

REPUBLIC OF VANUATU

CHAPTER 131

THE MARITIME REGULATIONS ORDER No. 25 OF 1990

To provide Regulations for the better carrying into effect of the provisions of the Maritime Act, [CAP.131].

IN EXERCISE of the powers contained in the Maritime Act, [CAP.131], I hereby make the following Order:

CHAPTER 1 - GENERAL

INTERPRETATION

1. In this Order unless the context otherwise requires:

"Act" means the Maritime Act, [CAP.131];

Words and expressions in this Order unless otherwise expressly provided herein shall have the same meaning as defined in the Act;

"Marine Casualty" means any casualty or accident involving any vessel if such casualty or accident occurs upon the territorial waters of Vanuatu, or any casualty or accident wherever occurring, where such casualty or accident involves any vessel documented under the Act;

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

"Oil and Mineral Service Vessel" means any vessel engaged in the search and development of oil, gas, and other minerals, or in the support thereof, but does not include vessels whose primary purpose is to transport crude oil, petroleum products, gas, or other mineral resources in bulk in their cargo tanks.

RECORDS

2. (1) Except where otherwise provided all documents required to be submitted to the Commissioner or to a Deputy Commissioner, as the case may be under the provisions of the Act and this Order shall be submitted in duplicate, except:

(a) Mortgages and amendments or assignments thereof which shall be submitted in quintuplicate; and

(b) Mortgage satisfactions or releases or discharges which shall be submitted in quadruplicate.

- (2) Upon recording or filing any document in the Office of the Commissioner or of a Deputy Commissioner or the issue of any Certificate of Permanent or Provisional Registration or of a License or Certificate for a ship's officer or a member of a ship's crew, copies shall promptly be forwarded for duplicate filing in the Office of all other Deputy Commissioners, if any, and in the Office of the Commissioner.

**LICENSES, CERTIFICATES OF OFFICERS AND MEMBERS OF CREW**

3. (1) A person holding a valid License or Certificate issued by a maritime nation and which the Commissioner or a Deputy Commissioner to whom application is made recognizes, shall be entitled to an equivalent license or Certificate issued under this order

- (2) Any person not holding a License issued by a maritime nation desiring a license or certificate shall be required to pass such written, oral, or physical examination as shall from time to time be required by the Commissioner.

- (a) Applicants for Deck Officer Licenses shall be examined as to their knowledge of the following subjects and such other subjects as may from time to time be required by the Commissioner:

Navigation and Position Determination  
Navigational Watch Principles  
International Regulations for the  
Prevention of Collisions at Sea  
Lifesaving, Search and Rescue  
Radar Equipment and Marine Navigational Aids  
Meteorology and Oceanography  
Ship Maneuvering and Handling  
Ship Stability, Construction and Damage Control  
Cargo Handling and Stowage  
Ship Power Plants  
Fire Prevention, Detection and Extinction  
Emergency Procedures  
Medical Care  
Communications  
Maritime Law and Regulations  
Personnel Management and Training Responsibilities

- (b) Applicants for Engineering Officer Licenses shall be examined as to their theoretical and practical knowledge of operational maintenance and organizational procedures relating to the following subjects and such other subjects as may from time to time be required by the Commissioner:

Marine Diesel Engines and Marine Steam Propulsion Plant  
Auxilliary Machinery including Pumping and Piping  
Systems, Refrigeration Plant  
Electrical and Control Equipment  
Cargo Handling Equipment and Deck Machinery

Fault Detection and Remedial and Damage  
Prevention Actions  
Safe Maintenance, Working Practices and Repair  
Procedures  
Fire Prevention, Detection and Extinction  
Damage Control, Life Saving Appliances and  
Elementary First Aid  
Pollution Prevention

However, applicants for motor licenses only shall not be examined as to steam engines or shall applicants for steam licenses only be examined as to motor engines.

- (c) Applicants for Radio Officer Licenses shall be examined as to their knowledge of the following subjects and such other subjects as may from time to time be required by the Commissioner:

International Regulations and Publications  
Safe and Efficient Watchkeeping Procedures and  
Transmitting and  
Receiving Radio Telegraphy and Telephony Equipment  
Practical Operation of Equipment  
Basic Electricity and Electronics  
Frequency Allocations  
Provision of Radio Services in Emergencies including use  
of Portable and Fixed Equipment in Survival Craft and  
Emergency Position-Indicating Radio Beacons  
Preventive Measures Relating to the Safety of Ship and  
Personnel in connection with Hazards from Radio Equipment  
Use of the Merchant Ship Search and Rescue Manual  
(MERSAR) with particular reference to Radiocommunications  
The International Code of Signals and the Standard Marine  
Navigational Vocabulary  
Ship Position Reporting Systems and Procedures.

- (d) Applicants for a Certificate of Proficiency in Survival Craft shall be examined to show their proficiency in all operations involving survival craft and other life-saving appliances; the various types of emergency situations; the principles of survival; making and acting upon correct commands relating to launching, boarding, handling and disembarking from survival craft and use of life-saving appliances.

- (e) Applicants for Radar Observer Certificates shall be examined as to their knowledge of basic principles of radar observations and their applications.

- (3) Certificates and Officers' Licenses of Competence issued under the provisions of this Section shall be valid for a period of five years and may be renewed. Any License or Certificate may be revoked at any time upon proof of:

- (a) incompetency;
  - (b) physical or mental disability;
  - (c) habitual drunkenness or drug use;
  - (d) willful failure to comply with the provisions of the Act or Orders thereunder;
  - (e) criminal conduct; or
  - (f) other conduct incompatible with proper performance of duties and obligations as an officer.
- (4) Renewals of Licenses or Certificates shall not be granted more than one year after the expiry date of the previous License, or Certificate.

**FEES**

4. (1) The following fees shall be payable -

(a) Vessel Documentation,

for issuing a Certificate of Registry  
(Permanent or Provisional).....\$200

for the reissuing of a Certificate of  
Registry (Permanent or Provisional).....\$150

for 3 months extension of a Provisional  
Certificate of Registry .....\$500

for documentation in connection with  
reregistration (but does not include  
issuing a Permanent or Provisional  
Certificate of Registry) .....\$1,250

for issuing a Certificate of Permission  
to sell for reregistration ..... \$150

for issuing a Certificate of Permission  
for Transfer of a Vessel and, subsequently,  
a Certificate of Cancellation of Registry  
of a Vessel .....\$250

(b) Recording,

for recording a Bill of Sale of a Vessel.....	\$ 50
for recording a Mortgage on a vessel or vessels or any instrument whether designated an Amendment, Supplement, or otherwise relating thereto, that involves the addition of new security or the coverage of an obligation unrelated to that described in the original Mortgage, including the certification of two copies thereof .....	\$500
for recording a Mortgage Assignment, Assumption, Amendment or Supplement (other than an Amendment or Supplement described in the paragraph immediately above), including certifying two copies thereof .....	\$250
for recording a Mortgage Satisfaction, Release, or Discharge .....	\$150
for any other unspecified recording or filing .....	\$100

(c) Personnel Licensing,

for examining an applicant, and/or initial issuing of a license or certificate upon qualification:

Master, Chief Engineer .....	\$150
Reexamination .....	\$100
Chief Mate, 1st Assistant Engineer .....	\$125
Reexamination .....	\$ 85
All other officers .....	\$100
Reexamination .....	\$ 75
Radar Observer .....	\$ 75
Certificate of Proficiency in Survival Craft.....	\$ 50

for certifying transcripts of examination results .....

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\$ 35

for renewing an Officer's License -  
Prior to expiration .....

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\$ 75  
Within one year after expiration .....

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\$125

for issuing a Temporary Permit under:  
Section 36(3)(a) of this Order .....

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\$ 75  
Section 36(3)(b) of this Order .....

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\$125

for replacing a lost or destroyed License or Certificate .....

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\$ 25

for issuing Seaman's Identification documents .....

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\$ 50

(d) Certification, Authentication, Approval.

for issuing a Certificate of Ownership  
and Encumbrance ..... \$ 25

for approving grain loading arrange-  
ments required under the provisions of the  
International Convention for Safety of  
Life at Sea .....\$125

for issuing a Marriage, Birth, Death or  
Burial at Sea Certificate .....\$ 50

for certifying Articles of Agreement .....\$ 25

for signing on or off Articles of  
Agreement, each seaman .....\$ 25

for certification of extract from log  
book .....\$ 25

for noting or receiving Note of Protest  
in duplicate, and certifying two copies  
thereof .....\$ 25

for authenticating proof of sea service .....\$ 25

(e) Miscellaneous,

for issuing any other unspecified certifi-  
cate or document or publication, in  
addition to costs .....\$ 50

for authenticating any document not  
otherwise specified .....\$ 25

for providing certified copies of  
documents:  
for each copy of a document provided  
and certified .....\$ 25

(2) All fees and costs chargeable under this Order shall be  
invoiced and collected by the Commissioner or a Deputy  
Commissioner.

