

FISHERIES (AMENDMENT) ACT 1989

Assent: 13/4/89
Commencement: 14/4/89

REPUBLIC OF VANUATU

THE FISHERIES (AMENDMENT) ACT NO. 2 OF 1989

ARRANGEMENT OF SECTIONS

SECTION

1. Amendment of section 1 of Act No. 37 of 1982.
2. Replacement of section 3 (l) of the Act.
3. Replacement of section 4 (l) of the Act.
4. Replacement of section 6 of the Act.
5. Insertion of new section 6A.
6. Deletion of section 34 (2) (g) of the Act.
7. commencement.

To amend the Fisheries Act No. 37 of 1982 to make provisions for the adoption of regional fisheries treaties.

BE IT ENACTED by the President and Parliament as follows:

AMENDMENT OF SECTION 1 OF ACT No. 37 OF 1982

1. Section 1 of the Fisheries Act No. 37 of 1982 (hereinafter referred to as the "Act") is amended as follows: -
 - (a) by the deletion of the paragraph defining "authorised officer" and the substitution of the following paragraphs:-

""administrator" means the director of a regional fisheries agency or any other body or person authorized in accordance with section 6 of this Act, to administer a regional fisheries agreement;

"authorized officer" means any fisheries officer, any police officer not below the rank of sergeant or any other government officer, other than an observer authorized under an observer programme, designated by the Minister by notice published in the Gazette to be an authorized officer for the purposes of this Act;"
 - (b) by the deletion of the paragraph defining "local fishing vessel" and the insertion of the following paragraph:-

""local fishing vessel" means any fishing vessel-

 - (a) wholly owned by the Government of Vanuatu or by any public corporation or body established by or under any law of Vanuatu;
 - (b) wholly owned by one or more persons who are citizens of Vanuatu; or
 - (c) wholly owned by any company, society or other association of persons incorporated or established under the laws Vanuatu:-

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Provided that any fishing vessel which is registered or documented pursuant to the Maritime Act No.8 of 1981 or any amendment or re-enactment thereof shall not be a "local fishing vessel for the purpose of this Act; "

- (c) by the insertion of the following paragraph after the paragraph defining "locally based foreign fishing vessel":-

"Pacific Island State" means a party to the South Pacific Forum Fisheries Agency Convention, 1979; *

- (d) by the insertion of the following paragraph after the paragraph defining "related activities":-

"regional fisheries agreement" means a treaty, agreement or arrangement between the Governments of certain Pacific Island States and other party or parties relating to fishing in the waters of the Pacific Island States, to which Vanuatu is a party;"

REPLACEMENT OF SECTION 3(I) OF THE ACT

2. Subsection (1) of section 3 of the Act is repealed and the following subsection is substituted:-

"3. (1) The Minister, with the approval of the Council of Ministers, may enter into bilateral or multilateral treaties, agreements or arrangements providing for the allocation of fishing rights, including regional fisheries agreements."

REPLACEMENT OF SECTION 4(I) OF THE ACT

3. Subsection (1) of section 4 of the Act is repealed and the following subsection is substituted:-

"4. (1) No foreign fishing vessel shall be used for fishing or related activities in Vanuatu waters except under the authority of:

(a) a valid fishing licence issued by the Minister

(b) a valid fishing licence or regional fishing licence issued in accordance with a multilateral treaty, agreement or arrangement entered into pursuant to section 3(1);

(c) an authorization given under section 10."

REPLACEMENT OF SECTION 6 OF THE ACT

4. Section 6 of the Act is repealed and the following section is substituted:-

"MINISTER'S POWER TO ENTER INTO AGREEMENTS OR ARRANGEMENT ON HARMONIZATION OF LICENSING AND ENFORMENT

6. (1) The Minister, with the approval of the Council of Ministers, may enter into agreements or arrangements providing for:
- (a) the harmonization of licensing procedures and conditions in respect of foreign fishing vessels and the establishment and maintenance of a regional register of fishing vessels;
- (b) the designation of an administrator to perform duties in accordance with a regional fisheries agreement;
- (c) the taking of joint or harmonized enforcement measures in respect of foreign fishing vessels contravening -
- (i) fishing laws in the region; or
- (ii) provisions of a regional fisheries agreement, or other agreements or arrangement
- (2) For the purpose of giving effect to any agreement or arrangement entered into under this section or any regional fisheries agreement, the Minister may, by order-

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- (a) prescribe the conditions to be observed by foreign fishing while fishing or navigating in Vanuatu waters, not consistent with the conditions of any applicable treaty, agreement, arrangement or regional agreement;
- (b) provide that where a regional fisheries agreement so requires, fishing vessels and crews arrested for breach of the agreement shall be promptly released in accordance with the terms of the agreement, and provide that imprisonment or corporal punishment shall not occur
- (c) provide that where a foreign fishing vessel is used in contravention of the conditions prescribed in paragraph (a), the master, owner and charterer of the vessel shall each be guilty of an offence and provide for a penalty for such offence;
- (d) provide that where a foreign fishing vessel and its crew are arrested for contravening an applicable agreement or regional fisheries agreement such vessel and its crew shall be promptly released upon the posting of a bond or other security; and
- (e) provide for the better carrying out of the purposes of any such agreement or arrangement or regional fisheries agreement. "

INSERTION OF NEW SECTION 6A

5. The following section is inserted immediately after section 6 of the Act:-

OBSERVERS

- 6A.** (1) The -Minister may enter into agreements or arrangements providing for an observer programme pursuant to a regional fisheries agreement.
- (2) For the purposes of -
- (a) giving effect to any agreement or arrangement under subsection (1) of this section, any duly authorised observer not national of Vanuatu shall be accorded national treatment for the purposes of performing his or her duties and responsibilities and enforcing his or her rights pursuant to a regional fisheries agreement
 - (b) in this section, "observer" means a person duly authorized by the Minister or administrator pursuant to an agreement or observer programme for the purposes of a regional fisheries agreement. "

DELETION OF SECTION 34(2)(g) OF THE ACT

6. Paragraph (g) of subsection (2) of section 34 of the Act is deleted.

COMMENCEMENT

7. This Act shall come into force on the date of its publication in the Gazette.