for recording in his office, upon payment of the prescribed fee any mortgage (including a revolving credit mortgage) on a vessel which recites the interest of the mortgagor in the vessel and the interest so mortgaged, provided it has been previously acknowledged in accordance with the provisions of section 51, and provided further that written proof is furnished to him of the amounts and dates of any documents or evidence of debts in support thereof. At the time of recording the Commissioner or Deputy Commissioner will, if requested, certify without charge two copies of any mortgage so recorded.

Preferred  
mortgage.

54. (1) A mortgage which complies with the conditions enumerated in this Chapter is designated as a Preferred Mortgage.

(2) There shall be endorsed upon the document of a vessel covered by a Preferred Mortgage :

- (a) the names of the mortgagor and mortgagee;
- (b) the time and date the endorsement is made ;
- (c) the amount and date of the maturity of the mortgage; and
- (d) any amount required to be endorsed by subsections 5 and 6 of this Section.

(3) Such endorsement shall be made by the Commissioner at the port of registry or by a Deputy Commissioner or other duly appointed agent at any foreign port and each Deputy Commissioner is hereby directed and authorized as a special agent to endorse on the document, whether a permanent or provisional certificate of registry, of a vessel covered by a Preferred Mortgage recorded in his office a notation of such mortgage as required by subsection 2. Clearance shall not be given to the vessel until such endorsement is made.

(4) A certificate of such endorsement, giving the place, time and description of the endorsement, shall be recorded with the records of registration. Where the endorsement is made by a person other than the Commissioner, such certificate shall be promptly furnished to the Commissioner or Deputy Commissioner if recording had been accomplished by a Deputy Commissioner.

(5) A mortgage which includes property other than a vessel shall not be held a Preferred Mortgage unless the mortgage provides for the separate discharge of such property by the payment of a specified portion of the mortgage indebtedness. If a Preferred Mortgage so provides for the separate discharge, the amount of the portion of such payment shall be endorsed upon the document of the vessel.

- (6) If a preferred mortgage includes more than one vessel and provides for the separate discharge of each vessel by the payment of a portion of the mortgage indebtedness, the amount of such portion shall be endorsed upon the document of the vessel.

Lien of preferred mortgage.

55. A preferred mortgage shall constitute a maritime lien upon the mortgaged vessel in the amount of the outstanding mortgage indebtedness secured by such vessel.

Interest on preferred mortgage.

56. A preferred mortgage may bear such rate of interest as is agreed by the parties thereto.

Disclosure of liens and priority.

57. (1) The Mortgagor, before executing a preferred mortgage, shall disclose to the mortgagee in writing the existence of any maritime lien, prior mortgage, or other obligation or liability upon the vessel to be mortgaged, which is known to the mortgagor.
- (2) After the execution of such mortgage and before the mortgagee has had a reasonable time in which to record it and have proper endorsements made upon the document of the vessel, the mortgagor, without the consent of the mortgagee, shall not incur any contractual obligation creating a lien upon the vessel, other than liens for wages of stevedores when employed directly by the owner, operator, master, ship's husband, or agent of the vessel, for wages of the crew of the vessel, for general average or for salvage, including contract salvage, tonnage taxes and all other charges (not to exceed 1,000 dollars) of the Commissioner in respect to the vessel.
- (3) Whoever, being a mortgagor or an officer of a corporate mortgagor, with intent to defraud, violates this section shall be liable to a fine not exceeding 3,000 dollars or imprisonment for a term not exceeding 2 years or both. The mortgage indebtedness shall thereupon become immediately due and payable at the election of the mortgagee.

Exhibiting certified copies.

58. (1) Upon recording a preferred mortgage, two certified copies shall be delivered to the mortgagor who shall place, and use due diligence to retain, one copy on board the mortgaged vessel and cause such copy and the document of the vessel to be exhibited by the master to any person having business which may give rise to a maritime lien or to the sale, conveyance, or mortgage of the vessel.
- (2) A master who wilfully fails to exhibit such documents and copy of mortgage may have his license suspended or revoked.

Record of notice of claim of lien.

59..

The Commissioner or his duly authorised agent shall upon the request of any person record notice of his claim to a lien upon a registered vessel, together with the nature, date of creation, and amount of the lien and the name and address of the person. Any person who has caused notice of his claim of lien to be so recorded, shall upon a discharge in whole or in part or the indebtedness forthwith file a certificate of such discharge with the Commissioner or his duly authorised agent, who shall thereupon record the certificate.

Discharge of mortgage.

60..

The mortgagor upon a complete discharge of the mortgage indebtedness shall forthwith file a certificate of such discharge duly executed by the mortgagee, his successors or assigns with the Commissioner or his duly authorised agent, who shall thereupon record the certificate and the mortgagor may similarly file a certificate of partial discharge of a mortgage covering more than one vessel.

Fore-closure and default jurisdiction and procedure.

61..

- (1) The lien of a preferred mortgage may be enforced in Vanuatu by a suit in rem upon default of any term or condition. In addition to any notice by publication, actual notice of the commencement of suit shall be given by the plaintiff, in such manner as the court directs, to the master, other ranking officer, or caretaker of the vessel, and any person who has recorded a notice of claim of an undischarged lien upon the vessel, unless after search by the plaintiff satisfactory to the court, such person is not found within Vanuatu. Failure to give such notice shall not constitute a jurisdictional defect, but the plaintiff shall be liable to such person for damages in the amount of his interest in the vessel terminated by the action.
- (2) The lien of a preferred mortgage may also be enforced by an action in rem in admiralty or otherwise in any foreign country in which the vessel shall be found, pursuant to the procedure of such country for the enforcement of ship mortgages constituting maritime liens on vessels documented under the laws of such country.
- (3) Notwithstanding anything in this Act, the mortgagee may, in addition to all other remedies granted by this Chapter, bring an action in personam against the mortgagor in any court of competent jurisdiction for the amount of the outstanding mortgage indebtedness or for any deficiency in the full payment thereof.
- (4) This Act does not authorise the enforcement by action in rem in admiralty of the rights of the mortgagee in respect to realty or personalty other than the vessel or vessels covered by the mortgage.

Preferred status.

62.

As used in Sections 55, 61, 63 and 65 of this Act, the term "preferred mortgage" shall include, in addition to a preferred mortgage made pursuant to the provisions of this Chapter, any mortgage, hypothecation or similar charge created as security upon any documented foreign vessel if such mortgage, hypothecation or similar charge has been duly and validly executed and registered in accordance with the laws of the nation where the vessel is documented; and the term "preferred mortgage lien" shall also include the lien of such mortgage, hypothecation or similar charge.

Fore-closures.

63.

Upon the sale of any vessel in an action in rem in admiralty for the enforcement of a preferred mortgage lien, all pre-existing claims on the vessel, including any possessory common law lien shall terminate and shall thereafter attach, in like amount and in accordance with their respective priorities to the proceeds of sale; except that the preferred mortgage lien shall have priority over all claims against the vessel, except liens arising prior in time to the recording, and endorsement of the preferred mortgage as provided in this Chapter, liens for damages arising out of tort, for crew's wages, for general average, and for salvage (including contract salvage) and expenses and fees allowed and costs taxed by the court.

Necessaries.

64.

- (1) Whoever furnishes repairs, supplies, towage, use of dry dock or marine railway, or other necessaries, to any foreign or domestic vessel upon the order of the owner or person authorized by the owner, shall have a maritime lien on the vessel.
- (2) The managing owner, ship's husband, master or any person to whom the management of the vessel at the port of supply is entrusted including any such appointed by a charterer, owner pro hac vice or agreed purchaser in possession, shall be presumed to have authority from the owner to procure such necessaries, but a person tortiously or unlawfully in possession or charge of the vessel shall not have authority to bind it.
- (3) This section shall not confer a lien when the furnisher know, or by exercise of reasonable diligence could have ascertained, that because of the terms of a charter party, agreement for sale of the vessel, or for any other reason, the person ordering necessaries was without authority to bind the vessel therefor.

Waiver of lien in necessaries.

65.

