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CHAPTER 131

MARITIME

Act 8 of 1981
Act 36 of 1982
Act 15 of 1987
Act 8 of 1989
Act 3 of 1990
Act 13 of 1996
Act 31 of 1998

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MARITIME

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

PART 1 – GENERAL

1. Interpretation

In this Act, unless the context otherwise requires –

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

"Authority" means the Vanuatu Maritime Authority established by the Vanuatu Maritime Authority Act [Cap. 253];

"Commissioner" means the Commissioner of Maritime Affairs appointed under section 12 of the Vanuatu Maritime Authority Act [Cap. 253];

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

"documented" means registered, enrolled or licensed;

"dollars" mean United States dollars;

"foreign trade" means trade between Vanuatu and a foreign country or between one foreign country and another and includes the transportation of goods between the ports of Vanuatu and ports of foreign countries and between the ports of one foreign country and another;

"Minister" means the Minister responsible for the Register of Ships and Seafarers within the meaning of the Vanuatu Maritime Authority Act [Cap. 253];

"ship's document" means the Certificate of Registry whether permanent or provisional;

"special agent" means a special agent appointed under section 3A.

PART 2 – ADMINISTRATION

2. (*Repealed*)

3. Deputy Commissioner of Maritime Affairs

(1) The Commissioner may from time to time appoint Deputy Commissioners of Maritime Affairs.

(2) The Commissioner may delegate to the Deputy Commissioners any of his powers and duties under the Act to be exercised in foreign ports.

3A. Special agents

(1) The Commissioner may from time to time appoint such persons as he may think fit, as special agents.

(2) The Commissioner may delegate to the special agents appointed under subsection (1) any of his powers and duties under the Act to be exercised in foreign ports.

(3) A Deputy Commissioner may from time to time with the prior written approval of the Commissioner appoint any person as his special agent.

(4) A Deputy Commissioner may with the prior written approval of the Commissioner delegate to the special agents appointed under subsection (3) any of his powers and duties under the Act, to be exercised in foreign ports.

4. Maritime Administrator

The Authority may appoint on such terms and conditions as it deems fit, any person or persons, or body corporate to perform the functions of Maritime Administrator.

5. Records relating to vessels

There shall be maintained in the office of the Commissioner at Port Vila, Vanuatu and at the office of every Deputy Commissioner a central office where there shall be recorded or filed, in properly indexed public registers, all documents of the following nature –

(a) bills of sale and other instruments of conveyance of vessels;

(b) mortgages or hypothecations of vessels;

(c) assignments of mortgages;

(d) certificates of permanent and provisional registry and licences;

(e) licences and certificates of officers and members of ship's crew;

(f) all other documents relating to vessels which are entitled to be recorded.

6. Authority to take declarations and acknowledgments

(1) Any declaration or acknowledgment required to be made under this Act shall be made before –

(a) the Commissioner or a Deputy Commissioner; or

(b) a consul or consular agent of Vanuatu; or

(c) a Diplomatic officer of Vanuatu; or

(d) a Barrister or Solicitor; or

(e) a notary public, justice of the peace, a Commissioner of oaths or any other officer, authorised in that behalf by the laws of the place where the declaration is made; or

(f) any other fit and proper person authorised by the Authority, Commissioner or Deputy Commissioner for such purposes.

(2) Any document purporting to have affixed, impressed or subscribed thereon or thereto the seal or signature of any person authorised under this Act to take a declaration shall be admissible in evidence without proof of the seal or signature being the seal or signature of that person or of the official or other status of that person.

7. (*Repealed*)

8. Authority to issue licences, certificates

(1) The Commissioner and every Deputy Commissioner are authorised to issue all such licences, certificates or other documents for officers and ship's personnel on vessels registered under this Act, as are necessary or proper for carrying out the purposes of the maritime law or of any international convention to which Vanuatu is or may become a party.

(2) In carrying out the licensing, certification and upgrading of ship's officers and personnel, the Authority upon the recommendation of the Commissioner shall from time to time, establish such standards, rules and regulations as it deems necessary and appropriate for maintaining a high standard for the merchant marine of Vanuatu.

(3) Failure of an owner of a vessel registered under this Act to file any required report relating to officers employed on the vessel shall result in an automatic fine of 1500 dollars for each offence and until paid, each such fine shall constitute a maritime lien on the vessel.

(4) Failure of an owner of a vessel registered under this Act to ensure that each officer employed on the vessel holds a valid licence of competence to fill the position held by him duly issued under the provisions of this Act shall subject the owner thereof to a fine of 750 dollars for each officer so employed who does not hold such licence. Where such failure is admitted or is established by any required report, the fine shall be automatic. If a proper licence is obtained within 30 days of notice, from the Commissioner or Deputy Commissioner, the fine with respect thereto shall be remitted. Until paid or remitted, each fine shall constitute a maritime lien on the vessel.

9. Suspension and revocation proceedings

(1) The Commissioner or any Deputy Commissioner shall have power to suspend or to revoke any licence, certificate, permit or document issued under the provisions of this Act.

(2) The Authority, on the recommendation of the Commissioner, may from time to time make such rules and regulations as are deemed by it necessary and appropriate to the conduct of suspension and revocation proceedings.

10. Fees and penalties

(1) The Authority may, on the recommendation of the Commissioner, prescribe all fees and penalties except in cases where the fee and penalty are already provided for in this Act;

(2) Where any tonnage tax or any fee payable under this Act or under any regulation made thereunder is not paid on or before the due date such tax or fee shall be deemed to be in default and the person who is liable to pay such tax or fee shall in addition to that tax or fee pay as penalty a further sum in such amount and in such manner as may be prescribed under subsection (1) of this section.

(3) The net tonnage of unique design and special purpose vessels shall be stipulated prior to the registration for the purposes of this section.

(4) With respect to any vessel which has been admitted to Vanuatu registry and thereafter undergoes structural alteration or re-measurement resulting in a change in net tonnage, there shall be paid prior to re-entry into service a corresponding adjustment of the registration fees computed on any increase in tonnage.

PART 3 – CONSTRUCTION

11. Adoption of general maritime law

Insofar as it does not conflict with any other provision of this Act or any statutory law of Vanuatu, the non-statutory general maritime law of the United States of America is hereby declared to be and is hereby adopted as the general maritime law in respect of all vessels registered under this Act.

12. Separability

If any provision of this Act, or the application of any such provision to any circumstances or persons, natural or corporate, shall be held invalid, the validity of the remainder of this Act and the applicability of such provisions to other circumstances or persons, individual or corporate, shall not be affected thereby.

13. General penalty for violation

Except as expressly provided in this Act, any person who is convicted by a court of competent jurisdiction of a violation of any of the provisions of this Act or of rules and regulations thereunder shall, upon conviction, be liable to a fine not exceeding 25,000 dollars or imprisonment for a term not exceeding 10 years, or to both.

14. Jurisdiction

All causes of action arising out of, or under, this Act are hereby declared and shall be cognizable before the Supreme Court of Vanuatu but, except as otherwise expressly provided in this Act, the provisions of this section shall not be deemed to deprive other courts elsewhere of jurisdiction to enforce such causes of action.

15. Appeals

(1) Appeal from any decision of a Deputy Commissioner or special agent, pursuant to any provision of this Act or any rule and regulation made thereunder, may be made to the Commissioner.

(2) Any person aggrieved by the decision of the Commissioner, upon any appeal made to him under subsection (1), or by any decision of the Commissioner pursuant to any other provisions of this Act or rules and regulations made thereunder, may appeal from that decision to the Maritime Appeal Tribunal established by the Vanuatu Maritime Authority Act [Cap. 253].

PART 4 – DOCUMENTATION AND IDENTIFICATION OF VESSELS

16. General provisions

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

17. Vessels eligible to be documented or re-documented

(1) Vessels of the following classes are eligible to be documented or re-documented under this Act –

(a) any sea-going vessel engaged in foreign trade owned by a citizen or national of Vanuatu;

(b) any yacht or other vessel used exclusively for pleasure, of 50 net tons or over, owned by a citizen or national of Vanuatu;

(c) vessels on bareboat charter to a citizen or national of Vanuatu:

Provided such vessels shall not be eligible for documentation if, on 1 January in the year in which documentation is sought, such vessels are over 20 years of age, computed from completion of first construction;

(d) (*repealed*)

(2) (*Repealed*)

(3) Anything in this section to the contrary notwithstanding, the 20 year age limit requirement referred to in subsection (1), may be waived by the Commissioner or Deputy Commissioner and a vessel of more than 20 years of age may be registered in exceptional cases where it has been demonstrated to the satisfaction of the Commissioner or Deputy Commissioner that –

(a) the vessel meets all other requirements for registration, and

(b) the vessel receives the top classification of one of the ship classification societies authorised by this Act or any regulation made thereunder.

(4) Anything in this section to the contrary notwithstanding, the ownership requirement referred to in subsection (1)(a) may in exceptional cases be waived by the Commissioner or Deputy Commissioner where –

(a) the vessel meets all other requirements for registration; and

(b) it has been satisfactorily demonstrated that there is an absolute and genuine need for such waiver.

(5) In this section, the words "citizen" or "national" shall include corporations, partnerships and associations of individuals.

18. Registry fee and tonnage taxes

(1) The following registration fee shall be payable upon registration –

for vessels of 5,000 tons or less	1.05 dollars per net ton
for vessels of 5,001 tons and up to 25,000 tons	0.87 dollars per net ton
for vessels of 25,001 tons and over	0.70 dollar per net ton
for registration of vessels on bareboat charter, of any tonnage	0.35 dollars per net ton

(2) Anything in this section to the contrary notwithstanding, the Commissioner may if he feels justified after consultation with the Authority reduce or waive the registration fee payable on the registration of any vessel under this Act.

(3) There shall be an annual tonnage tax per net ton:

Provided, however, that as to any vessel of less than 500 net tons registered under this Act, the registration fee and annual tonnage tax shall be equal to that required for a vessel of 500 net tons.

(4) All unpaid tonnage taxes and all other charges (not to exceed 10,000 dollars) due to the office of the Commissioner or Deputy Commissioner shall constitute a maritime lien on the vessel second only to liens for wages and salvage.

(5) Tonnage taxes may be reviewed annually, provided that where an increase is made it shall not take effect until the first day in January in the year next following such increase.

19. Annual tonnage tax

(1) Except as herein otherwise provided, the annual tonnage tax on vessels provided for in section 18 shall be due on the first day in January in each year.

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

(3) No Certificate of Registry, either permanent or provisional, shall be issued for a vessel not previously registered under the provisions of this Act, unless a sum equal to the tonnage tax for 1 year is paid in respect of the vessel. In the case of a vessel initially registered, the amount payable on the first day of January of the year immediately following the date of its initial registration shall be computed at the rate of 0.25 dollars per net ton for the year remaining between the first anniversary of the date of its initial registration and the close of the calendar year.

(4) No bareboat charter certificate of registry shall be issued for a vessel registered under section 17(1)(c) of this Act unless a sum equal to 2 years annual tonnage tax as provided in section 18 is paid upon registration.

