Commencement: 31 December 1957

CHAPTER 26

PORTS

JR 12 of 1957
JR 14 of 1961
JR 2 of 1962
JR 21 of 1963
JR 2 1973
JR 17 of 1978
Act 6 of 1985
Act 32 of 1998

ARRANGEMENT OF SECTIONS

1. Interpretation

PORTS OF ENTRY
2. Port Vila and Luganville to be ports of entry
3. Port dues

PORTS
4. Minister may declare and define the limits of ports

HARBOURMASTERS AND PORT OFFICERS
5. Minister to appoint harbourmaster
6. Use of harbourmaster's flag
7. Powers of harbourmaster
8. Masters to comply with harbourmaster's directions
9. Powers of harbourmaster to move vessels
10. Harbourmaster may take necessary action to ensure security of shipping
11. Licensing of pilots
12. Signals as prescribed to be made for pilot
13. Harbourmaster or pilot not to be taken to sea except under unavoidable necessity
14. Government not liable for acts of pilot
15. Power to cancel pilot's licence
16. Pilotage fees

EXPLOSIVES
17. Vessels carrying explosives or other dangerous materials
18. Use of explosives and firearms prohibited

WRECKS, OBSTRUCTIONS, MOORINGS
19. Obstructions to be removed
20. No person other than owner may destroy wreck without permission
21. Harbourmaster's permission required to lay down buoy or mooring
22. Removal of ballast forbidden without permission

ERECTION OF PRIVATE INSTALLATIONS IN A PORT
23. Minister may licence occupation of foreshore for certain purposes
24. Licensed part of foreshore to be lighted

HARBOURMASTER'S POWER OF ENTRY ON LAND AND CONTROL OF LIGHTS
25. Powers of entry of harbourmaster in connection with lights
26. Harbourmaster may order screening of lights

GOVERNMENT WHARF AND PORT CHARGES
27. Government wharves and purlieus
28. Vessels to obtain permission to berth at Government wharf
29. Tonnage dues
30. Wharfage charges
31. Port charges
32. Exemption by Minister

OFFENCES
33. Offences
34. Penalty

REGULATIONS
35. Regulations

PORTS

To provide for the control of ports in Vanuatu.

1. Interpretation

In this Act, unless the context otherwise requires –

"ballast" includes any material or thing used for the ballasting of vessels;

"buoys" and "beacons" include all marks and signs in aid of navigation;

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

"goods" means all kinds of movable personal property including animals;

"master" means the person in command or in charge of any vessel not being the pilot;

"Minister" means the Minister responsible for ports and marine;

"owner" when used in relation to goods includes any person being or holding himself out to be the owner, importer, exporter, consignee, agent or person possessed or having any control or power of disposition over goods;

"owner" in respect of a vessel includes every person acting as agent for the owner, or authorised to receive freights or other charges payable in respect of the vessel;

"pilot" means any person not belonging to a vessel who has the conduct thereof;

"port dues" and "dues" mean any due, rate, fee, toll, tax, pilotage rate, light due, port charge, or payment in the nature thereof payable or leviable under this Act;

"ports works" includes generally any works for the improvement, protection, management or utilization of a port and all buildings thereon and machinery used in connection with such harbour works;

"produce" means any kind of locally produced or manufactured goods for export;

"tidal lands" or "foreshore" means such parts of the bed, shore or banks of a tidal water as are covered and uncovered by the flow and ebb of the tide at ordinary spring tides;

"tidal water" means any part of the sea or of a river within, the ebb and flow of the tide at ordinary spring tides;

"vessel" includes every description of a ship or boat and means anything made or used to carry by water or to hold or contain on water any human being or goods or property whatsoever;

"warehouse" includes all warehouses, buildings or premises in which goods landed from or to be carried in vessels, may be lawfully placed;

"wharves" includes all wharves, quays, piers, jetties in or on or from which passengers or goods may be taken on board of or landed from vessels.