**APPEALS**

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

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

#### COMMITMENTS

6. (1) It shall be a Marine Offence, without the approval in writing of the Commissioner or a Deputy Commissioner or any one of his authorized agents, to make, enter into or execute any commitment, agreement or arrangement whereby a Vanuatu vessel is to be made available for the use of, to be chartered or sold to, or requisitioned by, another country. The granting of such approval shall also constitute approval for making the vessel available under the terms of the said commitment, agreement or arrangement.
- (2) Copies of any such proposed commitments, agreements or arrangements shall be submitted together with the application for approval, and, if approved, a true copy shall be filed with the Commissioner or the Deputy Commissioner concerned within thirty days after the formal execution of such commitment, agreement, or arrangement.
- (3) This Section shall not apply to day to day current commercial transactions providing for the carriage of cargo under booking contracts, contracts of affreightment, voyage charters, and time charters.
- (4) In addition to any penalty that may be provided under the provisions of the Act or any Order made thereunder or these Regulations the Commissioner or the Deputy Commissioner may cancel the Certificate of Registry of the vessel of any person who fails to comply with the provisions of this Section.

#### PENALTIES FOR LATE PAYMENT

7. Any tax or fee payable under the Act or Regulations made thereunder shall be paid in full. Any amount unpaid 90 days after the due date shall incur a penalty equal to 10% of the amount due for each month or part thereof for which the amount remains unpaid after the due date and the amount plus the penalty shall be payable notwithstanding any other measures which may be taken to ensure payment. The Commissioner or a Deputy Commissioner may, in their discretion, remit in whole or in part penalty payable under this Section.

CHAPTER 2 - DOCUMENTATION AND IDENTIFICATION OF VESSELS

**CONDITIONS PRECEDENT TO ISSUING CERTIFICATES OF REGISTRY.**

8. (1) In cases of the sale or transfer of a vessel which previously has been documented under another Registry and Flag, where the buyer or transferee desires to re-register the vessel under the Vanuatu Register and such vessel is immediately entitled to a Permanent Certificate of Registry, no such certificate shall be issued unless the owner, in addition to filing the documents and papers required for registration, shall file a declaration that no further consent is required from a Government of a former Registry or if such consent is required, file copies of such official consent.
- (2) In all other cases no Permanent Certificate of Registry shall be issued in respect of a vessel unless:
- (a) to the extent required by any international convention ratified or acceded to by Vanuatu, a valid certificate is issued by any of the Classification Societies referred to in Section 9 in respect of Cargo or Passenger Ship Safety Equipment; Cargo or Passenger Ship Safety Construction; International Loadline; Tonnage Measurement; Prevention of Pollution and such other certificates as may be applicable pursuant to the referenced conventions; and
  - (b) all officers employed on the vessel are duly licensed under the Act or Regulations made thereunder.
- (3) In any case where a vessel is acceptable in the first instance for documentation or re-registration under the Act, and is eligible for a Provisional Certificate of Registry, the owner, in addition to filing the documents for the issue of a Provisional Certificate of Registry, shall file a declaration that no further consent is required from the Government of a former Registry and Flag or, if such consent is required, file copies of such official consent.
- (4) Prior to the issuance of any Provisional or Permanent Certificate of Registry the owner of each vessel shall furnish in respect of such vessel a Report of Ship's Officers in the prescribed form.

**AUTHORIZED AGENTS FOR MEASUREMENT AND SURVEY OF VESSELS**

9. The following International Ship Classification Societies shall be the authorized Agents for measuring vessels in accordance with the provisions of Section 10 and for surveying vessels for the issue of the Vanuatu certificates required to be furnished pursuant to Section 8(2)(a):

- (a) American Bureau of Shipping;
- (b) Bureau Veritas;
- (c) Det Norske Veritas;



- (d) Germanischer Lloyd;
- (e) Lloyd's Register of Shipping;
- (f) Nippon Kaiji Kyokai;
- (g) Registro Italiano Navale;
- (h) China Classification Society (ZC); and
- (i) any other International Ship Classification Society as may be authorized by the Commissioner or a Deputy Commissioner.

**MEASUREMENT**

10. (1) Except as otherwise provided in this Order, measurement shall be in accordance with the regulations set forth in the International Convention on Tonnage Measurement of Ships, 1969 as from time to time amended which are hereby adopted as the standard of measurement for vessels under the Vanuatu Flag. Measurements shall be verified by an acceptable Certificate of Measurement.
- (2) In cases of vessels previously documented in a foreign country and in cases of vessels never before documented but which have been measured by a representative of a foreign country, an admeasurer, without physically measuring the vessel may accept the figures contained in her latest maritime document or Certificate of Measurement (making all adjustments as may be required to make the same conform to the standard of measurement prescribed in sub-section (1)) in determining her principal measurements and gross and net tonnages; provided that the admeasurer is furnished with a declaration by the owner or some authorized person on behalf of the owner that no changes affecting measurement or tonnage have been made in the vessel since the issue of the marine document or Certificate of Measurement. In the event that such declaration shall disclose that changes affecting measurement or tonnage have been made, the admeasurer may limit his physical measurements to such spaces as are affected by such changes.
- (3) The owner or Master of a vessel or person authorized to act on his behalf shall advise the Commissioner or a Deputy Commissioner of any alteration, change or construction of the vessel which could affect her classification, measurement, tonnage or load line, within 30 days from the completion of such alteration or change or construction setting forth the details thereof.
- (4) Failure to notify the Commissioner or a Deputy Commissioner as required by sub-section (3) hereof shall be an offence.

#### TONNAGE STATEMENTS IN CERTIFICATES OF REGISTRY

11. (1) Where a vessel may be used alternately as one category or another (e.g. ore carrier or tanker), the Certificate of Registry shall describe the vessel in the category which produces the highest gross and net tonnages. The Commissioner or a Deputy Commissioner may attach to the Certificate of Registry an Appendix stating separately the description of the vessel, including measurements, that would be applicable if the vessel were trading in the other category.
- (2) Where a vessel is fitted with a tonnage mark and assigned dual gross and net tonnages, the length, depth and breadth stated in the Certificate of Registry shall be the dimensions for the condition with the tonnage mark submerged.

#### CONTENTS OF CERTIFICATES OF REGISTRY

12. (1) Each vessel's Permanent Certificate of Registry shall state the name of the vessel, her official number, call sign, service and home port of Port Vila; the name of the person making the required declaration; the names, residences, citizenships, and proportion of the Owners of the vessel; the former name or designation of the vessel; the year and place of the build of the vessel, the name of the builder; the number of masts and decks; the material of the hull, the type of her stern and stem; the kind of her propulsion; her length, depth, breadth, and height of the uppermost deck to the hull above the tonnage deck; her gross and net tonnage or tonnages; the name of the person or agent who measured the vessel and the number and date of the Certificate of Measurement issued by such person or agent.
- (2) Each vessel's Provisional Certificate of Registry shall state the name of the vessel, her official number, call sign, service, and home port of Port Vila; the name of the person making the required declaration; the names, residences, citizenships, and proportion of the owners of the vessel; the month, year, and place of purchase; the former name or designation of the vessel; the year and place of build of the vessel; the name of the builder; and the best particulars with respect to her tonnage or tonnages, build, description, dimensions and motive power which the issuing officer is able to obtain.
- (3) In cases where there has been a change of name or ownership of a vessel, a new Registry Certificate, Permanent or Provision, shall be issued, and in no event shall such change or changes, be accomplished by means of endorsement of the existing ship's documents.

#### NUMBERS OF REGISTRY CERTIFICATES AND LICENCES

13. The Commissioner, upon the issue of Registry Certificates and Licenses, shall assign to such documents numbers progressively, and shall as soon as possible notify all Deputy Commissioners so that, when a License or Registry Certificate is subsequently issued by a Deputy Commissioner, the number

assigned by the Deputy Commissioner will be that next following number assigned by the Commissioner. A Deputy Commissioner, upon the issue and numbering of Licenses and Registry Certificates, shall as soon as possible notify the Commissioner and other Deputy Commissioners so that the same procedure may be followed.

#### TRANSFER TO FOREIGN REGISTRY

14. (1) The Owner of a vessel documented under the Act, in order to transfer the vessel to a foreign registry, or to leave the Vanuatu Registry for any other reason, shall file a written statement setting out the information specified in Section 35 of the Act.