(5) The Commissioner and each Deputy Commissioner are authorised to collect the tonnage tax and to issue receipts therefor.

(6) Unless otherwise provided, all fees payable under this Act or any regulation made thereunder shall be paid in advance on or before 1 January of the year in respect of which such fees are due. If payment is not made before 31 March of such year the

Certificate of Registry of the vessel in question may be suspended until all outstanding fees and penalties for late payment thereof are paid.

(7) All unpaid tonnage taxes, fees and other charges including penalties owing under this Act or regulations made thereunder shall constitute a maritime lien on the vessel in respect of which such amounts are due, and such lien shall have priority over all others save those for wages and salvage.

(8) No Certificate of Registry shall be returned to the master of a vessel by an officer of Vanuatu with whom it may have been deposited until proof is furnished that the annual tonnage tax and annual fees for the then current year and any penalties owing under this Act have been paid.

(9) (a) Any vessel which is withdrawn from service and laid up for one year or more shall, subject to any condition prescribed under paragraph (b), be exempted from payment of annual tonnage tax under section 18 in respect of each succeeding year during the period of such withdrawal.

Upon the re-entry of service by such vessel the tonnage tax due and payable by such vessel shall be computed *pro rata* from the date of such re-entry for the remainder of that calendar year.

(b) The Authority may prescribe the conditions subject to which any vessel may be exempted under paragraph (a).

20. Conditions precedent to issuance of permanent Certificate of Registry

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

(a) as to his ownership of the vessel;

(b) that any foreign marine document for the vessel has been surrendered with the consent of the government that had issued it, or that it has been legally cancelled;

(c) that the vessel is in a seaworthy condition;

(d) that the owner has paid the registration fees due in respect of the vessel;

(e) that the markings of name, official number, net tonnage or tonnages, home port and draft required by section 42 have actually been made;

(f) that a certificate of measurement as required by section 23 has been issued.

21. Declaration

(1) In order to document a vessel, the owner, managing owner, part owner, or his agent, authorised by power of attorney, where such vessel is owned by individuals, or, in the case of a corporate-owned vessel, a director, secretary or assistant secretary of the corporation or other officer or agent authorised in writing shall make a declaration declaring the name of the vessel; its net tonnage or tonnages; the place where built; the name and residence of any other owner and his citizenship; each owners proportion; the name of the affiant and his citizenship.

(2) (*Repealed*)

(3) The names of the persons owning shares in an incorporated company owning such vessel need not be stated. The declaration of any other person interested and concerned in the vessel shall not be required. An agent or attorney who purchases any vessel shall make a declaration with respect to the ownership of the vessel and

shall declare that he is the agent or attorney for the owner and in such capacity has made such purchase in good faith.

(4) Notwithstanding section 6, whenever the document of any vessel is lost or destroyed the master or other person in command may make the following declaration before any consular or diplomatic officer or any officer appointed by the Authority, or by the Commissioner or a Deputy Commissioner at or nearest to the port where the vessel is first located after such loss or destruction –

"I, [*insert the name of the person swearing*] being master or in command of the [*insert type of vessel*] or vessel called the [*insert the name of vessel*] Official No. [*insert number*] owned by [*insert name of owner*] of [*insert domicile of the owner*] do declare that the said vessel has been, as I verily believe, registered according to the laws of Vanuatu by the name of [*insert again name of vessel*], and that a permanent [*or provisional*] Certificate of Registry bearing no. [*insert number of lost Certificate*] was issued for such vessel pursuant to the laws of Vanuatu at [*insert place of issuance of lost Certificate*] on [*insert date of issuance of lost Certificate*] which Certificate has been lost [*or destroyed*]; and that the same, if found, and within my power, will be delivered up to the Commissioner or Deputy Commissioner."

(5) When a declaration is made as provided in subsection (4), the officer or person taking such declaration shall grant to the vessel a temporary provisional document of registry and insert therein that it is issued in lieu of the one lost or destroyed. Such officer or person shall forthwith send to the Commissioner or to any Deputy Commissioner a written notice, accompanied by a copy of the declaration, advising that such declaration has been made and such temporary provisional document issued. Upon receipt of such notice the Commissioner or such Deputy Commissioner upon being satisfied that the vessel is entitled to a Certificate of Registry, may grant a new Certificate of Registry, identical to that which was lost or destroyed. As soon as practicable after the issuance of such Certificate of Registry, the temporary provisional document herein before referred to shall be surrendered to the Commissioner or to a Deputy Commissioner for cancellation.

22. Measurement

A vessel shall not be permanently registered until measured by a person appointed by the Commissioner or by the Deputy Commissioner. A vessel registered under this Act shall not be required to be measured anew unless her burden has been changed.

23. Certificate of measurement

The person or agent appointed under section 22 to measure a vessel shall certify, specifying the building of the vessel, number of decks and masts, length, breadth, depth, tonnage or tonnages, and such other particulars usually descriptive of the identity of a vessel, and that the markings required by section 42 have actually been made.

24. Measurement of vessels

The Minister on the recommendation of the Commissioner shall by Order prescribe the method of measurement for all vessels registered under this Act.

25. Treatment of shelter-deck and certain other spaces

The "Recommendations on the Treatment of Shelter-Deck and other 'Open' Spaces", adopted on 18 October 1963, by the Assembly of the Intergovernmental Maritime Consultative Organisation, are hereby adopted and the Minister on the recommendation of the Commissioner may issue Orders for the purpose of effectuating those Recommendations.

26. Tonnage statements in Certificate of Registry

(1) Each ship's Certificate of Registry shall state the gross and net tonnage or tonnages determined in accordance with such rules and regulations as the Commissioner may prescribe.

(2) Upon application by the owner or master of a vessel registered under this Act engaged in foreign trade, the Commissioner or his duly authorised agent may attach to the document an appendix for use in foreign ports, stating separately, the measurement of such space or spaces as are there permitted to be deducted from gross tonnage or tonnages.

27. Forms of documents

The Minister on the recommendation of the Commissioner shall prescribe and furnish forms of bareboat charter, provisional and permanent Certificates of Registry and other ship documents; and may prescribe forms of endorsements that may be made on ship documents from time to time, without issuance of a new document or surrender of the old document, to show liens and encumbrances.

28. Numbering Certificates of Registry and licences

The Commissioner or his duly authorised agent shall progressively number the licences and Certificates of Registry, respectively, granted by him, beginning anew at the commencement of each year, and shall make a record thereof in a book kept for that purpose. Bareboat charter Certificates of Registry shall be assigned a separate series of numbers as the Commissioner or his duly authorised agent stipulates. He shall also retain permanently copies of all such documents issued by or surrendered to him.

29. Provisional Certificate of Registry to vessels abroad

(1) Upon compliance with the provisions set forth in section 30, a provisional Certificate of Registry may be issued by the Commissioner or any Deputy Commissioner, by a Vanuatu consular or diplomatic officer or consular agent upon direction by the Commissioner or any Deputy Commissioner, or by any other person designated by the Minister, to vessels abroad which are to be documented under the flag of Vanuatu.

(2) Copies of provisional Certificates of Registry issued by persons other than the Commissioner or Deputy Commissioner shall be furnished as soon as practicable by the issuing officer to the Commissioner and all Deputy Commissioners.

(3) Unless sooner invalidated, a provisional Certificate of Registry shall entitle the vessel to the privileges of a vessel of Vanuatu in the foreign trade until the expiration of 1 year from its date.

(4) The Commissioner or his duly authorised agent shall prescribe the conditions in accordance with which provisional Certificates of Registry shall be issued and renewed and the manner in which they shall be surrendered in exchange for permanent Certificates of Registry.

30. Conditions precedent to issuance of provisional Certificate

(1) Upon receipt by the Commissioner or Deputy Commissioner of a written application of an owner of a vessel eligible for documentation under the provisions of this Act requesting the issuance of a Certificate of Registry for the vessel, accompanied by the declaration or declarations required by section 21, and upon payment of the prescribed fees to the officer receiving such application, the Commissioner or any Deputy Commissioner or any issuing official listed in section 29(1) may issue a provisional Certificate of Registry for the vessel, provided the owner shall furnish proof satisfactory to the officer receiving such application –

(a) as to his ownership of the vessel;

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

(c) that the vessel is in a seaworthy condition;

(d) that the owner has paid the registration fees due in respect of the vessel being the initial registration fee;

(e) that the markings of name, official number, net tonnage or tonnages, home port and draft required by section 42 have either actually been made or that the owner has issued orders to the master of the vessel to have such markings made immediately upon receipt of the Vanuatu provisional Certificate of Registry on board the vessel.

(2) Unless the owner within 30 days after issuance of the provisional Certificate of Registry shall furnish satisfactory proof to the officer to whom the application for documentation has been presented, showing that the vessel's outstanding foreign marine document has actually been surrendered for cancellation and that the markings required by section 42 have actually been made, or if before such 30 day period it is established that any of the obligations hereunder will not or cannot be complied with, such officer may declare the provisional Certificate of Registry to be null and void.

(3) As soon as reasonably practicable after admeasurement of the vessel and the surrender for cancellation of any outstanding foreign marine document for the vessel and the making of the markings required by section 42 a permanent Certificate of Registry shall be issued in place of any provisional Certificate theretofore issued, and such provisional Certificate shall be surrendered as promptly as circumstances permit to the Commissioner or Deputy Commissioner. When the permanent Certificate of Registry is issued after the issuance of a provisional Certificate, the charges originally paid shall be adjusted in accordance with the tonnage established by the certificate of measurement.

(4) For good cause shown the Commissioner or any Deputy Commissioner may, from time to time, renew a provisional Certificate of Registry for a period not exceeding 1 year.

31. Conditions precedent to issuance of bareboat charter Certificate of Registry

(1) Anything in this Act to the contrary notwithstanding a bareboat charterer of a vessel registered in a foreign registry may, where permitted by that foreign registry, obtain a bareboat charter Certificate of Registry for a period of not exceeding five years, on payment of a prescribed fee and upon presentation to the Commissioner or Deputy Commissioner of the following –

(a) a written application;

(b) a copy of the charter party in a form satisfactory to the Commissioner or Deputy Commissioner and certified as true and correct by any person permitted to take oaths under section 21;

(c) proof of ownership, and consent of the registered owner of the vessel;

(d) consents of holders of all mortgages, hypothecations or similar charges against the vessel in the foreign registry;

(e) (*repealed*)

(f) written consent of the country of registry, or presentation of satisfactory evidence that such consent is not required;

(g) a certificate of ownership and encumbrance, transcript of registry, or other such document from the foreign registry showing all recorded liens and encumbrances.

(2) During any period in which a vessel carries a bareboat charter Certificate of Registry, at no time shall a document indicating a transfer of ownership be recorded against the vessel in the record books maintained at the office of the Commissioner or Deputy Commissioner. Any mortgage, hypothecation or similar charge, or document related thereto, which is at any time recorded in the foreign registry shall be recorded in the office of the Commissioner or Deputy Commissioner as provided for in subsection (3).

(2A) Any mortgage, hypothecation or similar charge related to any vessel in respect of which a bareboat charter Certificate of Registry is issued, may be created only by the owner of that vessel in accordance with the laws of the nation where the vessel is registered.

