

VANUATU

The Vanuatu group of 80 islands lies roughly 500 miles west of Fiji and 258 miles north-east of New Caledonia between 12° South and 21° South (or 22° 30' South including Matthew and Hunter Islands) and 166° East and 171° East. The land area is approximately 12,189 sq km, excluding Matthew and Hunter Islands. These islands, originally part of the New Hebrides Condominium, became part of New Caledonia in 1955 and are now claimed by both Vanuatu and France. The principal islands of the group are Espiritu Santo, Malekula, Epi, Pentecost, Aoba, Maewo, Paama, Ambrym, Efate, Erromanga, Tanna, and Aneityum. The capital is Port Vila, on Efate. The population is approximately 174,574 (July 1992).

Vanuatu became an independent Republic on 30 July 1980, having previously been administered by Great Britain and France as the Condominium of the New Hebrides under the Anglo-French Convention of 1906. The Head of State is President. Laws are made by the elected Parliament of 39 members, which also elects a Prime Minister as head of the executive. The Prime Minister appoints a Council of Ministers which is collectively responsible to Parliament.

The legal system of Vanuatu is derived principally from the Constitution and statutes of the Parliament of Vanuatu since 1980, the laws of England and the laws of France as applied to, or made for, the Condominium of the New Hebrides prior to 1980, to the extent that they are not expressly revoked or incompatible with the independent status of Vanuatu and wherever possible taking due account of custom, and decisions of the New Hebrides legislature brought into operations by joint regulation prior to 1980. Customary law is significant in relation to the ownership and use of land.

A revised edition of the laws of Vanuatu was published in 1988.

Limits of National Jurisdiction

The Maritime Zones Act 1981 establishes and defines the 12 nautical mile territorial sea and archipelagic waters of Vanuatu. The Act also defines a contiguous zone extending 24 nautical miles from the baselines from which the territorial sea is measured. The continental shelf of Vanuatu extends to the outer edge of the continental margin or to a distance of 200 nautical miles from the baseline from which the territorial sea is measured where the outer edge of the continental shelf does not extend up to that distance.

The Act establishes a 200 nautical mile exclusive economic zone and provides that Vanuatu has sovereign rights for the purpose of exploration, exploitation, conservation and management of all resources in the exclusive economic zone and continental shelf. The total size of the exclusive economic zone is 680,000 sq km.

Vanuatu shares maritime boundaries with France in respect of New Caledonia, Solomon Islands and Fiji. No maritime boundary agreements have been finalised, though the boundary with Solomon islands has been agreed in principle.

Fisheries Legislation

The basic fisheries law is the Fisheries Act 1982. The Act requires the Director of Fisheries to prepare and keep under review plans for the management and development of fisheries in Vanuatu. In the preparation of each fishery management and development plan the Director is required to consult with the local fishermen, local authorities and other persons, including government ministries or departments affected by the plan. In addition, the Director is required to consult with the fisheries management authorities of other states in the region, and in particular with those sharing the same

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or interrelated stocks, with a view to ensuring the harmonisation of their respective fisheries management and development plans. Fisheries access agreements with other states and with associations representing foreign vessel owners or charterers may be entered into by the Minister with the approval of the Council of Ministers provided that the total fishing rights allocated under the agreement do not exceed the total resources or amount of fishing allowed under the applicable fishery management and development plan.

The approval of the Minister must be obtained for any foreign investment in fisheries in Vanuatu.

Licensing Requirements

The Act provides for licensing of the following categories of fishing vessels: local fishing vessels (over 10 metres) in length, locally based foreign fishing vessels and foreign fishing vessels. Licences are also required to operate fish processing establishments. With the exception of foreign fishing vessels holding regional fishing licences issued by a competent regional fisheries agency on behalf of the Minister under an agreement or arrangement for that purpose, no foreign fishing vessels, other than a locally based foreign fishing vessel, may be licensed to fish in Vanuatu waters unless there is in force with the government of the flag state of the vessel or an association of which the owner or charterer of the vessel is a member, an access agreement entered into pursuant to the Act. Any such access agreement is required to include a provision establishing the responsibility of the foreign state or association to take all necessary steps to ensure compliance by its vessels with the terms and conditions of the agreement and the laws of Vanuatu.

The detailed procedures for application for and issue of foreign fishing licences are contained in the Fisheries Regulations. The Regulations also set out the general conditions applicable to all foreign fishing licences. These include provisions as to marking and identification, transshipment, reporting conditions and maintenance of logbooks and fishing logs and the appointment of a local agent. The Minister may attach further special conditions to any licence. Foreign fishing vessel licences are valid for a period of up to one year.

No licence may be issued in respect of a foreign fishing vessel unless that vessel is listed in good standing on the regional register of foreign fishing vessels maintained by the South Pacific Forum Fisheries Agency.

Licences for local fishing vessels and locally based foreign fishing vessels may be issued by the Minister for periods not exceeding five years subject to the general conditions as to marking, identification, reporting and transshipment as are set out in the Fisheries Regulations.

Conservation and Management

The Fisheries Act contains basic provisions prohibiting fishing for marine mammals and prohibiting the use of explosives, poison and noxious substances for fishing. The Minister is empowered to establish marine reserves and in 1983 an area off the coast of Espiritu Santo was declared a marine reserve in accordance with this provision. The Fisheries Regulations contain more specific conservation measures relating to the taking of heavily exploited species including rock lobster, slipper lobster, coconut crab, green snail, trochus, trumpet shell, aquarium fish, and turtles and the export of crustaceans and beche de mer. Applicable conservation measures include size limits, closed seasons and export controls. It is not permitted to take more than three pieces of live coral in a day except with the written permission of the Director of Fisheries.

Subsistence fishing is a major activity and there is a variety of traditional practices, largely undocumented, which protect marine resources.

The placing of fish aggregating devices is controlled by the Director of Fisheries and the Director may designate fish aggregating devices for the use of certain classes of persons who are Vanuatu citizens.

Regional and International Agreement relating to Fisheries

Vanuatu is a member of the South Pacific Forum and is an ACP state of the European Community. Vanuatu is also a member of the Forum Fisheries Agency, the South Pacific Commission and FAO. Vanuatu is a signatory of the United Nations Convention on the Law of the Sea. It is party to the Treaty on Fisheries Between the Governments of Certain Pacific Islands States and the Government of the United States of America and signed the Convention for the Prohibition of Fishing with Long Driftnets in the South Pacific on 13 February 1990. Vanuatu signed the Niue Treaty on Cooperation in Fisheries Surveillance and Law Enforcement in the South Pacific Region when it was opened for signature on 9 July 1992 and ratified on 10 November 1993. It is also a signatory to the Agreement for the Implementation of the Provisions of the United Nations Convention on the Law of the Sea relating to the Conservation and Management of Straddling Fish Stocks and Highly Migratory Fish Stocks.

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Reproduced in this Compendium**

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LAWS OF THE REPUBLIC OF VANUATU

MARITIME ZONES

[CAP. 138.

Commencement: 4 October 1982

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REVISED EDITION 1988

CHAPTER 138

MARITIME ZONES

Act 23 of 1981

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SCHEDULE - Archipelagic Baseline

MARITIME ZONES

To provide for the delimitation of the maritime zones of Vanuatu and other matters incidental thereto.

PART I

INTERPRETATION

INTERPRETATION

1. In this Act, unless the context otherwise requires -

“bay” means an indentation of the coast with an area of not less than that of the semi-circle the diameter of which is a line drawn across the mouth of the indentation;

“island” means a naturally formed area of land, surrounded by water, which is above water at high tide;

“low water line” means the relevant low water datum line shown in the latest relevant British Admiralty Charts or where there is no such datum the lowest astronomical tide line. In any case where there is doubt as to which the latest relevant British Admiralty Chart for the purpose of this definition the Minister may establish which is such chart by declaration published in the *Gazette*;

“nautical mile” means an international nautical mile of 1852 metres.

PART II

INTERNAL WATERS

INTERNAL WATERS

2. The internal waters of Vanuatu comprise all waters that are contained within the baselines from which the breadth of the territorial sea is measured or for areas enclosed by straight archipelagic baselines, all waters that are contained within the innermost limits of the archipelagic waters

PART III

ARCHIPELAGIC WATERS AND TERRITORIAL SEA

SOVEREIGNTY OF VANUATU

3. The sovereignty of Vanuatu extends beyond the land and internal waters of its islands to the archipelagic waters and territorial sea and to the airspace thereover as well as to the seabed and subsoil thereunder.

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ARCHIPELAGIC WATERS

4. (1) The archipelagic waters comprise all waters other than internal waters contained within the archipelagic baseline as delimited in the Schedule
- (2) The innermost limits of the archipelagic waters shall be -
- (a) the low-water line; or
 - (b) in the case of the sea adjacent to a bay -
 - (i) where the bay has only 1 mouth and the distance between the low-water lines of the natural entrance points of the bay does not exceed 24 nautical miles, along a closing line joining those low-water lines;
 - (ii) where because of the presence of islands the bay has more than one mouth and the distance between the low-water lines of the natural entrance points of each mouth added together, do not exceed 24 nautical miles along a series of closing lines across each of the mouths so as to join those low-water lines;
 - (iii) where neither paragraph (a) nor paragraph (b) applies, along a closing line 24 nautical miles in length drawn from low-water line to low-water line within the bay in such a manner as to enclose the maximum area of water that is possible with a line of that length; and
 - (c) in the case of the mouth or each mouth of a river which flows into the sea, a closing line across the river mouth between points on the low-water line of its banks.

TERRITORIAL SEA

- 5 (1) The territorial sea comprises all areas of sea having as their innermost limits the baselines described in subsection (2) and as their outermost limits, a line measured seaward from those baselines, every point of which is 12 nautical miles from the nearest point of the appropriate baseline.
- (2) The baselines from which the territorial sea is measured shall be the archipelagic baseline and the low-water line of the coast of Matthew Island and Hunter Island.