PORTS OF ENTRY

2. Port Vila and Luganville to be ports of entry

The port of Port Vila in the island of Efate and the port of Luganville in the island of Espiritu Santo shall be the only ports of entry for Vanuatu and the masters of all vessels entering Vanuatu from foreign ports shall report first to the customs authorities at either the port of

Port Vila or the port of Luganville and all vessels leaving Vanuatu for foreign ports shall clear from the ports of Port Vila and Luganville aforesaid:

Provided that the Minister may by Order and subject to such conditions as he may prescribe authorise the entry into and departure from Vanuatu of vessels at ports other than those of Port Vila and Luganville:

And further provided that in the case of vessels which may through stress of weather or other circumstances be compelled to disregard the provisions of this section the onus of proof that such disregard was caused by circumstances over which the master of the vessel had no control shall rest on such master otherwise he shall be considered as having been guilty of an offence against this Act.

3. Port dues

(1) Subject to subsection (3) any vessel which enters a port of entry from any place beyond Vanuatu shall be subject to such port dues as the Minister may by Order prescribe.

(2) Dues collected under subsection (1) shall be payable at the first port of entry visited by a vessel during each visit to Vanuatu.

(3) Notwithstanding the provisions of subsection (1), vessels of war of any nationality shall be exempt from payment of port dues.

PORTS

4. Minister may declare and define the limits of ports

The Minister may by Order declare such place as may be expedient to be a port to which the provisions of the following sections of this Act shall apply and define the limits of such port.

HARBOUR MASTERS AND PORT OFFICERS

5. Minister to appoint harbourmaster

There shall be appointed fit and proper persons to be the harbourmaster and assistant harbourmaster of a port and such port officers as may be deemed necessary, who shall be public servants. The assistant harbourmaster shall exercise the powers vested in a harbourmaster by this Act during the absence of the harbourmaster from the port, and in accordance with any directions given by the harbourmaster.

6. Use of harbourmaster's flag

Any person not being a harbourmaster using the flag prescribed for the use of a harbourmaster shall be guilty of an offence against this Act.

7. Powers of harbourmaster

Any harbourmaster or other officer appointed under this Act shall be entitled at any time while in the execution of his duty to enter and remain on any vessel. It shall be lawful for the harbourmaster to give directions regulating the time and the manner in which any vessel shall enter into, go out of or lie in the port, and the position, mooring, unmooring, placing or removing of any vessel within the same.

8. Masters to comply with harbourmaster’s directions

The master of every vessel within the port shall regulate such vessel according to any lawful and reasonable direction of the harbourmaster made in conformity with this Act, and any master of any vessel who does not forthwith regulate such vessel according to such directions shall be guilty of an offence against this Act.

9. Powers of harbourmaster to move vessels

If the master of any vessel within the port does not moor, unmoor, place or remove such vessel according to the directions of the harbourmaster, it shall be lawful for the harbourmaster to cause such vessel to be moored, unmoored, placed or removed according to the directions aforesaid, and to employ a sufficient number of persons and appliances for that purpose, and the expenses attending such mooring, unmooring, placing or removing shall be paid by the master or owner of the vessel. Any person who hinders or causes to be hindered the harbourmaster or any person employed by him in mooring or unmooring, placing or removing such vessel in the manner aforesaid, shall be guilty of an offence against this Act.

10. Harbourmaster may take necessary action to ensure security of shipping

It shall be lawful for the harbourmaster to issue such orders as to the striking of masts, yards and booms, veering and shortening of cable and other things which in his discretion he may deem fit for the securing of any vessel in the harbour, and may cause to be received on board a vessel and made fast or cast off any line, warp, chain or hawser from any other vessel entering, leaving or shifting position in the harbour. When any such line, warp, chain or hawser is received and made fast on any vessel as hereinbefore provided, no person shall let go, cut or unfasten the same unless authorised to do so by the harbourmaster and any person who disregards the instructions issued by the harbourmaster in accordance with this section shall be guilty of an offence under this Act.

11. Licensing of pilots

(1) The Commissioner may grant a licence to a person as a pilot for the purpose of taking vessels within such waters of Vanuatu as are specified in the licence.

(2) The Commissioner must not grant a licence to a person unless satisfied that the person is duly qualified and is capable of performing such duties as are specified in the licence.

(3) A person to whom a licence is granted must pay the fee prescribed by the regulations for the granting of a licence.