(3) Copies of mortgages, hypothecations or charges referred to in subsection (1)(d) shall upon payment of the prescribed fee be recorded in the same order as recorded in the foreign registry in a bareboat charter mortgage book maintained at the office of the Commissioner or Deputy Commissioner. Two certified copies of the recorded document shall be furnished to the bareboat charterer 1 of which is to be placed upon and retained on board the vessel. All such foreign mortgages, hypothecations and charges shall have preferred status as under section 64.

(3A) The Commissioner or the Deputy Commissioner may waive the requirement of recordation of any mortgage, hypothecation or similar charge under subsection (2) or (3), upon obtaining the written consent of the registered owner and the bareboat charterer of the vessel and of the holders of all the mortgages, hypothecation or similar charges against such vessel.

(3B) Where a waiver is provided in accordance with subsection (3A) of this section and any document presented under paragraph (g) of subsection (1) shows any lien or encumbrance on the vessel, the following endorsement shall be made on the provisional and permanent bareboat certificates of registry: –

This bareboat charter certificate of registry has been issued in accordance with section 31 of the Vanuatu Maritime Act [Cap. 131]. Pursuant to subsection (3A) of that section, the requirement of recordation of any mortgage, hypothecation or similar charge, recorded in the foreign registry in which the vessel is registered, has been waived. Notwithstanding such waiver such mortgage, hypothecation or similar charge shall have preferred status under and subject to section 64 of the said Act. The primary jurisdiction of the registry in which the vessel is registered is _____.

(4) Where permitted by the foreign registry, a bareboat charter Certificate of Registry may be extended for a period of five years upon filing, prior to the expiration of the current certificate, an application, together with a copy of the charterparty, a certificate of ownership and encumbrance or transcript of registry, and the written consents of all mortgagees with the Commissioner or Deputy Commissioner and upon payment of the prescribed fees and taxes.

(5) A bareboat charter Certificate of Registry may be cancelled prior to its date of expiration upon presentation to the Commissioner or Deputy Commissioner of the following –

(a) written consent of all holders of record of any mortgage, hypothecation or other charge on the vessel;

(b) written consent of the owner;

(c) written consent of the bareboat charterer; and

(d) surrender of the bareboat charter Certificate of Registry and the radio licence for cancellation. If the vessel is sold or transferred during the time it carries a bareboat charter Certificate of Registry, the Certificate shall become null and void at the time of the sale or transfer and must be surrendered for cancellation within 30 days or such further time as may be allowed by the Commissioner or Deputy Commissioner.

(6) The bareboat charterer of a Vanuatu vessel may register the vessel in a foreign jurisdiction, where permitted by that jurisdiction, upon obtaining written consent of the Commissioner or Deputy Commissioner, which may be granted upon presentation of the following –

(a) written consent of the owner;

(b) written consent of all holders of record of any mortgage, hypothecation or other charges recorded in the offices of the Commissioner and Deputy Commissioner;

(c) (*repealed*)

(d) a copy of the foreign document, certified as true and correct, to be submitted by the bareboat charterer within 30 days following registry in the foreign jurisdiction.

32. Denial of document

The Commissioner or his agent or consular or diplomatic officer shall not grant a document or issue papers to any vessel until all applicable provisions of this Part have been complied with.

33. Waiver of certain requirements of Part 4

Where an owner of a vessel registered in a foreign registry is prevented from, or incurs inordinate delay in, complying with any of the requirements of sections 20(b), 29(1), and 30(1)(b) and 31 because of abnormal conditions existing in the country of foreign registration the Commissioner or Deputy Commissioner may waive such requirements upon the owner furnishing proof to the satisfaction of the officer receiving such application that such owner has been so prevented or delayed because of such abnormal conditions existing in the country of foreign registration. Such owner shall provide an affidavit setting out full particulars of all mortgages, hypothecations or other charges registered or entitled to be registered on the foreign registry in respect of the vessel and upon receipt of either the written consent of all holders of mortgages, hypothecations or other charges or the release thereof the vessel may be registered and all such mortgages, hypothecations or such other charges shall be recorded in the same order of precedence as were recorded on the foreign registry.

34. Sale of document forbidden

A document shall be used solely for the vessel for which it is granted, and it shall not be sold, lent, or otherwise disposed of to any person.

35. Sale or transfer abroad

A registered vessel sold or transferred in whole or in part while without Vanuatu, but without change of flag, shall comply with the provisions of this Part relating to the documentation of vessels and a new document shall be obtained.

36. Transfer to foreign registry

The owner of a documented vessel who desires to transfer the vessel to a foreign registry may do so provided that there are no unfulfilled obligations owing to the Republic of Vanuatu

in respect of the vessel. Before such transfer is accomplished the registered owner shall surrender the ship's document to the Commissioner or his duly authorised agent or to a consular or diplomatic officer of Vanuatu.

37. Application for surrender of documents

Before a Certificate of Registry shall be accepted for surrender, the registered owner shall submit to the Commissioner or Deputy Commissioner a written application specifying the name of the vessel, the reasons for the proposed surrender, the name and nationality of the proposed new owner, if any, and, if a transfer to foreign registry is contemplated, the name of the country to whose registry transfer is desired.

38. Surrender of Certificate of Registry

(1) If a registered vessel is lost, taken by an enemy, burned, broken up, or otherwise prevented from returning to the port to which she may belong, the Certificate of Registry if preserved, shall be delivered up within 8 days after the arrival of the master or person in command, to the Commissioner or his authorised agent.

(2) When an application is made for new registry of a vessel, its former Certificate of Registry shall be delivered up to the Commissioner or his duly authorised agent to whom such application is made.

(3) Where a Certificate of Registry is granted in lieu of one lost, the lost Certificate, if found, shall be delivered up to the Commissioner or his duly authorised agent who shall thereupon cancel it.

39. Surrender of documents of vessel subject to preferred mortgages

The Certificate of Registry of a vessel subject to a preferred mortgage shall not be accepted for surrender without the consent of the mortgagee except in the case of a provisional Certificate of Registry for the purpose of issuing a permanent Certificate.

40. New document

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

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

(2) In cases of a combination vessel that can be used either for the carriage of liquid cargo in bulk or dry cargo in bulk, if the Certificate of Registry shows the vessel in the condition or use providing the greater net and gross tonnage and has attached thereto an addendum showing the vessel in the other condition or use with the lesser gross and net tonnage, then a change of a vessel from one condition or use to the other would not require the vessel to be documented anew.

(3) When the Commissioner or his duly authorised agent determines that any vessel has been sold or transferred by process of law, and that her document is retained by the former owner, he may grant a new document, under such sale, upon the owner complying with the requirements of this Part, excepting only the delivering up of the former document. This subsection shall not remove the liability of any person to any penalty for not surrendering the papers belonging to any vessel on a transfer or sale of such vessel.

(4) Any vessel required to be documented anew which is not so documented shall not be deemed a vessel of Vanuatu. If a former document has not been delivered up, except where it has been lost or destroyed and the declaration in respect thereof has been made, the owner of such vessel shall be liable to a fine of not more than 500 dollars.

41. Builder's certificate

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

(a) that it was built by him or under his direction;

(b) the place where built;

(c) the time when built;

(d) the person for whom built;

(e) build;

(f) number of decks and masts;

(g) length;

(h) breadth;

(i) depth;

(j) tonnage or tonnages; and

(k) such other circumstances as are usually descriptive of the identity of a vessel.

42. Names, numbers and marks on vessel

(1) Every documented vessel shall have her name marked upon each bow and upon the stern. The home port of the vessel shall also be marked upon the stern. These names shall be painted or guilded, or consist of cut or carved or cast Roman letters in light colour on a dark background, or in a dark colour on a light background, secured in place and distinctly visible. The smallest letters used shall not be less than 4 inches in size. If any such vessel is found without these names being so marked, the owner shall be liable to a fine of 10 dollars for each name omitted.

(2) Each vessel of Vanuatu, in addition to having her name painted on her stern, shall have such name conspicuously placed in distinct plain letters of not less than 6 inches in length, on each side of the pilot house, if any, and in case the vessel has sidewheels, also on the outer side of each wheelhouse. Any such vessel found without having her name so marked shall be subject to a fine of 10 dollars for each marking omitted.

(3) The Commissioner or his duly authorised agent may prescribe a system of numbering documented vessels. The designated number and the net tonnages of each vessel shall be carved deeply or otherwise marked permanently on her main beam. If at any time such vessel ceases to be so marked, she shall be liable to a fine of 30 dollars on every arrival in Vanuatu.

(4) The draft of every registered vessel shall be marked upon the stern post, in English feet or in decimetres, in either Arabic or Roman numerals. The bottom of each numeral shall indicate the draft to that line.

43. Numbering of vessels

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

44. Change in name of vessel

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

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

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

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

45. Inspection of document

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

46. Display of ship's papers to consul

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

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

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

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

47. Forgery of documents and false declarations

(1) If any owner, agent, or attorney commits the offence of forgery under the Penal Code Act [Cap. 135], to obtain documentation of a vessel or commits an offence under subsection (3) of this section, in relation to any vessel, such vessel, her tackle, apparel and furniture shall be forfeited, or the value thereof recovered from such person.

(2) Any person who is guilty of an offence under subsection (1) or (3) shall be liable to a fine of not exceeding 100,000 dollars or to imprisonment for a term not exceeding 10 years, or to both:

Provided the provisions of this subsection shall not apply in relation to the owner, agent, or attorney, if forfeiture is made under subsection (1) of this section.

(3) Any person who in the case of any declaration made under this Act –

(a) wilfully makes, or assists in making, or procures to be made any false statement; or

(b) utters, produces or makes use of any declaration or document containing any such false statement knowing such declaration or document to contain a false statement,

shall be guilty of an offence.

48. Rules and regulations

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

49. Standards of seaworthiness

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

PART 5 – PREFERRED SHIP MORTGAGES AND MARITIME LIENS

50. Contents of record

(1) A sale, conveyance, hypothecation, mortgage or assignment of mortgage of any vessel shall not be valid in respect of such vessel, against any person other than the grantor or mortgagor, his heirs or devisees and persons having actual notice thereof, until the instrument evidencing such transaction is recorded in the office of the Commissioner or Deputy Commissioner.

(2) The Commissioner or Deputy Commissioner shall record such instruments in the order of their reception in books to be kept for that purpose and indexed to show –

(a) the name of the vessel;

(b) the name of the parties;

(c) the time and date of reception of the instrument;

(d) the interest in the vessel transferred or affected; and

(e) the amount and date of maturity of any mortgage.

51. Documentary endorsement of preferred mortgage

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

(a) (*repealed*)

(b) the mortgage is recorded as provided herein; and

(c) (*repealed*)

(d) the mortgage does not stipulate that the mortgagee waives the preferred status thereof.

52. Termination of mortgagee's interests

A vessel which is the subject of a preferred mortgage may not be cancelled from the Register for so long as the indebtedness secured by the preferred mortgage remains unsatisfied or the mortgage is not otherwise discharged. The interest of the mortgagee in a vessel registered under this Act shall not be terminated by a forfeiture of the vessel for a violation of any law of Vanuatu, unless the mortgagee authorized, consented, or conspired to effect the illegal act, failure, or omission which constituted such violation.