RIGHTS OF PASSAGE

- 6 (1) Subject to the provisions of this Act, all foreign ships may enjoy the right of innocent passage through the archipelagic waters and territorial sea.
- (2) The Minister may, after consultation with the Minister responsible for transport and communications, by Order published in the *Gazette*, designate sea lanes and air routes, suitable for the continuous and expeditious passage of foreign ships and aircraft through or over the archipelagic waters and territorial sea and may also prescribe traffic separation schemes for the purpose of ensuring the safe passage of ships through narrow channels in such sea lanes.

PART IV

CONTIGUOUS ZONE

CONTIGUOUS ZONE

- 7 (1) The contiguous zone is an area beyond and adjacent to the territorial sea having as its outermost limits a line measured seaward from the baselines from which the territorial sea is measured, every point of which is 24 nautical miles from the nearest point of the appropriate baseline.

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(2) Vanuatu may exercise such powers and take such measures in relation to the contiguous zone as may be necessary in order to prevent or punish infringements of its customs, fiscal immigration or sanitary laws.

PART V

THE CONTINENTAL SHELF AND EXCLUSIVE ECONOMIC ZONE

CONTINENTAL SHELF

- 8** The continental shelf comprises the seabed and subsoil of the submarine areas that extend beyond the limits of the territorial waters throughout the natural prolongation of the land territory of Vanuatu
- (a) to the outer edge of the continental margin; or
 - (b) to a distance of 200 nautical miles from the baseline from which the territorial sea is measured where the outer edge of the continental shelf does not extend up to that distance.

EXCLUSIVE ECONOMIC ZONE

- 9** (1) The exclusive economic zone comprises those areas of the sea, seabed, and sub-soil that are beyond and adjacent to the territorial sea having as their outermost limits a line measured seaward from the baselines from which the territorial sea is measured, every point of which line is 200 nautical miles from the nearest point of the appropriate baseline.
- (2) For the purposes of implementing any international agreement or otherwise, the Minister may by Order published in the Gazette declare that the exclusive economic zone shall not extend to any specified area of the sea, seabed, or sub-soil, that would otherwise be included within the exclusive economic zone by virtue of this section.

VANUATU RIGHTS OVER CONTINENTAL SHELF AND EXCLUSIVE ECONOMIC ZONE

- 10** Without prejudice to sections 3, 7 and 8 Vanuatu has in the continental shelf and exclusive economic zone-
- (a) sovereign rights for the purposes of exploration, exploitation, conservation and management of all resources;
 - (b) exclusive rights and jurisdiction for the construction, maintenance or operation of artificial islands, off-shore terminals, installations and other structures and devices necessary for the exploration and exploitation of resources or for the convenience of shipping or for any purpose;
 - (c) exclusive jurisdiction to authorise, regulate and conduct scientific research;
 - (d) exclusive jurisdiction to preserve and protect the marine environment and to prevent and control marine population; and
 - (e) such other rights as are recognised by international law or state practice.

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PART VI
MISCELLANEOUS

RESTRICTED ACTIVITIES

- 11.** Except in accordance with an agreement entered into with the Government of Vanuatu or under the authority of a licence granted by the responsible Minister, no person shall in relation to the continental shelf or exclusive economic zone-
- (a) explore or exploit any resources;
 - (b) carry out any search, excavation or drilling operations;
 - (c) conduct any research;
 - (d) construct, maintain or operate any artificial island, off-shore terminal, installation or other structure or device.

OFFENCES AND PENALTIES

- 12.** (1) Any contravention of this Act, or of any Order made hereunder, occurring within the archipelagic waters, territorial sea or exclusive economic zone shall be deemed to have occurred in Vanuatu.
- (2) Where a contravention of this Act is triable in a magistrate's court it may be tried by any Senior Magistrate.
- (3) Any person who contravenes this Act or any Order made hereunder shall be liable conviction to a fine not exceeding VT1,000,000 or to imprisonment for 5 years or to both such fine and imprisonment.

ORDERS

- 13.** Where no other provision is for the time being made by any other law for any such purposes, the Minister may by Order-
- (a) amend the Schedule;
 - (b) provide for the protection and preservation of the marine environment of the continental shelf archipelagic waters, the territorial sea and the exclusive economic zone;
 - (c) regulate the conduct of foreign ships and aircraft in relation to the rights of navigation and overflight provided for in sections 6 and 15;
 - (d) regulate the conduct of scientific research within the archipelagic waters, the territorial sea and the exclusive economic zone;
 - (e) regulate the construction, operation, and use of artificial islands (whether permanent or temporary), and other installations and structures in the archipelagic waters, and the territorial sea and the exclusive economic zone and establish safety zones around such islands, installations, and structures;
 - (f) regulate the exploration and exploitation of the archipelagic waters, the territorial sea and the exclusive economic zone for the production of energy from the water, currents, and winds, and for any other economic purposes;
 - (g) provide for such other matters as may be required for giving full effect to the sovereignty of Vanuatu in relation to the archipelagic waters, the territorial sea and the exclusive economic zone;
 - (h) provide otherwise for the better carrying out of the provisions of this Act and for its due administration.

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EXTENSION OF LAWS TO CONTINENTAL SHELF AND EXCLUSIVE ECONOMIC ZONE

14. The President may, on the advice of the Prime Minister, by Order published in the *Gazette*-
- (a) extend with such restrictions and modifications as may be included in such Order any law of Vanuatu to the continental shelf, the exclusive economic zone or any part of them;
 - (b) make provision for enforcing such law.

INTERIM PROVISION FOR SEA LANES AND AIR ROUTES

15. Until such time as sea lanes or air routes are designated under the provisions of section 6 (2) or any other law, rights of navigation and overflight may, subject to the provisions of this Act or any other law, be exercised through and over the routes normally used for international navigation and overflight.
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SCHEDULE

(Section 4)

ARCHIPELAGIC BASELINE

An archipelagic baseline commencing at the outermost point of the low-water line on the reef off Hat Island co-ordinate 13° 04' 18" South 166° 32' 13".8 East, British Admiralty Chart No. 1575 and, except where the contrary intention appears, following the geodesic lines successively linking the outermost points on the low-water lines of the land areas specified below-

Point	Land Area	Coordinates		British Admiralty Chart Number*
		South	East	
1)	Vat Ganai Islands	13° 15' 10".8	167° 38' 10" 5	1575
2)	Vetvai Point on Motlav Island	13° 38' 46" 8	167° 42' 25" 5	1575
3)	Islet off Meralava Islands	14° 26' 22" 9	168° 04' 10".2	1575
4)	Treerock Point on Pentecost Island	15° 55' 38" 4	168° 16' 32".5	1575
5)	Tongariki Island	17° 00' 38" .4	168° 38' 27"	1576
6)	Maniuro Point on Efate Island	17° 41' 42"	168° 35' 10"	1576
7)	Goat Islet off Erronmanga	18° 42' 09".6	169° 17' 43".5	1576
8)	Reef of Futuna Island	19° 30' 42"	170° 17' 43" .5	1576
9)	Masi Point on Futuna Island	19° 32' 37".7	170° 13' 34".7	1576
10)	Reef on Aneityum Island	20° 11' 45" .6	169° 53' 42"	1576
and thence along the low-water line to point (11)				
11)	Flat Rock off Aneityum Island	20° 15' 30"	169° 50' 42" 9	1576
12)	Reef off Aneityum Island	20° 15' 58".2	169° 45' 25".9	1576
13)	Imlao on Tanna Island	19° 34' 51".6	169° 16' 42".6	1576
and thence along the low-water line to point (14)				
14)	West Point Tanna Island	19° 27' 09"	169° 12' 39"	1576
15)	Ountovin Point on Erromanga Island	18° 52' 51"	168° 59' 03".6	1576
16)	Tukutuku Point on Efate Island	17° 43' 09" . 6	168° 09' 02".4	1576
17)	Tomman Island	16° 35' 37".5	167° 27' 17" .4	1575
18)	Reef of Santo	15° 39' 24" .6	166° 45' 58" .8	1575
19)	Remarkable Point on Santo Is	15° 24' 04".5	166° 38' 27"	1575

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<i>Point</i>	<i>Land Area</i>	<i>Co-ordinates</i>		<i>British Admiralty Chart Number</i>
		<i>South</i>	<i>East</i>	
20)	Reef off Santo Island	14° 51' 06"	166° 32' 00".6	1575
21)	On NW Coast of Santo	14° 44' 51" .6	166° 32' 42" .6	1575
22)	Thomeuf point on Hiu Island	13° 10' 21"	166° 31' 58".5	1575
23)	On reef off Hiu Island	13° 04' 18"	166° 32' 13".8	1575

The Editions of charts referred to in the fifth column are
 1575 7th September 1979
 1576 24th November 1978

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FISHERIES

[CAP.158.]

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FISHERIES

Acts 37 of 1982

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FISHERIES

To provide for the control, development and management of fisheries and matters incidental thereto.