(4) A licence is subject to such conditions as are specified in the licence or as are imposed under subsection (5).

(5) The Commissioner may vary or revoke a condition of a licence, or impose further conditions of a licence.

12. Signals as prescribed to be made for pilot

(1) The master of any vessel approaching any harbour and requiring the services of a pilot shall make such signals as are prescribed by international regulations.

(2) The Minister may by Order define the limits within a port, as declared under the provisions of section 4, within which pilotage shall be compulsory and may define the conditions relating to such compulsory pilotage.

13. Harbourmaster or pilot not to be taken to sea except under unavoidable necessity

The master of any vessel shall not, except under circumstances of unavoidable necessity, without the consent of the harbourmaster or pilot take any harbourmaster, port officer, or pilot to sea or beyond the limits of Vanuatu, and if the harbourmaster, port officer, or pilot is so taken the master shall be guilty of an offence against this Act and the master and owner shall be jointly liable to the payment of salary, subsistence and passage money of such harbourmaster, port officer, or pilot until their return to the port.

14. Government not liable for acts of pilot
Notwithstanding anything contained in this Act no civil action for damages or otherwise shall lie in respect of any damage occasioned by a pilot in the performance of his duties against the Government in respect of any such damage as aforesaid.

15. Power to cancel pilot's licence
Whenever the Commissioner is satisfied that any licensed pilot is unfit to be licensed as such on the grounds of physical disability, want of skill or neglect of duty, he may cancel the licence of such licensed pilot.

16. Pilotage fees
The Minister may by Order prescribe fees payable in respect of pilotage and may specify what proportion of those fees may be retained by a pilot licensed under the provisions of section 11.

EXPLOSIVES

17. Vessels carrying explosives or other dangerous materials
Any vessel arriving in any port having on board gunpowder or any other explosive material or any cargo or material of a dangerous or inflammable nature shall not berth at any wharf without the permission of the harbourmaster and, if so required, shall remain moored at a place apart from the main traffic until such gunpowder or other explosive material has been removed from such vessel or, in the opinion of the harbourmaster, shall have ceased to be dangerous, and from the time of entering the port until such goods have been unloaded shall fly during the day time a red flag of not less than 6 feet by 4 feet from the mainmast head and during the night shall show a red light to be visible all round the horizon for a distance of at least 2 miles.

18. Use of explosives and firearms prohibited
Any person using any explosive or discharging any firearm within the limits of a port without the permission of the harbourmaster shall be guilty of an offence against this Act.

WRECKS, OBSTRUCTIONS, MOORINGS

19. Obstructions to be removed
Should any vessel or part thereof, timber or other thing be sunk or stranded in any port, the master or owner thereof shall upon the receipt of an order to that effect from the harbourmaster, and within such time fixed in such order, clear the port of such vessel, timber or other thing, and all parts of the same, and of the cargo or ballast of such vessel, and should the master or owner aforesaid fail to comply with such order the harbourmaster may direct the removal of such vessel or part of the same and cargo or ballast thereof, timber or other thing at the expense of the owner thereof.

20. No person other than owner may destroy wreck without permission
No person other than the owner shall destroy or demolish or interfere with any wrecked or stranded vessel or any part thereof within the limits of a port without the permission of the owner thereof or of the harbourmaster given under section 19.

21. Harbourmaster's permission required to lay down buoy or mooring
No person shall lay down in the port any private buoy, mooring or anchor without the permission of the harbourmaster and under such conditions as may be prescribed. Any such permission may be at any time withdrawn whereupon any such buoy, mooring or anchor shall immediately be removed by the owner thereof and, failing such removal by such owner, it may be effected at the expense of the owner aforesaid.

22. Removal of ballast forbidden without permission

No person shall remove any stone, shingle or earth or other material from within the limits of any port without the authority given in writing of the harbourmaster.