This chapter shall not prevent the furnisher of repairs, supplies, towage, use of dry dock or marine railway, or other necessaries, or the mortgagee, from waiving his right to a lien or in the case of a preferred mortgage lien to the preferred status of such lien, at any time by agreement or otherwise;

CHAPTER 6 CARRIAGE OF GOODS BY SEA

Interpretation. 66.

In this Chapter, unless the context otherwise requires :-

"carrier" includes the owner or the charterer who enters into a contract of carriage with a shipper.

"carriage of goods" covers the period from the time when the goods are loaded on, to the time when they are discharged from the ship.

"contract of carriage" applies only to contracts of carriage covered by a Bill of Lading or any similar document of title, insofar as such document relates to the carriage of goods by sea, including any Bill of Lading or any similar document as aforesaid issued under or pursuant to a charter party from the moment at which such Bill of Lading or similar document of title regulates the relations between a carrier and a holder of the same;

"foreign trade" means the transportation of goods between the ports of Vanuatu and ports of foreign countries.

Risks.

67.

Subject to the provisions of section 71, under every contract of carriage of goods by sea, the carrier in relation to the loading, handling, stowage, carriage, custody, care and discharge of such goods shall be subject to the responsibilities and liabilities and entitled to the rights and immunities hereinafter set forth.

68.

- (1) The carrier shall be bound, before and at the beginning of the voyage to exercise due diligence to :
  - (a) make the ship seaworthy;
  - (b) properly man, equip, and supply the ship; and
  - (c) make the holds, refrigerating and cooling chambers, and all other parts of the ship in which goods are carried fit and safe for their reception, carriage and preservation.
- (2) The carrier shall properly and carefully load, handle, stow, carry, keep, care for and discharge the goods carried.
- (3) After receiving the goods into his charge the master or agent of the carrier, shall, on demand of the shipper, issue to the shipper a bill of lading showing among other things.

- (a) the leading marks necessary for identification of the goods as the same are furnished in writing by the shipper before the loading of such goods starts; provided such marks are stamped or otherwise shown clearly upon the goods if uncovered, or on the cases or coverings, in which such goods are contained, in such a manner as should ordinarily remain legible until the end of the voyage;
  - (b) either the number of packages or pieces, or the quantity or weight as the case may be, as furnished in writing by the shipper;
  - (c) the apparent order and condition of the goods; provided, that no carrier, master or agent of the carrier, shall be bound to state or show in the bill of lading any marks, number, quantity, or weight, which he has reasonable ground for suspecting not accurately to represent the goods actually received, or which he has had no reasonable means of checking;
- (4) Such a bill of lading shall be prima facie evidence of the receipt by the carrier of the goods as therein described in accordance with subsections 3 (a), (b) and (c) of this section. Nothing in this Chapter shall be construed as limiting the application of any part of the law governing bills of lading.
- (5) The shipper shall be deemed to have guaranteed to the carrier the accuracy at the time of shipment of the marks, number, quantity and weight, as furnished by him; and the shipper shall indemnify the carrier against all loss, damages and expenses arising or resulting from inaccuracies in such particulars. The right of the carrier to such indemnity shall in no way limit his responsibility and liability under the contract of carriage to any person other than the shipper.
- (6) Unless notice of loss or damage and the general nature of such loss or damage be given in writing to the carrier or his agent at the port of discharge before or at the time of the removal of the goods into the custody of the person entitled to delivery thereof under the contract of carriage, such removal shall be prima facie evidence of the delivery by the carrier of the goods as described in the bill of lading.  
If the loss or damage is not apparent, the notice must be given within three days of the delivery.

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Such notice of loss or damage may be endorsed upon the receipt for the goods given by the person taking delivery thereof.

The notice in writing need not be given if the state of the goods has at the time of their receipt been the subject of a joint survey or inspection.

In any event, the carrier and the ship shall be discharged from all liability in respect of loss or damage unless action is brought within one year after delivery of the goods or the date when the goods should have been delivered; provided that if a notice of loss or damage, either apparent or concealed, is not given as provided for in this section, that fact shall not affect or prejudice the right of the shipper to bring action within one year after delivery of the goods or the date when the goods should have been delivered.

In the case of any actual or apprehended loss or damage the carrier and the receiver shall give all reasonable facilities to each other for inspecting and tallying the goods.

- (7) After the goods are loaded the bill of lading to be issued by the carrier, master, or agent of the carrier to the shipper shall, if the shipper so demands, be a "shipped" bill of lading; provided that if the shipper shall have previously taken up any document of title to such goods, he shall surrender the same against the issue of the "shipped" bill of lading, but at the option of the carrier such document of title may be noted at the port of shipment by the carrier, master, or agent with the name or names of the ship or ships upon which the goods have been shipped and the date or dates of shipment, and when so noted the same shall for the purpose of this section be deemed to constitute a "shipped" bill of lading.

- (8) Any clause, covenant, or agreement in a contract of carriage relieving the carrier or the ship from liability for loss or damage to or in connection with the goods, arising from negligence, fault, or failure in the duties and obligations provided in this section, or lessening such liability otherwise than as provided in this Act, shall be null and void and of no effect.

A benefit of insurance in favour of the carrier, or similar clause, shall be deemed to be a clause, relieving the carrier from liability.

Rights  
and  
immunities.

69. (1) Neither the carrier nor the ship shall be liable for loss or damage arising or resulting from unseaworthiness unless caused by want of due diligence on the part of the carrier to make the ship seaworthy, and to secure that the ship is properly manned, equipped, and supplied, and to make holds, refrigerating and cool chambers, and all other parts of the ship in which the goods are carried fit and safe for their reception, carriage, and preservation in accordance with the provisions of section 68. Whenever loss or damage has resulted from unseaworthiness, the burden of proving the exercise of due diligence shall be on the carrier or other persons claiming exemption under this section.
- (2) Neither the carrier nor the ship shall be responsible for loss or damage arising or resulting from :
- (a) act, neglect, or default of the master, mariner, pilot, or the servants of the carrier in the navigation or in the management of the ship;
  - (b) fire, unless caused by the actual fault or privity of the carrier;
  - (c) perils, dangers, and accidents of the sea or other navigable waters;
  - (d) Act of God;
  - (e) act of war;
  - (f) act of public enemies;
  - (g) arrest or restraint of princes, rulers, or people, or seizure under legal process;
  - (h) quarantine restriction;
  - (i) act or omission of the shipper or owner of the goods, his agent or representative;
  - (j) strikes or lockouts or stoppage or restraint of labour from whatever cause, whether partial or general; provided that nothing herein contained shall be construed to relieve a carrier from responsibilities for the carrier's own acts;
  - (k) riots and civil commotions;
  - (l) saving or attempting to save life or property at sea;
  - (m) wastage in bulk or weight or any other loss or damage arising from inherent defect, quality, or vice of the goods;
  - (n) insufficiency of packing;
  - (o) insufficiency or inadequacy of marks;
  - (p) latent defects not discoverable by due diligence; and
  - (q) any other cause arising without the actual fault and privity of the carrier and without the fault or neglect of the agents or servants of the carrier but the burden of proof shall be on the person claiming the benefit of this exception to show that neither the actual fault or privity of the carrier nor the fault or neglect of the agents or servants of the carrier contributed to the loss or damage.

- (3) The shipper shall not be responsible for loss or damage sustained by the carrier or the ship arising or resulting from any cause without the act, fault, or neglect of the shipper, his agents, or his servants.
- (4) Any deviation in saving or attempting to save life or property at sea, or any reasonable deviation shall not be deemed to be an infringement or breach of this Act or the contract of carriage, and the carrier shall not be liable for any loss or damage resulting therefrom; provided, however, that if the deviation is for the purpose of loading or unloading cargo or passengers it shall, prima facie, be regarded as unreasonable.
- (5) Neither the carrier nor the ship shall in any event be or become liable for any loss or damage to or in connection with the transportation of goods in an amount exceeding 600 dollars per package, or in case of goods not shipped in packages, per customary freight unit, or the equivalent of that sum in other currency, unless the nature and value of such goods have been declared by the shipper before shipment and inserted in the bill of lading.