(2) A Certificate of Cancellation from the Vanuatu Registry shall be issued upon filing with the Commissioner or a Deputy Commissioner or with a Special Agent or with a Consular or Diplomatic Officer of Vanuatu acting under specific instructions from the Commissioner or the Deputy Commissioner, of the vessel's Certificate of Registry, Ship Radio Station License, Oil Record Book, Manning Certificate and, in the event that title has been transferred, a Bill of Sale in duplicate:

provided, however, that all outstanding taxes, fees and charges due under the Act or Orders thereunder have first been paid.

#### CHANGE OF NAME OF VESSEL

15. (1) The Commissioner or a Deputy Commissioner shall not approve the application of an Owner for the change of name of a vessel if the said vessel is subject to a Preferred Ship Mortgage duly recorded under section 50 of the Act unless the Mortgagee has consented to, or given approval for, such change of name.

(2) It shall be an offence to change the name of a vessel without first obtaining the approval of the Commissioner or Deputy Commissioner.

#### COMPLIANCE WITH INTERNATIONAL CONVENTIONS AND AGREEMENTS

16. (1) It shall be the responsibility of owners and Masters to ensure that their vessels are in compliance with the requirements of the following international Conventions and Agreements:

##### (a) International Maritime Organisation Conventions

International Convention for the Safety of Life at Sea, 1974 (SOLAS 74) Protocol of 1978 Relating to SOLAS 74 and Amendments thereto in force

International Convention on Load Lines, 1966

International Convention on Tonnage Measurement of Ships, 1969

International Telecommunications Convention and Radio Regulations, 1965

International Convention for the Prevention of Pollution from Ships, 1973, as modified by the Protocol of 1978 relating thereto and subsequent Amendments and optional Annexes in force (MARPOL 73/78),  
International Sanitary Regulations, 1951 (as amended)  
International Convention on Civil Liability for Oil Pollution Damage, 1969 (CLC 69) and Protocol of 1976 to CLC 69  
Athens Convention Relating to the Carriage of Passengers and Their Luggage by Sea, 1974 (PAL 74) and Protocol of 1976 to PAL 74  
Convention on Facilitation of International Maritime Traffic, 1965, as amended  
International Convention on Standards of Training, Certification and Watchkeeping for Seafarers, 1978  
Convention on the International Regulations for Preventing Collisions at Sea, 1972, as amended, and

(b) The following International Labour Organisation Conventions:

Convention No.53 - Convention Concerning the Minimum Requirement of Professional Capacity for Master and Officers on Board Merchant Ships, 1936.

Convention No.55 - Convention Concerning the Liability of the Shipowner in Case of Sickness, Injury, or Death of Seamen, 1936.

Convention No.58 - Minimum Age (Sea) (Revised), 1936.

Conventions No. 92 and No.133 - Conventions on Accommodation of Crew.

(2) It shall be the responsibility of the Owners and the Master to ensure that their vessel's personnel are provided with publications, instruction booklets and manuals or other information sufficient to enable their vessel to be operated in accordance with the Conventions referred to in Sub-section (1) hereof.

(3) In the event of failure to comply with any of the Conventions or Agreements specified in subsection (1) or any Conventions or Agreements entered into by the Republic of Vanuatu after the commencement of this Order, the Commissioner or a Deputy Commissioner may suspend or cancel a vessel's Certificate of Registry and impose a monetary penalty not to exceed \$100,000, and set such other conditions as may be necessary to bring about compliance with maritime or maritime-related Conventions and other International Agreements to which the Republic of Vanuatu is a party, and which are in force, or the provisions of which are applied by Vanuatu in advance of entry into force.

- (4) The Commissioner shall cause a list of such applicable Conventions and other International Agreements to be published periodically.
- (5) Any penalty assessed pursuant to sub-section (3) hereof shall constitute a maritime lien upon the vessel and shall be so recorded by the Commissioner and Deputy Commissioners unless paid within 90 days after service of written notice of such assessment by registered mail upon the period so assessed. After such recordation and until such lien has been satisfied or remitted, the Certificate of Registry of the vessel shall be liable to suspension, and clearance of such vessel from a port in Vanuatu shall be denied.

#### STANDARDS OF SEAWORTHINESS

17. The current classification of a vessel with any of the Classification Societies referred to in section 9 and appointed agents for Vanuatu for the issue of documents required by the International Convention for the Safety of Life at Sea and the International Load Line Convention shall be accepted as evidence that she is in a seaworthy condition. Notwithstanding such evidence, it shall be the duty of owners and Masters to ensure that their vessels carry adequate and up-to-date charts, sailing directions, lists of lights, notices to mariners, tide tables and other nautical publications necessary for each intended voyage.

#### CHAPTER 3 - BAREBOAT CHARTER REGISTRATION

##### INTERPRETATION

18. In this Chapter:-

"Charterer" means any person identified as a charterer on a bareboat charter.

"Bareboat Registry" means the Vanuatu Bareboat Charter Registry;

"Foreign Bareboat Registry" means the foreign jurisdiction in which the bareboat charter of a Vanuatu Vessel is registered;

"Foreign Registry" means the jurisdiction in which the ownership of the vessel is registered immediately prior to and during the period when the bareboat chartered vessel is registered in the Bareboat Registry;

"Mortgage" means any mortgage, hypothecation or charge against a vessel;

"Mortgagee" means any person with an interest in or rights regarding a vessel arising pursuant to a Mortgage'

"Owner" means (i) in the case of a Vanuatu Vessel, any person identified as the owner on the vessel's Certificate of Registry and (ii) in the case of any other vessel, any person identified as an owner on the certificate of registry or similar document issued by the Foreign Registry; and

"Vanuatu Vessel" means a vessel registered in the Vanuatu Ship Registry (but not the Bareboat Registry).

#### CONTENTS OF CERTIFICATES OF BAREBOAT REGISTRY

19. (1) Each vessel's Certificate of Bareboat Registry shall state the name of the vessel, official number, call sign, service and home port of Port Vila; the name of the person making the required oath or declaration; the names, residences, citizenships and proportion of each Charterer, the Foreign Registry of the vessel, the name and official number of the vessel in the Foreign Registry; the year and place of the build of the vessel, the name of the builder; the number of masts and decks; the material of the hull, the type of her stern and stem; the type of propulsion; her length, depth, breadth and height of the uppermost deck; her gross and net tonnage or tonnages; the name of the period or agent who measured the vessel and the number and date of the Certificate of Measurement issued by such period or agent; the name of the persons who, as or on behalf of each of the Charterers, countersigned the said Certificate of Measurement and agreed to the description.
- (2) The Application to be submitted pursuant to section 30A(1)(a) of the Act shall provide such information as may be needed by the Commissioner or a Deputy Commissioner in order to prepare the Certificate of Bareboat Registry.

#### EFFECT OF BAREBOAT REGISTRY

20. During such period as a vessel is registered in the Bareboat Registry the vessel shall fly the flag of Vanuatu and shall not fly the flag of any Foreign Registry. During such time as the vessel is registered in the Bareboat Registry, the vessel shall be manned, equipped, navigated and otherwise maintained and operated according to the laws of Vanuatu and such International Conventions to which Vanuatu is a party or has acceded.

#### RECORDATION OF MORTGAGES

21. All Mortgages to be recorded in the Bareboat Registry must be in English or include an English translation acceptable to the Commissioner or Deputy Commissioner; provided, that for good cause shown, the Commissioner or Deputy Commissioner may waive this requirement under such terms and conditions as he deems appropriate. It is not necessary that these Mortgages meet all of the requirements of Chapter 5 of the Act to qualify as a Preferred Mortgage under the law of Vanuatu, provided, that the Mortgages must qualify as Preferred Mortgages under section 62 of the Act.

**WAIVER OF RECORDATION OF MORTGAGES**

22. When a waiver of recordation of Mortgages is sought under section 30A(3A) of the Act the parties shall submit a request for waiver of recordation which shall be signed by all Charterers, Owners and Mortgagees with respect to the vessel. The request for waiver may be submitted in multiple identical counterparts provided that the counterparts when taken as a whole include the signatures of all Charterers, Owners and Mortgagees. Any such waiver granted shall extend to all Mortgages with respect to the vessel. A copy of any notice of waiver shall be maintained in the Bareboat Charter Mortgage book maintained in the office of the Commissioner and each Deputy Commissioner. If, during the period in which a vessel is registered on the Vanuatu Bareboat Registry, any additional Mortgage is recorded in the vessel's Foreign Registry, the Commissioner or the Deputy Commissioner concerned will withdraw his waiver unless all Mortgagees with respect to such Mortgage indicate their consent to the waiver. A waiver may be withdrawn any time upon the unanimous request of the Mortgagees with respect to a vessel; provided written notice has been given to the Charterers and Owners and the parties comply with requirements for recordation of Mortgages set forth in the Act and these Regulations. In the event that a waiver is withdrawn all Mortgages shall be recorded in accordance with section 30A(2) of the Act.

