



REPUBLIC OF VANUATU

CUSTOMS ACT NO. 7 OF 2013

Customs Regulations Order No. 113 of 2014

In exercise of the powers conferred on me by section 215 of the Customs Act No. 7 of 2013, I, the Honourable MAKI SIMELUM, Minister of Finance and Economic Management, make the following Order.

PART 1 FEES

1 Service fee

(1) If a person requires the services of a Customs officer:

- (a) outside the normal working hours of Customs; or
- (b) at a Customs controlled area; or
- (c) outside the normal offices or workplace of Customs,

the person must pay to the Director an attendance fee set out in subclause (2) for the services of each officer so requested.

(2) The fee for the services of an officer is as follows:

- (a) from 6:00am to 7:30am Monday to Friday (excluding public holidays) - VT1000;

- (b) from 4:30pm to 6:00pm Monday to Friday (excluding public holidays) – VT1000;
 - (c) from 6:00pm to 6:00am Monday to Friday - VT1500;
 - (d) on Saturdays, Sundays or public holidays - VT2000.
- (3) For each hour or part of an hour during which the officer provides services requested under subclause (2), including travelling time, the minimum hour charged for each officer is 3 hours.
- (4) A request for the services of a Customs officer under this regulation is to be set out in a form approved by the Director under section 3 of the Act.

2 Value added tax liability on fees

A fee charged for services or licenses provided for under this regulation, is inclusive of value added tax.

3 Fee for clearance at places other than appointed port or airport

- (1) A person requesting the services of a Customs officer on a craft that lands or berths at a place that has not been declared under section 14 of the Act, is to pay:
- (a) the relevant service fee for each officer as set out in subclause 2(2); and
 - (b) a clearance fee of VT5000.
- (2) A person making a request under this clause is to meet:
- (a) the cost of transporting the Customs officer to and from the relevant place; and
 - (b) meals and accommodation for the whole time in which the officer spends in providing the service.

4 Disclosure of Information fee

The fee for disclosing information or a class of information for any permissible purpose to a regional or international organisation under paragraph 9(1)(c) of the Act is VT1,000.

PART 2 CUSTOMS CONTROLLED AREAS

5 Application for licence of Customs controlled area

- (1) A person who wishes to obtain a license to operate a Customs controlled area may apply to the Director in the approved form.
- (2) The Director is to approve the application form for a license.

6 Licence fees

- (1) The licence fee payable in respect of a Customs controlled area is as follows:
 - (a) for a Customs controlled area licensed under paragraph 15(b) of the Act - VT260,000;
 - (b) for a Customs controlled area licensed under paragraph 15(c) of the Act- VT100,000;
 - (c) for a Customs controlled area licensed under paragraph 15(f) of the Act - VT100,000.
- (2) A license fee set out in subclause (1):
 - (a) is valid for a period of 1 year; and
 - (b) may be renewed; and
 - (c) is due to be paid on the 1st of January each year and must be paid within 5 days of the issuance of a notice to pay.

7 Accommodation at Customs controlled areas

- (1) The licensee of a Customs controlled area is to provide to the Director, for the exclusive use of Customs:
 - (a) a suitable office accommodation; and
 - (b) a secure storage for goods forfeited under section 180 of the Act.
- (2) Accommodation and storage provided under this regulation is to be made on a cost recovery basis only, for the purposes of covering the costs of utilities provided and other outgoings as agreed to by the Director.

8 Storage of goods under paragraph 15(b) of the Act

- (1) Goods stored in a Customs control area licensed under paragraph 15(b) of the Act, may be retained for a period not exceeding 12 months.
- (2) At the expiration of the 12 months period, the licensee of the customs control area may seek permission from the Director for an extension for a period of a further 12 months.
- (3) At the expiry of the maximum period of 2 years, the goods must be entered for home use and duty is to be paid, unless otherwise permitted by the Director.
- (4) Goods that attract a duty rate of 5% or less (not including motor vehicles), are not to be stored in a Customs control area licensed under paragraph 15(b) of the Act, unless otherwise permitted by the Director.
- (5) Any individual item, excluding alcohol and tobacco products, with a Customs value of VT10,000 or less must not to be stored in a Customs controlled area licensed under paragraph 15(b) of the Act, unless otherwise permitted by the Director.

PART 3 ARRIVAL AND DEPARTURE OF GOODS, PERSONS AND CRAFT

9 Content of advanced notice of arrival

- (1) An advance notice required by paragraph 27(1)(a) of the Act must contain the following information:
 - (a) the name of the vessel or registration of the aircraft; and
 - (b) the voyage or flight number; and
 - (c) the estimated date and time of arrival in Vanuatu; and
 - (d) the appointed port, airport or other place where the craft will land or berth; and
 - (e) the name of the master or skipper of the vessel, or captain or pilot of the aircraft; and
 - (f) the name and contact details of the person providing the information.
- (2) The Director may only disclose information set out in subclause (1) to an International Organisation that has complied with subclause (3).
- (3) An International Organisation that wishes to obtain any information set out in subclause (1) is to:
 - (a) apply to the Director in the form approved by the Director; and
 - (b) pay an application fee of VT1000.