**PART 1
PRELIMINARY****INTERPRETATION**

1. In this Act unless the context otherwise requires –

“authorized officer” means any fisheries officer, any police officer not below the rank of sergeant or any other Government officer designated by the Minister by notice published in the Gazette to be an authorised officer for the purpose of this Act;

“Director” means the Director of Fisheries;

“fish” means any aquatic animal, whether piscine or not, and includes any mollusc, crustacean, coral, sponge, holothurian (beche-de-mer), and reptile and their young and eggs and includes coconut crabs;

“fish aggregating device” means any man-made or partly man made floating device, whether anchored or not, intended for the purpose of aggregating fish, and includes any natural floating object on which a device has been placed to facilitate its location;

“fish export processing establishment” means any premises on which fish are processed or kept in cold storage for sale outside Vanuatu;

“fisheries officer” means the Director, the Principal Fisheries Officer, any Senior Fisheries Officer, Fisheries Officer or Assistant Fisheries Officer or any other Government officer designated by the Minister by notice published in the Gazette to act as fisheries officer for the purpose of this Act;

“fishery” means one or more stocks of fish or fishing operations based on such stocks which can be treated as a unit for purposes of conservation and management and which are identified on the basis of geographical, scientific, technical, recreational, and economic characteristics;

“fishing” means fishing for or catching or taking or killing fish by any method or the placing or any fish aggregating device;

“fishing fence” means any fence, stakes or other fixed construction used for entrapping fish;

“fishing licence” means any licence issued in respect of a foreign fishing vessel or local fishing vessel under section 4 or 9;

“fishing vessel” means any vessel used for commercial or related activities and includes game fishing;

“foreign fishing vessel” means any fishing vessel other than a local fishing vessel;

“local fishing vessel” means any fishing vessel

- (a) wholly owned by the Government of Vanuatu or by any public corporation established by or under any law of Vanuatu; or
- (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 of Vanuatu;

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“locally based foreign fishing vessels” means any foreign fishing vessel based in Vanuatu which lands all its catch in Vanuatu;

“related activities” in relation to fishing means -

- (a) transshipping fish to or from any vessel; or
- (b) storing, processing or transporting fish taken from Vanuatu waters up to the time it is first landed; or
- (c) refuelling or supplying fishing vessels or performing other activities in support of fishing operations; or
- (d) attempting or preparing to do any of the above;

“test fishing operations” means any fishing operations undertaken over a limited period of time with the approval of the Director for the purpose of testing the feasibility of commercial fishing operations;

“Vanuatu waters” means waters of the exclusive economic zone, territorial sea, archipelagic waters, and internal waters as defined in the Maritime Zones Act, Cap. 138 and any other waters over which Vanuatu claims fisheries jurisdiction.

PART II

MANAGEMENT OF FISHERIES

FISHERIES MANAGEMENT AND DEVELOPMENT PLANS

- 2.** (1) The Director shall prepare and keep under review plans for the management and development of fisheries in Vanuatu waters.
- (2) Each plan shall –
- (a) identify the fishery and assess the present state of its exploitation;
 - (b) specify
 - (c) specify the management and development measures to be taken; and, in particular
 - (d) specify the licensing programme to be followed for each fishery, the limitation, if any, to be applied to local fishing operations and the amount of fishing, if any, to be allocated to locally based foreign fishing vessel
- (3) In preparation of each fishery management and development plan, the Director shall consult with the local fishermen, local authorities and other persons affected by the plan.
- (4) In preparation of each fishery management and development plan, the Director shall consult with government ministries or departments affected by the plan.
- (5) The Director shall consult wherever practicable with the fisheries management authorities or other states in the region, and in particular with those sharing the same or interrelated stocks, with a view to ensuring the harmonisation of their respective fisheries management and development plans.
- (6) Each fishery management and development plan or review thereof shall be submitted to the Minister for approval.

FISHERY ACCESS AGREEMENTS

- 3.** (1) The Minister, with the approval of the Council of Ministers, may enter into agreements with other states and with associations, representing foreign fishing vessel owners or charters, providing for the allocation of fishing rights to vessels from those states or associations.

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- (2) The total fishing rights allocated under agreements entered into under this section shall not exceed the total resources or amount of fishing allowed to appropriate category of foreign fishing vessels under the applicable fishery management and development plan.
- (3) Any agreement entered into under this section shall include a provision establishing the responsibility of the foreign state or association to take all necessary measures to ensure compliance by its vessels with the terms and conditions of the agreement and with the laws relating to fishing in Vanuatu waters.

FOREIGN FISHING LICENSES

4. (1) No foreign fishing vessel shall be used for fishing or related activities in Vanuatu waters except under the authorisation of a valid foreign fishing licence issued by the Minister or an authorisation given under section 10.
- (2) Subject to the provisions of this Act, the Minister may issue a foreign fishing licence in respect of any foreign fishing vessel authorising the vessel to be used in Vanuatu waters for such fishing or related activities as may be specified in the licence.
- (3) Except where a licence is issued in respect of test fishing operations, no fishing licence shall be issued to any foreign fishing vessel other than a locally based foreign fishing vessel unless there is in force with the Government of the flag state of the vessel or an association of which the owner or charterer of the vessel is a member, an agreement entered into under section 3 to which the Government of Vanuatu is a party.
- (4) Where any foreign fishing vessel is used in contravention of the provision of subsection (1), the master, owner and charterer, if any, of such vessel shall each be guilty of an offence and shall each be liable on conviction to a fine not exceeding VT20,000,000.
- (5) Where any foreign fishing vessel in respect of which a licence has been issued under this section is used in contravention of any condition of the licence, the master, owner and charterer, if any, shall each be guilty of an offence and shall each be liable on conviction to a fine not exceeding VT5,000,000.

STOWAGE OF FISHING GEAR BY FOREIGN FISHING

5. (1) All fishing gear on board a foreign fishing vessel that is in an area of Vanuatu waters shall be stowed in such a manner that it is not readily available for use for fishing.
- (2) Subsection (1) shall not apply to a foreign fishing vessel that is in an area of Vanuatu waters in which it is authorised to fish under section 10 or under a licence issued under section 4.
- (3) Where any foreign fishing vessel contravenes the provisions of subsection (1), the master, owner and charterer, if any, of such vessel shall each be guilty of an offence and shall be liable on conviction to a fine not exceeding VT5,000,000.

MINISTER'S POWER TO ENTER INTO AGREEMENTS OR ARRANGEMENTS ON HARMONISATION OF LICENCING AND ENFORCEMENT.

6. (1) The Minister may enter into agreement or arrangements with other states in the region or with any competent regional fisheries agency providing for –
 - (a) the harmonisation 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 issuance of fishing licences in respect of foreign fishing vessels by a competent regional fisheries agency on behalf of the Minister or the recognition of

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- regional licenses issued by such agency subject to such conditions as may be specified in the agreement or arrangement;
- (c) the taking of joint or harmonized enforcement measures in respect of foreign fishing vessels contravening fisheries laws in the region
- (2) For the purpose of giving effect to any agreement or arrangement entered into under this section, the Minister may, by Order –
- (a) exempt from the requirements of section 4 any foreign fishing vessel or class of foreign fishing vessels holding valid regional fishing licences issued by a competent regional fisheries agency designated in the Order;
- (b) prescribe the conditions to be observed by such foreign fishing vessels while fishing or navigating in Vanuatu waters; and
- (c) authorise any competent regional fisheries agency designated in the Order to issue fishing licences in respect of foreign fishing vessels on behalf of the Minister, within the limits set out in the applicable fishery management and development plan and subject to such conditions as he may specify in the Order.

REGIONAL REGISTER OF FOREIGN FISHING VESSELS

7. The Minister may by Order require that no license shall be issued in respect of a foreign fishing vessel unless that foreign fishing vessel is listed in good standing in a register maintained by a competent regional fisheries agency designated in the Order.

FOREIGN INVESTMENT IN FISHERIES

8. (1) Where any person who is not a citizen of Vanuatu intends to make an investment in fisheries in Vanuatu, he shall first obtain the approval of the Minister for such investment and the fishing, fish processing and other operations to be undertaken.
- (2) Where any person makes an investment in fisheries under this section without the approval of the Minister for such investment and the fishing, fish processing and other operations to be undertaken, the Minister may refuse to issue any fishing or fish export processing establishment licence in respect of any vessel or establishment operated by or on behalf of any company through which the investment is made.

LOCAL FISHING VESSEL LICENCES

8. (1) No local fishing vessel the length of which is 10 metres or more shall be used for fishing or related activities in Vanuatu waters, except under the authority of a valid licence issued under this section, or an authorisation given under this section 10.
- (2) Subject to the provisions of this Act, the Minister may issue a licence in respect of any local fishing vessel.
- (3) Where any local fishing vessel is used in contravention of the provisions of subsection (1), the master, owner and charterer, if any of such vessel shall each be guilty of an offence and shall each be liable on conviction to a fine not exceeding VT10,000,000.
- (4) Where any local fishing vessel in respect of which a licence has been issued under this section is used in contravention of any condition of the licence, the master, owner, and charterer, if any, of such vessel shall each be guilty of an offence and shall each be liable on conviction to a fine not exceeding VT5,000,000.

MINISTER'S POWER TO AUTHORISE SCIENTIFIC RESEARCH OPERATIONS

10. The Minister may, in writing, authorise any fishing vessel to fish in Vanuatu waters for the purpose of scientific research, subject to such conditions as he may specify, and

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may in granting such authorisation exempt such vessel from the requirements of any fisheries management and conservation measures that may be prescribed .

APPLICATIONS FOR FISHING LICENCES

11. Applications for fishing licenses shall be made in prescribed form and manner.

MINISTER'S POWER TO REFUSE TO ISSUE OR RENEW FISHING LICENCES

- 12.** (1) The Minister may refuse to issue or renew a licence in respect of a local fishing vessel -
- (a) where necessary to give effect to any licensing programme specified in the applicable fishery management and development plan; or
 - (b) where he is satisfied that the applicant will not comply with the conditions of the licence; or
 - (c) for such other reasons as are specified in the Act or as are prescribed.
- (2) Decisions regarding the issuance of licences in respect of foreign fishing vessels shall be at the discretion of the Minister.

CONDITIONS OF FISHING LICENCES

- 13.** (1) Every fishing licence shall be in the prescribed form and shall be subject ---
- (a) to such general conditions as may be prescribed under section 34;
 - (b) to such general conditions as may be specified under subsection (2); and
 - (c) to such special conditions as may be specified under subsection (3).
- (2) The Minister may, by notice published in the *Gazette*, specify general conditions additional to those prescribed to which all fishing licences or any category of fishing licences shall be subject, including conditions relating to open and closed seasons, prohibited fishing areas, minimum mesh sizes and minimum species sizes.
- (3) The Minister may attach to any fishing licence such special conditions as he may think fit, including conditions relating to –
- (a) the type and method of fishing or related activity which are authorised;
 - (b) the areas within which such fishing or related activities are authorised; and
 - (c) the target species and amount of fish which are authorised to be taken including any restriction on by-catch
- (4) The Minister may from time to time where he is satisfied that it is expedient for the proper management of fisheries in Vanuatu waters, vary any special conditions attached to any fishing licence.
- (5) Where the Minister varies any special condition attached to any fishing licence, he shall notify the licence holder of such variation as soon as practicable.

