

# Vanuatu

The republic of Vanuatu is an archipelago of 83 islands lying 650 miles west of Fiji and 1500 miles north east of Australia. Vanuatu is known for its romantic tropical landscape, the world's most accessible volcanoes, crystal clear waterfalls and turquoise blue oceans with unparalleled scuba diving opportunities. The local people, or Melanesian descent, have a magical charm and friendliness unique to Vanuatu.

The capital, Port Vila, boasts one of the most beautiful natural harbours in the world. The town offers excellent restaurants, duty free shopping, and a colourful local market. No visas are required for stays of less than 30 days for residents of Australia, New Zealand, and EEC, Japan, Canada and the United States.

The Government of Vanuatu has successfully established a major base for the registration of foreign ships.

Under the Maritime Act and Maritime Regulations, ships can be registered under the Vanuatu flag. The underlying law is the non-statutory maritime law of the United States. The Maritime Act caters for such matters as the limitation of a ship owner's liability, carriage of goods by sea, ship mortgages, merchant seamen and salvage.

## *Incentives*

- The registry personnel are available 24 hours a day, 7 days a week, when needed;
- All details of vessel registration are handled through the central registry office in New York City;
- The Maritime Act on US maritime law. The preferred ship mortgage sections of the Act have been reviewed and accepted by major law firms and banks worldwide;
- Vanuatu is a member of IMO and has acceded to all the major conventions, including MARPOL, SOLAS, STCW, Load Line Convention, Collision Prevention Regulations, etc;
- VMSL takes pride in its fleet safety record and strives to assist its clients in maintaining this record through proper manning and an effective inspection program;
- Vanuatu registration and annual costs are amongst the most competitive available. In addition, fleet discounts are offered;
- The Maritime Act has no restrictions on crew nationality, and offers the most flexible crewing requirements, consistent with safety;
- Vanuatu has a vast network of Special Agent Commissioners and independent inspectors.

## *Eligibility for Registration*

A vessel may be eligible for registration if it meets the following conditions:

- The vessel must be shown to be in a seaworthy condition at the time of registration

For vessels classed with one of the Classification Societies recognised, submit a recently (within 10 days) issued Certificate of Confirmation of Class.

For vessels not classed with one of the Classification Societies, submit a recent survey completed by a Vanuatu approved qualified independent marine

surveyor that details the condition of hull, machinery, radio equipment and safety equipment on board the vessel and states that, in the opinion of the surveyor, the vessel is in sound and seaworthy condition for its intended use.

- The vessel shall not be more than 20 years of age from completion of first construction

These conditions, may be waived by the Commissioner or a Deputy Commissioner in exceptional cases upon application, and where it is proven that the vessel meets the highest classification requirements of one of the Classification Societies. An example of acceptable proof would be submission of the results of a recent (i.e. within 6 months) special survey by the Class Society.

- The vessel must be owned by a citizen or national of Vanuatu

For purposes of ownership a Vanuatu registered company meets certain conditions.

These conditions, may be waived by the Commissioner or a Deputy Commissioner upon application and where it is proven that there is an absolute and genuine need for such waiver.

If the vessel is a pleasure yacht it must be over 50 net registered tons and a declaration be submitted that it will be used solely for pleasure ie. it will not carry paying passengers or cargo.

## ***Provisional Registration***

Documents Required for Provisional Registration:

- Application for Registration

Basic application form, provide information, about the vessel to be registered including vessel description and details, vessel ownership, vessel financing, vessel management and other basic information. In addition a declaration by the applicant on behalf of the owner of the vessel that the vessel's master has been ordered to return all documents issued by the previous registry to that government and that all ship's markings, e.g. name, port of registry, etc. will be changed as required by the Maritime Act is included.

- Preliminary Report of Ships' Officers

Lists the names, citizenship, foreign license information, and Vanuatu license details for the officers expected to serve aboard the vessel. Provides information related to the proposed manning of the vessel.

- Declaration from the Master re: markings and License

Declaration by the Master of the vessel that all markings have been changed, and that he is the holder of a Vanuatu Master's license as required by the

Maritime Act. This form required to be submitted within 30 days of initial registration.

■ Report of the Ship officers

This report is required to be submitted within 30 days of initial registration and annually thereafter. It lists the names of the officers serving on board the vessel and states their Vanuatu licenses in the appropriate grade.