53. Conditions precedent to recording

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

54. Recording of bills of sale

The Commissioner or any Deputy Commissioner may accept for recording in his office upon payment of a fee of fifty dollars any bill of sale of a vessel which recites the interest of the grantor in the vessel and the interests sold or conveyed, provided it has previously been acknowledged in accordance with the provisions of section 53, and provided further that any bill of sale of a vessel already documented under the laws of Vanuatu must have incorporated therein a true copy of its latest Certificate of Registry.

55. Recording of mortgages

The Commissioner or any Deputy Commissioner may accept for recording in his office, upon payment of a fee of four hundred and twenty five dollars any mortgage (including a revolving credit mortgage) on a vessel which recites the interest of the mortgagor in the vessel and the interest so mortgaged, provided it has been previously acknowledged in accordance with the provisions of section 53, and provided further that written proof is furnished to him of the amounts and dates of any documents or evidence of debts in support thereof. At the time of recording the Commissioner or Deputy Commissioner will, if requested, certify without charge 2 copies of any mortgage so recorded.

56. Preferred mortgage

(1) A mortgage which complies with the conditions enumerated in this Part is designated as a preferred mortgage.

(2) (*Repealed*)

(3) (*Repealed*)

(4) (*Repealed*)

(5) A mortgage which includes property other than a vessel shall not be held a preferred mortgage unless the mortgage provides for the separate discharge of such property by the payment of a specified portion of the mortgage indebtedness.

(6) (*Repealed*)

57. Lien of preferred mortgage

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

(2) The lien of a preferred mortgage referred to in subsection (1) shall not in any way be impaired or affected because the vessel's document following recording of the mortgage has expired, or has been restrictively endorsed, suspended, revoked or cancelled.

58. Interest on preferred mortgage

Notwithstanding anything to the contrary in any other law, a preferred mortgage may bear such interest on an obligation secured by the mortgage as the parties may agree which interest may be at fixed rates, variable rates, rates based upon formulas or by adding margins to the mortgagee's cost from time to time of funding an obligation secured by the mortgage, or by any other method to which the parties may agree.

58A. Advances and repayments

(1) A preferred mortgage shall not be extinguished or lose its priority because all previously outstanding obligations secured thereby have been fully repaid or otherwise performed, provided that an advance or other value is to be given at a later time pursuant to commitment existing at the time the mortgage is recorded. For the purpose of this paragraph an advance or other value is given "pursuant to commitment" if the mortgagee or other person entitled to the benefit of the security of the mortgage has bound himself to give it, whether or not subsequent event of default or other event not within his control has relieved or may relieve him from his obligation.

(2) When a preferred mortgage secures an obligation in respect of which one or more advances or repayments may be made from time to time in the future and the maximum amount outstanding under the obligation at any one time is limited to a certain amount, the amount to be recorded with respect to such obligation may be either –

(a) such maximum amount that may be outstanding at any one time; or

(b) the aggregate of all possible advances that may be made.

The recording shall clearly indicate whether the amount is the maximum amount that may be outstanding at any one time or is the aggregate of all possible advances.

58B. Units of account

(1) The obligations secured by a preferred mortgage may be expressed in any unit or units of account to which the parties may agree, including but not limited to currency of the Republic of Vanuatu, currency or currencies of any foreign state or states, or in equivalents of any other unit or units of account established by inter-governmental organizations.

(2) If a preferred mortgage secures an obligation in one or more specified units of account and there is an option to have a unit of account alternated from time to time, the principal amount of the mortgage to be recorded shall be denominated in one or more of the said specified units of account. The recordation may include as additional words "or an equivalent amount in any alternate unit of account," or similar language, and if such additional words are recorded, no change in the recorded amount shall be required to reflect the fact that the obligation or any portion thereof is subsequently denominated in a different unit or units of account, unless the parties otherwise agree.

(3) When a preferred mortgage secures an obligation in respect of which there is an option to have the obligation amount denominated from time to time in alternate units of account but which continues to be payable in, or by reference to, a specified unit of account –

(a) the amount of the obligation to be recorded shall be expressed in the specified unit of account; and

(b) notwithstanding any exercise of the option, no change in the recorded amount shall be required.

(4) A preferred mortgage referred to in subsection (2) or (3) of this section may additionally secure any loss up to a specified amount arising out of fluctuations between a specified unit of account and any alternate unit of account in which the obligation amount may be denominated from time to time, and such specified amount shall also be recorded.

59. Disclosure of liens and priority

(1) The mortgagor, before executing a preferred mortgage, shall disclose to the mortgagee in writing the existence of any maritime lien, prior mortgage, or other

obligation or liability upon the vessel to be mortgaged, which is known to the mortgagor.

(2) After the execution of such mortgage and before the mortgagee has had a reasonable time in which to record it, the mortgagor, without the consent of the mortgagee, shall not incur any contractual obligation creating a lien upon the vessel, other than liens for wages of stevedores when employed directly by the owner, operator, master, ship's husband, or agent of the vessel, for wages of the crew of the vessel, for general average or for salvage, including contract salvage, tonnage taxes and all other charges (not to exceed 1,000 dollars) of the Commissioner in respect of the vessel.

(3) Whoever, being a mortgagor or an officer of a corporate mortgagor, with intent to defraud, violates this section shall be liable to a fine not exceeding 3,000 dollars or to imprisonment for a term not exceeding 2 years, or to both. The mortgage indebtedness shall thereupon become immediately due and payable at the election of the mortgagee.

60. Exhibiting certified copies

(1) Upon recording a preferred mortgage, 2 certified copies shall be delivered to the mortgagor who shall place, and use due diligence to retain, 1 copy on board the mortgaged vessel and cause such copy and the document of the vessel to be exhibited by the master to any person having business which may give rise to a maritime lien or to the sale, conveyance, or mortgage of the vessel.

(2) A master who wilfully fails to exhibit such documents and copy of mortgage may have his licence suspended or revoked.

61. (*Repealed*)

62. Discharge of mortgage

The mortgagor upon a complete discharge of the mortgage indebtedness shall forthwith file a certificate of such discharge duly executed by the mortgagee, his successors or assigns with the Commissioner or his duly authorised agent, who shall thereupon record the certificate and the mortgagor may similarly file a certificate of partial discharge of a mortgage covering more than 1 vessel.

63. Foreclosure and default jurisdiction and procedure

(1) The lien of a preferred mortgage may be enforced in Vanuatu by a suit *in rem* upon default of any term or condition. In addition to any notice by publication, actual notice of the commencement of suit shall be given by the plaintiff, in such manner as the court directs, to the master, other ranking officer, or caretaker of the vessel, and any person who has recorded a notice of claim of an undischarged lien upon the vessel, unless after search by the plaintiff satisfactory to the court, such person is not found within Vanuatu. Failure to give such notice shall not constitute a jurisdictional defect, but the plaintiff shall be liable to such person for damages in the amount of his interest in the vessel terminated by the action.

(2) The lien of a preferred mortgage may also be enforced by an action *in rem* in admiralty or otherwise in any foreign country in which the vessel shall be found, pursuant to the procedure of such country for the enforcement of ship mortgages constituting maritime liens on vessels documented under the laws of such country.

(3) Notwithstanding anything in this Act, the mortgagee may, in addition to all other remedies granted by this Part, bring an action *in personam* against the mortgagor in any court of competent jurisdiction for the amount of the outstanding indebtedness or for any deficiency in the full payment thereof.

(4) This Act does not authorise the enforcement by action *in rem* in admiralty of the rights of the mortgagee in respect of realty or personalty other than the vessel or vessels covered by the mortgage.

64. Preferred status

As used in sections 57, 63, 65 and 67 of this Act, the term "preferred mortgage" shall include, in addition to a preferred mortgage made pursuant to the provisions of this Part, any mortgage, hypothecation or similar charge created as security upon any documented foreign vessel if such mortgage, hypothecation or similar charge has been duly and validly executed and registered in accordance with the laws of the nation where the vessel is documented; and the term "preferred mortgage lien" shall also include the lien of such mortgage, hypothecation or similar charge.

65. Foreclosures

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

66. Necessaries

(1) Whoever furnishes repairs, supplies, towage, use of dry dock or marine railway, or other necessaries, to any foreign or domestic vessel upon the order of the owner or person authorised by the owner, shall have a maritime lien on the vessel.

(2) The managing owner, ship's husband, master or any person to whom the management of the vessel at the port of supply is entrusted including any such appointed by a charterer, owner *pro hac vice* or agreed purchaser in possession, shall be presumed to have authority from the owner to procure such necessaries, but a person tortuously or unlawfully in possession or charge of the vessel shall not have authority to bind it.

(3) This section shall not confer a lien when the furnisher knows or by exercise of reasonable diligence could have ascertained, that because of the terms of a charter party, agreement for sale of the vessel, or for any other reason, the person ordering necessaries was without authority to bind the vessel therefor.

67. Waiver of lien in necessaries

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

67A. Abolition of endorsement

(1) Except as provided in subsection (2) of this section, nothing in this Act or in any other provision of law, shall require, permit or be construed as requiring or permitting, endorsements of any nature upon any vessel's document in connection with the validity, recording, designation as a preferred mortgage, or preferred status of any mortgage in respect of any such vessel, or the clearance to be given to such vessel following the recording of any such mortgage.

(2) Any vessel's document issued or reissued prior to the effective date and any instrument made, recorded and endorsed prior to that date shall remain subject to the endorsements requirements under this Act, at that date until such time as the vessel's

document is surrendered or reissued or a new document is issued, as the case may be. The effective date in this subsection means the date of the coming into effect of the Maritime (Amendment) Act, 1987.*

PART 6 – CARRIAGE OF GOODS BY SEA

68. Interpretation

In this Part, unless the context otherwise requires –

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

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

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

"goods" includes goods, wares, merchandise and articles of every kind whatsoever, except live animals and cargo which by the contract of carriage is stated as being carried on deck and is so carried;

"ship" means any vessel used for the carriage of goods by sea.

69. Risks

Subject to the provisions of section 73, under every contract of carriage of goods by sea, the carrier in relation to the loading, handling, stowage, carriage, custody, care and discharge of such goods shall be subject to the responsibilities and liabilities and entitled to the rights and immunities hereinafter set forth.

70. Responsibilities and liabilities

(1) The carrier shall be bound, before and at the beginning of the voyage to exercise due diligence to –

(a) make the ship seaworthy;

(b) properly man, equip, and supply the ship; and

(c) make the holds, refrigerating and cooling chambers, and all other parts of the ship in which goods are carried fit and safe for their reception, carriage and preservation.

(2) The carrier shall properly and carefully load, handle, stow, carry, keep, care for and discharge the goods carried.