This declaration, if embodied in the bill of lading, shall be prima facie evidence, but shall not be conclusive on the carrier.

By agreement between the carrier, master, or agent of the carrier, and the shipper, a maximum amount other than that mentioned in this section may be fixed;

provided that such maximum shall not be less than the figure abovenamed.

In no event shall the carrier be liable for more than the amount of damage actually sustained.

Neither the carrier nor the ship shall be responsible in any event for loss or damage to or in connection with the transportation of the goods if the nature or value thereof has been knowingly and fraudently misstated by the shipper in the bill of lading.

- (6) Goods of an inflammable, explosive, or dangerous nature, to the shipment whereof the carrier, master or agent of the carrier has not consented with knowledge of their nature and character, may at any time before discharge be landed at any place or destroyed or rendered innocuous by the carrier without compensation, and the shipper of such goods shall be liable for all damages and expenses directly or indirectly arising out of or resulting from such shipments.

If any such goods shipped with such knowledge and consent shall become a danger to the ship or cargo, they may in like manner be landed at any place, or destroyed or rendered innocuous by the carrier without liability on the part of the carrier except to general average, if any.

Surrender of rights and immunities and increase of responsibilities and liabilities. 70.

- (1) A carrier shall be at liberty to surrender in whole or in part all or any of his rights and immunities or to increase any of his responsibilities and liabilities under this Chapter, provided that such surrender or increase shall be embodied in the bill of lading issued to the shipper.
- (2) The provisions of this Chapter shall not be applicable to charter parties, but if bills of lading are issued in the case of a ship under a charter party they shall comply with the terms of this Chapter. Nothing in this Chapter shall be held to prevent the insertion in a bill of lading of any lawful provision regarding general average.

Special conditions. 71.

- (1) Notwithstanding the provisions of the preceding sections, a carrier, master or agent of the carrier, and a shipper shall, in regard to any particular goods be at liberty to enter into any agreement in any terms as to the responsibility and liability of the carrier for such goods, and as to the rights and immunities of the carrier in respect to such goods, or his obligation as to seaworthiness (so far as the stipulation regarding seaworthiness is not contrary to public policy), or the care of diligence of his servants or agents in regard to loading, handling, stowage, carriage, custody, care and discharge of the goods carried by sea; provided that in this case no bill of lading has been or shall be issued and that the terms agreed shall be embodied in a receipt which shall be a non-negotiable document and shall be marked as such.
- (2) Any agreement so entered into shall have full legal effect; provided that this section shall not apply to ordinary commercial shipments made in the ordinary course of trade but only to other shipments where the character or condition of the property to be carried or the circumstances, terms and conditions under which the carriage is to be performed are such as reasonably justify a special agreement.

Contract permitted as to damages to goods while not on ship. 72.

Nothing contained in this Chapter shall prevent a carrier or a shipper from entering into any agreement, stipulation, condition, reservation, or exemption as to the responsibility and liability of the carrier or the ship for the loss or damage to or in connection with the custody and care and handling of goods prior to the loading on and subsequent to the discharge from the ship on which the goods are carried by sea.

Effect of chapter.

73. The provisions of this Chapter shall not affect the rights and obligations of the carrier under the provisions of chapter 7 of this Act, or under the provisions of any statute for the time being in force, relating to the limitation of the liability of the owners of sea-going vessels.

Discrimination forbidden as to competing shippers.

74. Nothing contained in this Chapter shall be construed as permitting a common carrier by water to discriminate between competing shippers similarly placed in time and circumstances, either (a) with respect to their right to demand and receive bills of lading subject to the provisions of this Chapter; or (b) when issuing bills of lading, either in the surrender of any of the carrier's rights and immunities or in the increase of any of the carrier's responsibilities.

Bulk Cargo-weights ascertained by third parties.

75. Where under the customs of any trade the weight of any bulk cargo inserted in the bill of lading is a weight ascertained or ascertained or accepted by a third party other than the carrier or the shipper, and the fact that the weight is so ascertained or accepted is stated in the bills of lading, then, notwithstanding anything in this Act, the bill of lading shall not be deemed to be prima facie evidence against the carrier of the receipt of goods of the weight so inserted in the bill of lading, and the accuracy thereof at the time of shipment shall not be deemed to have been guaranteed by the shipper.

Scope of chapter.

76. This Chapter shall apply to all contracts for carriage of goods by sea to or from ports of Vanuatu in foreign trade.

CHAPTER 7 - LIMITATION OF SHIPOWNERS'

LIABILITY

Owners' Right to limitation.

77. (1) The owner of a ship may limit his liability in accordance with section 79 in respect of claims arising from any of the following occurrences, unless the occurrence giving rise to the claim resulted from the actual fault or privity of the owner :

(a) loss of life of, or personal injury to, any person being carried in the ship, and loss of, or damage to, any property on board the ship;

(b) loss of life of, or personal injury to, any other person, whether on land or on water, loss of or damage to any other property or infringement of any rights caused by the act, neglect or default of any person on board the ship for whose act, neglect or default the owner is responsible :

Provided however, that in regard to the act, neglect or default of this last class of person, the owner shall only be entitled to limit his liability when the act, neglect or default is one which occurs in the navigation or the management of the ship or in the loading, carriage or discharge of its cargo or in the embarkation, carriage or disembarkation of its passengers;

- (c) any obligation or liability imposed by any law relating to the removal or wreck and arising from or in connection with the raising, removal or destruction of any ship which is sunk, stranded or abandoned (including anything which may be on board such ship) and any obligation or liability arising out of damage caused to harbour works, basins and navigable waterways.
- (2) In this Chapter the expression "personal claims" means claims resulting from loss of life and personal injury; "property claims" means all other claims set out in subsection (1).
- (3) An owner shall be entitled to limit his liability in the cases set out in subsection (1) even in the cases where his liability arises, without proof of negligence on the part of the owner or of persons for whose conduct he is responsible, by reason of his ownership, possession, custody or control of the ship.
- (4) Nothing in this Section shall apply to :
  - (a) claims for salvage or claims for contribution in general average;
  - (b) claims by the Master, by members of the crew, by any servants of the owner on board the ship or by servants of the owner whose duties are connected with the ship, including the claims of their heirs, personal representatives or dependents, if under the law governing the contract of service between the owner and such servants the owner is not entitled to limit his liability in respect of such claims or if he is by such law only permitted to limit his liability to an amount greater than that provided for in section 79.
- (5) If the owner of a ship is entitled to make a claim against a claimant arising out of the same occurrence, their respective claims shall be set off against each other and the provisions of this Chapter shall only apply to the balance, if any,
- (6) The act of invoking limitation of liability shall not constitute an admission of liability.

Claims.

78. (1) The limit of liability prescribed by section 79 of this Chapter shall apply to the aggregate of personal claims and property claims which arise on any distinct occasion without regard to any claims which have arisen or may arise on any other distinct occasion.
- (2) Where the aggregate of the claims which arise on any distinct occasion exceeds the limits of liability provided for by section 79 the total sum representing such limits of liability may be constituted as one distinct limitation fund.
- (3) The fund thus constituted shall be available only for the payment of claims in respect of which limitation of liability can be invoked.
- (4) After the fund has been constituted, no claimant against the fund shall be entitled to exercise any right against any other assets of the shipowner in respect of his claim against the fund, if the limitation fund is actually available for the benefit of the claimant.

Limitation fund.

79. (1) The amounts to which the owner of a ship may limit his liability under section 77 shall be :
- (a) where the occurrence has only given rise to property claims, an aggregate amount of 67 dollars for each ton of ship's tonnage;
- (b) where the occurrence has only given rise to personal claims, an aggregate amount of 207.70 dollars for each ton of the ship's tonnage;
- (c) where the occurrence has given rise both to personal claims and property claims, an aggregate amount of 207.70 dollars for each ton of the ship's tonnage, of which a first portion amounting to 140.70 dollars for each ton of the ship's tonnage shall be exclusively appropriated to the payment of personal claims and of which a second portion amounting to 67 dollars for each ton of the ship's tonnage shall be appropriated to the payment of property claims, provided, however, that in the cases where the first portion is insufficient to pay the personal claims in full the unpaid balance of such claims shall rank rateably, with the property claims for payment against the second portion of the fund.

