



REPUBLIC OF VANUATU

**FISHERIES (AMENDMENT)
ACT NO. 38 OF 2019**

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REPUBLIC OF VANUATU

Assent: 10/01/2020
Commencement: 21/01/2020

FISHERIES (AMENDMENT) ACT NO. 38 OF 2019

An Act to amend the Fisheries Act No. 10 of 2014.

Be it enacted by the President and Parliament as follows-

1 Amendment

The Fisheries Act No. 10 of 2014 is amended as set out in the Schedule.

2 Commencement

This Act commences on the day on which it is published in the Gazette.

SCHEDULE

AMENDMENTS OF FISHERIES ACT NO. 10 OF 2014

1 Section 1

Insert in their correct alphabetical positions:

“community based authorised officer means a community based authorised officer appointed by the Minister under section 115A;

IMO number means the International Maritime Organisation registration number used to identify a ship;

local agent means an individual or corporate body based in Vanuatu and has the legal authority to act on behalf of a vessel, its owner, charterer, operator or master;”

2 Paragraphs 9(3)(c), (d), (e) and (f)

Repeal the paragraphs, substitute

“(c) a person nominated by the Director; and

(d) the following office holders or their nominee, who are to serve in an ex officio capacity:

- (i) the Commander of the Police Maritime Wing; and
- (ii) the Director of the Department of Cooperatives; and
- (iii) the Director of the Department of Industry; and
- (iv) the Maritime Regulator.”

3 Subsection 9(4)

Delete “(e)”, substitute “(c)”

4 After paragraph 42(3)(a)

Insert

“(aa) the vessel’s IMO number; and”

5 After section 42

Insert

“42A Record of crew

- (1) The Director is to maintain a record of all the crews employed on the Vanuatu fishing vessels.
- (2) The record must contain the following information:
 - (a) the crew’s full name; and
 - (b) the crew’s date of birth; and
 - (c) the crew’s residential address; and
 - (d) a copy of the crew’s passport.”

6 At the end of Part 9

Add

“Division 3 Authorisation to charter fishing vessel to third party

52A Application

- (1) A third party who intends to charter a Vanuatu fishing vessel from a person granted with an authorisation under section 45 or 49, for the purposes of fishing or related activities, must apply to the Director for an authorisation to charter.
- (2) The application must:
 - (a) be in the prescribed form; and
 - (b) be accompanied by any prescribed fees including but not limited to:
 - (i) the application fee; and
 - (ii) the authorisation to third party charter fee.
- (3) In considering an application for authorisation, the Director must be satisfied that:
 - (a) the applicant demonstrates that the charterer has not chartered, owned or previously owned a vessel on the IUU vessel list of any regional fisheries management organisation or arrangement; and

- (b) the applicant demonstrates that the charterer has not been operating, or has not previously operated in a manner inconsistent with any obligations or requirements or international conservation and management measures or Scheduled Treaty under this Act; and
 - (c) there are no outstanding or pending penalties imposed by another State with respect to the vessel; and
 - (d) the vessel has good standing on the regional register or Record of Fishing Vessels of regional fisheries management organisations, to which , Vanuatu is a member and such good standing has not been suspended or withdrawn.
- (4) An authorisation to a third party charter may be granted for a duration of the charter party agreement or such other period as determined by the Director.”

7 After paragraph 54(1)(a)

Insert

“(aa) IMO number; and”

8 Section 56

After “(5)”, insert “, section 54”

9 Paragraph 65(3)(a)

After “numbers”, insert “, IMO number”

10 Paragraph 65(3)(q)

Delete “an agent”, substitute “a person”

11 After paragraph 68(2)(j)

Insert

“(ja) a requirement to report any information relating to the licence issued by a coastal State;”

12 Section 86

After “immigration”, insert “,labour, maritime, environment, biosecurity”

13 Section 95

Repeal the section.

14 After section 104

Insert

“104A Authorisation for transhipment and payment of catch transhipped on the high seas

- (1) A person who intends to use a Vanuatu flag vessel for the purposes of high seas transhipment of fish must apply to the Director for an authorisation.
- (2) The application for high seas transhipment must:
 - (a) be in the prescribed form; and
 - (b) be accompanied by the prescribed fee.
- (3) In addition to subsection (2), the applicant must provide notification for transhipment in accordance with relevant regional fisheries management organisation.
- (4) In considering an application for an authorisation for transhipment, the Director must be satisfied that:
 - (a) the Vanuatu flag vessel is not on the IUU vessel list of any regional fisheries management organisation or arrangement; and
 - (b) the Vanuatu flag vessel has not been operating, or has not previously operated in a manner inconsistent with any obligations or requirements or international conservation and management measures or Scheduled Treaty under this Act; and
 - (c) there are no outstanding or pending penalties imposed by another State with respect to the Vanuatu flag vessel; and
 - (d) the Vanuatu flag vessel has good standing on the Regional Register or Record of Fishing Vessels of regional fisheries management organisations to which Vanuatu is a member, and such good standing has not been suspended or withdrawn.
- (5) An authorisation is only valid for a specific period as prescribed in the authorisation.
- (6) The Director may renew an authorisation if the vessel was unable to carryout transhipment for being in distress or for force majeure.
- (7) The Director must not renew an authorisation issued under subsection (4) more than once.

