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## PORT SECURITY REGULATIONS

Order 17 of 2004

### ARRANGEMENT OF REGULATIONS\*

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#### 1. Application

(1) These Regulations apply to the following:

- (a) a port;
- (b) a port facility within a port that serves ships engaged on international voyages;
- (c) a foreign ship in a port, being a ship to which the SOLAS Convention applies.

(2) Despite subregulation (1), the Minister may, by instrument in writing, extend all or a part of these Regulations to a port facility, which, although used primarily by ships engaged on domestic voyages, is serving a ship arriving or departing on an international voyage.

#### 2. Interpretation

(1) In these Regulations, unless a contrary intention appears:

“Committee” means the Port Security Committee established under regulation 5;

“Contracting State” means a State that is a signatory to the SOLAS Convention;

“declaration of security” means an agreement reached between a ship and another party (a ship or port facility operator) that identifies the security activities or measures that each party will undertake or implement in specified circumstances;

“Director General” means the Director General of the Ministry responsible for maritime affairs;

“foreign ship” means a ship that is not a Vanuatu ship;

“ISSC” means an international ship security certificate within the meaning of the ISPS Code;

“ISPS Code” means the International Ship and Port Facility Security (ISPS) Code (as amended from time to time) as mentioned in Chapter XI-2 of the SOLAS Convention;

“master” means a person having command or charge of a ship;

“member” means a member of the Committee;

“Minister” means the Minister responsible for maritime affairs;

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\*Editor's note: This Arrangement of Regulations contains links to the body of the Regulations (Control + click)

“port” means:

- (a) the port of Port Vila; or
- (b) the port of Luganville;

“port facility” means an area of land or water, or land and water, within a port (including any buildings, installations or equipment in or on the area) used either wholly or partly in connection with the loading or unloading of goods to or from ships, the moving of passengers to or from ships, or the provision of services to ships;

“port facility operator” means a person who operates a port facility. \;

“port of Port Vila” has the same meaning as in the Ports (Operations in Port of Port Vila) Regulations;

“port of Luganville” has the same meaning as in the Ports (Operations in Port of Luganville) Regulations;

“port operator” means the director of the department responsible for ports and harbours;

“port facility security officer” means a person appointed as a port facility security officer under regulation 10(2);

“port facility security plan” means a plan approved under regulation 9;

“port security officer” for a port means the harbour master of the port;

“port security plan” means a plan approved under regulation 8;

“restricted area” of a port is that areas to which access is restricted to persons authorised by the port operator or the relevant port facility operator;

“security level 1” means the security level in force under regulation 5;

“security level 2” means the security level in force under regulation 6;

“security level 3” means the security level in force under regulation 6;

“ship” means a vessel that is capable of navigating the high seas but does not include a vessel that is not self-propelled;

“SOLAS Convention” means the International Convention for the Safety of Life at Sea, done at London on 1 November 1974, as amended from time to time;

“unlawful interference” with maritime transport has the meaning given by regulation 3;

“Vanuatu ship” means a ship that is registered in Vanuatu;

“vessel” means any craft or structure capable of navigation.

- (2) The terms that are not defined in this Regulation have the same meaning as in the SOLAS Convention.

### **3. Unlawful interference**

- (1) Any of the following done without lawful authority is an unlawful interference with maritime transport:

- (a) committing an act, or causing any interference or damage, that puts the safe operation of a port, or the safety of any person or property at the port, at risk;
- (b) taking control of a ship by force, or threat of force, or any other form of intimidation;
- (c) destroying a ship that is in service;
- (d) causing damage to a ship that is in service that puts the safety of the ship, or any person or property on board or off the ship, at risk;
- (e) doing anything on board a ship that is in service that puts the safety of the ship, or any person or property on board or off the ship, at risk;
- (f) placing, or causing to be placed, on board a ship that is in service that puts the safety of the ship, or any person or property on board or off the ship, at risk;

- (g) putting the safety of ships at risk by interfering with, damaging or destroying navigational aids, communication systems or security systems;
  - (h) committing an act of violence against a person, property or the environment at a port, if the act:
    - (i) causes, or is likely to cause, injury or death; and
    - (ii) endangers, or is likely to endanger, the safe and efficient operation of the port or the safety of anyone at the port;
  - (i) putting the safety of ships at risk by communicating false information;
  - (j) attempting to commit an act described in any of the above paragraphs.
- (2) However, unlawful interference with maritime transport does not include lawful advocacy, protest, dissent or industrial action that does not result in, or contribute to, an action of a kind mentioned in paragraphs (a) to (h) of subregulations (1).