**TERMINATION OF BAREBOAT CHARTER**

23. A Certificate of Bareboat Registry shall remain valid only for such time as the bareboat charter submitted in accordance with section 30A(1)(b) of the Act remains in effect. Should such bareboat charter be terminated at any time for any reason the Certificate of Bareboat Registry shall become null and void at the time of such termination and must be surrendered for cancellation within 30 days or such further time as may be allowed by the Commissioner or a Deputy Commissioner. The Commissioner or the Deputy Commissioner shall promptly notify the Foreign Registry of any such termination or cancellation.

**CONSENT TO REGISTRATION OF BAREBOAT CHARTERED VANUATU VESSELS IN A FOREIGN BAREBOAT REGISTRY**

24. (1) Before issuing his consent to the registry of a bareboat chartered Vanuatu Vessel in a Foreign Bareboat Registry the Commissioner or a Deputy Commissioner shall be provided with information satisfactory to him that:

(a) the law of the Foreign Bareboat Registry provides that all questions regarding the validity and enforceability of the interests of the Owners and Mortgagees of a vessel shall be determined under the laws of the jurisdiction in which the ownership of the vessel is registered immediately prior to and during the period when the bareboat chartered vessel is registered in the Foreign Bareboat Registry;

- (b) the law or procedures of the Foreign Bareboat Registry provide for reasonable notice of the existence or possible existence of Mortgages recorded in the ship registry of the jurisdiction in which when the vessel is registered in the Foreign Bareboat Registry; and
  - (c) the law of the Foreign Bareboat Registry provides that its certificate of bareboat registry (or similar document) shall automatically terminate upon the termination of the bareboat charter.
- (2) While any vessel is registered in any Foreign Bareboat Registry, the vessel shall not fly the flag of Vanuatu. Upon registration with the Foreign Bareboat Registry, the Master of the vessel shall forthwith surrender the Vanuatu Certificate of Registry to the Commissioner or a Deputy Commissioner or a Special Agent and the Commissioner or a Deputy Commissioner shall hold it and issue in its stead a Restricted Certificate of Registry, which Certificate shall provide that the vessel may not fly the flag of Vanuatu. Upon the termination of the registration with the Foreign Bareboat Registry the Owner shall submit to the Commissioner or a Deputy Commissioner shall reissue the Certificate of Registry.

#### CHAPTER 4 - PREVENTION OF POLLUTION OF THE SEA BY OIL

##### INTERPRETATION

25. In this Chapter -

"Coastal Waters" means all portions of the sea within the territorial jurisdiction of Vanuatu and all navigable inland waters in which the tide ebbs and flows;

"Discharge" in relation to oil or an oily mixture means any discharge or escape, however caused;

"Oil" means oil of any kind or in any form, including fuel oil, oil sludge and oil refuse;

"MARPOL 73/78" means The International Convention for the Prevention of Pollution from Ships, 1973 as modified by the Protocol of 1978 relating thereto and subsequent Amendments and Annexes in force;

"Person" means an individual, partnership or corporation owning or operating a vessel and any master, officer or other person employed on a vessel;

"Vessel" means any ship which uses oil as a propulsion fuel or as a lubricant or which is engaged in transporting oil cargo.



**POLLUTION BY OIL PROHIBITED**

26. (1) Except in case of emergency endangering life or property, or of collision, stranding or unavoidable accident, and except as may be regulation be otherwise permitted, it shall be an offence to discharge from any vessel whether documented under the Act or not any oil or oily mixture into or upon -

(a) the coastal waters of Vanuatu; or

(b) any other waters;

unless such discharge is permitted under Annex 1 of MARPOL 73/78;

(2) Any violation of sub-section (1)(a) shall be punishable by a penalty of not less than \$5,000 or more than \$100,000 to be recovered in a proceeding brought against the vessel or her owner or operator in the Supreme Court of Vanuatu. Notice of any such violation by a foreign vessel shall be given to the government under whose flag the offering vessel is registered.

(3) Any violation of sub-section (1)(b), except where punished by local authorities having and exercising jurisdiction, shall be punishable by a penalty of not less than \$5,000 nor more than \$100,000. Such penalty shall be assessed by the Commissioner or a Deputy Commissioner against a Vanuatu vessel or her owner or operator when either the Commissioner or a Deputy Commissioner, as the case may be, shall determine that such a violation has been committed.

(4) Any person who shall have paid a penalty assessed pursuant to sub-section (3) may, not more than 90 days after such payment, petition the Supreme Court of Vanuatu for the remission thereof in whole or in part.

(5) Any penalty assessed pursuant to sub-section (2) or (3) shall constitute a maritime lien against the vessel and until such lien has been satisfied or remitted, clearance of such vessel from a port in Vanuatu shall be denied.

**OIL RECORD BOOK**

27. (1) On every oil tanker of 150 gross tons or more or vessel of 400 gross tons or more or any vessel carrying in excess of 200 cubic meters of oil, or unmanned vessel of more than 150 gross tons under tow, there shall be kept and maintained an oil record book of the form specified in Annex 1 of MARPOL 73/78 which oil record book shall be readily available for inspection at all reasonable times.

- (2) In the case of an unmanned vessel under tow to which this section applies the Master of the towing vessel shall be responsible for maintaining the oil record book which shall be kept on board such towing vessel, provided that should there should be a change of towing vessel the oil record book shall be forthwith placed on board the unmanned vessel until the next tow.
- (3) The oil record book shall remain on board each vessel required to maintain it:
  - (a) until such time as insufficient space for additional entries remains; or
  - (b) for a period of at least three years from the date of the last entry;

whichever circumstance first occurs, whereupon it shall be delivered to the Commissioner or a Deputy Commission or a Special Agent who shall forthwith forward it to a Deputy Commissioner and a book containing unused pages shall be retained on board.

- (4) The oil record of a vessel which is sold, or transferred from the Vanuatu Registry, shall be delivered to the Commissioner or a Deputy Commissioner or to a Special Agent who shall forthwith deliver it to a Deputy Commissioner.
- (5) The competent authorities of any country which has ratified MARPOL 73/78, may inspect on board any Vanuatu vessel to which this Order applies, while within a part of the territory of such country, the oil record book required to be carried on the vessel in compliance with this section, and may make a true copy of any entry in that book and may require the Master of the vessel to verify that the copy is a true copy of such entry. Any copy so made, which purports to have been certified by the Master as a true copy of an entry in the vessel's record, shall be admissible in any judicial proceedings as evidence of the facts stated in the entry.
- (6) Failure of the Master of any vessel to have on board an official oil record book and to comply in all other respects with the requirements of this section shall be an offence and notwithstanding any other penalty which may be imposed against the vessel or its Master it shall constitute grounds for the suspension or revocation of the license of competence of such Master by the Commissioner or a Deputy Commissioner.

#### LOAD LINES

28. (1) The Master shall enter into the vessel's deck log book prior to the vessel's departure from her loading port or places:
  - (a) a statement of the load line marks applicable to the voyage;

- (b) a statement of the position of the load line mark, port and starboard, at the time of departure from such port or place; and
- (c) the actual drafts of the vessel, forward and after, as nearly as the same can be ascertained, at the time of departing from such port or place.

- (2) Load Line Inspections of a vessel shall be conducted within three months either way of each annual anniversary date of the issue of its Load Line Certificate. Failure to have a Load Line Inspection conducted within the period specified aforesaid shall be a Marine Offence.

**COSTS OF MARINE INVESTIGATION, INTERNATIONAL PARTICIPATION AND NAUTICAL TRAINING**

29. (1) The costs of marine investigation, nautical training and international participation shall be defrayed by the annual payment of a fee of seven hundred and twenty five dollars plus four cents per net ton of the vessel's registered tonnage by the owner of each vessel, provided, however, as to any vessel of less than 500 net tons the annual fee shall be equal to that for a vessel of 500 net tons. Payment of the fees due under this section shall be made at the time of first registration of a vessel and on 1st January of each subsequent year.

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

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

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

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

**CHAPTER 5 - PREFERRED SHIP MORTGAGES ON VANUATU VESSELS**

**ACKNOWLEDGEMENTS**

30. (1) Every acknowledgement of a bill of sale, conveyance or mortgage shall be in a form substantially as follows, subscribed by an official designated under section 53 of the Act:

(a) (where corporate seal used):

CITY OF .....)  
SS  
NATION OF .....)