FEES, ROYALTIES AND OTHER CHARGES

14. There shall be payable in respect of every fishing licence such fees as may be prescribed and such royalties or other charges as the Minister, after consulting with the Minister responsible for finance, may determine.

PERIOD OF VALIDITY OF FISHING LICENCES

- 15.** (1) Subject to subsection (2) any licences issued under this Act shall, unless previously suspended or cancelled under section 16 or unless otherwise stated in the licence or prescribed under this section, be valid for a period of 1 year.
- (2) The Minister may issue licences in respect of local fishing vessels or locally based foreign fishing vessels or both such categories of fishing vessels which shall be valid for such period not exceeding 5 years as may be specified in the licence.

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(3) Where any fishing vessel ceases at any time to be a local fishing vessel any local fishing licence issued in respect of such vessel shall cease to be valid forthwith

(4) Except as may be otherwise prescribed in connection with any scheme for limiting effort in any fishery, no fishing licence issued in respect of any vessel under this Act shall be transferable to any other vessel except with the written permission of the Minister.

SUSPENSION AND CANCELLATION OF FISHING LICENCES

16. (1) The Minister may suspend or cancel any fishing licence-

- (a) where necessary in order to give effect to any licensing programme specified in the applicable fishery management and development plan; or
- (b) where he is satisfied that the fishing vessel in respect of which the licence has been issued has been used in contravention of the provisions of this Act or of any Order made hereunder or of any condition attached to the licence or of any agreement entered into under section 3; or
- (c) where required or authorised to do so in accordance with the provisions of any agreement or arrangement entered into under section 6

(2) Where any fishing licence is suspended or cancelled on the ground specified in paragraph (a) of subsection (1) such proportion of the fee, royalties and other charges paid for such licence as represents the unexpired portion of the period for which the licence was issued shall be reimbursed to the holder of licence on his request.

APPEALS AGAINST REFUSAL TO ISSUE OR RENEW, SUSPENSION AND CANCELLATION OF FISHING LICENCES

17. Any person aggrieved by –

- (a) the refusal of the Director to issue or renew a licence in respect of a local fishing vessel; or
- (b) the suspension or cancellation of a licence issued in respect of a local fishing vessel or a foreign fishing vessel,

may, within 30 days of the notification of refusal, cancellation or suspension, appeal therefrom to the Minister, whose decision shall be final.

FISHING FOR MARINE MAMMALS PROHIBITED IN VANUATU WATERS

18 (1) No person shall fish for any marine mammal in Vanuatu waters.

(2) Any marine mammal caught accidentally shall be released forthwith and returned to the waters from which it was taken with the least possible injury.

(3) Any person who contravenes the provisions of subsection (1) and (2) shall be guilty of an offence and shall be liable on conviction to a fine not exceeding VT10,000,000

PROHIBITION OF USE OF EXPLOSIVES AND POISONS FOR FISHING

19. (1) Any person who –

- (a) uses or permits to be used any explosive or poison for the purpose of killing, stunning or disabling fish or in any way rendering far more easily caught; or
- (b) carries or has in his possession or control any explosive or poison in circumstances which raise a reasonable presumption that such explosive or poison is intended to be used for any of the purposes specified in the preceding paragraph.

shall be guilty of an offence and shall be liable on conviction to a fine not exceeding VT1,000,000.

(2) Any person who, knowing or having reasonable cause to believe that any fish has been taken in contravention of the provisions of this section, without lawful excuse, receives or is found in possession of any such fish shall be guilty of an offence and shall be liable on conviction to a fine not exceeding VT1,000,000.

MAIN RESERVES

20. (1) The Minister may, after consultation with owners of adjoining land and with the appropriate local government council declare any area of Vanuatu waters and the seabed underlying such waters to be a marine reserve.

(2) Any person who, except with the written permission of the Minister, within any marine reserve –

- (a) fishes;
- (b) takes or destroys any coral;
- (c) dredges or takes any sand or gravel;
- (d) otherwise destroys or distributes the natural habitat;
- (e) takes or destroys any wreck or part of the wreck;

shall be guilty of an offence and shall be liable on conviction to a fine not exceeding VT1,000,000.

LICENSING OF FISH EXPORT PROCESSING ESTABLISHMENTS

21. (1) The Minister, after consulting with the Minister responsible for industry, may on application thereof in the prescribed form on payment for the prescribed fee, issue to any person a licence in the prescribed form to operate a fish export processing establishment.

(2) Any licence issued under this section shall be subject to such conditions as may be prescribed and to such further conditions as may be endorsed on the licence.

(3) Any person who operates, or being the owner allows to be operated, a fish export processing establishment, except under a valid licence issued under this section in accordance with the conditions of that licence, shall be guilty of an offence and shall be liable on conviction to a fine not exceeding CT1,000,000.

PART III

POWERS OF AUTHORISED OFFICERS AND LEGAL PROCEEDINGS

POWERS OF AUTHORISED OFFICERS

22. (1) For the purposes of enforcing this Act, any authorised officer may, without a warrant –

- (a) stop, board and search any fishing vessel in Vanuatu waters and stop and search any vehicle;
- (b) require to be produced, examine and take copies of any licence or other document required under this Act;
- (c) require to be produced and examine any fishing net or other fishing gear whether at sea or on land.

(2) Any authorized officer, where he has reasonable grounds to believe that an offence has been committed under this Act may, without a warrant-

- (a) enter and search any premises, other than premises used exclusively as a dwelling house, in which he has reason to believe that the offence has been committed or where he has reason to believe that fish illegally taken is being stored;

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- (b) take samples of any fish found in any vessel or premises searched under this section;
- (c) seize any vessel (together with its gear, stores and cargo), vehicle, fishing gear, net or other fishing appliance which he has not reason to believe has been used in the commission of the offence or in respect of which the offence has been committed;
- (d) seize any fish which he has reason to believe has been caught in the commission of the offence, or is being possessed in contravention of this Act;
- (e) seize any explosive or poison which he has reason to believe has been used or is being possessed in contravention of this Act

(3) Any vessel seized under subsection (2) and the crew thereof shall be taken to the nearest or most convenient port and the vessel may be detained pending the outcome of any legal proceeding under this Act or its release on bond or other form of security in accordance with the provisions of section 27.

SALE OF PERISHABLE GOODS SEIZED

23. Any fish or other articles of a perishable nature seized under this Act may, at the direction of the Director, be sold and the proceeds of sale shall be held and dealt with in accordance with the provisions of this Act.

IMMUNITY OF AUTHORIZED OFFICERS

24. No action shall be brought against any authorised officer in respect of anything done or omitted to be done by him in good faith in the execution or purported execution of his powers and duties under this Act.

ASSULTING OR OBSTRUCTING AUTHORISED OFFICERS

25. Any person who assaults, obstructs or threatens with violence any authorised officer in the exercise of any of the powers conferred on him under this Act shall be guilty of an offence and shall be liable on conviction to a fine not exceeding VT1,000,000 or to imprisonment for a term not exceeding 2 years or to both.

MASTER LIABLE FOR OFFENCES COMMITTED ON BOARD HIS VESSEL

26. Where an offence against this Act has been committed by any person on board or employed on a fishing vessel, the master of such vessel shall also be guilty of the offence.

RELEASE OF VESSELS ETC. ON BOND

27. The court may, on application therefor, order the release of any fishing vessel (together with its gear, stores and cargo), vehicle, fish, fishing gear, net or other fishing appliance seized under this Act on receipt of a satisfactory bond or other security from the owner or other person claiming such property.

COURT'S POWERS OF FORFEITURE

28. Where any person is convicted of an offence against this Act, the court, in addition to any other penalty imposed

- (a) may order that any fishing vessel (together with its gear, stores and cargo), and any vehicle, fishing gear, net or other fishing appliance used in the commission of the offence be forfeited;
- (b) shall order that any fish caught in the commission of such offence or the proceeds of sale of such fish and any explosive or poison used in the commission of such offence be forfeited.

PRESUMPTION

29. Until the contrary is proved, all fish found on board any fishing vessel which has been used in the commission of an offence against this Act shall be presumed to have been caught in the commission of that offence.

DISPOSAL OF VESSELS ETC. FORFEITED

30. Any vessel (together with its gear, stores and cargo), and any vehicle, fishing gear net or other fishing appliance, explosive or poison ordered to be forfeited under this Act shall be disposed of in such manner as the Minister may direct.

CERTIFICATES BY FISHERIES OFFICERS

31. Where in any case the cause of death, stunning, disabling or other injury of any fish is in question, a certificate signed by a fisheries officer shall be *prima facie* evidence in any court of the cause of such death, stunning, disabling or other injury.

JURISDICTION OF VANUATU COURTS

32. Any offence against this Act committed in Vanuatu waters shall be triable in any court of Vanuatu as if such offence had been committed within the local limits of the jurisdiction of such court in Vanuatu.

DELEGATION OF MINISTER'S POWERS

33. The Minister may by instrument in writing delegate to the Director the powers conferred on him by this Act in respect of

- (a) licences, under sections 9, 12, 13(2), (3), (4) and (5), 15 and 16; (b) marine reserves, under section 20 (2);
- (b) sale of perishable goods seized, under section 23; and (d) disposal of vessels etc., forfeited, under section 30.

PART IV**GENERAL****MINISTER'S POWER TO MAKE REGULATIONS**

34. (1) The Minister may make regulations not inconsistent with this Act for the implementation of its purpose and provisions, and may prescribe anything that may be prescribed.