- (2) In each portion of the limitation fund the distribution among the claimants shall be made in proportion to the amounts of their established claims.
- (3) If before the fund is distributed the owner has paid in whole or in part any of the claims set out in section 77, he shall pro tanto be placed in the same position in relation to the fund as the claimant whose claim he has paid, but only to the extent that the claimant whose claim he has paid would have had a right of recovery against him under the laws of Vanuatu.
- (4) Where the shipowner establishes that he may at a later date be compelled to pay in whole or in part any of the claims set out in section 77, the court may order that a sufficient sum shall be provisionally set aside to enable the shipowner at such later date to enforce his claim against the fund in the manner set out in subsection (3).
- (5) For the purpose of ascertaining the limit of an owner's liability in accordance with the provisions of this section the tonnage of a ship of less than 300 tons shall be deemed to be 300 tons.
- (6) For the purpose of this Chapter only, tonnage shall be calculated as follows :-
  - (a) in the case of steamships or other mechanically propelled ships there shall be taken the net tonnage with the addition of the amount deducted from the gross tonnage on account of engine room space for the purpose of ascertaining the net tonnage;
  - (b) in the case of all other ships there shall be taken the net tonnage.

**Bail and  
release.**

80. (1) Whenever a shipowner is entitled to limit his liability under this Chapter and the ship has been arrested or attached within the jurisdiction of Vanuatu or bail or other security has been given to avoid arrest a court may, in its discretion, order the release of the ship or other property or of the security given if it is established by the shipowner that he has already given satisfactory bail or security, in Vanuatu or elsewhere, in a sum equal to the full limit of his liability under this Chapter and that the bail or other security so given is actually available for the benefit of the claimant in accordance with his rights.
- (2) Where, in circumstances mentioned in subsection (1), bail or other security has already been given:

- (a) at the port where the accident giving rise to the claim occurred;
- (b) at the first port of call after the accident if the accident did not occur in a port;
- (c) at the port of disembarkation or discharge if the claim is a personal claim or relates to damage to cargo, the court shall order the release of the ship or the bail or other security given, subject to the conditions set forth in subsection (1).

- (3) The provisions of subsections (1) and (2) shall apply likewise if the bail or other security already given is a sum less than the full limit of liability under this Chapter; provided that satisfactory bail or other security is given for the balance.
- (4) When the shipowner has given bail or other security in a sum equal to the full limit of his liability under this Chapter such bail or other security shall be available for the payment of all claims arising on a distinct occasion and in respect of which the shipowner may limit his liability.

Applic-  
ability.

- 81. (1) In this Chapter the liability of the shipowner includes the liability of the ship herself.
- (2) Subject to subsection (3), the provisions of this Chapter shall apply to the charterer, manager and operator of the ship, and to the master, members of the crew and other servants of the owner, charterer, manager or operator acting in the course of their employment, in the same way as they apply to an owner himself, provided that the total limits of liability of the owner and all such other persons in respect of personal claims and property claims arising on a distinct occasion shall not exceed the amounts determined in accordance with section 79.
- (3) When actions are brought against the master or against the members of the crew such persons may limit their liability even if the occurrence which gives rise to the claims resulted from the actual fault or privity of one or more of such persons. If, however, the master or member of the crew is at the same time the owner, co-owner, charterer, manager or operator of the ship the provisions of this subsection shall only apply where the act, neglect or default in question is an act, neglect or default committed by the person in question in his capacity as master or as member of the crew of the ship.

Fire  
damage.

82. No owner of any vessel shall be liable to answer for, or make good to any person, any loss or damage which may happen to any merchandise whatsoever, which shall be shipped, taken in, or put on board any such vessel, by reason or by means of any fire happening to or on board the vessel, unless such fire is caused by the actual fault or privity of such owner.

CHAPTER 8 - RADIO

Regulations.

83. The Minister of Transport, Communications and Public Works, may on the recommendation of the Commissioner from time to time, make such rules and regulations as may be deemed by him necessary and appropriate to the efficient administration of maritime mobile radio stations.

CHAPTER 9 - RULES OF NAVIGATION

Regulations  
for  
preventing  
collisions.

84. The Regulations approved by the International Conference on Revision of the International Regulations for Preventing Collisions at Sea, 1972, and such changes therein as in the future shall be made by an International Convention to which Vanuatu subscribes, shall be followed by all vessels and seaplanes navigating all harbours, rivers, and inland waters of Vanuatu and shall be followed by all Vanuatu vessels and seaplanes upon the high seas and in all waters connected therewith navigable by seagoing vessels except as provided in such Regulations which Regulations shall have effect as if specifically enacted by statute and fully set forth herein.

Small rowing  
boats.

85. The term "small rowing boat" as set forth in the foregoing Regulations shall be interpreted to include canoes and various nondescript local craft.

Penalty for  
violation of  
rules by  
pilot,  
engineer,  
mate  
or master.

86. Every pilot, engineer, mate, master or other person in charge of any vessel, boat, canoe, or nondescript local craft who neglects or refuses to observe the provisions of this Chapter shall be liable to a fine of 100 dollars in addition to all damages sustained by any passenger in his person or baggage resulting from such neglect or refusal; provided that nothing herein shall relieve any vessel, owner, corporation, or other person from any liability incurred by reason of such neglect or refusal.

Penalty for violations by vessel.

87. Every vessel that shall be navigated without complying with the provisions of this Chapter shall be liable to a fine of 200 dollars, for which sum the vessel so navigated shall be liable and may be seized and proceeded against before any court of competent jurisdiction in Vanuatu.

Assistance in case of collision.

88. In every case of collision between two vessels it shall be the duty of the master or person in charge of each vessel, if and in so far as he can do without serious danger to his own vessel, crew, and passengers (if any), to stand by the other vessel until he has ascertained that it needs no further assistance; to render to the other vessel, and to its master, crew or passengers (if any), such assistance as may be practicable and necessary to save them from any danger caused by the collision; and to report to the master or person in charge of the other vessel the name of its own vessel, its port of registry or the port to which it belongs, and the names of the ports from which and to which it is bound. If he fails to do so without reasonable cause for such failure, the collision shall, in the absence of proof to the contrary, be deemed to have been caused by his wrongful act, neglect, or default.

Penalty for failure to render assistance.

89. Every master or person in charge of a Vanuatu vessel or boat, who, without reasonable cause fails to render assistance or to give information as required by section 88 above shall be deemed guilty of an offence and shall be liable to a fine of 1,000 dollars or imprisonment for a term not exceeding two years or both; and for the above sum the vessel shall be liable and may be seized and proceeded against by any person in any court of competent jurisdiction in Vanuatu.

#### CHAPTER 10 - WRECKS AND SALVAGE

Vessels stranded on foreign coasts.

90. Consuls and vice consuls in countries on whose shores vessels of Vanuatu are stranded shall take proper measures for saving the vessels, their cargoes and appurtenances, storing and securing the effects and merchandise saved, and taking inventories thereof; and such merchandise and effects with inventories thereof shall, after payment of the expenses be delivered to the owners. A consul or vice consul shall not take possession of any such merchandise, or other property, when the master, owner or consignee thereof is present or capable of taking possession of the same.

