

# Shipping (Amendment) Act 2014

REPUBLIC OF VANUATU  
SHIPPING (AMENDMENT) ACT NO. 21 OF 2014

## Arrangement of Sections

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REPUBLIC OF VANUATU  
Assent: 19/06/2014  
Commencement: 03/09/2014  
SHIPPING (AMENDMENT) ACT NO. 21 OF 2014

An Act to amend the [Shipping Act](#) [CAP 53].

Be it enacted by the President and Parliament as follows –

### **1 Amendments**

The [Shipping Act](#) [CAP 53] is amended as set out in the Schedule.

### **2 Commencement**

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

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**SCHEDULE**  
**AMENDMENTS OF SHIPPING ACT [CAP 53]**

**1 Section 1**

Insert in its correct alphabetical position:

“pleasure craft” means a vessel that is exclusively used for pleasure, and not used for hire or reward or for any commercial purpose;”

**2 After Part 1**

Insert

**PART 1A GENERAL MARITIME REQUIREMENTS**

**3A. Registration and licensing of vessels**

(1) Any vessel that is:

(a) 10 or more meters in length; and

(b) engaged in the carriage and transportation of passengers and goods on a commercial basis from a place in Vanuatu to any other place in Vanuatu,

must be registered according to the registration requirements and processes prescribed by Regulations made under this Act.

(2) The Principal Licensing Officer is to keep and maintain a register of vessels for the purposes of this section.

(3) The Principal Licensing Officer may enter mortgages, liens or other registrable interests in the register in accordance with Regulations made under this Act.

(4) The registration of a vessel may be suspended or cancelled on any grounds prescribed by Regulations made under this Act.

### **3B. Savings provision for vessels**

(1) This section applies to a vessel that has a certificate of registry or a certificate of provisional registration immediately before the commencement of this Act.

(2) Subject to subsection (3), on and after the commencement of this Act, a certificate of registry or a certificate of provisional registration continues in force until it expires or is cancelled by the Principal Licensing Officer.

(3) A certificate of registry or a certificate of provisional registration to which this section applies cannot be extended or renewed after the commencement of this Act.

(4) To avoid doubt, on and after the expiry or cancellation of a certificate of registry or a certificate of provisional registration, the provisions of this Act apply in relation to the registration of vessels.

### **3C. Licensing of vessels**

(1) A person who intends to operate in Vanuatu:

(a) a vessel that is 10 or more meters in length; or

(b) a pleasure craft of any length that is temporarily in Vanuatu waters whether or not it is engaged in a commercial activity; or

(c) a yacht of any length that is temporarily in Vanuatu waters whether or not it is engaged in a commercial trade; or

(d) a fishing vessel of any length,

is to apply to the Principal Licensing Officer for a license.

(2) An application under subsection (1) must be made in the prescribed form and be accompanied by the prescribed fee.

(3) A license issued under this section is subject to the conditions set out in the Regulations and any additional conditions as may be determined by the Principal Licensing Officer.

(4) A person who operates a vessel without a license commits an offence and is liable on conviction, by a fine not exceeding VT1,000,000.”

### **3 After section 28**

Insert

#### **“28A. Inspection of imported vessels**

(1) A person who intends to import any vessel into Vanuatu must, prior to the vessel’s arrival into Vanuatu, cause the vessel to be inspected and surveyed by a licensed surveyor at a foreign port.

(2) Upon completing an inspection and survey under subsection (1), a licensing officer may:

(a) require the importer to ensure that certain modifications are made to the vessel to ensure its compliance with any vessel requirements or standards, and reinspect the vessel at a later date; or

(b) issue a certificate of provisional registration to the vessel, with conditions; or

(c) refuse to issue a certificate.

(3) Any costs incurred in arranging for a licensed surveyor or a licensing officer is to be met by the person importing the vessel.

(4) A person who contravenes subsection (1), commits an offence punishable on conviction by a fine not exceeding VT5,000,000, or by a term of imprisonment not exceeding 12 months, or both.”