On this ..... day of .....19.....

before me personally appeared .....to me known,

who being by me duly sworn, deposes and says that he resides at ....., that he is President (or Attorney-in-Fact, etc.) for (name of shipyard or corporation), the corporation (or company) described in and which executed the foregoing instrument; that he knows the seal of the corporation; that the seal affixed to the instrument is such corporate seal and that it was so affixed by order of the Board of Directors (or whatever group has corporate authority) of the corporation and that he signed his name thereto by like order.

.....

(Commissioner or a Deputy Commissioner, a Consul or Consular agent of Vanuatu or a Notary Public or other officer authorised by the laws of the place where the acknowledgement is made to take acknowledgements of deeds.)

(b) (where no corporate seal used):

CITY OF .....)  
SS.  
NATIONAL OF .....)

On this ..... day of .....19.....

before me personally appeared ..... to me known,

being by me duly sworn, deposes and says that he resides at ....., that he is President (or Attorney-in-Fact, etc.) for (name of corporation), the corporation (or company) described in and which executed the foregoing instrument; and that he signed his name thereto pursuant to authority granted to him by the Board of Directors of said corporation.

.....

(Commissioner or a Deputy Commissioner, a Consul or Consular Agent of Vanuatu or a Notary Public or other officer authorised by the laws of the place where the acknowledgement is made to take acknowledgements of deeds.)

- (2) Acknowledgements before consuls, other than those of the Republic of Vanuatu or of other countries nominated by the Minister by notice published in the Gazette, shall not be valid.

#### BILL OF SALE RECORDING

31. (1) Where a vessel is sold or transferred and re-registered under the Act, a Bill of Sale issued in connection with such sale or transfer shall be recorded in the office of the Commissioner or a Deputy Commissioner, as soon as practicable thereafter.
- (2) In cases of new buildings, the Builder's Certificate or, in cases of transfer from another Flag, the Bill of Sale may be, but is not required to be, recorded.
- (3) A Bill of Sale to be recorded shall be submitted to the Commissioner or a Deputy Commissioner in four original copies.

#### MORTGAGE RECORDING

32. No mortgage shall be recorded unless it is submitted in original and four counterparts all duly executed, acknowledged. All mortgages shall be in the English language or include an English translation acceptable to the Commissioner or Deputy Commissioner.

### CHAPTER 6 - MARINE INSPECTION

#### MARINE INSPECTORS

33. (1) The Commissioner or a Deputy Commissioner may, at such times and in such places or areas as may be appropriate appoint Marine Inspectors to board and examine or inspect vessels. Marine Inspectors shall render a report with respect to each such boarding to the Commissioner as required and to a Deputy Commissioner in charge of marine inspection.
- (2) It is the responsibility of owners and operators of vessels to present each such vessel for boarding when required, and to cooperate fully with the Commissioner, Deputy Commissioners and Marine Inspectors, particularly in enabling them to board and examine or inspect each such vessel including any documents and equipment and the use thereof. Failure to present a vessel for inspection prior to the due date, failure to cooperate as above, or the existence of a condition on board in violation of established requirements, may subject the vessel in question to immediate detention and suspension of registration, in addition to any other penalty. Such detention and suspension shall be canceled upon satisfactory completion of the inspection or examination and any required rectification.

- (3) It is the duty of all holders of licenses of competence or other certification issued to mariners under the Act or any Orders thereunder to cooperate fully with the Commissioner, Deputy Commissioners and Marine Inspectors, particularly in enabling them to board and examine or inspect vessels including any documents and equipment and the use thereof. Failure of such cooperation on the part of any holder of a license or certificate shall be a marine offence, and in addition to any other penalty the Commissioner or a Deputy Commissioner may suspend or revoke the license or certificate of the holder.
- (4) For the purpose of funding marine inspection and matters related thereto, the owner of a vessel registered under the Act shall with respect to each inspection regularly due or otherwise required -
  - (a) for each vessel of less than 500 tons used solely for commercial fishing, pay a fee of \$350; and
  - (b) for each other vessel pay a fee of \$725.
- (5) Vessels required to be regularly inspected annually or more often will be invoiced annually for fees in advance with respect to all regular inspections falling due with a calendar year. When an inspection is required as a condition for the issue of a document or certificate, the fee for such inspection shall be paid at the time of issue of the document or certificate. The owner of a vessel boarded under this section shall pay incidental travel costs when the boarding officer must travel outside his station area to reach the vessel; and if a boarding is for the purpose of examining rectification of a deficiency, the owner of the vessel so boarded shall pay all costs incidental thereto.

#### CHAPTER 7 - MARINE CASUALTIES AND OFFENCES AND MARINE INVESTIGATIONS

##### REPORTING

34. (1) The Owner or Master of a vessel involved in a marine casualty shall immediately forward a report thereon, signed by the Master or highest available officer or ship's representative, to the Commissioner or a Deputy Commissioner whenever the casualty results in any of the following:
- (a) Actual physical damage to property in excess of \$50,000;
  - (b) Material damage affecting the seaworthiness or efficiency of a vessel;
  - (c) Stranding or grounding;
  - (d) Loss of life; or
  - (e) Injury causing any persons to remain incapacitated for a period in excess of 72 hours.

- (2) A report provided for in sub-section (1) shall set forth:
- (a) the Name and Official Number of the vessel;
  - (b) the type of vessel;
  - (c) the name and address of the owner;
  - (d) the date and time of the casualty;
  - (e) the exact locality of the casualty;
  - (f) the nature of the casualty and the circumstances under which it took place;
  - (g) if the casualty involves collision with another vessel, the name of such other vessel;
  - (h) where the casualty involves personal injury or a loss of life, the names of all persons injured or whose lives are lost;
  - (i) where damage to property is involved, the nature of the property damaged and an estimate of the extend of the damage.
- (2) The persons in charge of any vessel involved in a marine casualty referred to in sub-section (1) shall retain for two years or until otherwise instructed by the Commissioner or a Deputy Commissioner the complete records of the voyage upon which the casualty occurred, as well as any other material which might be of assistance in investigation and determination of the cause and scope of the casualty, and they shall make all such records and materials available, upon request, to the Commissioner, a Deputy Commissioner, the Chairman of a Marine Board of investigation, or a designated investigating officer.

**MARINE INVESTIGATIONS AND OFFENCES**

35. (1) The Commissioner or a Deputy Commissioner, upon receipt of information of a marine casualty or offence, may institute such investigation as may be necessary to determine as closely as possible the cause or any contributing causes of the casualty or circumstances of the offence, and whether there has been any act of misconduct, inattention to duty, or negligence upon the part of any licensed or certificated person, or violation of law or regulation, so that appropriate action may be taken.

(2) (a) It is the duty of all owners of vessels to cooperate with the Commissioner, Deputy Commissioners or persons appointed by them, in the formal or informal investigation of marine casualties or offences and to produce, when called upon, witnesses in their employ and relevant books, papers, documents and other records in their possession, and to permit the Commissioner, Deputy Commissioner or their appointees to board and examine vessels and their appurtenances.

(b) In the event of failure of owners or their representatives to cooperate fully in any marine investigation, any or all of the following consequences may result, with respect to the vessel directly involved or to any other vessel of the same ownership:

(i) revocation or suspension of the Certificate of Registry;

(ii) refusal to issue a Certificate of Cancellation or otherwise to give the consent of the Government of Vanuatu to a transfer of ownership or registry;

(iii) refusal to accept registration or reregistration under the Act;

(iv) at the discretion of the Commissioner a penalty not exceeding \$100,000.

(3) (a) It is the duty of all holders of licenses of competence or other certification issued to mariners under the Act or Orders thereunder to cooperate with the Commissioner, Deputy Commissioners, or persons appointed by them, in the formal or informal investigation of marine casualties or offences, to attend any hearings to which they may be summoned, to testify orally or in writing or to produce when called upon, relevant books, papers, documents and other records in their possession, and to permit the Commissioner, Deputy Commissioners, or their appointees, to board and examine vessels and their appurtenances.