(2) Without derogating from the generality of subsection (1), the Minister in such regulations may provide for –

- (a) extending the licensing requirements of section 9 to vessel which are less than 10 metres in length;
- (b) prescribing the manner in which fishing gear is to be stowed by foreign fishing vessels not authorised to fish in Vanuatu waters;
- (c) prescribing the form, manner and required content of applications for foreign fishing licences;
- (d) prescribing the form of foreign fishing licences, which may take the form of a written licence or a telexed or cabled authorisation;
- (e) prescribing the fees payable for a foreign fishing licence and the general conditions of such licence
- (f) providing for the implementation of any agreement or arrangement entered into under section 6.

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- (g) for the purpose of giving effect to any agreement or arrangement entered into under section 6, exempting from the requirements of section 4 any foreign fishing vessels holding valid regional fishing licences issued by a competent regional agency or organisation pursuant to such agreement or arrangement and prescribing the conditions to be observed by such foreign fishing vessels while fishing or navigating in Vanuatu waters;
 - (h) providing for the licensing of local fishing vessels and for the registration of fishermen;
 - (i) prescribing fisheries management and conservation measures including minimum mesh sizes, minimum species sizes, closed seasons and closed areas and schemes for limiting entry into all or any specified fisheries;
 - (k) prescribing the form of a licence to operate a fish export processing establishment, the form of application and fees payable therefor, and the conditions of such licences;
 - (l) providing for the licensing and control of fish aggregating devices and for rights to fish aggregated by such devices;
 - (m) regulating –
 - (i) the taking of coral;
 - (ii) the setting of fishing fences;
 - (iii) the taking of aquarium fish;
 - (iv) aquaculture development;
 - (n) conservation measures for the protection of turtles;
 - (o) prescribing the form of a bond or other security for the release by the court of a vessel seized under this Act;
 - (p) providing that the contravention of or failure to comply with any regulation made under this section shall be an offence and providing for a penalty of a fine not exceeding; VT1,000,000 for such offence;
 - (q) prescribing any other matter which is required or authorised to be prescribed.
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FISHERIES

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[Subsidiary]

SUBSIDIARY LEGISLATION

FISHERIES (REGISTRATION OF FOREIGN FISHING VESSELS) ORDER

To provide for the registration of foreign fishing vessels in a regional register.

FOREIGN FISHING VESSELS TO BE REGISTERED IN A REGIONAL REGISTER

No licence shall be issued in respect of a foreign fishing vessel unless such vessel is listed in good standing in the register maintained by the South Pacific Forum Fisheries Agency at Honiara in the Solomon Islands and known as the South Pacific Forum Fisheries Agency Regional Register of Foreign Fishing Vessels.

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FISHERIES

[CAP.158.

[Subsidiary]

SUBSIDIARY LEGISLATION

DECLARATION OF MARINE RESERVE

Published Gazette No. 40
Of 21 November 1983

The area of waters defined below and the seabed underlying such waters is hereby declared to be a marine reserve.

Area of waters

The area off the south coast of Espiritu Santo Island to seaward of the highest water mark of spring tides and bounded by a line from the "white rock" in position latitude 15° 31' 16"S, longitude 167° 13' 32"E (on British Admiralty chart 179) extending 180° true for 0.3 nautical miles, then 090° true for 1 nautical mile and thence 000° true, to the shore.

This area includes the wreck of the President Coolidge and the area known as Million Dollar Point.

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FISHERIES

[Subsidiary]

**SUBSIDIARY LEGISLATION
FISHERIES REGULATIONS**

Order 49 of 1983
Order 30 of 1986

**ARRANGEMENT OF
REGULATIONS**

REGULATION

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1. Licence form
1. Fees
1. General conditions
1. Exemption

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6. Fees
6. Grounds for refusal of a licences
6. General conditions

PART III

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10. Applications
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10. Licence conditions

PART IV

Fishery Conservation Measures

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13. Slipper lobster
13. Coconut crab
13. Green snail
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21. Turtles
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25. Placing of devices
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29. Offences and penalties

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SCHEDULE 2: Foreign fishing licence

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SCHEDULE 5: Fees for local fishing vessel licences

SCHEDULE 6: Fish export processing establishment licences

SCHEDULE 7: Minimum legal size for rock lobster

SCHEDULE 8: Minimum legal size for slipper lobster

SCHEDULE 9: Minimum legal size for coconut crab

SUBSIDIARY LEGISLATION

FISHERIES REGULATIONS

To provide for the conservation and regulation of fisheries in Vanuatu waters and the issue of licences.

PART I

FOREIGN FISHING LICENCES

APPLICATIONS

1. (1) Subject to subregulation (2) every application for a foreign fishing licence shall be substantially in the form set out in Part A of Schedule 1 to these regulations.
- (2) On or following the operative date of any Order made under section 7 of the Act, it shall be sufficient for any application for a foreign fishing licence to be substantially in the form set out in Part B of Schedule 1 to these regulations.
- (3) Every application for a foreign fishing licence shall be addressed to the Minister and be in writing or in the form of a telex or cable, in English or in French.

LICENCE FORM

2. Every foreign fishing licence shall be in writing or in the form of a telex or a cable and substantially in the form set out in Schedule 2 to these regulations.

FEES

3. (1) The fee payable for the issue or renewal of a licence in respect of a foreign fishing vessel shall be set in accordance with the calculation described under Schedule 3 of these regulations.
- (2) No foreign fishing licence shall be issued unless the Minister is satisfied that any fee payable in respect of that licence has been paid and that adequate arrangements have been made for the payment of any royalties and other charges payable under section 14 of the Act.

GENERAL CONDITIONS

4. (1) Subject to regulation 5, every foreign fishing licence issued under section 4 of the Act shall be subject to the following general conditions –
 - (a) the vessel shall at all times while in Vanuatu waters –
 - (i) fly the flag of its flag state; and
 - (ii) display in a place clearly visible both from the sea and from the air, in letters and numbers at least 1 metre high on a contrasting background its international radio call sign;
 - (b) any change in the information set out in the application form shall be notified to the Director as soon as practicable and, in any case, no later than 7 days from the date of the change;
 - (c) no fishing shall be undertaken in Vanuatu waters except as authorized by the licence;
 - (d) no fish may be transhipped from or onto the vessel while in Vanuatu waters except with the permission of the Director and in accordance with such conditions as he may specify;

- (e) the master of the vessel shall cause a logbook to be maintained on a daily basis in such form as the Director may from time to time require for the purpose of recording the fishing operations of the vessel while within Vanuatu waters;
- (f) the logbook maintained under paragraph (e) shall be transmitted in its original and unaltered form to the Director or to any other person or organization designated by him—
- (i) not later than 7 days after the completion of the voyage to which the log book relates; or
 - (ii) at any other time at the request of the Director or of any authorized officer;
- (g) the master of the vessel shall cause reports to be made to the Director or to such other person or organization as the Director may designate containing the information set out in paragraph (h) at the following times—
- (i) immediately upon entry into Vanuatu waters;
 - (ii) every Wednesday 'or such other day as the Director may specify while the vessel is in Vanuatu waters;
 - (iii) immediately upon departure from Vanuatu waters; and
 - (iv) such other times as the Director may specify.
- (h) each report made under paragraph (g) shall contain details of —
- (i) the international radio call sign or the number assigned to the vessel under any regional register referred to in an Order made under section 7 of the Act;
 - (ii) the position of the vessel at the time of reporting; (iii) the total catch by species on board the vessel at the time of reporting;
 - (iii) such other matters as the Director may from time to time require.
- (i) the master or owner of the vessel or his authorized local representative shall notify the Director or such other person or organization as the Director may designate of the estimated time of entry of the vessel into any Vanuatu port at least 24 hours prior to such entry.
- (j) the master of the vessel shall, while in Vanuatu waters, allow any fisheries officer or other person designated in writing by the Director to board and remain on board the vessel as an observer and shall—
- (i) proceed to such port or place as the Director may require to allow an observer to board or disembark from the vessel;
 - (ii) allow the observer full access to all equipment, including navigation and communications equipment, records and documents and to any fish on board the vessel;
 - (iii) allow the observer to make such bests, observations and records and to take and remove such samples as he may reasonably require in connection with the vessel's activities in Vanuatu waters; and
 - (iv) provide without charge food, accommodation and medical treatment at least equivalent to that provided for officers of the vessel.
- (k) the master of the vessel shall, while in Vanuatu waters, take all reasonable measures and precautions to avoid causing damage to any local fishing operations including non-commercial operations.
- (2) Any records, logbooks or notifications required to be maintained or made under this regulation shall be maintained or made in English or in French.

EXEMPTION

5. The Director may, by notice published in the Gazette, exempt any locally based foreign fishing vessel or any class of locally based foreign fishing vessel from any or all of the requirements of paragraphs (g), (h), (i) and (j) of regulation 4(1).

PART II

LOCAL FISHING LICENCES

FORM OF LICENCE AND APPLICATION

6. Every licence in respect of a local fishing vessel and every application for such a licence shall be in writing in the appropriate form set out in Schedule 4 to these regulations.

FEES

7. (1) Subject to subregulation (2), the fee payable for the issue or renewal of a licence in respect of a local fishing vessel shall be the amount set out for vessels of that kind in Schedule 5 to these regulations.
- (2) Where a licence is issued for a part of a year only, the fee payable shall be the amount payable under subregulation (1) for a complete year less one twelfth of that amount for each complete month that the licence will not have had effect.

GROUND FOR REFUSAL OF A LICENCE

8. No licence in respect of a local fishing vessel may be issued or renewed unless –
- (a) an application has been made in accordance with regulation 6 and is true and correct in every way;
 - (b) any information requested by the Minister or the Director and relevant to the proposed fishing operation has been provided in the manner requested;
 - (c) there is held in respect of the vessel a valid safety certificate issued by the Ports and Marine Department under the law from time to time dealing with shipping safety; and
 - (d) the fee prescribed in regulation 7 has been paid.