■ Application for Ships' Radio License

Normally completed by the radio accounting authority responsible for the payment of communication charges for the vessel. This form provides technical details of the radio equipment on board the vessel plus other information. Please note that all owners of vessels are required to complete this form and that the accounting authority must be approved by the Office of the Deputy Commissioner of Maritime Affairs - Republic of Vanuatu prior to initial registration.

■ Power of Attorney

Document prepared for and signed by the owner (or in the case of an incorporated company by an appropriate and authorized officer), authorizing the applicant to act for the owner in matters relating to the registration of the vessel, mortgages, or Bills of Sale.

■ Corporate Resolution

Resolution of the board of directors of the owning company authorizing one or more persons to act on behalf of the company in matters relating to the registration and, if appropriate, finance (mortgages) of the vessel. Not needed if a power of attorney is supplied.

■ Bill of Sale or Proof of Ownership

A document detailing the terms and conditions of the transfer of ownership of a vessel.

■ Proof vessel is free of liens

Required in the case of existing vessel being transferred from foreign registry. An official statement, have to be issued by an appropriate governmental department of previous registry. It may be included in the consent to transfer or in the Cancellation (deletion) Certificate. Under certain conditions this requirement may be temporarily waived.

■ Copy of Radio Accounting Authority

A copy of the contract with the approved radio accounting authority verifying that the authority has accepted responsibility for radio communication charges incurred by the vessel for the ship-owner.

#### ■ Certificate of Confirmation of Class

Certificate of Confirmation of Class, (in the case of an existing vessel), or Certificate of Seaworthiness or Interim Certificates of Class for Hull and Machinery, (in the case of new construction), issued by the Society with which the vessel is classed, dated not more than 10 days prior to date of registration.

Provisional Registration is valid for one year, Ship Radio station is valid for four years and minimum safe manning certificate is valid until the vessel is deleted.

## ***Permanent Registration***

Documents required for Permanent Registration:

- Declaration of Master Re: Marking and License;
- Report of Ships Officers;
- Deletion Certificate from previous Registry;
- Vanuatu International Tonnage Certificate.

## ***Mortgage Registration***

If the original instrument is to be recorded in the New York office of the Deputy Commissioner, the applicant must present 5 originals (or 1 original and 4 counterparts) of the instrument properly acknowledged as required by maritime Act, together with a Power of Attorney or Corporate Resolution authorizing that person to execute the mortgage and undertake the recording, and the required fee. The instrument will be recorded in the recording book and 3 certified copies of the instrument and a Certificate of Ownership and Encumbrance will be returned to the applicant. One copy of the mortgage must be placed upon and maintained aboard the vessel.

The instrument may be presented at the office of a Special Agent for the Republic of Vanuatu for recording in the records of the Deputy Commissioner in New York with prior approval from the Commissioner or a Deputy Commissioner. A copy of the instrument must be provided to the Deputy Commissioner at least 3 days in advance for review. At the desired time of recording, the 5 originals (or 1 original and 4 counterparts) of the instrument are to be presented to the Special Agent who confirms by telephone, facsimile or telex to the Deputy Commissioner that they are identical to the advance copy. Recording date and time information is then provided to the Special Agent who marks the documents, as required, and turns over the 3 certified copies and the Certificates of Ownership and Encumbrance to the applicant and forwards the remaining copies to the Office of the Deputy Commissioner.

## **Procedure**

- Instruments to be recorded must comply with the provisions of Chapter 5 of the Maritime Act and Chapter 5 of the Maritime Regulations;

- All instruments must be in the English language;
- A condition for recording a conveyance, bill of sale or a mortgage is a formal statement by affidavit before a person authorized to administer oaths. A legalization of a signature is not acceptable;
- Mortgages, Assignments, Assumptions or any instrument whether designated as Amendment, Supplement or otherwise must be submitted in original and four counterparts, all duly executed and acknowledged;
- Satisfactions, Releases, etc. relative to recorded Mortgages, Bills of Sale, Master Carpenter's or Builder's Certificates and any instrument transferring title to a Vanuatu flag vessel for re-registration, must be submitted in original and three counterparts, all duly acknowledged. Photo-static copies or other facsimiles are not acceptable.

