

**REPUBLIC OF VANUATU**

**THE  
INTERNATIONAL COMPANIES (AMENDMENT)  
ACT NO. 45 OF 2006**

***Arrangement of Sections***

- 1 Amendment**
- 2 Commencement**

# REPUBLIC OF VANUATU

ASSENT: 28/12/2006  
COMMENCEMENT: 22/01/2007

## THE INTERNATIONAL COMPANIES (AMENDMENT) ACT NO. 45 OF 2006

An Act to amend the International Companies Act No. 32 of 1992.

Be it enacted by the President and Parliament as follows-

### **1 Amendment**

The International Companies Act No. 32 of 1992 is amended as set out in the Schedule.

### **2 Commencement**

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

## SCHEDULE

### AMENDMENTS OF THE INTERNATIONAL COMPANIES ACT NO. 32 OF 1992

#### **1 Section 1**

Insert the following definitions in their correct alphabetical positions:

“Guidelines means” Guidelines made by the Minister under section 132;

“long term registration” means registration for 5 years, 10 years or 20 years;

“long term renewal fee” means the fee payable for renewal of long term registration;”

#### **2 After paragraph 3(1)(c)**

Insert

“(ca) whether the company proposes to be registered on a long term basis and, if so, the period of registration;”

#### **3 After subsection 3(1)**

Insert

“(1A) If the constitution of the company is in a language other than English or French:

(a) it must have with it an English translation and a statement by a qualified translator that the translation is a true copy; and

(b) the statement must be attested by a notary public.”

#### **4 Section 6**

Repeal the section, substitute

##### **“ 6. Incorporators to be first members**

(1) Subject to subsection (2), an incorporator of a company is a member of the company from the date of incorporation and ceases to be a member of the company:

(a) on the first allotment of any shares in the company; or

(b) on the grant of membership of the company to a person who gives a guarantee required under the constitution of the company.

(2) An incorporator continues to be a member of the company if:

(a) shares are allotted to the incorporator; or

(b) the membership is granted to the incorporator.”

**5 After section 6**

Insert

**“6A. Long term registration**

- (1) An incorporator of a company may, or a company may at any time, elect that the company be registered:
  - (a) on an annual basis; or
  - (b) on a long term basis, for a period of 5 years, 10 years or 20 years.
- (2) A company that elects to be registered for longer than one year may apply to the Commission to be registered for a period of 5 years, 10 years or 20 years.
- (3) The application must:
  - (a) be in the form specified by the Commission; and
  - (b) be accompanied by the appropriate registration fee.
- (4) At the end of the period of long term registration, the company may:
  - (a) renew its long term registration, and pay the long term renewal fee; or
  - (b) elect to be registered on an annual basis.”

**6 Subsection 9(3)**

After “profits”, insert “,including future gains or profits”.

**7 At the end of section 9**

Add

- “(5) A right to share in the gains or profits of the company given to a person under subsection (3) is not to be treated as a share in the capital of the company for the purposes of this Act.”

**8 Paragraph 10 (1)(c)**

Delete “Banking Act [CAP 63]”, substitute “Financial Institutions Act No.2 of 1999”.

**9 Paragraph 10(1)(e)**

Repeal the paragraph, substitute

- “(e) carry on general insurance business or life insurance business within the meaning of the Insurance Act No. 54 of 2005; or”.

**10 Paragraph 14(2)(a)**

Delete “special”.

**11 Paragraph 17(c)**

Delete “shares issued to bearer and shares issued to bearer”, substitute “bearer shares and bearer shares”.

**12 Section 20**

Delete “unissued shares and”.

**13 Section 26**

After “share warrant”, insert “issued to bearer”.

**14 After section 26**

Insert

**“26A. Custodian of bearer shares**

- (1) A company may deliver a bearer share or a share warrant issued to bearer to a custodian who has agreed to hold that share.
- (2) A custodian must:
  - (a) hold the bearer share or share warrant issued to bearer securely; and
  - (b) keep records of all bearer shares and share warrants issued to bearer the custodian holds; and
  - (c) ensure the registered agent of the company is aware that the custodian holds a bearer share or share warrant issued to bearer; and
  - (d) not transfer the bearer share or share warrant issued to bearer to a person other than:
    - (i) another custodian; or
    - (ii) the company; or
    - (iii) the registered agent.
- (3) A custodian that holds bearer shares or a share warrant issued to bearer in accordance with the Guidelines is taken to comply with subsection (2).
- (4) In this section, “custodian” means an authorised custodian or a recognised custodian within the meaning of the Guidelines.”

**15 Paragraph 58(1)(a)**

Repeal the paragraph, substitute

- “(a) the names and addresses of the persons:
- (i) who hold registered shares in the company, if the company is a company limited by shares; or

- (ii) who give a guarantee under the constitution of the company, if the company is a company limited by guarantee; or
- (iii) who hold registered shares of the company, and give a guarantee under the constitution of the company, if the company is a company limited both by shares and guarantee.”.

**16 Paragraph 58(1)(e)**

Delete “shares issued to bearer” (wherever occurring), substitute “bearer shares”.

**17 Subsection 72(2)**

Delete “may”, substitute “must”.

**18 Subsection 74(2)**

Delete “a certificate of every charge filed”, substitute “to a company a certificate of every charge filed relating to the company”.

**19 Paragraph 111(2)(a)**

Repeal the paragraph, substitute

“(a) \$150 for registration or renewal of registration on an annual basis;”

**20 After paragraph 111(2)(a)**

Insert

“(aa) for long term registration:

- (i) \$675 for registration or renewal of registration for 5 years;
- (ii) \$1200 for registration or renewal of registration for 10 years;
- (iii) \$2000 for registration or renewal of registration for 20 years;”

**21 At the end of Section 111**

Add

“(5) If a company that elects to continue its long term registration fails to pay its renewal fee by the due date, the company is liable to a penalty of 10% of the fee for each month during which the company fails to pay the fee, up to a maximum of 50% of the fee.”

**22 Subsection 112(1)**

Delete “Every company”, substitute “Subject to subsection (1A), every company”.

**23 After subsection 112(1)**

Insert

“(1A) A company may pay the annual fee in advance, to cover the period corresponding to the period of registration.”

**24 Section 128**

Repeal the section.

**25 Section 131**

Repeal the section, substitute:

**“131. Regulations**

- (1) The Minister may, on the advice of the Commission, make regulations prescribing all matters:
  - (a) required or permitted by this Act to be prescribed; or
  - (b) necessary or convenient to be prescribed for carrying out or giving effect to this Act.
- (2) Without limiting the generality of subsection (1), the regulations may:
  - (a) make provision about the conduct, duties, and responsibilities of registered agents; and
  - (b) vary any fee specified in this Act.”

**26 Section 132**

Repeal the section, substitute

**“132. Guidelines**

The Minister may, on the advice of the Commission, make Guidelines dealing with custodians of bearer shares and, in particular, dealing with:

- (a) the qualifications of custodians; and
- (b) the approval or recognition of custodians by the Commission; and
- (c) the delivery of bearer shares to custodians; and
- (d) the holding of bearer shares by custodians.”