- Right to salvage not affected by ownership of vessel. 91. The right to remuneration for assistance of salvage services shall not be affected by common ownership of the vessels rendering and receiving such assistance or salvage services.
- Salvage remuneration. 92. Salvors of human life or cargo who have taken part in the services rendered in connection with the accident giving rise to salvage are entitled to a fair share of the remuneration awarded to the salvors of the vessel, her cargo and accessories.
- Time limit for salvage suits. 93. An action for recovery of remuneration for rendering assistance or salvage services shall not be maintainable if brought later than two years from the date when such assistance or salvage was rendered, unless during that period there has not been reasonable opportunity for securing jurisdiction of the vessel, person or corporation to be charged, in which case the right of action shall not lapse until ninety days after there has been a reasonable opportunity to secure jurisdiction.
- Recovery for salvage services rendered by Government vessels. 94. The Commissioner or his agent and the crew of any vessels owned or operated by Vanuatu or its representatives, may collect and sue for salvage services rendered by such vessel and crew. Any salvage monies recovered by the Commissioner, or his agent, and not for the benefit of the crew, shall be held for the credit of the Government agency having possession or control of the vessel rendering such service.
- Marine casualties. 95. In the event of any casualty involving a Vanuatu vessel where there is a loss of life or loss or damage of property estimated to be in excess of 50,000 dollars, the Master shall immediately forward a report thereon to the Commissioner or Deputy Commissioner in accordance with such regulations as the Minister on the recommendation of the Commissioner may make from time to time. Where there is a failure to execute and file a report as required hereunder, the Master and vessel shall each be liable to a fine of 250 dollars upon notice from the Commissioner.
- Marine casualty investigations. 96. The Minister on the recommendation of the Commissioner may, from time to time, make such rules and regulations as are deemed by him necessary and appropriate to the investigation of marine casualties involving vessels registered under this Act or otherwise occurring within the jurisdiction of Vanuatu.

CHAPTER 11 - MERCHANT SEAMEN.

Application.

97. (1) The rights and obligations of every person employed on any ocean going merchant vessel registered under this Act and any persons employing such person shall, with respect to terms and conditions of employment and other matters relating to employment and the internal order of such vessel be governed by this Chapter.
- (2) The provisions of this Chapter shall not apply to :
- (a) persons employed on vessels of less than 75 net tons;
  - (b) persons employed solely in ports in repairing, cleaning, stevedoring and loading or unloading the vessels; and
  - (c) pilots.

Inter-pretation.

98.

In this Chapter unless the context otherwise requires :

"Crew" means collectively the persons, other than the Officers and the Master, serving in any capacity on board a vessel;

"Fishing Vessel" means a vessel used for catching fish, seals, walrus and other living creatures at sea;

"Foreign Trade" means trade between foreign countries or between Vanuatu and foreign countries.

"Master" means any person having command of a vessel;

"Seamen" means any or all members of the crew and officers other than the 'Master' and pilots, employed or engaged in any capacity on board any vessel;

"Shipowner" includes the charterer of any vessel where he mans, victuals and navigates such vessel at his own expense or by his own procurement;

"Vessel" means any vessel registered under this Act;

Full complement required.

99.

A Vanuatu vessel shall not be navigated unless it has in its service and on board such complement of officers and crew as is necessary for safe navigation. The Minister on the recommendation of the Commissioner may, from time to time, make such rules and regulations as are deemed by him necessary and appropriate to ensure compliance with this section.

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Officers'  
Licenses.

100.. Except when prevented by force majeure, all officers of vessels of Vanuatu shall obtain licenses to fill their relative positions from the Commissioner or any Deputy Commissioner authorised to issue licenses.

Penalty.

101.. Any person who shall receive or shall have in his possession any license or certificate of competency issued to officers or crew by the Commissioner or Deputy Commissioner to which he is not lawfully entitled, with intent to use the same unlawfully; or who, without lawful authority, shall alter or change any such certificate or license by addition, interpolation; deletion or erasure; or who shall in any manner transfer or arrange for the transfer of any such license or certificate; or who shall aid or abet the perpetration of any of the foregoing acts, shall, for each offense, be liable to a fine of not more than 500 dollars or imprisonment for not more than one year, or both.

Termination of  
employment of  
master.

102. Any contractual provision to the contrary notwithstanding, the shipowner, with or without good cause, may at any time terminate the employment of and dismiss the Master.

Duties of  
the Master.

103. The Master shall among others, have the following duties;

- (a) to enter into Shipping Articles with seamen as hereinafter provided;
- (b) to maintain discipline on board the vessel and to take all such steps as are necessary and appropriate in connection therewith;
- (c) to assume responsibility for the receipt of cargo by the vessel, stowage of cargo on board the vessel insofar as such stowage affects the safety or navigability of the vessel, and for the discharge of cargo from the vessel;
- (d) to assume full responsibility for the safety of the members of the crew and passengers, if any, and to take all necessary and appropriate steps in connection therewith;
- (e) to assume full responsibility for the navigation of the vessel at all times;
- (f) to assume full responsibility for the vessel's funds and the disbursement thereof;
- (g) to ascertain that the vessel's log books are properly and accurately kept;
- (h) to keep in his custody all of the vessel's documents;
- (i) to make all reports required by or under this Act or by any regulation made hereunder or by the regulations of any ports at which the vessel may call;

- (j) to render assistance in the saving of life and property at sea.
- Special Powers of Masters. 104. When a vessel is at sea, the Master is authorised to :
- (a) marry passengers or other persons aboard;
  - (b) issue birth certificates for children born at sea;
  - (c) bury persons who have died on board the vessel while at sea.
- Certain seamen's rights provided for master. 105. Except as otherwise provided, the Master of a Vanuatu vessel shall have the same rights in respect of wages, maintenance and cure and repatriation as are hereinafter provided for seamen.
- Wrongful death of master. 106. The personal representative of the Master of a Vanuatu vessel shall have the same rights in case of the Master's wrongful death as hereinafter provided in respect of seamen.
- Shipping Articles required for seamen. 107. Before the Master of any Vanuatu vessel of 75 net tons or more shall sail from any port, there shall be in force Shipping Articles (sometimes referred to as articles) with every seaman on board his vessel, except with persons who are apprenticed to, or servants of, himself or the vessel's owner. The Shipping Articles shall be written or printed and shall be subscribed by every seaman shipping on the vessel and shall state the period of engagement or voyage and the term or terms for which each seaman shall be shipped and the rate of pay for each and such other items as may be required by Regulations made under this Act.
- Penalty for alteration of shipping articles. 108. If any person fraudulently alters, or makes any false entry in any Shipping Article, and if any person aids in committing, or procures to be committed, any such offense, he shall, in respect of each offense, be liable for to a fine not exceeding 500 dollars.

**Penalty for shipping without shipping articles.**

109.

If any person shall be carried to sea as an officer or one of the crew on board any vessel making a voyage as hereinbefore specified, without entering into Shipping Articles with the Master of such vessel, in the form and manner and at the place and times in such cases required, the vessel shall be held liable for each such offense to a fine not exceeding 200 dollars. But the vessel shall not be held liable for any person carried to sea, who shall have secretly stowed himself away without the knowledge of the Master, mate or of any of the officers of the vessel, or who shall have falsely personated himself to the Master or officers of the vessel, for the purpose of being carried to sea.

**Duration and extension of shipping articles.**

110. (1)

Shipping Articles for the duration of a single voyage terminate as soon as unloading of the cargo is completed at the last port of destination.

(2)

Shipping Articles for the duration of a round voyage terminate as soon as unloading of any cargo is completed at the port where the seamen were engaged.

(3)

If the voyage is extended to a port other than that port designated in the Shipping Articles as the end of the voyage, the Articles shall be extended and the wages shall be continued accordingly. If the voyage be shortened, the wages shall be paid to the date of termination of the voyage.

(4)

Where Shipping Articles are not for a stated period they shall be deemed to be for a period of not less than one year and shall terminate at the expiration of the one year period, provided that at least five days prior notice has been given. In the absence of such notice the agreement shall continue but shall be terminable thereafter upon at least five days notice by either party. Nothing in this subsection shall apply to, or preclude, shipping Articles for a stated period of time.

(5)

When Shipping Articles expire while the voyage is still incomplete, they shall be extended until the vessel arrives at the port of her destination, and the wages shall be continued accordingly.

Termination  
of  
Shipping  
Articles.

111.