GENERAL CONDITIONS

9. Every licence in respect of a local fishing vessel shall be subject to the following general conditions –
- (a) any change in the information set out in the application form shall be notified to the Director as soon as practicable and in any case no later than 7 days from the date of the change;
 - (b) the vessel shall display such identification markings as the Director may from time to time require;
 - (c) no fishing shall be undertaken except as authorized by the licence;
 - (d) no fish may be transhipped from or onto the vessel except with the permission of the Director and in accordance with such conditions as he may specify;
 - (e) the master of the vessel shall, if so required by the Director, cause a logbook to be maintained on a daily basis in such form as the Director may from time to time require for the purpose of recording the fishing operations of the vessel;
 - (f) any logbook maintained under the preceding paragraph shall be transmitted in its original and unaltered form to the Director at such times as he may require;
 - (g) if the vessel is fishing in waters other than Vanuatu waters, the vessel shall comply with such written laws relating to fishing of any other country, if any, as may be recognized by the Republic of Vanuatu as having force in those waters.

PART III

FISHEXPORTPROCESSINGESTABLISHMENTLICENCES

APPLICATIONS

- 10.** Every licence to operate a fish export processing establishment and every application for such a licence shall be in writing in the form set out in Schedule 6 to these regulations.

FEES

- 11.** There shall be payable for the issue or renewal of a licence to operate a fish export processing establishment a fee of VT10,000.

LICENCE CONDITIONS

- 12.** Every licence to operate a fish export processing establishment shall be subject to the following conditions in addition to any conditions endorsed on the licence-
- (a) the establishment shall be maintained and operated in a clean and sanitary manner;
 - (b) accurate records shall be maintained relating to the operations carried out in the establishment, including records of the quantity, type and quality of fish received, processed, sold or exported, and all such records shall be open to inspection by any authorized officer;
 - (c) such returns shall be made to the Director concerning the operations of the establishment as the Director may from time to time require;
 - (d) any change in the information set out in the application form shall be notified to the Director as soon as practical and in any case not later than 7 days from the date of the change.

PART IV

FISHERY CONSERVATION MEASURES

ROCK LOBSTER

- 13.** (1) In this regulation "rock lobster" means a crustacean of genus *Panulirus*.
(2) No person shall harm, take, have in his possession, sell or purchase –
(a) any rock lobster carrying eggs; or
(b) any rock lobster which is less than 22 centimetres in length when laid flat and measured from immediately behind the rostral horns to the rear edge of the telson or whose carapace is less than 7.5 centimetres when measured along the mid-line from immediately behind the rostral horns to the rear edge as illustrated in Schedule 7 to these regulations.
(3) No person shall spear or attempt to spear a rock lobster.
(4) No person shall remove the eggs from a rock lobster or have in his possession, sell or purchase a rock lobster from which the eggs have been removed.

SLIPPER LOBSTER

- 14.** (1) In this regulation "slipper lobster" means a crustacean of species *Parribacus caledonicus*.
(2) No person shall harm, take, have in his possession, sell or purchase –
(a) any slipper lobster carrying eggs; or
(b) any slipper lobster which is less than 15 centimetres in length when laid flat and measured from the front edge of the carapace to, the rear edge of the telson as illustrated in Schedule 8 to these regulations.

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- (3) No person shall spear or attempt to spear a slipper lobster.
- (4) No person shall remove the eggs from a slipper lobster or have in his possession, sell or purchase a slipper lobster from which the eggs have been removed.

COCONUT CRAB

15. (1) In this regulation “coconut crab” means a crustacean of species *Birgus latro*.
- (2) No person shall harm, take, have in his possession, sell or purchase –
 - (a) any coconut crab carrying eggs; or
 - (b) any coconut crab which is less than 9 centimetres in length when measured along the carapace from immediately behind the rostral horn to the rear edge of the carapace in the mid-line, as illustrated in Schedule 9 to these regulations.
- (3) No person shall remove the eggs from a coconut crab or have in his possession, sell or purchase any coconut crab from which the eggs have been removed.

GREEN SNAIL

16. (1) In this regulation “green snail” means a mollusc of the species *Turbo marmoratus*.
- (2) No person shall harm, take, have in his possession, sell or purchase any green snail which is less than 15 centimetres in length when measured in its longest dimension.
- (3) No person shall export green snails except with the written permission of the Minister and in accordance with such conditions as he may specify.

TROCHUS

17. (1) In this regulation “trochus” means a mollusc of the species *Trochus niloticus*.
- (2) No person shall harm, take, have in his possession, sell or purchase any trochus which is less than 9 centimetres in diameter when measured across the base.
- (3) No person shall export trochus except with the written permission of the Minister and in accordance with such conditions as he may specify.

TRUMPET SHELL

18. (1) In this regulation “trumpet shell” means a mollusc of the species *Charonia tritonis*.
- (2) No person shall harm, take, have in his possession, sell or purchase any trumpet shell which is less than 20 centimetres in length when measured along the outside of the shell from one end to the other.

CORAL

19. (1) No person shall take more than 3 pieces of living coral in any period of 24 hours except with the permission of the Director and in accordance with such conditions as he may Specify.
- (2) No person shall export any coral except with the written permission of the Minister and in accordance with such conditions as he may specify.

AQUARIUM FISH

20. (1) No person shall export marine aquarium fish except with the written permission of the Minister and in accordance with such conditions as he may specify.
- (2) A permission granted under this regulation shall not affect any obligation to reach agreement with custom land owners regarding the use of land and waters for the catching of aquarium fish.

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[Subsidiary]

21. (1) No person shall –
- (i) disturb, take, have in his possession, sell or purchase any turtle eggs;
 - (ii) interfere with any turtle nest; or
 - (iii) sell, purchase or export any turtle or the shell thereof of the species *Eretmochelys imbricata*, known as the hawksbill turtle.

CRUSTACEANS

22. No person shall export any crustacean except with the written permission of the Minister and in accordance with such conditions as he may specify.

BECHE-DE-MER

23. No person shall export any beche-de-mer except with the written permission of the Minister and in accordance with such conditions as he may specify.

OFFENCES

24. Any person who contravenes any of the provisions of this Part shall be guilty of an offence and liable on conviction to a fine not exceeding VT100,000.

PART V

FISH AGGREGATING DEVICES

PLACING OF DEVICES

25. (1) No person shall place a fish aggregating device in Vanuatu waters except with the permission of the Director and in accordance with such conditions as he may specify or as are otherwise specified in this Part.
- (2) The permission of the Director under this regulation may be given in the form of a telex or cable or in writing whether as a condition of the licence or otherwise.
 - (3) Permission to place a fish aggregating device shall not confer any exclusive right to fish in the vicinity of the device.
 - (4) The master of any vessel placing a fish aggregating device shall notify the Director within 24 hours of the nature and location of the device.
 - (5) Any person who contravenes the provisions of this regulation shall be guilty of an offence and shall be liable on conviction to a fine not exceeding VT100,000.

DESIGNATED FISH AGGREGATING DEVICE

26. (1) The Director may, by notice published in the Gazette, declare any fish aggregating device to be a designated fish aggregating device for the purposes of this regulation.
- (2) Subject to subregulation (3), no person shall fish within a radius of 1 nautical mile from a designated fish aggregating device except with the permission of the Director and in accordance with such conditions as he may specify.
 - (3) The Director may, by notice published in the Gazette declare that any class of persons who are Vanuatu citizens may fish within a radius of 1 nautical mile of a designated fish aggregating device or a class of designated fish aggregating devices.
 - (4) Any person who contravenes the provision of this regulation shall be guilty of an offence and shall be liable on conviction to a fine not exceeding VT1,000,000

[Subsidiary]

MARKING OF DEVICES

27. (1) Any fish aggregating device placed in Vanuatu waters shall –
- (a) be clearly marked with the name of the owner and of the vessel from which the device was placed;
 - (b) bear a radar reflector and such lights as shall be clearly visible at night from a distance of 1 nautical mile; and
 - (c) have such other equipment or markings as the Director may from time to time require.
- (2) Any person who contravenes the provisions of this regulation shall be guilty of an offence and shall be liable on conviction to a fine not exceeding VT50,000.

DISPOSAL OF UNAUTHORIZED DEVICE

28. Any fish aggregating device placed in Vanuatu waters otherwise than in accordance with a permission given under regulation 25 or found in Vanuatu waters without a marking or piece of equipment required by regulation 27 may be used or disposed of in such manner as the Minister may direct.

PART VI

MISCELLANEOUS PROVISIONS

OFFENCES AND PENALTIES

29. Any person contravening any of the provisions of these regulations shall be guilty of an offence and shall be liable on conviction where no specific fine is provided therefor to a fine not exceeding VT100,000.

SCHEDULE 1

(Regulation 1)

APPLICATION FORMS FOR FOREIGN FISHING LICENCES

PART A – FULL APPLICATION FORM

REPUBLIC OF VANUATU

FISHERIES REGULATIONS

Application Form for a Foreign Fishing Licence

INSTRUCTIONS:

- Underline surnames
- Address means complete mailing address
- Mark **X** where appropriate
- If not applicable mark **NA**
- Type or print clearly
- All units metric, specify units if other system used

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FISHERIES

[Subsidiary]

SCHEDULE 1 (cont'd)

24. Daily freezing capacity (more than 1, if appropriate)
- | Method
(X where appropriate) | | Capacity
metric tons/day | Temperature
C |
|---------------------------------|----|-----------------------------|------------------|
| Brine (NaCl) | BR | _____ | _____ |
| Brine (CaCl) | CB | _____ | _____ |
| Air (Blast) | BF | _____ | _____ |
| Air (Coils) | RC | _____ | _____ |
| Other (Specify) _____ | | _____ | _____ |
-
25. Storage capacity (more than 1, if appropriate)
- | Method
(X where appropriate) | | Capacity
cubic metres | Temperature
C |
|---------------------------------|----|--------------------------|------------------|
| Ice | IC | | |
| Refrigerated | | | |
| Sea Water | RW | _____ | _____ |
| Brine (NaCl) | BR | _____ | _____ |
| Brine (CaCl) | CB | _____ | _____ |
| Air (Coils) | BC | _____ | _____ |
| Other (Specify) _____ | | _____ | _____ |

Complete either A, B, or C below as appropriate.