~~(b) In the event of failure of holders of licenses or other certification to cooperate fully in any marine investigation, any or all of the following consequences may result:~~

~~(i) suspension or revocation of the licenses or other certification held;~~

~~(ii) refusal to renew or reissue any licenses or other certification held, before or after expiration;~~

~~(iii) at the discretion of the Commissioner a penalty not exceeding \$10,000.~~



- (4) (a) The Commissioner or a Deputy Commissioner, or other persons appointed by them as Investigating Officers, shall where appropriate make a preliminary investigation under sub-section (1) to determine the matters specified therein, or to determine whether there ought to be a formal investigation of the casualty or offence.
- (b) In connection with any preliminary investigation, the Commissioner, Deputy Commissioners or Investigating Officers may collect evidence, interview witnesses, examine relevant papers, documents and records, board and examine vessels or equipment and visit the scene of the casualty or offence.
- (5) (a) A formal investigation of a marine casualty or offence may be made by the Commissioner or a Deputy Commissioner or an Investigating Officer appointed by either; or, where the casualty or offence is considered by the Commissioner to be of a major character, he may order to be convened a Marine Board of Investigation, and he may appoint three or more members thereof, designating one as Chairman.
- (b) In any formal investigation, the Commissioner, Deputy Commissioners, Investigating Officers or Chairman of a Marine Board of Investigation shall have power to set hearings, administer oaths, require the attendance of witnesses, require persons having knowledge of the subject matter of the investigation to answer written interrogatories, require the production of relevant evidence including but not limited to books, papers, documents, and records, rule upon the nature and admissibility of evidence, board and inspect vessels and their appurtenances, and visit the scene of a casualty or offense.
- (c) Prior notice of any formal hearing; specifying the date, time, place, and subject matter, shall be given by public announcement or otherwise to all the following:
- (i) known parties directly affected;
  - (ii) interested parties;
  - (iii) interested States.
- (d) An investigating officer or Chairman of a Marine Board of Investigation may, in his discretion, admit the public, interested parties or their representatives, and interested States by official representatives or observers to any formal hearing; and he may equally, where matters of confidentiality or questions of public security arise, preclude such persons temporarily or otherwise.

- (e) An Investigating Officer or Chairman of a Marine Board of Investigation may, in his discretion, put or permit to be put to witnesses such questions pertinent to the subject of the inquiry as may be offered by interested parties or States or their representatives; parties directly affected shall be permitted to put such questions to any witness.
  - (f) An Investigating Officer or Chairman of a Marine Board of Investigation may, in his discretion, permit parties directly affected to produce and introduce relevant evidence or testimony of witnesses, and permit such parties or their counsel to argue any relevant contentions, either orally or by way of memorandum.
  - (g) A record shall be made of the proceedings of any formal hearing.
- (6) (a) When the proceedings of any investigation under this Chapter have been terminated, there shall be a written report to the Commissioner setting forth findings, conclusions, and any recommendations for appropriate action.
- (b) Where an investigation has been carried out by Investigating Officers or a Marine Board of Investigation appointed by the Commissioner, the report shall be forwarded to the Commissioner together with the investigation file.
- (c) Where an investigation has been carried out by Investigating Officers appointed by a Deputy Commissioner, the report shall be submitted to that Deputy Commissioner, who may add comments, and shall then be forwarded to the Commissioner together with the investigation file.
- (7) (a) Upon receiving an investigation report, the Commissioner may:
- (i) adopt the report and carry out its recommendations, if any; or
  - (ii) call for further investigation; or
  - (iii) where a report recommends the suspension, revocation or cancellation of any license, certificate, permit, or other document issued by Vanuatu, review the evidence, adopt or modify all or part of the report and take any appropriate action.

- (b) In aid of his decision, the Commissioner may call for further written argument on any point at issue which written argument shall become a part of the investigation file.
- (8) Where it is established to the satisfaction of the Commissioner or a Deputy Commissioner that a Marine Offence has been committed the Commissioner or Deputy Commissioner shall impose such penalties as he deems appropriate taking account of all the circumstances as established by the investigation subject only to the provisions as to penalties in the Act or this Order.
- (9) The Commissioner may, in his discretion, and subject to such conditions as he may impose, release or cause to be published any records, reports, documents, evidentiary matter or official statements pertaining to a marine investigation, or any portions thereof, unless such is considered confidential by the Government of Vanuatu for any reason including public security.

#### CHAPTER 8 - MERCHANT SEAMEN

##### **MANNING REQUIREMENTS**

36. (1) (a) No vessel registered under the Act shall be navigated unless she shall have on board and in her service a duly licensed Master.
- (b) Every vessel registered under the Act other than a passenger vessel, of 100 gross tons but less than 200 gross tons, shall have on board and in her service at least two licensed mates in addition to her master; but if such vessel is engaged upon a voyage in which the time of passage from port of initial departure to port of final destination is less than 24 hours, then she shall have on board and in her service at least one licensed mate in addition to her master.
  - (c) Every vessel registered under the Act other than a passenger vessel, of 200 gross tons but less than 1600 gross tons, shall have on board and in her service at least two licensed mates in addition to her master.
  - (d) Every vessel registered under the Act other than a passenger vessel, of 1600 gross tons and over, shall have on board and in her service, in addition to her master, at least three mates, licensed in appropriate grades, who shall stand in three watches while such vessel is in navigation; but if such vessel is engaged upon a voyage in which the time of passage from port of initial departure to port of final destination is less than 24 hours, then she shall have on board and in her service at least two mates, licensed in appropriate grades, in addition to her master.

- (e) The number of mates required on Vanuatu passenger vessels, and the grades in which they shall be licensed, shall be prescribed for each such vessel by the Commissioner or a Deputy Commissioner.
- (2)
- (a) No vessel registered under the Act propelled by machinery of more than 350kW (473 horsepower) shall be navigated unless she shall have on board and in her service a duly licensed Chief Engineer.
  - (b) Every vessel registered under the Act propelled by machinery of more than 350kW (473 horsepower) shall have on board and in her service at least one duly licensed Assistant Engineer in addition to her Chief Engineer.
  - (c) In addition to the requirements of sub-paragraphs (a) and (b) of this sub-section, every engineer officer in charge of a watch in a traditionally manned engine room or the designated duty engineer officer in a periodically unmanned engine room in any vessel propelled by machinery of 750 kW (1005 horsepower) or greater shall be duly licensed for that duty.
  - (d) Nothing in this section shall be so construed as to prevent the Commissioner or a Deputy Commissioner from otherwise stipulating the required number of licensed deck officers or licensed engineers for any vessel if in his judgment such vessel is sufficiently manned for her safe navigation with the stipulated number of licensed officers or engineers.
- (3) Where it has been established by the Commissioner or a Deputy Commissioner that an emergency situation exists which reasonably precludes the engagement of the required complement of duly licensed mates or assistant engineers prescribed in sub-sections (1) and (2), the Commissioner or a Deputy Commissioner concerned may authorize temporary service of qualified persons in mate and assistant engineer capacities on board any Vanuatu vessel, other than a passenger vessel, as follows:
- (a) A duly licensed mate or assistant engineer, who has completed at least six months of service in the capacity for which he is licensed and while holding such license, may be authorized to serve temporarily in the capacity next highest to that for which he is presently licensed, but not as Master or Chief Engineer, for a period not to exceed six months, provided he is in all other respects eligible for examination for license in such higher capacity, has submitted an application for such examination and undertakes to complete the examination prior to the expiration of the six-month period.

- (b) A person not duly licensed may be authorized to serve temporarily in capacities not higher than Second Mate, or Second Assistant Engineer, for a period not to exceed twelve months, provided he is in all other respects eligible for examination for a license in one of such capacities, has submitted an application for such examination and undertakes to complete the examination prior to the expiration of the twelve month period; and provided also that he has first successfully completed such preliminary examination as to his qualifications and competence as shall be required by the Commissioner or Deputy Commissioner to whom application is made.
  - (c) An authorization granted pursuant to this section shall be in the form of a temporary permit issued by the Commissioner or a Deputy Commissioner, which permit shall be valid only for service on board a specific ship named therein.
  - (d) Not more than one mate and one assistant engineer shall be authorized to serve on board the same ship at the same time under a temporary permit.
  - (e) Temporary permits may be revoked or suspended on the grounds set forth in section (3) or at any time upon notice by the Commissioner or a Deputy Commissioner when the Commissioner or a Deputy Commissioner declares that the emergency situation referred to above no longer exists.
- (4) Every passenger vessel registered under the Act shall have for every lifeboat carried a minimum number of certified lifeboatmen in accordance with the following schedule:

Less than 41 persons	2
From 41 to 61 persons	3
From 62 to 85 persons	4
Above 85 persons	5

A certified lifeboatmen is any member of the crew who holds a Certificate of Proficiency in Survival Craft issued under the provisions of this Order.

- (5) Failure to observe the manning requirements of this section or those established by the Commissioner or a Deputy Commissioner shall be a Marine Offence for which the owner, Master and vessel shall be severally liable.