#### **4 Sections 29 and 30**

Repeal the sections, substitute

### **PART 4A – CASUALTY AND INQUIRY INTO CASUALTIES**

#### **29. Definition**

In this Part, "casualty" in relation to a vessel, means:

(a) loss, or presumed loss, stranding, grounding, foundering or abandonment of, or damage to, the vessel or a boat belonging to the vessel; or

(b) damage caused by a vessel or by a boat belonging to the vessel; or

(c) loss of life or serious injury caused by:

(i) a fire on board; or

(ii) an accident to the vessel; or

(iii) an accident occurring on board the vessel or a boat belonging to the vessel.

### **30. Master, owner or bosun to report loss or damage of vessel**

(1) The master, owner or bosun of a vessel that:

(a) has been lost; or

(b) has sustained damage so as to impair the vessel's seaworthiness either in her hull or any part of her machinery,

must, as soon as practicable, report the matter to a licensing officer.

(2) In this section, "lost" includes but is not limited to the vessel being:

(a) lost at sea; or

(b) destroyed by stranding, fire, collision or any other incident so as to impair the vessel's seaworthiness or leave the vessel not capable of being used.

(3) An owner, master or bosun who fails to report to a licensing officer under subsection (1), commits an offence and is liable on conviction by a fine not exceeding VT2,000,000, or by a term of imprisonment not exceeding 6 months, or to both.

### **30A. Maritime inquiry into cause of casualty**

(1) The Principal Licensing Officer is to inquire into the nature or cause of a casualty, and is to make recommendations to the Minister as to whether a maritime inquiry should be held.

(2) The Minister may, upon receiving a recommendation from the Principal Licensing Officer, appoint 1 or more persons to inquire into the nature or cause of a casualty.

(3) An appointment made under subsection (2) must not exceed 6 months and may be renewed.

### **30B. Powers of a person appointed under subsection 30A(2)**

A person or persons appointed under subsection 30A(2) has the power to:



(a) summon witnesses; and

(b) call for the production of books and documents; and

(c) examine on oath witnesses and parties concerned.

### **30C. Termination of inquiry due to legal proceedings**

An inquiry is to be immediately terminated if legal proceedings relating to the facts of the inquiry or matter being inquired have commenced.

### **30D. Secretary to an inquiry**

(1) The Minister may appoint a person to be the secretary to a maritime inquiry for a period not exceeding 6 months and may renew the appointment.

(2) A secretary has the following functions:

(a) to record the proceedings of the inquiry; and

(b) to take minutes of the testimony of a witness; and

(c) perform such other functions in connection with the inquiry as the Minister may prescribe.

### **30E. Expenses of witnesses**

A person who has been requested to provide books or documents or summoned as a witness by a person or persons appointed under subsection 30A(2), will be entitled to be reimbursed for any travelling or accommodation expense incurred as a result of attending the inquiry.

### **30F. Inquirer not personally liable**

A person or persons appointed under subsection 30A(2) is not liable to an action or other proceeding for damages for or in respect to an act done or omitted to be done in good faith in the exercise or performance, or purported exercise or performance, of a power or function conferred on him or her by this Act.

### **30G. Offences in relation to an inquiry**

A person who makes a false or misleading statement or a material omission in any information given to a person or persons appointed under subsection 30A(2), commits an offence punishable on conviction to a fine not exceeding VT1,000,000, or by imprisonment for a term not exceeding 6 months, or both.”

## **5 After section 39**

Insert

### **“39A. Protection of Vanuatu waters from pollution**

(1) This section applies to any vessel that operates in, or enters Vanuatu waters, regardless of the place of its registration.

(2) Subject to this Act and the Regulations, a vessel to which the International Convention for the Prevention of Pollution from Ships (MARPOL 73/78), applies must:

(a) comply with the design and pollution prevention equipment provisions specified in that Convention; and

(b) operate in a manner that complies with the requirements specified in that Convention.

(3) An owner or master of a vessel who contravenes subsection (2), commits an offence and is liable on conviction:

(a) if the vessel is more than 24 metres - to a fine not exceeding VT50,000,000, or to imprisonment for a term not exceeding 12 months, or both; or

(b) if the vessel is 24 metres or less - to a fine not exceeding VT10,000,000, or to imprisonment for a term not exceeding 6 months, or both.