Where the Shipping Articles have terminated because of :

- (a) transfer of registry; or
- (b) transfer of ownership; or
- (c) abandonment of vessel; or
- (d) loss of vessel.

the seamen shall be entitled to compensation equal to fifteen (15) days base wages or the base wages until the expiration of the period for which he was engaged, whichever shall be least; provided however that the seaman is not employed as a seaman during such period and provided further that during such period the seaman has not refused substantially equivalent seagoing employment.

Certificate  
of  
service.

112. (1)

The Master shall sign and give to a seaman discharged from his vessel, either on his discharge or on payment of his wages, a Certificate of Service in a form approved by the Commissioner, specifying the period of his service and the time and place of his discharge.

- (2) If any person forges or fraudulently alters any Certificate of Service, he shall be guilty of an offence.

Minimum age  
at  
sea.

113. (1)

Children under the age of sixteen shall not be employed on Vanuatu vessels engaged in foreign trade, except on vessels upon which only members of the same family are employed, school ships or training ships.

- (2) The Master shall keep a register of all persons under the age of sixteen years employed on board his vessel.

Payment of  
wages.

114. (1)

Wages shall commence on the day specified and agreed to in the Shipping Articles or at a time of presence on board the vessel for the purpose of commencing work, whichever occurs first, and shall terminate on the day of discharge or termination of the Articles.

- (2) In the absence of any agreement to the contrary, the shipowner or the Master of the vessel shall pay to every seaman his wages within two days after the termination of the Articles, or at the time when the seaman is discharged, whichever occurs first.

(3) A seaman is entitled to receive in local currency, on demand, from the Master one half of his wages actually earned and payable at every intermediate port where the vessel shall load or deliver cargo before the voyage is ended, but not more than once in any ten day period. In case of wrongful failure to pay a seaman wages on demand, the seaman shall become entitled to a payment of full wages earned.

(4) Every master shall deliver to the seaman, before payment, a full and true account of his wages, and all deductions to be made therefrom on any account whatsoever, and in default shall, for each offence, be liable to a fine not exceeding 25 dollars.

Wages for unjustifiable discharge.

115.

Any seaman who has signed Shipping Articles and is afterward discharged before the commencement of the voyage or before one month's wages are earned, without fault on his part justifying such discharge and without consent, shall be entitled to receive in addition to his earned wages a sum equal in amount to one month's wages as compensation.

Stowaway entitled to wages, if there is an Agreement.

116.

A stowaway signing the vessel's Articles is entitled to wages, but not to maintenance and cure as herein provided. The Master shall discharge him at the first convenient port of call. Nothing in this section shall require a stowaway be signed on Shipping Articles.

117.

The Master may discharge a seaman for justifiable cause, including any of the following grounds :

- (a) unjustified failure to report on board at such times and dates as may be specified by the Master;
- (b) incompetence to perform duties for which the seaman has represented himself as qualified;
- (c) theft, embezzlement or wilful destruction of any part of the vessel, its cargo or stores;
- (d) serious insubordination or wilful disobedience or wilful refusal to perform assigned duties;
- (e) mutiny or desertion;
- (f) habitual intoxication, quarelling or fighting;
- (g) possession of dangerous weapons, narcotics or contraband articles;
- (h) intentional concealment from the shipowner or Master at or prior to engagement under the Shipping Articles of a condition which resulted in sickness or injury;

Advances and allotment of wages.

118. (1) It shall be unlawful to pay any seaman wages in advance of the time when they are actually earned, or to pay such advance wages, or to make any order or note or other evidence of the indebtedness therefor, to any other person, or to pay to any person for the shipment of any seaman when payment is deducted or to be deducted from a seaman's wages. Any person violating any of the provisions of this section shall be liable to a fine not exceeding 50 dollars.

(2) It shall be lawful for the Master and any seaman to agree that an allotment of a portion of the seaman's earnings may be payable to a spouse, children, grandchildren, parents, grandparents, brothers or sisters, or to a bank account in the name of the seaman.

Wages and clothing exempt from attachment.

119. The wages and clothing of a seaman shall not be subject to attachment or arrestment from any court; and any assignment or sale of wages or of salvage made prior to the accruing thereof shall not bind the seaman, except allotments.

Vacation allowance and holidays.

120. (1) Every master and seaman shall be entitled after 12 months on continuous service on a vessel or for the same employer to receive an annual vacation allowance equivalent to :

- (a) in the case of Masters and officers not less than 12 days base wages;
- (b) in the case of other members of the crew not less than 8 days base wages;

(2) Every seaman shall be entitled to a minimum of five paid holidays per year.

Agreements as to loss of lien or right to wages.

121. No seaman shall by any agreement forfeit his lien upon the ship or be deprived of any remedy for the recovery of his wages to which he would otherwise have been entitled; and every stipulation by which any seaman consents to abandon his right to his wages in the case of the loss of the ship or to abandon any right which he may have obtained in the nature of salvage shall be wholly void and inoperative.

Wages not dependent on freight earned.

122. No right to wages on the part of any seaman shall be dependent on the earnings of freight by the vessel.

Wages,  
maintenance  
and cure for  
sick and  
injured  
seaman.

123. (1)

Subject to subsection (3) in the event of disabling sickness or injury, while a seaman is on board a vessel under signed shipping articles or off the vessel pursuant to an actual mission assigned to him by, or by the authority of, the master, the seaman shall be entitled to :

- (a) full wages, as long as he is sick or injured and remains on board the vessel;
- (b) medical and surgical treatment and supply of proper and sufficient medicines and therapeutical appliances, until medically declared to have reached a maximum cure or to be incurable, but in no event more than 30 weeks from the day of the injury or commencement of sickness;
- (c) an amount equal to board and lodging up to a maximum period of 30 weeks, and one third of his base wages during any portion of such period subsequent to his landing from the vessel but not to exceed a maximum period of 16 weeks commencing from the day of injury or commencement of the sickness;
- (d) repatriation as provided in section 129 including, in addition, all charges for his transportation, accommodation and food during the journey and his maintenance up to the time fixed for his departure.

(2) The Shipowner or his representative shall take adequate measures for safeguarding property left on board by sick, injured, or deceased seaman.

(3) The seaman shall not be entitled to any of the benefits provided under subsection (1) if :

- (a) such sickness or injury resulted from his wilful act, default or misconduct;
- (b) such sickness or injury developed from a condition which was intentionally concealed from the employer at or prior to his engagement under the Articles;
- (c) he refuses medical treatment for such sickness or injury or is denied such treatment because of his misconduct or default;
- (d) at the time of his engagement he refused to be medically examined.

(4) The seaman shall have a maritime lien against the vessel for any wages due to him under this section. \*\*/44

**Wrongful  
death**

124.

Whenever the death of seaman, resulting from an injury, shall be caused by wrongful act, omission, neglect or default occurring on board a vessel, the personal representative of the deceased seaman may maintain an action for damages, for the exclusive benefit of the deceased's wife, husband, parent, child or dependent relative, against the vessel; person or corporation which would have been liable if death has not ensued.

**Death  
on  
board.**

125.

In the event of a death on board a vessel, an entry shall be made into the vessel's log-book by the master and one of his officers. He shall also report the death to the authorities at the first port of arrival and shall submit a statement signed by him to the Commissioner or to the Deputy Commissioner. The logbook entry and statement shall contain the first and last name, sex, nationality, year and place of birth of the deceased person, the cause of death, place of death (latitude, longitude), date and time of death and the names of next-of-kin, if known and the name of the vessel. If the deceased person is a seaman, the entry and statement shall contain, in addition, his rank or rating, place and address of his residence or domicile and the number of his license with date of issuance. The statement submitted by the Master shall be countersigned by an attending physician aboard, otherwise by one of the ship's officers. A list of personal effects and amounts of money left on board the vessel shall be attached.

**Issuance of  
death  
certificate.**

126.

Upon the request of anyone having legal interest and where a death has been reported in accordance with the requirements of section 124, the office of the Commissioner or of the Deputy Commissioner shall issue a death certificate containing the particulars set forth in section 125. Where the deceased was a citizen or a resident of Vanuatu, such certificate shall be recorded there as required by law.

**Burial  
expenses.**

127.