**MANNING SCALES FOR FISHING VESSELS AND OIL AND MINERAL SERVICE VESSELS**

37. (1) Any other regulations to the contrary notwithstanding, the manning scale for fishing vessels and oil and mineral service vessels shall be set, on an individual basis, by the Commissioner or by a Deputy Commissioner and shall be generally similar to internationally recognized standards. In deciding on a suitable manning scale for a particular vessel, the Commissioner or a Deputy Commissioner shall consider all relevant factors, including, but not limited to the vessel's size, horsepower, equipment, design, degree of automation and purpose.

(2) Failure to observe the manning requirements set by the Commissioner or a Deputy Commissioner pursuant to sub-section (1) hereof shall be a Marine Offence for which the owner, Master and vessel shall be severally liable.

**DISPLAY OF LICENSE OF COMPETENCE OR TEMPORARY PERMIT**

38. Every master, mate, chief engineer, assistant engineer and radio-telegraph operator shall cause his License of Competence or temporary permit to be displayed on board the vessel in which he is currently working in a conspicuous location. The license or temporary permit shall be framed under glass or other suitable transparent covering and shall be displayed within 48 hours after the licensee or the holder reports on board a vessel for duty and shall remain displayed during the service of the licensee or holder. Wilful failure of any officer to comply with this provision shall be grounds for the revocation of his Vanuatu license or temporary permit.

**REPORTS OF SHIP'S OFFICERS**

39. (1) All owners of Vanuatu vessels shall furnish to the Commissioner or a Deputy Commissioner on the prescribed form a report of officers employed on such vessels and the licenses which they hold within 30 days of:

- (a) the registration of the vessel;
- (b) 1st January each year; and
- (c) whenever there is an officer-billet change.

(2) Failure to furnish a report as required by subsection (1) hereof shall be an offence.

**CHANGE OF COMMAND**

40. (1) Whenever there occurs a change of master of a vessel, the shipowner or his authorized agent shall designate and appoint the new master in writing and the new master shall enter the following statement in the vessel's log book:

"I (name of new Master), a citizen of (country of citizenship), holder of Vanuatu License of Competence No. (number of certificate) in the grade of Master, assumed command of the vessel on (date on which officially took command) at the Port of (port where change effected)."

- (2) In addition, the Master or shipowner, within 48 hours after the charge of command shall notify the Commissioner or a Deputy Commissioner by the most expeditious means of communication available, advising of the name and citizenship of the new Master, and the date on and port at which the change of command was effected. Failure of the Master or shipowner to notify the Commissioner or a Deputy Commissioner as aforesaid shall be a marine offence.

#### REPORTS WITH RESPECT TO FISHING VESSELS AND OIL AND MINERAL VESSELS

41. (1) The reports required of the owners of vessels pursuant to sections 39(1) and 40(2) shall not be required with respect to fishing vessels and oil and mineral service vessels; provided, that the owners of such vessels shall make available to the Commissioner or a Deputy Commissioner such information as is requested from time to time.
- (2) At each anniversary of registration of such vessels the owner shall submit to the Commissioner or a Deputy Commissioner a Certificate to the effect that the master and all officers employed on the vessel during the preceding 12 months were properly qualified and licensed. Such certificate shall be in the form prescribed by the Commissioner.
- (3) Failure to make information available when requested by the Commissioner under sub-section (1) hereof or to furnish a Certificate required under sub-section (2) hereof shall be a Marine Offence.

#### LOG BOOKS

42. (1) Every self-propelled vessel registered under the Act, of 100 gross tons or over shall carry a navigation and an engine room log book which shall be maintained in bound volumes aboard ship until the end of the voyage. All entries made in such log books shall be signed by the Master or officer designated by the Master who shall make such entries, and all such entries shall be made as soon as possible after the occurrences to which they relate.
- (2) In addition to the keeping of navigation and engine room log books, every vessel should carry a bridge and an engine room record wherein should be contained the times and nature of all orders passed between the navigation bridge and the engine room. Every such vessel shall carry a radio log (diary of the radio service) in the operating room during

the voyage. Every radio operator shall enter in the radio log his name, the times at which he goes on and off watch, and all incidents occurring during his watch connected with the radio service of importance to safety of life at sea.

- (3) Every master of such vessel shall make, or cause to be made, in the log book entries including, but not limited to, the following:
- (a) Every offence and any penalty or fine imposed;
  - (b) Every death occurring on board and every burial at sea with all information required by section 129 of the Act;
  - (c) Every marriage taking place on board, with the names, citizenship and residences of the parties, and every birth occurring on board, with the sex of the infant and the names of parents;
  - (d) The name of every seaman or apprentice who ceases to be a member of the crew otherwise than by death; with the place, time, manner and cause thereof;
  - (e) Wages due to any seaman or apprentice who dies during the voyage, and the total amount of all deductions made therefrom;
  - (f) A statement of any collision made immediately after the occurrence or as soon thereafter as practicable;
  - (g) Before departing from any port, the information required by section 28(1);
  - (h) Time of muster of crew at their boat and fire stations, followed by drills, respectively, at least once a week, either in port or at sea, or reason why not held;
  - (i) The closing and opening of watertight doors and of all inspections and drills as required by the International Convention for the Safety of Life at Sea, 1974 (as amended);
  - (j) A record of any drill, check or test carried out by the vessel's crew of the vessel's steering gear as required by the International Convention for the Safety of Life at Sea, 1974, (as amended);
  - (k) Search for stowaways and contraband, which shall be conducted prior to the vessel's departure from each port;
  - (l) Upon each change of Master, the information required by section 39(1); and



- (m) Every signal of distress or message that a vessel, aircraft or person is in distress at sea, observed or received and the action taken.

#### MEDICAL EQUIPMENT AND LOG BOOK

43. (1) Every vessel shall carry and maintain an adequate medicine chest bearing in mind the number of persons aboard and the nature and duration of the voyage. In determining the contents of the chest, consideration shall be given to the recommendations of the International Labour Organization.
- (2) All required medicine chests shall contain a medical guide sufficiently detailed to assist persons other than a ship's doctor in administering to the ordinary needs of sick or injured persons on board without supplementary medical advice by radio or radiotelephone.
- (3) The Master, and such other officers as the Master may designate in his discretion, shall be instructed to make full use of all available medical advice by radio or radiotelephone and in the providing of information to assist a doctor in giving such advice.
- (4) Every vessel shall carry a medical log book in which shall be entered every case of illness or injury happening to any member of the crew, with the nature thereof, and the medical treatment.

#### LIFEBOATS AND LIFEBOAT DRILL

44. (1) The Master shall place in charge of each lifeboat, a deck officer (or holder of a Certificate of Proficiency in Survival Craft issued under the provisions of this Order, if a passenger vessel) and shall also designate a second-in-command. The person so placed in charge shall have a list of the crew of the lifeboat, and shall assure himself that the men placed under his orders are acquainted with their duties. The Master shall also assign to each lifeboat a member of the crew practised in the handling and operation of lifeboats.
- (2) The Master shall assign to each motor lifeboat at least one member of the crew capable of working the motor. He shall similarly assign to each lifeboat equipped with radio and searchlight apparatus, at least one member of the crew capable of working such radio and searchlight.
- (3) The Master of every vessel of 500 or more gross tons shall allot to each member of the crew special duties to be undertaken in the event of an emergency and shall cause to be drawn up and posted a muster list showing such assignments which shall indicate the particular station to which each crew member must go. The muster list shall assign such duties as the Master considers necessary for the safety of the vessel, its crew and cargo. The Master shall also specify and publish definite signals for calling all

the crew to their boat and fire stations, and shall give full particulars of these signals to all the crew and passengers.

- (4) (a) The Master of every vessel shall cause the crew to be exercised at fire and boat drill at least once every week, and such drills shall be conducted as if an actual emergency existed. All fire pumps shall be started and sufficient outlets opened in order to determine that the system is in proper working order.
  - (b) Persons assigned to the use of rescue and safety equipment shall demonstrate their proficiency in the use of such equipment.
  - (c) All watertight doors in use while the vessel is underway shall be operated.
  - (d) Weather permitting, lifeboat covers and strongbacks shall be removed, plugs or caps put in place, boat ladders secured in position, painters led forward and tended and the boats swung out to ascertain that the gear is in good working order. The motor and hand-propelling gear of each lifeboat, where fitted, shall be operate sufficiently to ascertain that it is in proper operating condition.
  - (e) Passengers shall report to their stations and shall be instructed in the use of life preservers.
  - (f) Each lifeboat shall be lowered to the water at least once in every three months, when in port, and the crew shall be exercised in the use of oars and other means of propulsion where fitted.
- (5) Failure to comply with any of the provisions of this section shall be a Marine Offence for which the owner and Master shall be liable severally to a penalty of up to \$100,000 for each offence.