#### **4. Port Security Committee**

- (1) The Port Security Committee is established.
- (2) The Committee is to meet as required by the Minister. However, if an incident occurs that in the opinion of the Minister is a threat to security at a port, the Minister must immediately convene a meeting of the PSC, whether or not the port operator or a shipowner has notified the Minister of the incident.
- (3) The chairperson of the Committee is the Director General. If the Director General is absent, the Committee is to elect a member to act as the chairperson.
- (4) The role of the Committee is to:
- (a) coordinate the implementation of national port security measures in ports in Vanuatu; and
  - (b) provide a forum for the discussion of port security matters affecting port facility operators, port tenants and users, and ships visiting the ports; and
  - (c) draw up and maintain a list of vulnerable points of the ports, including essential equipment and facilities and review their security from time to time; and
  - (d) provide a forum for communication between port facility operators, port tenants and users, and shipowners on issues of security and procedures in place to meet threats, providing for normal situations and contingencies for periods of heightened tension and emergency situations; and
  - (e) promote security awareness amongst port facility operators, port tenants and users, and shipowners; and
  - (f) liaise, as considered appropriate, with external agencies to discuss security issues.
- (5) The Committee consists of the following:
- (a) the Director General;
  - (b) a representative of the department responsible for ports and harbours nominated by the director of the department;
  - (c) a representative of the Vanuatu Police Force nominated by the Commissioner of Police;
  - (d) a representative of the Vanuatu Maritime Authority nominated by the Authority;
  - (e) a representative of the Vanuatu Maritime College nominated by the College;
  - (f) such other persons, including representatives of organisations, co-opted by the Committee as required.
- (6) The quorum for a meeting of the Committee is 3 members. A member of the Committee may nominate another person to attend on the member's behalf if the member is unable to attend a meeting of the Committee.

(7) The Chairperson must ensure that a record of each meeting is kept and minutes are forwarded within one month after the meeting, either in written or electronic form, to all committee members.

(8) A member is not entitled to payment of any remuneration, allowances or other benefits.

**5. Default security level – security level 1**

(1) Security level 1 applies in a port if a declaration is not in force under regulation 6.

(2) Under security level 1 minimum appropriate protective security measures are to be maintained at all times.

**6. Declaration for security level 2 or 3**

(1) The Director General may, after consultation with the relevant port security officer, declare in writing that security level 2 or security level 3 is in force for all or any of the following specified in the declaration:

- (a) a port;
- (b) an area within a port;
- (c) operations conducted within a port.

(2) However, the Director General must not make a declaration unless it is appropriate for a higher level of security to be put into place for the port, area or operations concerned because a heightened risk to maritime transport has been identified.

(3) If a declaration is made, the security level declared in the declaration is in force for the port, area or operations covered by the declaration until either of the following occurs:

- (a) the period (if any) specified in the declaration expires;
- (b) the declaration is revoked, in writing, by the Director General.

(4) If a declaration for security level 2 is made, appropriate additional protective security measures are to be maintained while the declaration is in force.

(5) If a declaration for security level 3 is made, appropriate further protective security measures are to be maintained while the declaration is in force.

(6) While a declaration is in force, the Director General may, in writing, direct that other security measures be implemented or complied with.

(7) A copy of a declaration or direction must be given to the Minister as soon as possible after it is made.

**7. Declaration of security**

(1) A declaration of security may be requested by a ship or a port facility operator.

(2) In deciding whether to request a declaration of security, regard may be had to the following:

- (a) the level of risk a ship to port interface or ship to ship activity poses to persons, property or the environment;
- (b) whether a ship is operating at a higher security level than the port facility or another ship it is interfacing with;
- (c) any agreement on a declaration of security between Contracting States covering certain international voyages or specific ships on those voyages;
- (d) any security threat or security incident involving a ship or port facility;
- (e) a ship is at a port that is not required to have and implement a port facility security plan;
- (f) a ship is conducting ship to ship activities with another ship not required to have and implement a ship security plan;
- (g) whether a declaration under regulation 6 is in force.

- (3) A declaration of security must be in writing and be completed in English or in a language common to the parties to the declaration.