In the case of the death of a seaman occurring on board the vessel or in the case of his death occurring on shore, if at that time he was entitled to medical care and maintenance at the shipowner's expense, the shipowner shall be liable to defray reasonable local funeral expenses and make payment of the base wages of the deceased seaman up to the end of the month in which the death occurs.

**Working hours overtime.**

123.

In relation to members of the crew on a vessel engaged in foreign trade the following shall apply -

- (a) the normal hours of work in port and at sea shall be eight per day;
- (b) work performed over and above the eight hour period shall be considered as overtime and shall be compensated for at overtime rates;
- (c) a sufficient number of men shall be employed to promote safety of life at sea and to avoid excessive overtime;
- (d) whenever the Master of any vessel shall fail to comply with this section, he shall be liable to a fine not exceeding 100 dollars for every offence under this section.

**Repatriation.**

129. (1)

Any seaman who is put ashore at a port other than the one where he signed the Shipping Articles and who is put ashore for reasons for which he is not responsible, shall be returned as a crew member or otherwise, but without expense to him :

- (a) at the shipowner's option, to the port at which he was engaged or where the voyage commenced or to a port of the seaman's own country; or
- (b) to another port, agreed upon between the seaman and the shipowner or the Master.

However, in the event that the seaman's contract period of service has not expired, the shipowner shall have the right to transfer him to another of the shipowner's vessels to serve thereon for the balance of the contract period of service.

(2)

Any seaman whose period of employment is terminated by reason of completion of the voyage for which he was engaged or by expiration of his contract period of employment shall be entitled to repatriation, at no expense to him, to the port at which he was engaged or to such other port as may be agreed upon.

(3)

The right to repatriation shall be lost by failure of the seaman to request repatriation within one week from the time that he is in condition to be repatriated.

Loss of  
right of  
repatriation.

130.

A seaman shall forfeit his right  
of repatriation in any of the following  
events -

- (a) desertion;
- (b) entering into a new agreement with  
the same owner after his discharge;
- (c) entering into a new agreement with  
another owner after his discharge;
- (d) contravening sections 133, 135  
and 136;
- (e) unjustifiable repudiation of the  
Shipping Articles.

Offenses  
against the  
internal  
order of the  
vessel.

131.. (1)

Any seaman on a Vanuatu vessel who  
commits any of the following offences  
may in addition to any other penalty  
provided herein, be punished by the  
Master as follows :

- (a) for neglecting or refusing without  
reasonable cause to join his  
vessel or to proceed to sea in  
his vessel, or for absence without  
leave at any time within 24 hours  
of the vessel's sailing from any  
port, either at the commencement or  
during the progress of the voyage,  
or for absence at any time, with-  
out leave and without sufficient  
reason from his vessel and from his  
duty, not amounting to desertion,  
by forfeiture from his wages of not  
more than 2 days wages or suff-  
icient to defray any expenses  
which shall have been properly  
incurred in hiring a substitute;
- (b) for quitting the vessel without  
leave before she is placed in  
security, by forfeiture from his  
wages of not more than one month's  
wages;
- (c) for intoxication or wilful dis-  
obedience to any lawful command or  
continued wilful neglect of duty  
by being placed in restraint until  
such intoxication or disobedience  
shall cease, and by forfeiture  
from his wages of not more than  
four day's wages;
- (d) for continued intoxication or  
wilful disobedience to any law-  
ful command or continued wilful  
neglect of duty by being placed  
in restraint until such intoxic-  
ation, disobedience or neglect  
shall cease, and by forfeiture,  
for every 24 hours continuance  
of such intoxication, disobedi-  
ence or neglect, a sum of not  
more than 12 day's wages;
- (e) for wilfully damaging the vessel  
or embezzling or wilfully damaging  
any part of the stores or cargo,  
whether on board the vessel,  
in boats or ashore, by forfeiture  
out of his wages of a sum equal

- in amount to the loss thereby sustained;
- (f) for any act of smuggling, whereby loss or damage is occasioned to the Master or shipowner, by payment to such Master or shipowner of such a sum as is sufficient to reimburse the master or ship-owner for such loss or damage, and the whole or any part of his wages may be retained in satisfaction or on account of such liability;
- (g) for assaulting any master, pilot or officer, by forfeiture from his wages of not more than three months pay;
- (h) for mutiny or desertion, by forfeiture of all accrued wages.

(2) All earnings forfeited as a result of penalties imposed by the Master pursuant to this section shall be applied to reimburse the Master or shipowner for any loss or damage resulting from the act for which the forfeiture was imposed, and the balance with an accounting thereof shall thereupon be forwarded to the Commissioner or Deputy Commissioner.

Prohibition of corporal punishment.

132.

Flogging and all other forms of corporal punishment are hereby prohibited on board any vessel, and any master who shall violate the provision of this section shall be guilty of an offence.

Drunkenness, neglect of duty.

133.

Whoever, being a master, seaman or other person on any vessel, by wilful breach of duty or by reason of drunkenness, does any act tending to the immediate loss or destruction of, or serious damage to, such vessel or her cargo, or tending immediately to endanger the life or limb of any person belonging to or on board of such vessel, or by wilful breach of duty or by neglect of duty or by reason of drunkenness refuses or omits to do any lawful act proper and requisite to be done by him for preserving such vessel and her cargo from immediate loss, destruction or serious damage or for preserving any person on such vessel from immediate danger to life or limb, shall be liable to a fine not exceeding 2,500 dollars.

- Desertion.** 134. (1) Any seaman who deserts from his vessel with the intention of not returning to duty and who remains unlawfully in a foreign country shall be guilty of desertion and shall be liable to answer for any damages or losses suffered by the shipowner as a consequence of such desertion.
- (2) The Master shall make an entry of all desertions in the logbook and file a report with the Consul, or, if there be no Consul at the port, with the office of the Deputy Commissioner. The local authorities of the port shall be notified and requested to apprehend and deliver the deserter.

**Incitement of seamen to revolt or mutiny.** 135. Whoever, being of the crew of a vessel of Vanuatu, endeavors to make a revolt or mutiny on board such vessel, or combines, conspires or confederates with any other person on board to make such revolt or mutiny, or solicits, incites or stirs up any other of the crew to disobey or resist the lawful orders of the Master or other officers of such vessel, or to refuse or neglect his proper duty on board thereof, or to betray his proper trust, or assembles with others in a tumultuous and mutinous manner, or makes a riot on board thereof, or unlawfully confines the Master or other commanding officer thereof, shall be liable to a fine not exceeding 1,000 or imprisoned for not more than five years or both.

**Revolt or mutiny of seamen.** 136. Whoever, being a crew of a vessel of Vanuatu, unlawfully and with force, or by fraud or intimidation, usurps the command of such vessel from the Master or other lawful officer in command thereof, or deprives him of authority and command on board, resists or prevents him in the free and lawful exercise thereof, or transfers such authority and command to another not lawfully entitled thereto, is guilty of a revolt and mutiny and shall be liable to a fine not exceeding 2,000 dollars or imprisonment for not more than 10 years, or both.

**Entry of the offences in log-book.** 137. Upon the commission of any offence, an entry thereof shall be made in the official log book of the vessel on the day on which the offence was committed and any penalty or fine imposed and shall be signed by the Master and by the mate or one of the crew; and the offender, if still on the vessel, shall before her next arrival at any port or, if she is still at the time in port, before her departure therefrom, be furnished with a copy of such entry and have the same read over distinctly and audibly to him, and may thereupon make such a reply thereto as he thinks fit; and a statement that a copy of the entry has been so furnished or the same has been read over, together with his reply,

if any, made by the offender, shall likewise be entered and signed in the same manner.