- (8) The Director is to cancel an authorisation if the applicant informs him or her that the transshipment is no longer to occur.
- (9) An authorisation under this section is subject to:
- (a) presence of an observer on board; and
 - (b) operation of mobile transceiver unit at all times; and
 - (c) any prescribed conditions; and
 - (d) the conditions of the applicable fishing licence; and
 - (e) any other conditions imposed by the Director as he or she sees fit.

104B Declaration of transshipment

- (1) The owner or operator of a Vanuatu flag vessel must declare all its transshipment activities.
- (2) An owner or operator of a Vanuatu flag vessel who contravenes subsection (1), is liable on conviction to a fine not exceeding VT100,000,000.”

15 Subparagraphs 109(2)(i),(ii) and (iii)

Delete “and”, substitute “or”

16 Part 18(heading)

After “AUTHORISED OFFICERS,”, insert “COMMUNITY BASED AUTHORISED OFFICERS,”

17 After subsection 113(4)

Insert

- “(4A) An observer must complete a basic sea safety course at a competent maritime institute.
- (4B) An observer must be issued with a safety certificate after completing the basic sea safety course under subsection (4A).”

18 At the end of section 113

Add

- “(6) The Director is to establish an observer cost recovery plan for the observer program with the prescribed fees.

- (7) All owners must comply with the observer cost recovery plan.
- (8) An owner, master, agent or operator who does not comply with subsections (6) and (7), commits an offence punishable on conviction by a fine not exceeding VT100,000,000.”

19 After subsection 114(2)

Insert

- “(2A) A port sampler must complete a basic sea safety course at a competent maritime institute.
- (2B) A port sampler must be issued with a safety certificate after completing the basic sea safety course under subsection (2A).”

20 After section 115

Insert

“115A Appointment of community based authorised officers

- (1) The Minister may, on the recommendation of the Director, appoint a person or a group of persons as community based authorised officer or officers.
- (2) A person or a group of persons to be recommended under subsection (1), must complete a basic community based authorised officer’s training.

115B Powers of community based authorised officers

A community based authorised officer may, without a warrant, has the following powers:

- (a) to examine and seize copies of any licence, logbook, record of a vessel or aircraft; and
- (b) to seize any fish, fishing gear or explosive, electrical device, fishing net, poison or other noxious substance; and
- (c) to seize any fish or fish products which he or she has reasonable grounds to believe is held in contravention with this Act or its Regulation; and
- (d) to seize a local fishing vessel operating without a local fishing licence; and

- (e) to stop and board a local fishing vessel not more than 8 meters in length to inquire and examine the vessel and take samples of fish or fish products on or in the vessel.

115C Functions of community based authorised officer

Community based authorised officers have the following functions:

- (a) to carry out awareness on matters concerning fisheries ; and
- (b) to assist authorised officers in coastal monitoring and surveillance activities; and
- (c) to assist authorised officers in coastal fisheries resource management and conservation and related matters; and
- (d) to submit reports with evidence of offences and related matters to an authorised officer; and
- (e) to execute any instructions from the Director or an authorised officer for the purposes of management and conservation of fisheries resources; and
- (f) to assist authorised officers in monitoring and enforcement operations.”

21 Paragraphs 117(b) and 118(a)

After “authorised officer”, insert “, community based authorised officer”

22 Section 117(Heading)

Delete “and”, substitute “, community based authorised officers”

23 Section 117

- (a) After “authorised officer”, insert “, community based authorised officer”
- (b) Delete “officer”, substitute “authorised officer, community based authorised officer”

24 Section 118(heading)

After “authorised officers”, insert “, community based authorised officer”

25 Paragraph 119(3)(c)

Repeal the paragraph, substitute

- “(c) the mobile transceiver unit is switched on and is operational at all times when:

- (i) the vessel is within Vanuatu waters and beyond such waters during the period of validity of the licence, authorisation or registration in the case of Vanuatu vessels; or
- (ii) in the case of Vanuatu vessels- if the vessel undergoes repairs in port, dry dock or ship yard;”

26 After subsection 119(3)

Insert

“(3A) Despite paragraph (3)(c), the operator of the fishing vessel must, either in writing or orally, notify the Director if the mobile transceiver unit is switched off.

(3B) The notice under subsection (3A) must state the reasons for switching off the mobile transceiver unit.

(3C) The operator of the fishing vessel must notify the Director either in writing or orally if the mobile transceiver unit is switched on.”

27 Subsection 120(1)

- (a) After “report”, insert “while at sea”
- (b) After “delegated authority”, insert “or the Director”

28 Subsection 120(3)

Repeal the subsection.

29 Subsection 120(4)

- (a) Delete “4 hours”, substitute “1 hour”
- (b) After “delegated authority”, insert “or the Director”

30 Subsection 120(5)

Delete “60 days”, substitute “30 days”

31 After section 123

Insert

“123A FAO Port State Measures

The owner, master, operator, crew members, charterer or agent must, when seeking entry into a port or located in a port, comply with the standards under FAO Port State Measures Agreement.”