(3) After receiving the goods into his charge the master or agent of the carrier, shall, on demand of the shipper, issue to the shipper a bill of lading showing among other things –

(a) the leading marks necessary for identification of the goods as the same are furnished in writing by the shipper before the loading of such goods starts:

Provided such marks are stamped or otherwise shown clearly upon the goods if uncovered, or on the cases or coverings in which such goods are contained, in such a manner as should ordinarily remain legible until the end of the voyage;

* *Editor's note: This date is 1 June 1989.*

(b) either the number of packages or pieces, or the quantity or weight as the case may be, as furnished in writing by the shipper;

(c) the apparent order and condition of the goods:

Provided that no carrier or master or agent of the carrier shall be bound to state or show in the bill of lading any mark, number, quantity, or weight, which he has reasonable grounds for suspecting not accurately to represent the goods actually received or which he has had no reasonable means of checking.

(4) Such a bill of lading shall be *prima facie* evidence of the receipt by the carrier of the goods as therein described in accordance with subsections (3)(a), (b) and (c) of this section. However, proof to the contrary shall not be admissible when the bill of lading has been transferred to a third party acting in good faith.

(5) The shipper shall be deemed to have guaranteed to the carrier the accuracy at the time of shipment of the marks, number, quantity and weight, as furnished by him; and the shipper shall indemnify the carrier against all loss, damages and expenses arising or resulting from inaccuracies in such particulars. The right of the carrier to such indemnity shall in no way limit his responsibility and liability under the contract of carriage to any person other than the shipper.

(6) Unless notice of loss or damage and the general nature of such loss or damage be given in writing to the carrier or his agent at the port of discharge before or at the time of the removal of the goods into the custody of the person entitled to delivery thereof under the contract of carriage, such removal shall be *prima facie* evidence of the delivery by the carrier of the goods as described in the bill of lading.

If the loss or damage is not apparent, the notice must be given within 3 days of the delivery.

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

Subject to subsection (6A) in any event, the carrier and the ship shall be discharged from all liability whatsoever in respect of the goods, unless action is brought within one year after the delivery of the goods or the date when the goods should have been delivered.

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

(6A) An action for indemnity against a third person may be brought even after the expiration of the time provided in subsection (6) if brought within the time allowed by the law of the court seized of the case; however the time allowed shall not be less than three months commencing from the day when the person bringing such action for indemnity has settled the claim or has been served with process in the action against himself whichever be the earlier.

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

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

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

71. Rights and immunities

(1) Neither the carrier nor the ship shall be liable for loss or damage arising or resulting from unseaworthiness unless caused by want of due diligence on the part of the carrier to make the ship seaworthy, and to secure that the ship is properly manned, equipped, and supplied, and to make holds, refrigerating and cool chambers, and all other parts of the ship in which the goods are carried fit and safe for their reception, carriage, and preservation in accordance with the provisions of section 70. Whenever loss or damage has resulted from unseaworthiness, the burden of proving the exercise of due diligence shall be on the carrier or other persons claiming exemption under this section.

(2) Neither the carrier nor the ship shall be responsible for loss or damage arising or resulting from –

(a) act, neglect, or default of the master, mariner, pilot, or the servants of the carrier in the navigation or in the management of the ship;

(b) fire, unless caused by the actual fault or privity of the carrier;

(c) perils, dangers, and accidents of the sea or other navigable waters;

(d) Act of God;

(e) act of war;

(f) act of public enemies;

(g) arrest or restraint of princes, rulers, or people, or seizure under legal process;

(h) quarantine restriction;

(i) act or omission of the shipper or owner of the goods, his agent or representative;

(j) strikes or lockouts or stoppage or restraint of labour from whatever cause, whether partial or general;

(k) riots and civil commotions;

(l) saving or attempting to save life or property at sea;

(m) wastage in bulk or weight or any other loss or damage arising from inherent defect, quality, or vice of the goods;

(n) insufficiency of packing;

(o) insufficiency or inadequacy of marks;

(p) latent defects not discoverable by due diligence; or

(q) any other cause arising without the actual fault and privity of the carrier and without the fault or neglect of the agents or servants of the carrier but the burden of proof shall be on the person claiming the benefit of this exception to show that neither the actual fault or privity of the carrier nor the fault or neglect of the agents or servants of the carrier contributed to the loss or damage.

(3) The shipper shall not be responsible for loss or damage sustained by the carrier or the ship arising or resulting from any cause without the act, fault, or neglect of the shipper, his agents, or his servants.

(4) Any deviation in saving or attempting to save life or property at sea, or any reasonable deviation shall not be deemed to be an infringement or breach of this Act or the contract of carriage, and the carrier shall not be liable for any loss or damage resulting therefrom.

(5) (a) Unless the nature and value of such goods have been declared by the shipper before shipment and inserted in the bill of lading, neither the carrier nor the ship shall in any event be or become liable for any loss or damage to or in connection with the goods in an amount exceeding 666.67 units of account per package or unit or 2 units of account per kilogram of gross weight of the goods lost or damaged, whichever is the higher.

(b) The total amount recoverable shall be calculated by reference to the value of such goods at the place and time at which the goods are discharged from the ship in accordance with the contract, or should have been so discharged.

The value of the goods shall be fixed according to the commodity exchange price, or if there be no such price, according to the current market price, or if there be no commodity exchange price or current market price, by reference to the normal value of goods of the same kind and quality.

(c) Where a container, pallet or similar article of transport is used to consolidate goods, the number of packages or units enumerated in the bill of lading as packed in such article of transport shall be deemed the number of packages or units for the purpose of this subsection as far as these packages or units are concerned. Except as aforesaid, such article of transport shall be considered the package or unit.

(d) The unit of account mentioned in this section is the Special Drawing Right as defined by the International Monetary Fund. The dollar value in terms of the Special Drawing Right shall be calculated in accordance with the method of valuation applied by the International Monetary Fund in effect at the date in question for its operations and transactions.

(e) Neither the carrier nor the ship shall be entitled to the benefit of the limitation of liability provided for in this subsection if it is proved that the damage resulted from an act or omission of the carrier done with intent to cause damage or recklessly and with knowledge that damage would probably result.

(f) The declaration referred to in paragraph (a) of this subsection, if embodied in the bill of lading, shall be *prima facie* evidence, but shall not be binding or conclusive on the carrier.

(g) By agreement between the carrier, or master or agent of the carrier, and the shipper, other maximum amounts than those referred to in paragraph (a) of this subsection may be fixed, provided that no maximum amount so fixed shall be less than the appropriate maximum mentioned in that paragraph (a).

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

(6) Goods of an inflammable, explosive or dangerous nature, to the shipment whereof the carrier, master or agent of the carrier has not consented with knowledge of their nature and character, may at any time before discharge be landed at any place or destroyed or rendered innocuous by the carrier without compensation, and the

shipper of such goods shall be liable for all damages and expenses directly or indirectly arising out of or resulting from such shipments.

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

71A. Defences

(1) The defences and limits of liability provided for in this Part shall apply in any action against the carrier in respect of loss or damage to goods covered by a contract of carriage whether the action be founded in contract or in tort.

(2) If such an action is brought against a servant or agent of the carrier (such servant or agent not being an independent contractor), such servant or agent shall be entitled to avail himself of the defences and limits of liability which the carrier in entitled to invoke under this Part.

(3) The aggregate of the amounts recoverable from the carrier, and such servants and agents, shall in no case exceed the limit provided for in this Part.

(4) Nevertheless, a servant or agent of the carrier shall not be entitled to avail himself of the provisions of this section, if it is proved that the damage resulted from an act or omission of the servant or agent done with intent to cause damage or recklessly and with knowledge that damage would probably result.

(5) *(Repealed)*

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

(1) A carrier shall be at liberty to surrender in whole or in part all or any of his rights and immunities or to increase any of his responsibilities and liabilities under this Part; provided that such surrender or increase shall be embodied in the bill of lading issued to the shipper.

(2) The provisions of this Part shall not be applicable to charterparties, but if bills of lading are issued in the case of a ship under a charterparty they shall comply with the terms of this Part. Nothing in this Part shall be held to prevent the insertion in a bill of lading of any lawful provision regarding general average.

73. Special conditions

(1) Notwithstanding the provisions of the preceding sections, a carrier, master or agent of the carrier, and a shipper shall, in regard to any particular goods be at liberty to enter into any agreement in any terms as to the responsibility and liability of the carrier for such goods, and as to the rights and immunities of the carrier in respect to such goods, or his obligation as to seaworthiness (so far as the stipulation regarding seaworthiness is not contrary to public policy), or the care of diligence of his servants or agents in regard to loading, handling, stowage, carriage, custody, care and discharge of the goods carried by sea; provided that in this case no bill of lading has been or shall be issued and that the terms agreed shall be embodied in a receipt which shall be a non-negotiable document and shall be marked as such.

(2) Any agreement so entered into shall have full legal effect; provided that this section shall not apply to ordinary commercial shipments made in the ordinary course of trade but only to other shipments where the character or condition of the property to be carried or the circumstances, terms and conditions under which the carriage is to be performed are such as reasonably justify a special agreement.

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

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

75. Effect of Part

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

The provisions of this Part shall not affect the provisions of any International Convention or national law governing liability for nuclear damage.

76. (*Repealed*)

77. Bulk cargo-weights ascertained by third parties

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

78. Scope of Part

This Part shall apply to all contracts for carriage of goods by sea –

(a) on board Vanuatu vessels in foreign trade; or

(b) to or from ports of Vanuatu in foreign trade whatever may be the nationality of the ship, the carrier, the shipper, the consignee, or any other interested person.

PART 7 – LIMITATION OF SHIPOWNERS' LIABILITY

79. Owners' right to limitation

(1) The owner of a ship may limit his liability in accordance with section 81 in respect of claims arising from any of the following occurrences, unless the occurrence giving rise to the claim resulted from the actual fault or privity of the owner –

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

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

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

(c) any obligation or liability imposed by any law relating to the removal of any wreck and arising from or in connection with the raising, removal or destruction of any ship which is sunk, stranded or abandoned (including

anything which may be on board such ship) and any obligation or liability arising out of damage caused to harbour works, basins and navigable waterways.

(2) In this Part the expression "personal claims" means claims resulting from loss of life and personal injury; "property claims" means all other claims set out in subsection (1).

(3) An owner shall be entitled to limit his liability in the cases set out in subsection (1) even in the cases where his liability arises, without proof of negligence on the part of the owner or of persons for whose conduct he is responsible, by reason of his ownership, possession, custody or control of the ship.

(4) Nothing in this section shall apply to –

(a) claims for salvage or claims for contribution in general average;

(b) claims by the master, by members of the crew, by any servants of the owner on board the ship or by servants of the owner whose duties are connected with the ship, including the claims of their heirs, personal representatives or dependents, if under the law governing the contract of service between the owner and such servants the owner is not entitled to limit his liability in respect of such claims or if he is by such law only permitted to limit his liability to an amount greater than that provided for in section 81.

(5) If the owner of a ship is entitled to make a claim against a claimant arising out of the same occurrence, their respective claims shall be set off against each other and the provisions of this Part shall only apply to the balance, if any.

(6) The act of invoking limitation of liability shall not constitute an admission of liability.

80. Claims

(1) The limit of liability prescribed by section 81 shall apply to the aggregate of personal claims and property claims which arise on any distinct occasion without regard to any claims which have arisen or may arise on any other distinct occasion.