**8. Port security assessment and port security plan**

- (1) The port operator must, after consultation with the Committee, prepare a security plan for each port.
- (2) Before preparing a port security plan for a port, the port operator must conduct an assessment of the security at the port, including recommendations for implementing measures to enhance security at the port.
- (3) A port security plan must set out how security at the port and the security of ships calling at the port is to be managed to provide the level of security required, including when appropriate enhanced levels of security, and to ensure compliance with the requirements of the ISPS Code.
- (4) Without limiting subregulation (3), a port security plan:
- (a) must include the security assessment referred to in subregulation (2) for the port; and
  - (b) must set out the security activities or measures to be undertaken or implemented by the port operator at the port for maritime security levels 1, 2 and 3; and
  - (c) must include the contact details for, and the duties of, the port security officer; and
  - (d) must make provision for the use of declarations of security; and
  - (e) may include restrictions in relation to the disclosure of the plan.
- (5) A port security plan is of no effect unless it is approved in writing by the Minister.
- (6) The port operator may, after consultation with the Committee, amend a port security plan.
- (7) An amendment to a port security plan is of no effect unless it is approved in writing by the Minister.
- (8) The port operator must review each port security plan at least once a year.

**9. Port Facility Security Assessment and Port Facility Security Plan**

- (1) A port facility operator must, after consultation with the port operator and the Committee, prepare a port facility security plan for each port facility it operates at a port.
- (2) Before preparing a port facility security plan, the port facility operator must conduct an assessment of the security of the operations at each port facility at the port, including recommendations for implementing measures to enhance security at that facility.
- (3) Without limiting subregulation (2), a port facility security plan:
- (a) must include the security assessment referred to in subregulation (2) for the operations at the port facility; and
  - (b) must set out the security activities or measures to be undertaken or implemented by the port facility operator at the port facility for maritime security levels 1, 2 and 3; and
  - (c) must include contact details for, and the duties of, the port facility security officer; and
  - (d) must make provision for the use of declarations of security; and
  - (e) may include restrictions in relation to the disclosure of the plan.
- (4) A port facility security plan is to be incorporated into the port security plan where appropriate.
- (5) A port facility security plan is of no effect unless it is approved in writing by the Minister.
- (6) A port facility operator may, after consultation with the port operator and the Committee, amend a port facility security plan.

- (7) An amendment to a port facility security plan is of no effect unless it is approved in writing by the Minister.
- (8) A port facility operator must review each port facility security plan at least once a year.

**10. Port security officers and port facility security officers**

- (1) The port security officer for a port must administer the day-to-day operations of the port security plan at the port.
- (2) A port facility operator must appoint a port facility security officer who is to administer the day-to-day operations of the port facility security plan at the port facility.

**11. Port contingency procedures**

- (1) If a person becomes aware of an act or threat of unlawful interference with maritime transport, the person must report the act or threat as soon as practicable to the relevant port security officer.
- (2) The port security officer must take such action as the officer considers necessary.
- (3) If the act or threat directly impacts upon other persons, the port security officer is to give details of the act or threat to those persons as soon as possible.
- (4) The port security officer must report to the Vanuatu Police Force details of significant breaches of security or threats impacting upon the operations of the port operator or any port facility operator involving violence.
- (5) The port security officer is to report to the Director General, at the earliest opportunity, all security related incidents as well as actual or suspected acts of terrorism impacting upon the operations of the port operator or any port facility operator such as:
  - (a) discovery of weapons or prohibited items (including explosive devices) within the port or port facility;
  - (b) unauthorised access to restricted areas;
  - (c) unauthorised access to a ship
  - (d) bomb or sabotage threats;
  - (e) disruptive or abusive passengers or stevedores.

**12. Port security training**

- (1) The port operator is responsible for developing and maintaining security awareness and training within a port.
- (2) The port operator must ensure that employees and agents of the port operator are provided with a basic level of training, the object of which is to establish a rudimentary level of security awareness.
- (3) The basic level of training must include the following:
  - (a) port layout and organisations;
  - (b) the role of the port operator, the Ministry, the police and other relevant government agencies;
  - (c) basic port security procedures;
  - (d) access control;
  - (e) threat response;
  - (f) other training specific to a person's duties.
- (4) The port operator must ensure that employees and agents of the port operator engaged in port security activities undertake more advanced training.
- (5) The advanced training must include the following:
  - (a) principles of protective port security;
  - (b) relevant legislation;

- (c) international standards;
  - (d) the role of the Committee;
  - (e) law enforcement interface;
  - (f) passenger and baggage screening (where applicable);
  - (g) bomb threat assessment;
  - (h) search and evacuation guidelines.
- (6) The port operator must ensure that records on the content, duration and dates of those training activities undertaken by employees and agents of the port operator are retained for a period of five years.
- (7) The port facility operators are responsible for port facility security training, including developing and maintaining security awareness.
- (8) The port facility security training must cover as closely as possible the matters listed in subregulations (3) and (5).