A. For Purse Seiners

26. Net length _____ metres
27. Net depth _____ metres
28. Support vessels
- | | |
|------------|------------|
| Name _____ | Type _____ |
| Name _____ | Type _____ |
| Name _____ | Type _____ |
| Name _____ | Type _____ |

B. For Pole and Line Vessels

29. Bait storage, (more than 1, if appropriate)
- | Circulation method
(X where appropriate) | | Capacity
cubic metres |
|---|----|--------------------------|
| Natural | NN | _____ |
| Circulation | CR | _____ |
| Refrigerated | RC | _____ |

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FISHERIES

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[Subsidiary]

SCHEDULE 1 (cont'd)

C. For Support Vessels

30. Activities (X more than 1, if appropriate)

Refrigerated carrier

Scouting boat

Anchor boat

Supply/Mothership

Other (Specify)

31. Fishing vessel(s) supported

I understand I am required to:

- i. report any changes in items 1 to 13 within 60 days, and
- ii. annually notify any other changes in the information contained in this application to the Director of Fisheries, Port Vila, Vanuatu.

Signature of applicant

Owner

Charterer

Duly authorised agent

Address of applicant

PART B-SHORT APPLICATION FORM

I hereby apply for a licence to fish in Vanuatu waters.

1. Name of vessel
2. Regional register number
3. Nature of fishing operations to be undertaken (including use of aggregating devices)
4. Proposed fishing areas
5. Period of validity of licence requested
6. Proposed date of commencement of fishing operation

Signed

Date

Specify whether owner, charterer or agent

Name and address of applicant

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FISHERIES

[Subsidiary]

SCHEDULE 2

(Regulation 2)

FOREIGN FISHING LICENCE

Licence
Number

REPUBLIC OF VANUATU

FISHERIES REGULATIONS

FOREIGN FISHING LICENCE

The person named as the licence holder below is hereby licensed in accordance with section 4(2) of the Fisheries Act, Cap. 158 to use the vessel described below for fishing in Vanuatu waters and in accordance with the terms and conditions set out in this licence and the conditions prescribed from time to time in the Fisheries Regulations.

Name of licence holder

Name of vessel

Radio call sign

Regional register number

Authorized fishing areas

Authorized fishing period

Authorized fishing operation

Authorized target species and quota (where applicable)

Other special conditions

.....
.....
.....
.....
.....

Permitted transshipment operations (where applicable)

Permitted use of fish aggregating devices (where applicable)

.....

.....
Minister of Lands, Minerals and Fisheries

Date

LAWS OF THE REPUBLIC OF VANUATU

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SCHEDULE 3

(Regulation 3)

FEES FOR FOREIGN FISHING LICENCES

A foreign fishing vessel licence fee shall be equal to the catch allocation multiplied by the landed catch value and again, multiplied by a percentage of the catch value.

SCHEDULE 4

(Regulation 6)

LOCAL FISHING VESSEL LICENCE

REPUBLIC OF VANUATU

FISHERUB REGULATIONS

Application Form for a Local Fishing Vessel Licence

INSTRUCTIONS:

- Underline surnames
- For "address" provide as much detail as possible
- Leave no question blank
- If not applicable, write **N/A**
- Specify units of measurement

ADDRESS TO: Director of Fisheries, Fisheries Department, Port Vila

I hereby apply for a fishing licence for the vessel described below.

1. Name of vessel
2. Name and address of charterer (if applicable)
3. International radio call sign (if applicable)
4. Name and address of master
5. Nature of fishing operation to be undertaken (attach full description)
6. Nature of vessel (attach full description, including hull construction, main engine type and power, where and when built, history of use)
7. Number of crew expected
8. Fish storage capacity, for each storage method

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FISHERIES

[Subsidiary]

SCHEDULE 4 (cont'd)

I declare that the vessel described above is wholly owned by: *(tick (a), (b), (c), or (d))*–

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

and that the full name and address or names and addresses of the owner or of all the owners are:

.....

I understand that I am required to report any changes in the information contained in this form to the Director of Fisheries, Port Vila, within 7 days of the change.

Signature of applicant

Date

Specify whether owner or charterer

Name and address of applicant

Licence form

Licence
Number

REPUBLIC OF VANUATU
FISHERIES REGULATIONS
LOCAL FISHING VESSEL LICENCE

The person named as the licence holder below is hereby licensed in accordance with section 9(2) of the Fisheries Act, Cap. 158 to use the vessel described below for fishing in accordance with the terms and conditions set out in this licence and the conditions prescribed from time to time in the Fisheries Regulations.

Name of licence holder

Name of vessel Radio call sign (if applicable)

Period of licence

Special conditions

.....

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[Subsidiary]

SCHEDULE 4 (cont'd)

Permitted transshipment operations (where applicable)

Permitted use of fish aggregating devices (where applicable)

.....
Director of Fisheries

.....
Date

SCHEDULE 5

(Regulation 7)

FEEES FOR LOCAL FISHING VESSEL LICENCES

Size of vessel in gross registered tonnes	Fee payable
Less than 100 tonnes	VT5,000
100 tonnes or more, up to 1,000 tonnes	VT5,000 and, in addition, VT25 per tonne in excess of 100
1,000 tonnes or more	VT27,500

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FISHERIES

(Subsidiary)

SCHEDULE 6

(Regulation 10)

FISH EXPORT PROCESSING ESTABLISHMENT LICENCES

REPUBLIC OF VANUATU

FISHERIES REGULATIONS

Application Form for a Fish Export Processing Establishment Licence

INSTRUCTIONS:

- Underline surnames
- For "address" provide as much detail as possible
- Leave no question blank
- If not applicable, write **N/A**
- Specify units of measurement

ADDRESS TO: Director of Fisheries, Fisheries Department, Port Vila

I hereby apply for a licence to operate a fish export processing establishment at the place and in the manner described below.

1. Address of establishment
2. Name and address of owner of establishment
3. Name and address of lessee (if leased)
4. Products to be processed, including sources of supply (attach full description)
5. Nature of processing operation (attach full description)
6. Cleanliness and sanitation (attach full description of construction and maintenance standards)

I understand that I am required to report any changes in the information contained in this form to the Director of Fisheries, Port Vila within 7 days of the change.

Signature of applicant

Date

Specify whether owner or lessee

Name of applicant

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SCHEDULE 6 (cont'd)

Licence form

Licence
Number

REPUBLIC OF VANUATU

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FISH EXPORT PROCESSING ESTABLISHMENT LICENCE

The person named as the licence holder below is hereby licensed in accordance with section 21(1) of the Fisheries Act, Cap. 158 to use the premises described below as a fish export processing establishment in accordance with the terms and conditions set out in this licence and the conditions prescribed from time to time in the Fisheries Regulations.

Name of licence holder

Address of premises

Kinds of fish authorized .to be processed

Kinds of processing authorized to be carried out

Further conditions

.....
.....
.....
.....
.....

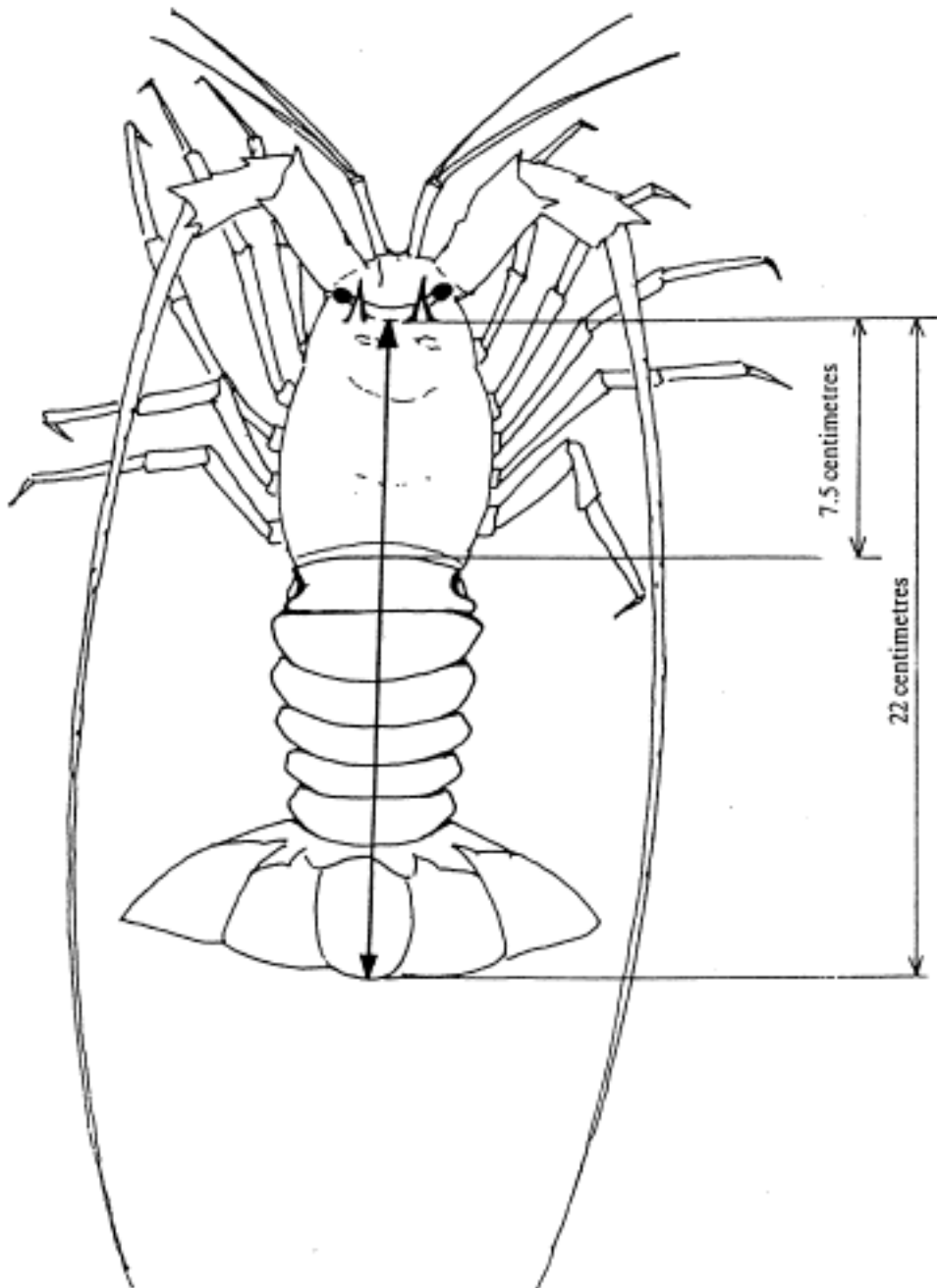
.....
Minister of Lands, Minerals and Fisheries