(2) Where the aggregate of the claims which arise on any distinct occasion exceeds the limits of liability provided for by section 81 the total sum representing such limits of liability may be constituted as one distinct limitation fund.

(3) The fund thus constituted shall be available only for the payment of claims in respect of which limitation of liability can be invoked.

(4) After the fund has been constituted, no claimant against the fund shall be entitled to exercise any right against any other assets of the shipowner in respect of his claim against the fund, if the limitation fund is actually available for the benefit of the claimant.

81. Limitation fund

(1) The amounts to which the owner of a ship may limit his liability under section 79 shall be –

(a) where the occurrence has only given rise to property claims, an aggregate amount of 67 dollars for each ton of ship's tonnage;

(b) where the occurrence has only given rise to personal claims, an aggregate amount of 207.70 dollars for each ton of the ship's tonnage;

(c) where the occurrence has given rise both to personal claims and property claims, an aggregate amount of 207.70 dollars for each ton of the ship's tonnage, of which a first portion amounting to 140.70 dollars for each ton of the ship's tonnage shall be exclusively appropriated to the payment of personal claims and of which a second portion amounting to 67 dollars for

each ton of the ship's tonnage shall be appropriated to the payment of property claims; provided, however, that in the cases where the first portion is insufficient to pay the personal claims in full the unpaid balance of such claims shall rank rateably, with the property claims for payment against the second portion of the fund.

(2) In each portion of the limitation fund the distribution among the claimants shall be made in proportion to the amounts of their established claims.

(3) If before the fund is distributed the owner has paid in whole or in part any of the claims set out in section 79, he shall *pro tant*o be placed in the same position in relation to the fund as the claimant whose claim he has paid, but only to the extent that the claimant whose claim he has paid would have had a right of recovery against him under the laws of Vanuatu.

(4) Where the shipowner establishes that he may at a later date be compelled to pay in whole or in part any of the claims set out in section 79, the court may order that a sufficient sum shall be provisionally set aside to enable the shipowner at such later date to enforce his claim against the fund in the manner set out in subsection (3).

(5) For the purpose of ascertaining the limit of an owner's liability in accordance with the provisions of this section the tonnage of a ship of less than 300 tons shall be deemed to be 300 tons.

(6) For the purpose of this Part only, tonnage shall be calculated as follows –

(a) in the case of steamships or other mechanically propelled ships there shall be taken the net tonnage with the addition of the amount deducted from the gross tonnage on account of engine room space for the purpose of ascertaining the net tonnage;

(b) in the case of all other ships there shall be taken the net tonnage.

82. Bail and release

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

(2) Where, in circumstances mentioned in subsection (1), bail or other security has already been given –

(a) at the port where the accident giving rise to the claim occurred;

(b) at the first port of call after the accident if the accident did not occur in a port;

(c) at the port of disembarkation or discharge if the claim is a personal claim or relates to damage to cargo,

the court shall order the release of the ship or the bail or other security given, subject to the conditions set forth in subsection (1).

(3) The provisions of subsections (1) and (2) shall apply likewise if the bail or other security already given is a sum less than the full limit of liability under this Part; provided that satisfactory bail or other security is given for the balance.

(4) When the shipowner has given bail or other security in a sum equal to the full limit of his liability under this Part such bail or other security shall be available for the payment of all claims arising on a distinct occasion and in respect of which the shipowner may limit his liability.

83. Applicability

(1) In this Part the liability of the shipowner includes the liability of the ship herself.

(2) Subject to subsection (3), the provisions of this Part shall apply to the charterer, manager and operator of the ship, and to the master, members of the crew and other servants of the owner, charterer, manager or operator acting in the course of their employment, in the same way as they apply to an owner himself; provided that the total limits of liability of the owner and all such other persons in respect of personal claims and property claims arising on a distinct occasion shall not exceed the amounts determined in accordance with section 81.

(3) When actions are brought against the master or against the members of the crew such persons may limit their liability even if the occurrence which gives rise to the claims resulted from the actual fault or privity of one or more of such persons. If, however, the master or member of the crew is at the same time the owner, co-owner, charterer, manager or operator of the ship the provisions of this subsection shall only apply where the act, neglect or default in question is an act, neglect or default committed by the person in question in his capacity as master or as member of the crew of the ship.

84. Fire damage

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

PART 8 – RADIO

85. Regulations

The Minister responsible for telecommunication may, on the recommendation of the Commissioner from time to time, make such rules and regulations as may be deemed by him necessary and appropriate to the efficient administration of maritime mobile radio stations.

PART 9 – RULES OF NAVIGATION

86. Regulations for preventing collisions

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

87. Vessel under oars

The term “vessel under oars” as set forth in the Regulations referred to in section 86 shall be interpreted to include canoes and various non-descript local craft.

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

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

relieve any vessel, owner, corporation, or other person from any liability incurred by reason of such neglect or refusal.

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

90. Assistance in case of collision
In every case of collision between 2 vessels it shall be the duty of the master or person in charge of each vessel, if and in so far as he can do so without serious danger to his own vessel, crew, and passengers (if any), to stand by the other vessel until he has ascertained that it needs no further assistance; to render to the other vessel, and to its master, crew or passengers (if any), such assistance as may be practicable and necessary to save them from any danger caused by the collision; and to report to the master or person in charge of the other vessel the name of its own vessel, its port of registry or the port to which it belongs, and the names of the ports from which and to which it is bound. If he fails to do so without reasonable cause for such failure, the collision shall, in the absence of proof to the contrary, be deemed to have been caused by his wrongful act, neglect, or default.

91. Penalty for failure to render assistance
Every master or person in charge of a Vanuatu vessel or boat, who, without reasonable cause fails to render assistance or to give information as required by section 90 shall be deemed guilty of an offence and shall be liable to a fine of 1,000 dollars or to imprisonment for a term not exceeding 2 years, or to both; and for the above sum the vessel shall be liable and may be seized and proceeded against by any person in any court of competent jurisdiction in Vanuatu.

PART 10 – WRECKS AND SALVAGE

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

93. Right to salvage not affected by ownership of vessel
The right to remuneration for assistance of salvage services shall not be affected by common ownership of the vessels rendering and receiving such assistance or salvage services.

94. Salvage remuneration
Salvors of human life or cargo who have taken part in the services rendered in connection with the accident giving rise to salvage are entitled to a fair share of the remuneration awarded to the salvors of the vessel, her cargo and accessories.

95. Time limit for salvage suits
An action for recovery of remuneration for rendering assistance or salvage services shall not be maintainable if brought later than 2 years from the date when such assistance or salvage was rendered, unless during that period there has not been reasonable opportunity for securing jurisdiction of the vessel, person or corporation to be charged, in which case the right of action shall not lapse until 90 days after there has been a reasonable opportunity to secure jurisdiction.

96. Recovery for salvage services rendered by Government vessels

The Commissioner or his agent and the crew of any vessels owned or operated by Vanuatu or its representatives, may collect and sue for salvage services rendered by such vessel and crew. Any salvage monies recovered by the Commissioner, or his agent, and not for the benefit of the crew, shall be held for the credit of the Government agency having possession or control of the vessel rendering such service.

97. Marine casualties

In the event of any casualty involving a Vanuatu vessel where there is a loss of life or loss of or damage to property estimated to be in excess of 50,000 dollars, the master shall immediately forward a report thereon to the Commissioner or Deputy Commissioner in accordance with such regulations as the Minister on the recommendation of the Commissioner may make from time to time. Where there is a failure to execute and file a report as required hereunder, the master and vessel shall each be liable to a fine of 250 dollars upon notice from the Commissioner.

98. Marine casualty investigations

The Minister on the recommendation of the Commissioner may, from time to time, make such rules and regulations as are deemed by him necessary and appropriate to the investigation of marine casualties involving vessels registered under this Act or otherwise occurring within the jurisdiction of Vanuatu.

PART 11 – MERCHANT SEAMEN

99. Application

(1) The rights and obligations of every person employed on any ocean going merchant vessel registered under this Act and any persons employing such person shall, with respect to terms and conditions of employment and other matters relating to employment and the internal order of such vessel be governed by this Part.

(2) The provisions of this Part shall not apply to –

(a) persons employed on vessels of less than 75 net tons;

(b) persons employed solely in ports in repairing, cleaning, stevedoring and loading or unloading the vessels; and

(c) pilots.

100. Interpretation

In this Part unless the context otherwise requires –

"crew" means collectively the persons, other than the officers and the master, serving in any capacity on board a vessel;

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

"foreign trade" means trade between foreign countries or between Vanuatu and foreign countries;

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

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

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

"vessel" means any vessel registered under this Act.

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

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

103. Penalty for misuse of licences or certificates
Any person who shall receive or shall have in his possession any licence, certificate or document issued to officers or crew by the Commissioner or Deputy Commissioner to which he is not lawfully entitled, or any false licence, certificate or document, with intent to use the same unlawfully, or who without lawful authority shall alter or change any genuine license, certificate or document; or who shall in any manner transfer or arrange for the transfer of any such license, certificate or document; or who shall aid or abet the preparation of any of the foregoing acts shall, for each offence, be liable to a fine of not more than 10,000 dollars or imprisonment for not more than one year, or both.

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

105. Duties of the master
The master shall among others, have the following duties –

(a) to enter into shipping articles with seamen as hereinafter provided;

(b) to maintain discipline on board the vessel and to take all such steps as are necessary and appropriate in connection therewith;

(c) to assume responsibility for the receipt of cargo by the vessel, stowage of cargo on board the vessel insofar as such stowage affects the safety or navigability of the vessel, and for the discharge of cargo from the vessel;

(d) to assume full responsibility for the safety of the members of the crew and passengers, if any, and to take all necessary and appropriate steps in connection therewith;

(e) to assume full responsibility for the navigation of the vessel at all times;

(f) to assume full responsibility for the vessel's funds and the disbursement thereof;

(g) to ascertain that the vessel's log books are properly and accurately kept;

(h) to keep in his custody all of the vessel's documents;

(i) to make all reports required by or under this Act or by any regulation made hereunder or by the regulations of any ports at which the vessel may call;

(j) to render assistance in the saving of life and property at sea.

106. Special powers of masters
When a vessel is at sea, the master is authorised to –

(a) marry passengers or other persons aboard;

(b) issue birth certificates for children born at sea;

(c) bury persons who have died on board the vessel while at sea.

107. Certain seamen's rights provided for master
Except as otherwise provided, the master of a Vanuatu vessel shall have the same rights in respect of wages, maintenance, cure and repatriation as are hereinafter provided for seamen.

108. Wrongful death of master
The personal representative of the master of a Vanuatu vessel shall have the same rights in case of the master's wrongful death as hereinafter provided in respect of seamen.

109. Shipping articles required for seamen
Before the master of any Vanuatu vessel of 75 net tons or more shall sail from any port, there shall be in force shipping articles (sometimes referred to as articles) with every seaman on board his vessel, except with persons who are apprenticed to, or servants of, himself or the vessel's owner. The shipping articles shall be written or printed and shall be subscribed by every seaman shipping on the vessel and shall state the period of engagement or voyage and the term or terms for which each seaman shall be shipped and the rate of pay for each and such other items as may be required by regulations made under this Act.