**13. Information to be provided by ships prior to entry into port**

- (1) A ship intending to enter a port must, in accordance with subregulation (2), provide the following information to the port security officer:
- (a) confirmation that the ship possesses a valid ISSC and the name of its issuing authority;
  - (b) the security level at which the ship is currently operating;
  - (c) the security level at which the ship operated in the previous ten calls at port facilities where it has conducted a ship port interface;
  - (d) any special or additional security measures that were taken by the ship in any port referred to in paragraph (c);
  - (e) confirmation that the appropriate ship security procedures were maintained during any ship-to ship activity during the period covered by its previous ten calls at port facilities;
  - (f) other practical security related information (but not details of the ship security plan).
- (2) The information must be provided:
- (a) at least 24 hours before the ship is due to arrive in a port if the ship is operating at security level 1; or
  - (b) in any other case, at least 48 hours before the ship is due to arrive in a port.
- (3) If the information provided to the port security officer by the ship is not sufficient, the port security officer may request additional information.
- (4) Without limiting subregulation (1)(d), a ship is to provide the following:
- (a) any records of measures taken while visiting a port facility located in the territory of a Contracting State;
  - (b) any declarations of security that have been entered into.
- (5) Without limiting subregulation (1)(e), a ship is to provide the following:
- (a) records of the measures taken while engaged in a ship to ship activity with a ship flying the flag of a State which is not a Contracting State;
  - (b) records of the measures taken while engaged in a ship to ship activity with a ship flying the flag of a Contracting State but that is not required to comply with the provisions of Chapter XI-2 and Part A of the ISPS Code;
  - (c) in the event that persons or goods rescued at sea are on board, all known information about such persons or goods, including their identities when known and the results of any checks run on behalf of the ship to establish the security status of those rescued;
  - (d) any declarations of security that have been entered into.

- (6) Without limiting subregulation (1)(f), a ship is to provide the following:
- (a) information contained in the Continuous Synopsis Record;
  - (b) details of the location of the ship at the time the report is made;
  - (c) the expected time of arrival of the ship in the port;
  - (d) the crew list;
  - (e) a general description of cargo aboard the ship;
  - (f) the passenger list;
  - (g) information regarding who is responsible for appointing the members of the crew or other persons currently employed or engaged on board the ship in any capacity;
  - (h) information regarding who is responsible for deciding the employment of the ship;
  - (i) in cases where the ship is employed under the terms of a charter party or parties, who are the parties to such charter parties.

**14. Assessment of information provided under regulation 13 – clear grounds for compliance**

- (1) This regulation applies if, after assessing the information relating to the ship provided under regulation 13, the port security officer is of the view that there are clear grounds for believing that the ship complies with the SOLAS Convention.
- (2) Subject to any other relevant law, the ship is to be allowed to enter the port.

**15. Assessment of information provided under regulation 13 – clear grounds for non-compliance**

- (1) This regulation applies if, after assessing the information relating to the ship provided under regulation 13, the port security officer is of the view that there are clear grounds for believing that the ship does not comply with the SOLAS Convention.
- (2) The port security officer must attempt to establish communication with the ship, the relevant flag State Administration and the relevant recognized security organisation (if applicable) in order to rectify the non-compliance.
- (3) If:
- (a) the communication under subregulation (2) does not result in rectification of the non-compliance; or
  - (b) the Director General, after consulting with the port security officer, is of the view that there are clear grounds otherwise for believing that the ship does not comply with the SOLAS Convention;

the Director General must immediately advise the Minister.

- (4) On receiving advice under subregulation (3), the Minister may:
- (a) allow the ship entry into the port; or
  - (b) cause an inspection of the ship to be carried out prior to entry into the port; or
  - (c) deny the ship entry into the port.

**16. No information provided under regulation 13**

- (1) If the master of a ship does not provide the information required under regulation 13, the port security officer may, after consultation with the Committee, deny the ship entry into port.
- (2) If entry into port is denied, the port security officer must immediately inform the relevant flag State Administration and the relevant recognized security organisation (if applicable) in writing (by electronic means, fax or e-mail) specifying the reasons.

**17. Control and compliance measures**

If a ship is allowed entry into a port under regulation 15(4)(a), control and compliance measures are to be imposed on the ship in accordance with the relevant law.