## ***Bareboat Registration***

When bare-boating into Vanuatu the bareboat Charterer is to be listed as the owner on application forms. Permission of the registered owner, permission of holders of all mortgages, liens, or other encumbrances, and permission of the foreign registry is also required. A certified copy of the Charter party is to be included along with proof of ownership in the name of the registered owner in a form satisfactory to the Commissioner or Deputy Commissioner.

Provide a certified copy of the vessel's current Certificate of Registry.

Provide certificate from the vessel's current registry showing all outstanding liens and encumbrances, or the absence thereof.

The bareboat Charterer of a currently registered Vanuatu vessel may bareboat register the vessel into a foreign register by providing; a letter of application, written consent of the current registered owner, written consent of all holders of mortgages, liens, and encumbrances as recorded in the Office of the Deputy commissioner of maritime Affairs. A certified copy of the foreign Certificate of Registry must be submitted to the Office of the Deputy Commissioner within 30 days of registration in the foreign jurisdiction.

## **Requirements for Bareboat Registration**

### **Bareboat-in Registration**

- Consent of the government of present registry approving bareboat registration under the flag of Vanuatu and in the name of the bareboat charterer;
- A copy of the Charterparty Contract accompanied by English translation, if necessary, certified as true and correct;
- Letters of consent from the owner accompanied by acceptable proof as to his ownership of the vessel, and letters of consent from all holders of all mortgages, hypothecations and similar charges accompanied by an English translation, if necessary, and notarised;
- Five true and correct copies of all mortgages in original language with statement in English, if necessary, duly acknowledged indicating name of vessel, name of parties, total amount, and discharge amount;
- Certificate of Ownership and Encumbrance or official document from the present Register showing all mortgages and liens recorded against the vessel. This must be of recent date with an English translation, if necessary, duly notarized;
- In the case of vessels being transferred from one foreign registry to a second foreign registry and a bareboat charter being registered in Vanuatu, a certificate or other official proof of

cancellation of the vessel from the first such foreign registry must be provided.

## **Bareboat-out Registration**

The Bareboat Charterer of a Vanuatu vessel may register the vessel in a foreign jurisdiction, where permitted by the jurisdiction, upon obtaining written consent of the Commissioner or Deputy Commissioner, which may be granted upon presentation of:

- Letter of Application;
- Written consent of the owner;
- Written consent of all holders of record of any mortgages, hypothecation or other charges recorded in the offices of the Commissioner and Deputy Commissioner.

A copy of the foreign document, certified as true and correct, to be submitted within 30 days following registry in the foreign Registry.

## ***Seafarer Documents - Endorsements***

Under the SCTW 95, countries are required to comply with this Convention at the national level, and this evaluated by the International Maritime Organization (IMO), whilst at the individual seafarer level it requires the seafarer to hold an STCW 95 certified qualification. Both are not negotiable. States who do not meet the new standards and requirements will not be able to sail their vessels in international waters, nor will their nationals be able to work on any foreign-flag ships.

## ***Company Formation***

The principal corporate legislation is the Companies Act, the International Companies Act (1993) and the Banking, Insurance, Stamp Duties and Trust Companies Acts, which form the statutory framework for the operation of the financial centre. This framework is administered by the Financial Services Commissioner and adjudicated upon by the Supreme Court of Vanuatu. English is the language of legislation and corporate documentation. Foreign translations of corporate documents can be obtained for a fee.

Two main types of company are used for international trading and investment:

- Exempt Company, incorporated under the Companies Act;
- The International Company (IC), incorporated under the International Companies Act 1992. Incorporation of ICs is preferred over exempt companies. The concept of authorised capital does not apply to ICs. The International Company provides for greater flexibility and minimal compliance.

## ***Authorised Classification Societies***

- American Bureau of Shipping
- Bureau Veritas
- China Classification Society (ZC)
- Cyprus Bureau of Shipping (CBS)

- Det Norske Veritas
- Germanischer Lloyd
- Korean Register of Shipping
- Lloyd's Register of Shipping
- Nippon Kaiji Kyokai
- Polish Register of Shipping
- Registro Italiano Navale, or
- Any other international ship classification society as may be authorized by the Commissioner or a Deputy Commissioner