110. Exemptions with respect to shipping articles
Any other provisions of this Act to the contrary notwithstanding, shipping articles between the master and crew shall not be a requirement with respect to Vanuatu vessels engaged in the search for and development of offshore oil, gas or mineral resources or in the support thereof, where the master and crew of such vessels have entered into written contracts of employment with the owners or operators of such vessels; provided such contracts meet the requirements established by the Commissioner or a Deputy Commissioner. In the event such employment contracts take the place of shipping articles as provided in this section, all references in the Act to shipping articles or articles shall, except to the extent that it would be inconsistent with this section, be deemed to refer to such employment contract.

111. Penalty for alteration of shipping articles
If any person fraudulently alters, or makes any false entry in any shipping article, and if any person aids in committing, or procures to be committed, any such offence, he shall, in respect of each offence, be liable to a fine not exceeding 500 dollars.

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

113. Duration and extension of shipping articles
(1) Shipping articles for the duration of a single voyage terminate as soon as unloading of the cargo is completed at the last port of destination.

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

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

(4) Where shipping articles are not for a stated period they shall be deemed to be for a period of not less than 1 year and shall terminate at the expiration of the 1 year period, provided that at least 5 days prior notice has been given. In the absence of such notice the agreement shall continue but shall be terminable thereafter upon at least 5 days notice by either party. Nothing in this subsection shall apply to, or preclude, shipping articles for a stated period of time.

(5) When shipping articles expire while the voyage is still incomplete, they shall be extended until the vessel arrives at the port of her destination, and the wages shall be continued accordingly.

114. Termination of shipping articles

Where the shipping articles have terminated because of –

(a) transfer of registry; or

(b) transfer of ownership; or

(c) abandonment of vessel; or

(d) loss of vessel,

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

115. Certificate of service

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

(2) If any person forges or fraudulently alters any certificate of service, he shall be guilty of an offence.

116. Exemptions with respect to certificates of service

No certificate of service shall need to be given covering the service of any person exempted from the shipping articles requirement in terms of section 110.

117. Minimum age at sea

(1) Notwithstanding any other provision in this Act, persons under the age of sixteen shall not be employed or work on Vanuatu vessels registered under this Act, except on vessels upon which only members of the same family are employed, school ships or training ships.

(2) The master shall keep a register of all persons under the age of sixteen years employed on board his vessel, as required by Regulation.

(3) Provided, that such persons may occasionally take part in the activities on board such vessels during school holidays, subject to the conditions that the activities in which they are engaged –

(a) are not harmful to their health or normal development;

(b) are not such as to prejudice their attendance at school; and

(c) are not intended for commercial profit.

(4) Persons under the age of eighteen years shall not be employed or work on coal-burning vessels as trimmers or stokers.

118. Payment of wages

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

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

(3) A seaman is entitled to receive in local currency, on demand, from the master one half of his wages actually earned and payable at every intermediate port where the vessel shall load or deliver cargo before the voyage is ended, but not more than once in any 10 day period. In case of wrongful failure to pay a seaman wages on demand, the seaman shall become entitled to a payment of full wages earned.

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

119. Wages for unjustifiable discharge

Any seaman who has signed shipping articles and is afterward discharged before the commencement of the voyage or before 1 month's wages are earned, without fault on his part justifying such discharge and without consent, shall be entitled to receive in addition to his earned wages a sum equal in amount to 1 month’s wages as compensation.

120. Stowaway entitled to wages, if there is an agreement

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

121. Grounds for discharge

The master may discharge a seaman for justifiable cause, including any of the following grounds –

(a) unjustified failure to report on board at such times and dates as may be specified by the master;

(b) incompetence to perform duties for which the seaman has represented himself as qualified;

(c) theft, embezzlement or wilful destruction of any part of the vessel, its cargo or stores;

(d) serious insubordination or wilful disobedience or wilful refusal to perform assigned duties;

(e) mutiny or desertion;

(f) habitual intoxication, quarrelling or fighting;

(g) possession of dangerous weapons, narcotics or contraband articles;

(h) intentional concealment from the shipowner or master at or prior to engagement under the shipping articles of a condition which resulted in sickness or injury.

122. Advances and allotment of wages

(1) It shall be unlawful to pay any seaman wages in advance of the time when they are actually earned, or to pay such advance wages, or to make any order or note or other evidence of the indebtedness therefor to any other person, or to pay to any person for the shipment of any seaman when payment is deducted or to be deducted from a

seaman's wages. Any person violating any of the provisions of this section shall be liable to a fine not exceeding 50 dollars.

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

123. Wages and clothing exempt from attachment

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

124. Vacation allowance and holidays

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

(a) in the case of masters and officers not less than 12 days base wages;

(b) in the case of other members of the crew not less than 8 days base wages.

(2) Every seaman shall be entitled to a minimum of 5 paid holidays per year.

125. Agreements as to loss of lien or right to wages

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

126. Wages not dependent on freight earned

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

127. Wages, maintenance and cure for sick and injured seaman

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

(a) full wages, as long as he is sick or injured and remains on board the vessel;

(b) medical and surgical treatment and supply of proper and sufficient medicines and therapeutical appliances, until medically declared to have reached a maximum cure or to be incurable, but in no event more than 30 weeks from the day of the injury or commencement of sickness;

(c) an amount equal to board and lodging up to a maximum period of 30 weeks, and one third of his base wages during any portion of such period subsequent to his landing from the vessel but not to exceed a maximum period of 16 weeks commencing from the day of injury or commencement of the sickness;

(d) repatriation as provided in section 133 including, in addition, all charges for his transportation, accommodation and food during the journey and his maintenance up to the time fixed for his departure.

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

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

(a) such sickness or injury resulted from his wilful act, default or misconduct;

(b) such sickness or injury developed from a condition which was intentionally concealed from the employer at or prior to his engagement under the articles;

(c) he refuses medical treatment for such sickness or injury or is denied such treatment because of his misconduct or default;

(d) at the time of his engagement he refused to be medically examined.

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

127A. Benefits of compensation for loss of life

In addition to wages, maintenance and cure under section 127, and in addition to any liability for wrongful death under section 128, a seaman on board a vessel under signed shipping articles or off the vessel pursuant to an actual mission assigned to him by or by the authority of the master, shall be entitled as provided by regulation to the benefit of a direct compensation for loss of life, payable to his designated beneficiary or beneficiaries. It shall be the shipowner's obligation to provide such benefit free of any charge to the seaman.

128. Wrongful death

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

129. Death on board

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

130. Issuance of death certificate

Upon the request of anyone having legal interest and where a death has been reported in accordance with the requirements of section 129, the office of the Commissioner or of the Deputy Commissioner shall issue a death certificate containing the particulars set forth in section 129. Where the deceased was a citizen or a resident of Vanuatu, such certificate shall be recorded there as required by law.

131. Burial expenses

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

132. Working hours overtime

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

(a) the normal hours of work in port and at sea shall be 8 per day;

(b) work performed over and above the 8-hour period shall be considered as overtime and shall be compensated for at overtime rates;

(c) a sufficient number of men shall be employed to promote safety of life at sea and to avoid excessive overtime;

(d) whenever the master of any vessel shall fail to comply with this section, he shall be liable to a fine not exceeding 100 dollars for every offence under this section.

133. Repatriation

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

(a) at the shipowner's option, to the port at which he was engaged or where the voyage commenced or to a port of the seaman's own country; or

(b) to another port, agreed upon between the seaman and the shipowner or the master.

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

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

(3) The right to repatriation shall be lost by failure of the seaman to request repatriation within 1 week from the time that he is in a condition to be repatriated.

134. Loss of right of repatriation

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

(a) desertion;

(b) entering into a new agreement with the same owner after his discharge;

(c) entering into a new agreement with another owner after his discharge;

(d) contravening sections 137, 139 and 140;

(e) unjustifiable repudiation of the shipping articles.

135. Offences against the internal order of the vessel

(1) Any seaman on a Vanuatu vessel who commits any of the following offences may in addition to any other penalty provided herein, be punished by the master as follows –

(a) for neglecting or refusing without reasonable cause to join his vessel or to proceed to sea in his vessel, or for absence without leave at any time within 24 hours of the vessel's sailing from any port, either at the commencement or during the progress of the voyage, or for absence at any time, without leave and without sufficient reason from his vessel and from his duty, not amounting to desertion, by forfeiture from his wages of not more than 2 days wages or sufficient to defray any expenses which shall have been properly incurred in hiring a substitute;

(b) for quitting the vessel without leave before she is placed in security, by forfeiture from his wages of not more than 1 month's wages;

(c) for intoxication or wilful disobedience to any lawful command or continued wilful neglect of duty by being placed in restraint until such intoxication or disobedience shall cease, and by forfeiture from his wages of not more than 4 day's wages;

(d) for continued intoxication or wilful disobedience to any lawful command or continued wilful neglect of duty by being placed in restraint until such intoxication, disobedience or neglect shall cease, and by forfeiture, for every 24 hours continuance of such intoxication, disobedience or neglect, a sum of not more than 12 day's wages;

(e) for wilfully damaging the vessel or embezzling or wilfully damaging any part of the stores or cargo, whether on board the vessel, in boats or ashore, by forfeiture out of his wages of a sum equal in amount to the loss thereby sustained;

(f) for any act of smuggling, whereby loss or damage is occasioned to the master or shipowner, by payment to such master or shipowner of such a sum as is sufficient to reimburse the master or shipowner for such loss or damage, and the whole or any part of his wages may be retained in satisfaction or on account of such liability;

(g) for assaulting any master, pilot or officer, by forfeiture from his wages of not more than 3 months pay;

(h) for mutiny or desertion, by forfeiture of all accrued wages.

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

136. Prohibition of corporal punishment

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

137. Drunkenness, neglect of duty

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

138. Desertion

(1) Any seaman who deserts from his vessel with the intention of not returning to duty and who remains unlawfully in a foreign country shall be guilty of desertion and shall be liable to answer for any damages or losses suffered by the shipowner as a consequence of such desertion.

(2) The master shall make an entry of all desertions in the logbook and file a report with the consul, or, if there be no consul at the port, with the office of the Deputy

Commissioner. The local authorities of the port shall be notified and requested to apprehend and deliver the deserter.

139. Incitement of seamen to revolt or mutiny

Whoever, being of the crew of a vessel of Vanuatu, endeavours to make a revolt or mutiny on board such vessel, or combines, conspires or confederates with any other person on board to make such revolt or mutiny, or solicits, incites or stirs up any other of the crew to disobey or resist the lawful orders of the master or other officers of such vessel, or to refuse or neglect his proper duty on board thereof, or to betray his proper trust, or assembles with others in a tumultuous and mutinous manner, or makes a riot on board thereof, or unlawfully confines the master or other commanding officer thereof, shall be liable to a fine not exceeding 1,000 dollars or to imprisonment for a term not exceeding 5 years, or to both.