.....
Date

SCHEDULE 7

(Regulation 13)

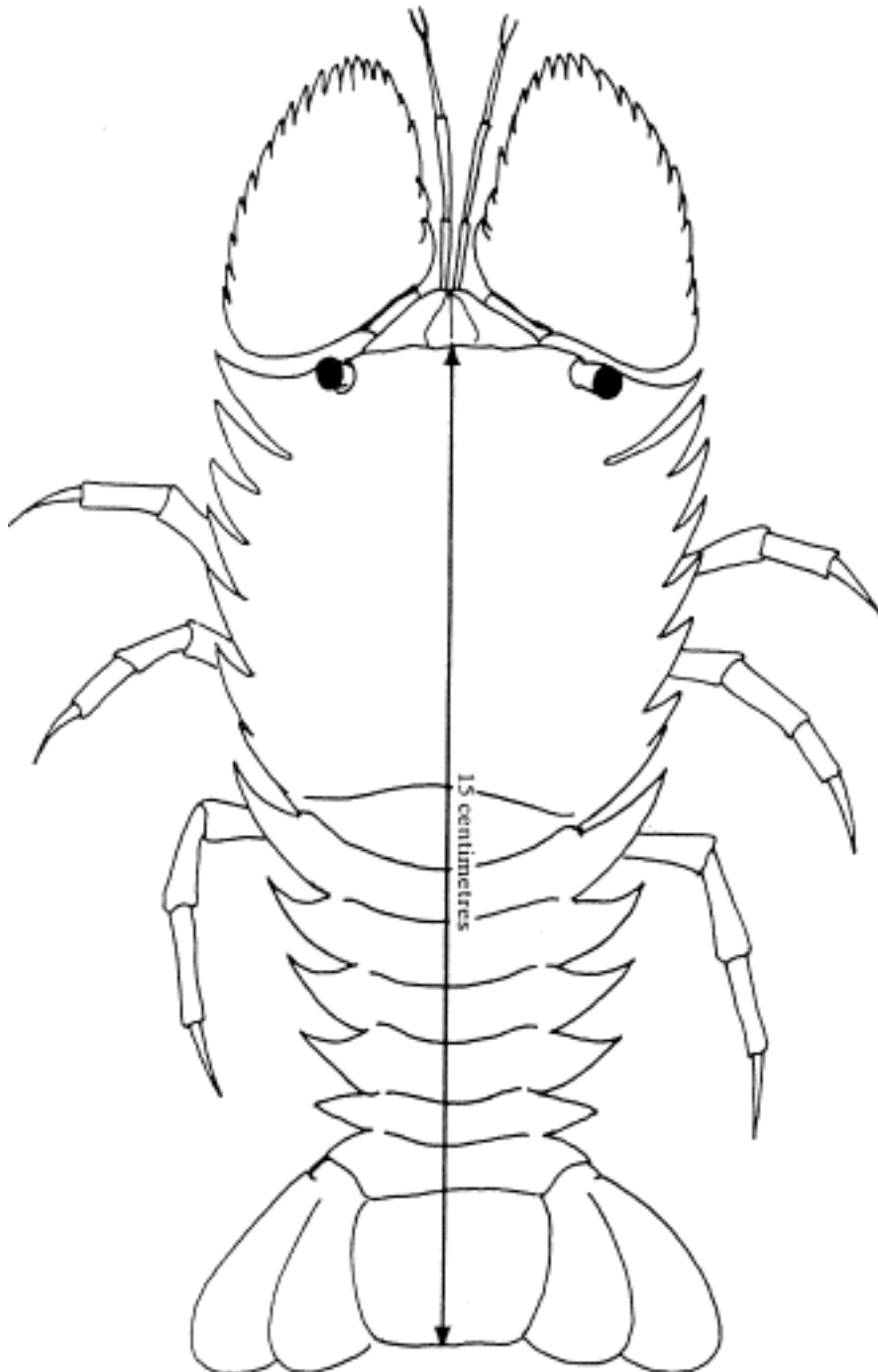
MINIMUM LEGAL SIZE FOR ROCK LOBSTER



SCHEDULE 8

(Regulation 14)

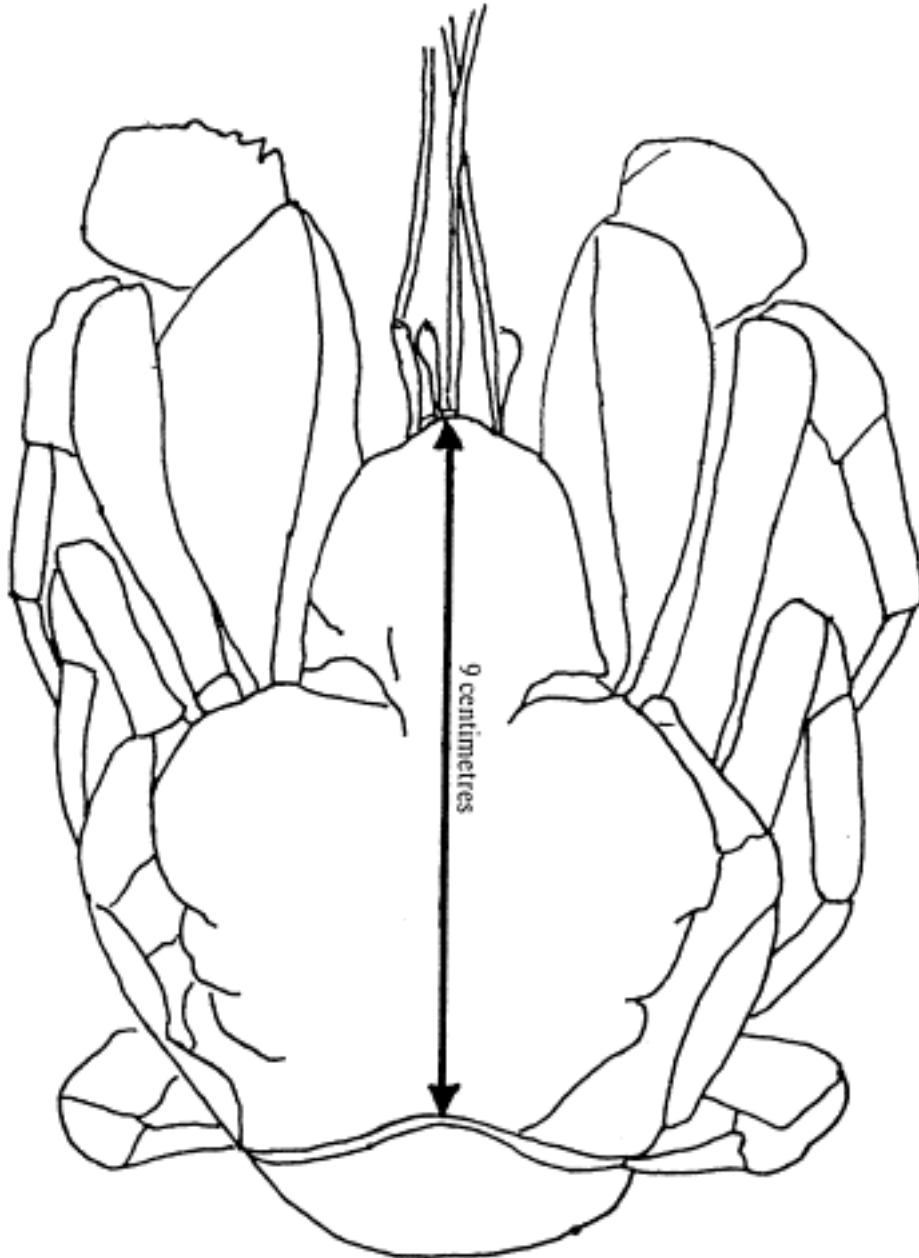
MINIMUM LEGAL SIZE FOR SLIPPER LOBSTER



SCHEDULE 9

(Regulation 15)

MINIMUM LEGAL SIZE FOR COCONUT CRAB



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:—

FISHERIES (AMENDMENT) ACT 1989

“ ‘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:–

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(l);
(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;

FISHERIES (AMENDMENT) ACT 1989

- (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 –
- (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.

FISHERIES (CONSEQUENTIAL REPEALS) ACT

REPUBLIC OF VANUATU

THE FISHERIES (CONSEQUENTIAL REPEALS) ACT NO. 22 OF 1983

An Act to repeal certain statutes consequential upon the entry into force of the Fisheries Act 1982 and the Regulations made thereunder.

BE IT ENACTED by the President and Parliament as follows:-

REPEAL

1. The statutes set out in the schedule are hereby repealed.

COMMENCEMENT

2. This Act shall come into operation on the date of its publication in the Gazette.

SCHEDULE

- (1) Sea Shell (Control) Joint Regulation No. 11 of 1957.
- (2) Night Under-water Fishing (Prohibition) Joint Regulation No. 7 of 1963.
- (3) Joint Control of Crayfish Catching Regulation No. 17 of 1968.
- (4) Joint Export of [Crustaceous] Shellfish Regulation No. 32 of 1973.
- (5) Coconut Crabs (Protection) Act, 1981.