(4) A pollutant or harmful substance must not be discharged from a vessel into Vanuatu waters, unless the discharge is permitted by an applicable International Convention, or by Regulations made under this Act.

(5) A person who contravenes subsection (4), commits an offence and is liable on conviction:

(a) to a fine not exceeding VT25,000,000, or to imprisonment for a term not exceeding 12 months, or both; and

(b) is liable to pay for the total costs of any clean up operations and all necessary actions to restore the environment to its original condition.

(6) The owner and master of any vessel in Vanuatu waters must comply with the requirements and procedures prescribed by the Regulations which are relevant to the management of ballast waters and the practice of anti fouling.

(7) Regulations may be made under this Act to implement any other International or Regional Convention, Agreement or Program which relates to the protection of the marine environment from pollution caused by vessels.”

## **6 Section 45**

Repeal the section, substitute

### **“45. Regulations**

(1) The Minister may by Order make Regulations prescribing matters:

(a) required or permitted by this Act to be prescribed; or

(b) necessary or convenient to be prescribed for carrying out or giving effect to this Act.

(2) Without limiting subsection (1), the Regulations may:

(a) prescribe forms and the particulars that are to be included in these forms; and

(b) prescribe any fee or charge for any service provided by a licensing officer under this Act; and

(c) prescribe the various matters in respect of which fees or charges may be imposed; and

(d) prescribe the registration of a vessel and matters related to the registration of a vessel; and

(e) prescribe the registration of Bills of Sale, mortgages and liens; and

(f) prescribe safety inspections and safety certification of domestic vessels; and

(g) provide for the certification of marine pilots; and

(h) provide for navigation aids and related matters; and

(i) provide for the manner of training and certification of seafarers according to the International Convention on Standards of Training, Certification and Watchkeeping for Seafarers (STCW); and

(j) provide for marine pollution prevention and response; and

(k) prescribe reimbursement or marine rehabilitation methods or procedures for a person convicted of discharging a pollutant or harmful substance from a vessel into Vanuatu waters; and

(l) the procedure to be followed for the hearing and determination of an appeal under section 46; and

(m) provide for the management of ballast water; and

(n) provide for ship and port security; and

(o) provide for the carriage of dangerous goods; and

(p) prescribe the requirements or standards for inspecting any vessel that is to be imported into Vanuatu; and

(q) prescribe any requirements, standards or conditions that have to be met by any vessel that is to be imported into Vanuatu; and

(r) prescribe the rules and procedures for conducting an inquiry into the nature or cause of a casualty; and

(s) prescribe the allowance to be paid to a person or persons appointed under subsection 30A(2) to investigate and inquire into the nature or cause of an casualty including the secretary; and

(t) prescribe the procedure for conducting an investigation into an incident involving a casualty.

(3) A Regulation made under this section may impose a fine of not more than:

(a) VT1,000,000 – if the offence is committed by an individual; or

(b) VT2,000,000 – if the offence is committed by a corporation.

(4) The Minister may by Order amend or repeal the Schedules.

**45A. Other regulatory requirements applicable to all vessels in Vanuatu waters**

(1) Regulatory requirements and processes imposed under this section apply to all vessels which operate in or which enter Vanuatu waters, regardless of the place of their registration.

(2) The Principal Licensing Officer may impose regulatory requirements and processes, as may be prescribed by the Regulations made under this Act, in relation to:

(a) the application and enforcement of any maritime convention specified in the [Maritime \(Conventions\) Act](#) [CAP 155]; and

(b) the requirements for vessels to have any prescribed insurance cover; and

(c) specific requirements for vessels to participate in approved supported shipping schemes and services; and

(d) the certification of marine pilots; and



(e) security obligations and procedures applicable to vessels in order to meet international obligations; and

(f) the regulation of navigation aids, including matters related to their design, operation and placement, and the imposition of dues related to the system of navigation aids; and

(g) any other matter required to be applied or enforced to provide effective port state control in Vanuatu.”