**CERTIFICATES TO BE GIVEN BY MASTER**

45. Each exercise of a special power granted to masters under section 104 of the Act shall be evidenced by an appropriate certificate, referring to a log entry of the event, and shall be signed by the Master and executed upon a form to be supplied, on request and payment of fees, by the Commissioner or a Deputy Commissioner.

SHIPPING ARTICLES

46. (1) Shipping Articles, otherwise referred to as Articles of Agreement, shall be in the English language and shall be in the form as set forth in sub-section (4) hereof or in such form as the Minister may from time to time approve upon application being made therefor in each particular case. No other form shall be used in lieu of the official form except that a foreign language version may be appended thereto or otherwise made a part thereof.
- (2) Every seaman joining a vessel to commence employment on board shall sign the Shipping Articles prior to the departure of the vessel from the port at which the seaman joined the vessel. The master shall officiate at the signing-on of each seaman and shall sign his name to the Shipping Articles in attestation of his having so acted.
- (3) The signing off of Shipping Articles by a seaman at the time of his discharge from employment on board shall not constitute a waiver on his part of any claim he may have against the vessel or its Master at that time.
- (4) The following shall be the form of Shipping Articles:

"ARTICLES OF AGREEMENT BETWEEN THE MASTER AND SEAMEN IN THE MERCHANT SERVICE OF THE REPUBLIC OF VANUATU"

Port of:

Name of Vessel:

Official Number:

Port of Registry: PORT VILA, VANUATU

Gross Tonnage: Power Rating in kW or HP:

It is agreed between the Master and the undersigned seamen of the (steam) (motor) vessel:

- (1) ..... which is at present or shall be under the command of
- (2) ..... Master, or whoever shall become Master, now bound from the Port of (3) ..... to
- (4) ..... and such other ports and places in any part of the world as the Master may direct, for a term (of) (not exceeding) (5) ..... calendar months, that:

- (1) Seamen shall conduct themselves in an orderly, faithful, honest and sober manner, and shall at all times be diligent in their respective duties and obedient to the lawful commands of the Master, or of any person who shall lawfully succeed him, and their superior officers, in everything relating to the vessel, its stores and cargo, whether on board, in boats or on shore. In consideration of this service, to be duly performed, the Master agrees to pay the undersigned seamen the wages expressed herein and/or set forth in supplemental provisions and/or agreements.
- (2) Wages shall commence no later than on the day specified and agreed to in these Articles or at a time of presence on board for the purpose of commencing work, whichever first occurs, and shall terminate on the day of discharge.
- (3) Seamen are entitled to receive on request, in local currency, from the Master one half of the balance of base wages actually earned and payable at every intermediate port where the vessel shall load or discharge cargo before the end of the voyage, but not more than once in any ten-day period.
- (4) If the Master and a seaman agree, a portion of such seaman's earnings may be allotted to such seaman's spouse, children, grandchildren, parents, grandparents, brothers or sisters, or to a bank account in the name of the seaman.
- (5) Any seaman who is put ashore at a port other than the one where he signed on these Articles and who is put ashore for reasons for which he is not responsible, shall be returned as a seaman 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 in such seaman's own country; or
  - (b) to another port agreed upon between the seaman and the shipowner or master. However, in the event such 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, unless otherwise provided for herein.

- (6) Any seaman whose period of employment is terminated by reason of completion of the voyage for which he was engaged or of 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.
- (7) If any person enters himself as qualified for a duty which he is incompetent to perform, his rank or rating may be reduced in accordance with his incompetency or he may be discharged.
- (8) 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.
- (9) Eight hours per day shall constitute a working day while in port and at sea. Work performed over and above an eight hour period shall be considered overtime and be compensated for at overtime rates.
- (10) Work performed in excess of eight hours per day shall not be compensated for when necessary for the safety of the vessel, its passengers, crew, cargo or for the saving of other vessels, lives, or cargo or for the performance of fire, lifeboat or other emergency drill.
- (11) Seamen shall keep their respective quarters clean and in order.
- (12) No dangerous weapons, narcotics or contraband articles, and no alcoholic beverages except as provided by the Shipowner as part of the vessel's provisions, shall be brought on board the vessel nor allowed in the possession of the crew, and any crew member bringing the same on board or having the same in his possession on board, shall be subject to discharge and/or shall be liable for such fines as the Master may direct, and all such articles shall be confiscated.

The amount of the fine levied against the vessel by the proper authority of the port wherein the vessel is then located, for possession of narcotics and/or contraband cargo, shall be made good to the Shipowner out of the wages of the crew member or crew members guilty of such possession.

- (13) No seaman shall go ashore in any foreign port except by permission of the Master. However, the Master shall not refuse the reasonable request of any seaman for shore leave for the purpose of presenting a complaint against the vessel or master to a Special Agent, a Vanuatu consul or other proper Vanuatu official.
- (14) The Shipowner and Master may issue such rules and regulations as may be necessary for the safe and proper operation of the vessel; provided nothing contained therein shall be contrary to law.
- (15) If any seaman considers himself aggrieved by any breach of these Articles, he shall represent the same to the Master or officer in charge of the vessel, in a quiet and orderly manner, who shall thereupon take such corrective action as the case may require.
- (16) All rights and obligations of the parties to these Articles shall be subject to the Laws of Vanuatu.

**IT IS ALSO AGREED THAT:**

(Additional provisions may be included or referenced herein or attached hereto)

IN WITNESS WHEREOF the said seamen have subscribed their names herein on the days mentioned against their respective signatures.

Articles opened at ..... on .....

Signature of Master .....

Entries to be made in columns provided therefor:-

- (1) Name of Seaman
- (2) Citizenship
- (3) Passport or Identification Number
- (4) License or Certificate Number
- (5) Age
- (6) Home Address
- (7) Name and Address of Next-of-Kin
- (8) Date and Place Wages Commence
- (9) Capacity in which Engaged
- (10) Base Wages per month
- (11) Date and Place Signed on Articles
- (12) Signature of Seaman
- (13) Signature of Master
- (14) Date and Place Signed off Articles
- (15) Signature of Seaman
- (16) Signature of Master

NOTES:

1. Enter Name of Vessel
2. Enter Full Name of Master
3. Enter name of first port of departure
4. Enter here a description of the voyage and the names of the places at which the ship is to touch, or if that cannot be done the general nature and the probable length of the voyage and the port or country at which the voyage is to terminate. For ships engaged in world-wide trading without definite itineraries or schedules, insert "world-wide trading".
5. Strike out word or words not applicable.

CERTIFICATE OF SERVICE

47. (1) Certificates of Service shall be in a form prescribed by the Commissioner and shall contain the information set forth in sub-section (4) hereof. No other form shall be used in lieu thereof.
- (2) Where a seaman has served in more than one capacity on board a vessel during a period of continuous service thereon, the Certificate of Service issued to him upon his discharge shall indicate separately the total service in each capacity.
- (3) Certificates of Service shall be issued under the signature of the Master and the seal or stamp of the vessel shall be affixed thereon.
- (4) The following shall be the form of Certificate of Service:

"CERTIFICATE OF SERVICE

- (a) Name of Seaman
- (b) Citizenship
- (c) Rank or Rating
- (d) License, Book or Certificate Number
- (e) Place of Engagement
- (f) Date of Engagement
- (g) Place of Discharge
- (h) Date of Discharge
- ~~(i) Total Service (months and days)~~
- (j) Name of Vessel (indicate steam or motor)
- (k) Official Number
- (l) Port of Registry
- (m) Gross Tonnage
- (n) Horsepower
- (o) Nature of Voyage
- (p) Remarks

I hereby certify to the best of my knowledge that all entries herein were made by me and are correct. In witness whereof I have this date affixed my signature and the seal or stamp of the vessel.

.....  
Date

.....  
Signature of Master"

**REGISTER OF CHILDREN**

48. The Master of each vessel upon which only members of the same family are employed, or school ship or training ship, and upon which vessels children under the age of sixteen are employed shall maintain a register of all such persons and shall record therein, with respect to each such child, his name, date and place of birth, citizenship, residence, and residence, and address of next-of-kin or legal guardian, capacity in which employed, date and place of employment, and the date and place of discharge.

**REPEAL**

49. The Maritime Regulations, Order No.104 of 1981 (as amended) is hereby revoked.

**COMMENCEMENT**

50. This Order shall come into force on the date of its publication in the Gazette.

MADE at Port Vila this                      day of                      , 1990.

**SELA MOLISA**  
Minister of Finance and Housing