ERECTION OF PRIVATE INSTALLATIONS IN A PORT

23. Minister may licence occupation of foreshore for certain purposes

(1) The Minister may, subject to such conditions as he may deem fit and on payment of such fee or annual fee as may be prescribed by Order, licence and permit any part of the tidal lands and waters of a port to be used or occupied for all or any of the following purposes –

(a) the building or repairing of vessels of any kind;

(b) the erection of and use of any boat-shed, landing-place or wharf;

(c) the erection of baths and bath houses and any enclosure or fence necessary for the protection or privacy of the same;

(d) any other purpose relating to the convenience of shipping or of the public as they may approve:

Provided that the Minister may at any time revoke such licence without prejudice to any claim for compensation by any party adversely affected by such revocation.

(2) The revocation of any such licence shall not take effect until the expiration of 6 months after service on the licensee of a written notice of the revocation of the licence.

(3) No such licence or permit shall be granted which will interfere with the free navigation of the port.

(4) The Minister may authorise the licensee to make such maximum charges to the public for the use of a wharf as may be prescribed by the Minister by Order.

(5) Any person, not being the holder of a licence issued under this section, who shall erect or construct a wharf in any port or encroach in any way on the water of any port shall be guilty of an offence against this Act.

24. Licensed part of foreshore to be lighted

There shall be exhibited such lights as may be required by the Minister from any such part of the tidal lands and tidal waters licensed as above provided for.

HARBOURMASTER'S POWER OF ENTRY ON LAND AND CONTROL OF LIGHTS

25. Powers of entry of harbourmaster in connection with lights

The harbourmaster or any person acting under authority of the Minister may at any time pass and repass without hindrance over any land in Vanuatu wheresoever situated in the execution of his duty in relation to lights, lighthouses, buoys and beacons.

26. Harbourmaster may order screening of lights

When in the opinion of the harbourmaster any light exhibited or shown from any building or other place on shore is such as may be mistaken for or taken to be a port or navigation light, the harbourmaster may order the discontinuance of such light or the effective screening of the same:

Provided that any person aggrieved by such order may, after complying with the order, appeal to the Minister.

GOVERNMENT WHARF AND PORT CHARGES

27. Government wharves and purlieus
The Minister may by Order define an area surrounding a Government wharf as being the purlieus of such wharf, and any vessel anchored or moored within such area shall be deemed for all purposes of this Act to be berthed at such wharf.

28. Vessels to obtain permission to berth at Government wharf
No vessel shall berth at a Government wharf or lie within the purlieus thereof except with the permission of the harbourmaster.

29. Tonnage dues
There shall be paid on vessels berthed at a Government wharf, tonnage and berthing dues according to a scale prescribed by Order.

30. Wharfage charges
There shall be paid in respect of all goods and produce loaded or discharged at a Government wharf, wharfage charges according to a scale prescribed by Order.

31. Port charges
There shall be paid in respect of goods and produce loaded or discharged in a port, other than at a Government wharf, such charges as may be prescribed by Order.

32. Exemption by Minister
The Minister may by Order exempt any class of vessels or goods from the payment of dues under this Act.

OFFENCES

33. Offences
Every person commits an offence who does or causes or permits to be done any of the following things, that is to say –

(a) casts or suffers to fall into a port, or places on land in such a position that it may be carried or washed down into a port, any noxious material or thing, or thing likely to interfere with navigation:

Provided that the harbourmaster may permit the master of a vessel to discharge ballast, ashes, oil and ships' refuse at such places and in such manner as he may direct;

(b) casts or places or leaves any vessel laid by or neglected as unfit for sea service or any floating or other timber or any other thing in any port;

(c) erects any beacon in a port without the authority of the harbourmaster;

(d) removes, injures, alters or destroys any navigation light, or port installation;

(e) gives or offers any money or thing by way of reward or bribe to any harbourmaster, pilot or other officer employed about a port for the purpose of gaining an undue preference in the execution of his office or for the purpose of inducing him to do or omit to do anything relating to his office.

34. Penalty
Any person committing an offence against this Act, or against any Orders made thereunder, shall on conviction be liable to a fine not exceeding VT 30,000 or to imprisonment not exceeding 1 month, or to both such fine and imprisonment.

REGULATIONS

35. Regulations

The Minister may by Order make such regulations as he considers necessary for carrying this Act into effect.

Table of Amendments (since the Revised Edition 1988)

1	*Amended by Act 32 of 1998*
11	*Substituted by Act 32 of 1998*
15	*Amended by Act 32 of 1998*