- Abandonment of seamen.** 138. (1) Whoever, being Master or in charge of a vessel of Vanuatu, maliciously and without justifiable cause forces any member of the crew of such vessel on shore in order to leave him behind in any foreign port or place, or refuses to bring to such place as is required under the Articles any member of the crew of such vessel in condition and willing to proceed when the Master is ready to proceed, shall be liable to a fine not exceeding 500 dollars.
- (2) The abandoned seaman shall retain his right to repatriation.
- Freedom of association.** 139. Seamen and their employers, without distinction whatsoever, shall have the right to establish, and to become members of, organizations of their choosing, always subject to the jurisdiction of Vanuatu.
- Protection of freedom of association.** 140. It shall be unlawful for any employer, employer organization or labour organization to coerce any seaman in the exercise of his choice whether to establish, become a member or participate in any labour organization, provided that any provision in a labour contract entered into pursuant to section 142 shall not be deemed to be in violation of this section.
- Bargaining and execution of labour contract.** 141. It shall be lawful for any employer or employer organization and any labour organization representing seamen to bargain and enter into a labour contract concerning wages and other terms and conditions of employment provided that no labour contract provisions may be contrary to the laws or regulations of Vanuatu or deprive Vanuatu of any jurisdiction over labour relations.
- Provisions authorized in labour contracts.** 142. It shall be unlawful for any employer or employer organization and any labour organization to agree to be bound by any provisions in entering into a labour contract, provided that such provisions are not prohibited by the laws or regulations of Vanuatu.
- Provisions prohibited in labour contracts.** 143. It shall be unlawful for any employer or employer organization or labour organization to attempt to bargain for, or to enter into, any labour contract containing any provisions which violates the laws of Vanuatu or which prescribes terms or conditions of employment less favourable to seamen than those set forth in this Chapter or which discriminates as to terms and conditions of employment on the basis of race, colour or creed.

**Protection of labour contract.**

144.

Whenever an employer or employer organization and a labour organization have entered into a labour contract providing that such labour organization shall be sole bargaining representative of seamen pursuant to Section 142 it shall be unlawful.

- (a) for the employer or employer organization to bargain with or enter into a labour contract pertaining to such seamen with any other labour organization; or
- (b) for any other labour organization to attempt to bargain with or enter into a labour contract pertaining to such seamen with the employer or employer organization,

prior to thirty days before the termination of such agreement or before the expiration of three years from the effective date of such agreement, whichever event shall occur first.

**Strikes, picketing and like interference.**

145.

(1) It shall be unlawful for any person or labour organization subject to this Chapter to promote or to engage in a strike or picketing or like interference with the internal order or operation of a vessel, unless such strike, picketing or like interference :

- (a) takes place at a port at which the shipping articles terminate; and
- (b) a majority of seamen on the vessel involved have voted by secret ballot that such action be taken; and
- (c) at least thirty days written notice of intention to take such action has been given to the employer or Master.

(2) Nothing contained in subsection (1) shall be deemed to permit any strike, picketing or like interference with the internal order or operation of a vessel contrary to the provisions in any existing labour contract.

**Conciliation and mediation of labour disputes.**

146.

It is declared to be the policy of Vanuatu to place the primary responsibility upon employers and employer organizations, and employees and labour organizations for the avoidance of any interruption in foreign maritime commerce. To this end, upon application of all parties to any dispute to the Minister, the Commissioner or Deputy Commissioners are authorized to hold themselves available to assist in efforts of conciliation, mediation and final resolution.

Time  
limit.

147. (1) Claims arising out of the Shipping Articles are subject to one year's prescription.
- (2) The following rights of action are subject to two years prescription :
- (a) the right of action for death of a seaman caused by wrongful act, neglect or default on the high seas;
  - (b) claims of the shipowner against the master for acts committed during the performance of his duties;
  - (c) all other claims in tort.
- (3) All other claims are subject to three years prescription.
- (4) The period of prescription of the claims, laid down in the preceding subsections, runs from the time when the right of action accrues.

The Minister  
to make rules  
and regulations.

148.

The Minister may make rules and regulations not contrary to the provisions of this Act relating to conditions and terms of employment, wages, vacations and leave, hours of work, repatriation, minimum age, compensation for sickness, injury or death of masters, seamen, and seagoing labourers employed on vessels documented under the provisions of this Act.

Commence-  
ment.

149.

This Act shall come into force on the date of its publication in the Vanuatu Gazette.

Limite de temps 147.

- (1) Les réclamations s'élevant a propos du rôle d'équipage sont prescrites dans le délai d'un an.
- (2) Les droits de poursuite suivants sont prescrits par le délai de deux ans :
  - (a) droit de poursuite pour décès d'un marin causé par un acte, une négligence ou une faute criminelle en haute mer ;
  - (b) réclamations du propriétaire du navire contre le capitaine pour actes commis dans l'accomplissement de sa tâche ;
  - (c) toutes autres réclamations en dommage.
- (3) Toutes les autres réclamations sont prescrites par le délai de trois ans.
- (4) Le délai de prescription des réclamations énumérées dans les sous-sections précédentes part du jour où court le droit de poursuite.

Le Ministre définit 148.  
les règles et  
réglementations

Le Ministre peut définir les règles et réglementations conformément aux clauses de cet Acte relatives aux conditions et termes d'emploi, salaires, congés et permissions, heures de travail, rapatriement, âge minimum, indemnité de maladie, blessure ou décès du capitaine, des marins et travailleurs marins employés sur les navires documentés conformément aux dispositions de cet Acte.

Entrée en vigueur 149.

Cet Acte entrera en vigueur au jour de sa publication au Journal Officiel de Vanuatu.

REPUBLIC OF VANUATU

VISA REQUIREMENTS (EXEMPTION) (AMENDMENT)

ORDER NO <sup>42</sup> OF 1981

To amend the Visa Requirements (Exemption) Order No 2 of 1980.

IN EXERCISE of the power contained in Section 5 (1) of the Joint Regulation No 18 of 1971 (as amended), I hereby make the following Order :-

1. Clause 1 of the Visa Requirements (Exemption) Order No 2 of 1980 is amended by adding "the United States of America (including its Dependent Territories)".
2. This Order shall come into force on the date of signature.

MADE at Port Vila the *7<sup>th</sup>* day of *April* 1981.

  
K. Timakata  
Minister of Home Affairs

REPUBLIQUE DE VANUATU

ARRETE N° <sup>421</sup> DE 1981 RELATIF AUX DISPENSES DE VISAS (AMENDEMENT)

portant modification de l'arrêté n° 2 de 1980 relatif aux visas (dispense)

LE MINISTRE DE L'INTERIEUR

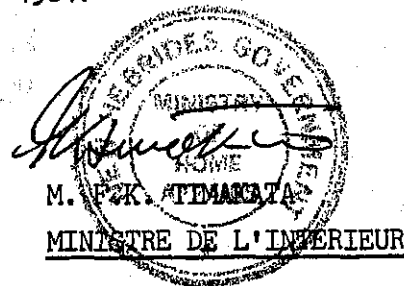
VU le paragraphe 1 de l'article 5 du Règlement Conjoint n° 18 de 1971 relatif à l'immigration (comme amendé),

ARRETE

ARTICLE 1er. L'article 1er de l'arrêté n° 2 de 1980 est modifié en insérant entre le Danemark et Fidji "Etats-Unis d'Amérique (y compris les territoires dépendants)".

ARTICLE 2. Le présent arrêté prendra effet à compter de la date de sa signature.

FAIT à Port-Vila le 7<sup>th</sup> April, ..... 1981.



GAZETTE NOTICE  
TERMINATION OF P/L  
AND DISMISSAL PETITION  
CAP.9. SECTION 256(1)

NOTICE OF ORDER FOR DISMISSAL OF WINDING-UP  
PETITION AND TERMINATION OF PROVISIONAL  
LIQUIDATOR'S APPOINTMENT

NAME OF COMPANY: MONGALIEU PLANTATIONS HOTEL LIMITED  
ADDRESS OF REGISTERED OFFICE: c/- CORPORATE ADMINISTRATION LIMITED, LOLAM HOUSE,  
RUE HIGGINSON, VILA.  
COURT: THE SUPREME COURT OF VANUATU  
NUMBER OF MATTER: No. 14 OF 19 80  
DATE OF ORDER: 26. MARCH 19 81

  
S. UREN  
OFFICIAL RECEIVER

DATED: THIS THIRTY-FIRST DAY OF MARCH 19 81.