

REPUBLIC OF VANUATU

CHAPTER 131

THE MARITIME (PROTECTION OF MAMMALS)
(AMENDMENT) REGULATION NO. 24 OF 1990

To amend the Maritime (Protection of Mammals) Regulation No. 33 of 1988.

IN EXERCISE of the powers conferred by section 48 of the Maritime Act [CAP.131], I, SELA MOLISA, Minister of Finance and Housing, make the following regulations:-

AMENDMENT OF REGULATION No. 33 OF 1988

1. The Maritime (Protection of Mammals) Regulation No. 33 of 1988 (hereinafter referred to as the principal Regulation) is amended -
 - (a) in the paragraph after the preamble by deleting the words "section 46" and substituting the words "section 48";
 - (b) by deleting the words "Maritime Act No. 8 of 1981" and substituting the words "Maritime Act [CAP.131]" wherever occurring;
 - (c) by deleting the words "Vanuatu Flag Vessel" and "Vanuatu Flag Vessels" and substituting the words "Flag vessel of Vanuatu" and "Flag vessels of Vanuatu", as the case may be, wherever occurring.

AMENDMENT OF REGULATION 3 OF THE PRINCIPAL REGULATION

2. Regulation 3 is amended in subregulation (1) -
 - (a) by repealing paragraph (i) and substituting the following paragraph:-

"(i) where the Maritime Commissioner or the Deputy Maritime Commissioner has waived the provisions of regulation 6A(1) in respect of the vessel and its captain, in a sundown set, illuminate the backdown channel with a lighting system of at least 140,000 lumens capacity, to facilitate the removal of live marine mammals from the net;"
 - (b) by inserting the words "or Commissioner or Deputy Commissioner" after the word "Minister" in paragraph (j).

AMENDMENT OF REGULATION 4 OF THE PRINCIPAL REGULATION

3. Regulation 4 is amended by repealing subregulation (2) and substituting the following subregulation:-

- "(2) The competent regional organization shall, from time to time, place on board each Flag vessel of Vanuatu an observer or observers to record all fishing activities involving tuna and marine mammals carried out by such vessel. Such observer or observers shall complete a summary report of dolphin safety gear and set data after each trip and record such other information and data as shall be agreed between the competent regional organization and the Minister."

AMENDMENT OF REGULATION 5 OF THE PRINCIPAL REGULATION

4. Regulation 5 is amended -

- (a) by repealing subregulation (3) and substituting the following subregulation:-

"(3) Every observer shall, in respect of each vessel within 7 days following the date of next entry into a port, forward to the Commissioner or a Deputy Commissioner a report in writing and in the English language of all fishing activities involving tuna and marine mammals carried out by such vessels. Such report shall include the summary report of dolphin safety gear and set data and such other information and data as shall be agreed between the competent regional organization and the Minister."

- (b) by inserting the following subregulation after subregulation 4:-

"(5) All records, information and data collected pursuant to subregulation (3) may be used to enforce any provision of this Regulation or the Act."

INSERTIONS OF NEW REGULATIONS 6A, 6B, 6C, 6D and 6E

5. The following new regulations are inserted after regulation 6 of the principal Regulation:-

"SUNDOWN SETS PROHIBITED

6A. (1) Subject to subregulation (2), no Flag vessel of Vanuatu fishing for tuna in the eastern Pacific Ocean shall operate a sundown set.

(2) The Commissioner or the Deputy Commissioner may, in his absolute discretion waive the provisions of subregulation (1). Such waiver shall be in writing.

(3) For the purposes of this regulation -

(a) "sundown set" is a set where the backdown maneuver and the commencement of the rolling of the net to sack-up is completed more than 30 minutes after sunset;

(b) "sunset" is the local time when the sun disappears completely below the horizon.

INSPECTION OF VESSEL

- 6B. (1) The Commissioner or Deputy Commissioner shall inspect or cause to be inspected every vessel being used or intended to be used solely for commercial fishing using purse seine nets applying under section 17(2)(b) of the Act to be registered on the Vanuatu Maritime Registry, to establish whether such vessel has adequate dolphin safety gear in good condition on board the vessel.
- (2) The inspection shall be recorded in the form set out in the Schedule to this regulation.

PERMIT

- 6C. (1) No Flag vessel of Vanuatu shall fish in the eastern Pacific Ocean unless -
- (a) the owner has a valid permit in respect of that vessel issued by the Commissioner or Deputy Commissioner; and
 - (b) the Captain has a valid permit issued by the Commissioner or Deputy Commissioner.
- (2) Every application for a permit may be made by the vessel owner and captain to the Commissioner or Deputy Commissioner of Maritime Affairs.
- (3) The Commissioner or Deputy Commissioner may in his discretion grant or refuse a permit for which application is made under this Regulation and need not give any reason for his decision upon the application.
- (4) A permit granted under this Regulation shall be valid for one year from its date of issue and thereafter shall expire unless renewed by the Commissioner or Deputy Commissioner.
- (5) The fee of US\$1,000 shall be payable for the issue or renewal of a permit granted to the owner in respect of the vessel and the fee of US\$850 shall be payable for the issue or renewal of a permit granted to a captain, or in each case such lesser fee as the Commissioner or Deputy Commissioner shall determine.
- (6) Where the Commissioner or Deputy Commissioner is satisfied that:-
- (a) the dolphin safety gear on board a vessel is or becomes inadequate or is not in good condition or available for immediate use; or
 - (b) the number of marine mammals killed or injured in any set made by the vessel is excessive; or

(c) the vessel is in breach of any provision of this Regulation, the Act or any other Regulation made thereunder he may forthwith suspend the vessel's permit and thereafter after carrying out such investigation as he may deem necessary and giving the vessel owner an opportunity to object thereto, revoke the vessel's permit.

(7) Where the Commissioner or Deputy Commissioner is satisfied that a captain has, whilst in charge of a vessel,

(a) caused or permitted the vessel to fish for tuna where the dolphin safety gear on board the vessel is or becomes inadequate or is not in good condition or available for immediate use; or

(b) caused or permitted a set to be made by the vessel that has resulted in an excessive number of marine mammals being killed or injured; or

(c) acted or caused or permitted the vessel to be in breach of this Regulation, the Act or any other Regulation made thereunder;

he may forthwith suspend the vessel's permit and thereafter after carrying out such investigations as he may deem necessary and giving the captain an opportunity to object thereto, revoke the captain's permit.

PROHIBITION OF EXPLOSIVES

6D. No Flag vessel of Vanuatu fishing for tuna in the eastern Pacific Ocean shall use any explosive devices whatsoever in relation thereto.

TRANSITIONAL

6E. (1) Every Flag vessel of Vanuatu with a valid licence to fish in the eastern Pacific Ocean shall, within two months of the date of coming into force of this Regulation, apply to the Commissioner or Deputy Commissioner, as the case may be, for a permit.

(2) It is not an offence for a vessel to continue to fish in the eastern Pacific Ocean while the application lodged in respect of the vessel is with the Commissioner or Deputy Commissioner, as the case may be, for consideration."

COMMENCEMENT

6. This Regulation shall come into force on the date of its signature.

MADE at Port Vila, this 27th day of July 1990.

SELA MOLISA

Minister of Finance and Housing