140. Revolt or mutiny of seamen

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

141. Entry of the offences in logbook

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

142. Abandonment of seamen

(1) Whoever, being master or in charge of a vessel of Vanuatu, maliciously and without justifiable cause forces any member of the crew of such vessel on shore in order to leave him behind in any foreign port or place, or refuses to bring to such place as is required under the articles any member of the crew of such vessel in condition and willing to proceed when the master is ready to proceed, shall be liable to a fine not exceeding 500 dollars.

(2) The abandoned seaman shall retain his right to repatriation.

143. Freedom of association

Seamen and their employers, without distinction whatsoever, shall have the right to establish, and to become members of, organizations of their choosing, always subject to the jurisdiction of Vanuatu.

144. Protection of freedom of association

It shall be unlawful for any employer, employer organization or labour organization to coerce any seaman in the exercise of his choice whether to establish, become a member or participate in any labour organization; provided that any provision in a labour contract entered into pursuant to section 146 shall not be deemed to be in violation of this section.

145. Bargaining and execution of labour contract

(1) It shall be lawful for any employer or employer organization and any labour organization representing seamen to bargain and enter into a labour contract concerning wages and other terms and conditions of employment; provided that no labour contract provisions may be contrary to the laws or regulations of Vanuatu or deprive Vanuatu of any jurisdiction over labour relations.

(2) A copy of any labour contract between the employer and an organization representing seamen employed on a vessel shall be placed on board the said vessel and shall be made available to maritime or judicial authorities when requested.

146. Provisions authorized in labour contracts

It shall be lawful for any employer or employer organization and any labour organization to agree to be bound by any provisions in entering into a labour contract; provided that such provisions are not prohibited by the laws or regulations of Vanuatu.

147. Provisions prohibited in labour contracts

It shall be unlawful for any employer or employer organization or employee or labour organization to attempt to bargain for, or to enter into, any labour contract containing any provision which attempts to set aside the application of or is inconsistent with or is violative of the laws of the Republic of Vanuatu, or which prescribes terms or conditions of employment less favourable to seamen than those set forth in this Part or which discriminate as to terms and conditions of employment on the basis of race, colour or creed.

148. Protection of labour contract

Whenever an employer or employer organization and a labour organization have entered into a labour contract providing that such labour organization shall be sole bargaining representative of seamen pursuant to section 146 it shall be unlawful –

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

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

prior to 30 days before the termination of such agreement or before the expiration of 3 years from the effective date of such agreement, whichever event shall occur first.

149. Strikes, picketing and like interference

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

(a) a majority of seamen on the vessel involved have voted by secret ballot that such action be taken; and

(b) at least 30 days written notice of intention to take such action has been given to the employer or the master; and

(c) the procedures of conciliation, mediation and arbitration under section 150 have been followed to conclusion.

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

150. Conciliation, mediation and arbitration of labour disputes, differences or grievances

It is declared to be the policy of the Republic of Vanuatu to place upon employers and employer organisations and employees and labour organisations the primary responsibility for avoidance of any interruption in foreign or domestic maritime commerce.

In the event that an agreed settlement between the parties to any dispute, difference or grievance is not effected, the following conciliation, mediation and arbitration procedures, as may be further implemented by regulation, shall apply:

(1) If the dispute is not resolved, crew members shall present their case to the employer through the master or his appointee, or, if the matter is to the prejudice of the master, then directly to the employer. Crew members may be represented in the matter by a labour organization which is a party to a labour contract entered into pursuant to section 145, and which covers the crew members. Efforts shall be made to conciliate the matter and to find an agreeable solution thereto.

(2) If a conciliation acceptable to both parties cannot be made at this stage, either party may call upon the Commissioner or a Deputy Commissioner of Maritime Affairs, or a representative appointed by the Commissioner or a Deputy Commissioner, to act as mediator to endeavour to find a solution to the matter satisfactory to the parties.

(3) In the event that the dispute cannot be resolved by conciliation or mediation, either party may submit the matter to an independent arbitrator or arbitrators for a final determination, as provided by regulation. If the parties cannot agree upon a choice of arbitrator or arbitrators, the matter shall be finally determined by the Maritime Appeal Tribunal established by the Vanuatu Maritime Authority Act [Cap. 253].

Any arbitration award may be enforced, if necessary, by any Court of competent jurisdiction.

151. Time limit

(1) Claims arising out of the shipping articles are subject to 1 year's prescription.

(2) The following rights of action are subject to 2 years' prescription –

(a) the right of action for death of a seaman caused by wrongful act, neglect or default on the high seas;

(b) claims of the shipowner against the master for acts committed during the performance of his duties;

(c) all other claims in tort.

(3) All other claims are subject to 3 years' prescription.

(4) The period of prescription of the claims, laid down in the preceding subsections, runs from the time when the right of action accrues.

152. Minister to make rules and regulations

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

Table of Amendments (since the Revised Edition 1988)

[Note that this Act was re-numbered in the 1988 Edition, but amending Act 15 of 1987 and 8 of 1989 referred to the earlier section numbers. Where these are different, the earlier section numbers are in brackets following the Act.]

1	*Amended by Acts 8 of 1989, 13 of 1996, 31 of 1998*
2	*Repealed by Act 31 of 1998*
3A	*Inserted by Act 8 of 1989*
4	*Amended by Act 31 of 1998*
6	*Substituted by Act 8 of 1989*
6(1)(f)	*Amended by Act 31 of 1998*
7	*Repealed by Act 8 of 1989*
8(2)	*Amended by Act 31 of 1998*
8(3), (4)	*Amended by Act 15 of 1987*
9(1)	*Amended by Act 8 of 1989*
9(2)	*Amended by Act 31 of 1998*
10	*Substituted by Act 15 of 1987*
10 (heading)	*Amended by Act 8 of 1989*
10(1), (2)	*Substituted by Act 8 of 1989*
10(1)	*Amended by Act 31 of 1998*
13	*Amended by Act 15 of 1987*
15	*Substituted by Act 8 of 1989*
15(2)	*Amended by Act 31 of 1998*
17(1)(a)	*Amended by Act 8 of 1989*
17(1)(c)	*Substituted by Act 8 of 1989*
17(1)(d)	*Repealed by Act 8 of 1989*
17(2)	*Repealed by Act 8 of 1989*
17(3)	*Amended by Act 8 of 1989*
18 (heading)	*Amended by Act 8 of 1989*
18(1)	*Amended by Act 15 of 1987*
18(4)	*Amended by Act 15 of 1987 [18(3)]*
18(2)	*Amended by Acts 13 of 1996, 31 of 1998*
18(3)	*Amended by Acts 8 of 1989, 13 of 1996*
18(5)	*Amended by Act 8 of 1989 [18(4)]*
19(1)	*Substituted by Act 15 of 1987*
19(6)	*Substituted by Act 8 of 1989*
19(7), (8)	*Inserted by Act 15 of 1987; amended by Act 8 of 1989*
19(9)	*Inserted by Act 8 of 1989*
19(9)(b)	*Amended by Act 31 of 1998*
20, 20(d)	*Amended by Act 8 of 1989*
21 (heading),(1),(3	*Amended by Act 8 of 1989*
21(2)	*Repealed by Act 8 of 1989*
21(4)	*Amended by Acts 8 of 1989, 31 of 1998*
21(5)	*Amended by Act 8 of 1989*
30(1)	*Amended by Act 8 of 1989*
31(1), (3)	*Amended by Act 8 of 1989 [30A]*
31(2A)	*Inserted by Act 8 of 1989 [30A(2A)]*
31(3A), (3B)	*Inserted by Act 8 of 1989 [30A(3A),(3B)]*
31(4)	*Substituted by Act 8 of 1989 [30A(4)]*
31(6)(c)	*Repealed by Act 8 of 1989 [30A(6)(c)]*
31(6)(d)	*Amended by Act 8 of 1989[30A(6)(d)]*
33	*Amended by Act 8 of 1989 [31A]*
39	*Amended by Act 8 of 1989 [37]*
40(4)	*Amended by Act 8 of 1989 [38(4)]*
47	*Substituted by Act 8 of 1989[45]*
50(1) & (2)	*Amended by Acts 8 of 1989 [48(1),(2)] and 3 of 1990*
51(a)	*Substituted by Act 15 of 1987 [49(a)]; Repealed by Act 8 of 1989 [49(a)]*
51(b)	*Amended by Act 8 of 1989 [49(b)]*
51(c)	*Repealed by Act 8 of 1989 [49(c)]*
52	*Substituted by Act 15 of 1987 [50]*
53	*Amended by Act 8 of 1989 [51]*
54	*Amended by Act 15 of 1987 [52]*
55	*Amended by Acts 15 of 1987 [53] and 8 of 1989 [53]*
56(2), (3), (4)	*Repealed by Act 8 of 1989 [54(2),(3),(4)]*
56(4A)	*Inserted by Act 15 of 1987 [54(4A)]; Repealed by Act 8 of 1989 [54(4A)]*
56(5)	*Amended by Act 8 of 1989 [54(5)]*
56(6)	*Repealed by Act 8 of 1989 [54(6)]*
57	*Substituted by Act 8 of 1989 [55]*
58	*Substituted by Act 15 of 1987*
58A, 58B	*Inserted by Act 15 of 1987 [56A,56B]; Amended by Act 8 of 1989 [56A,56B]*
58B(4)	*Inserted by Act 8 of 1989 [56B(4)]*
59(2)	*Amended by Act 8 of 1989 [57(2)]*
61	*Repealed by Act 8 of 1989 [59]*
65	*Amended by Act 8 of 1989 [63]*
67A	*Inserted by Act 15 of 1987 [65A]; Amended by Act 8 of 1989 [65A]*
68	*Amended by Act 8 of 1989 [66]*
70 (heading)	*Amended by Act 15 of 1987 [68]*
70(3)(c)	*Substituted by Act 8 of 1989 [68(3)(c)]*
70(4),(6)	*Amended by Act 8 of 1989 [68(4),(6)]*
70(6A)	*Inserted by Act 8 of 1989 [68(6A)]*
71(2)(j), (p)	*Amended by Act 8 of 1989 [69(2)(j),(p)]*
71(4)	*Amended by Act 8 of 1989 [69(4)]*
71(5)	*Substituted by Act 8 of 1989 [69(5)]*
71A	*Inserted by Act 15 of 1987 [69A]*
71A(5)	*Repealed by Act 8 of 1989 [69A(5)]*
75	*Amended by Act 15 of 1987 [73]*
76	*Repealed by Act 8 of 1989 [74]*
78	*Substituted by Act 15 of 1987 [76]*
87	*Substituted by Act 15 of 1987 [85]; Amended by Act 8 of 1989 [85]*
103	*Substituted by Act 15 of 1987 [101]*
117	*Substituted by Act 15 of 1987 [113]*
121 (heading)	*Amended by Act 15 of 1987 [117]*
127A	*Inserted by Act 15 of 1987 [123A]*
145(2)	*Inserted by Act 15 of 1987 [141(2)]*
147	*Substituted by Act 15 of 1987 [143]*
149	*Substituted by Act 15 of 1987 [145]*
149(2)	*Amended by Act 8 of 1989 [145]*
150	*Substituted by Act 15 of 1987 [146]; Amended by Act 8 of 1989 [146]*
150(3)	*Amended by Act 31 of 1998*