10 Content of advanced notice of arrival - craft carrying cargo

An advance notice, required by paragraph 27(1)(a) of the Act, for a craft carrying cargo must contain the following information:

- (a) the names of the persons involved in transporting the cargo; and
- (b) the details of all bills of lading, airway bills, and consignment notes issued in relation to the cargo; and

- (c) the description of the cargo's attributes including weight, and any identifying marks and numbers; and
- (d) the place where the cargo was first loaded for export and any transshipment places enroute to Vanuatu; and
- (e) the place at which the cargo is to be discharged and its ultimate delivery destination; and
- (f) the names and addresses consignors and consignees of the cargo, and any contact persons; and
- (g) the freight paid on each individual consignment; and
- (h) the details of packaging in which the cargo may be packed; and
- (i) the details of shipping containers in which the cargo is transported; and
- (j) the number of inwards cargo reports intended to be given and the names of the persons who will be providing them.

11 Content of advanced notice of arrival - aircraft

An advance notice required under paragraph 27(1)(a) of the Act for an aircraft must contain the following information:

- (a) the aircraft's originating port; and
- (b) the name of all transit airports the aircraft has landed prior to its arrival in Vanuatu; and
- (c) the name of every airport within Vanuatu the aircraft intends to land; and
- (d) the number of passengers and the number of crew on the aircraft; and
- (e) in respect of each passenger and crewmember:
 - (i) the person's full name, date of birth, gender and nationality; and
 - (ii) the number and expiry date of the person's passport or identity document, and the State or organization that issued it; and
 - (iii) the airport at which the person embarked on the aircraft; and

- (iv) the airport of disembarkation; and
- (f) the rank or rating of each crewmember.

12 Content of advanced notice of arrival - ship

An advance notice required under paragraph 27(1)(a) of the Act for any ship must contain the following information:

- (a) the name and identity of the ship, including country of registration; and
- (b) the name of the ship's owner or charterer; and
- (c) details of the ship's voyage, including the name of every port in Vanuatu at which the ship intends to call; and
- (d) the ship's originating port and all ports called at en route to Vanuatu; and
- (e) the next overseas port for which the ship is destined; and
- (f) the numbers of passengers and or crew on board the ship; and
- (g) in respect of each passenger and crewmember:
 - (i) the person's full name, date of birth, gender and nationality; and
 - (ii) the number and expiry of the person's passport or identity document, and the State or organization that issued it; and
 - (iii) the port at which the person embarked upon the ship; and
 - (iv) the port of disembarkation; and
- (h) the rank or rating of each crewmember.

13 Inward report of craft

The time within which an inward report must be delivered under subsection 32(2) of the Act is:

- (a) in the case of a ship - within 12 hours of arriving at an appointed port; or
- (b) in the case of an aircraft - within 1 hour of arriving at an appointed airport.

14 Exemptions from clearance on departure

A craft which is to depart from Vanuatu that is not:

- (a) intended to travel beyond the exclusive economic zone; and
- (b) intended to include a meeting with any craft entering the exclusive economic zone from a point outside Vanuatu,

is exempt from the requirements under section 38, subsection 42(1), sections 43 and 45 of the Act.

15 Delivery time of outward report and issue of clearance of craft

(1) An outward report must be delivered to Customs under paragraph 43(a) of the Act:

- (a) in the case of a ship - not less than 4 hours before its intended time of departure; or
- (b) in the case of an aircraft - not less than 30 minutes before its intended time of departure.

(2) An outward report may be lodged no earlier than 24 hours prior to the intended time of departure of the craft.

(3) A certificate of clearance may be issued at the time of lodgement of the outward report.

16 Shipment of stores free of duty

The conditions under which stores may be shipped free of duty are as follows:

- (a) the stores must be, in the opinion of the Director, appropriate in amount for the service of the craft, or for the use or consumption of passengers and crew on that craft; and
- (b) the owner, agent or person in charge of the craft must obtain the permission of the Director prior to shipping stores; and
- (c) the stores must be entered for export; and
- (d) a receipt for all stores for craft received on board a craft must be given by or on behalf of the person in charge of the craft, who on the request of a

Customs officer, show proof that specified stores have actually been shipped, or fitted into the craft; and

- (e) the stores must be shipped on craft about to depart for a point outside Vanuatu.

PART 4 ENTRY AND ACCOUNTING OF GOODS

17 When entry of goods to be made

- (1) Pursuant to subsection 51(1) of the Act, the time within which entry of goods is to be made is:
 - (a) in the case of goods imported by sea - not more than 5 days before the date on which the goods are to be imported but within 3 days after the date of importation of the goods; and
 - (b) in the case of goods imported by air - not more than 1 day before the date on which the goods are to be imported but within 3 days after the date of importation of the goods.
- (2) Despite subclause (1), an importer may apply to the Director for extra time for the lodgement of an entry if the necessary supporting documents, relating to the type and value of the goods imported are not readily available.
- (3) The maximum time permitted for the lodgement of an entry is 10 days.

18 Passing of entry of imported goods

An entry of goods to which section 52 of the Act applies is deemed to have been passed when Customs computerised entry processing system prints the release note.

19 Declaration transaction fee

A person who intends to lodge a declaration using the Customs computerised entry processing system, is to pay the following fees:

- (a) the information technology processing fee of VT500; and
- (b) the customs service fee of VT500.

20 Goods for import exempt from lodgement of declaration

The following goods are exempt from lodgement of declarations:

- (a) goods with a Customs value of VT10,000 or less;

- (b) goods of non-commercial nature imported as accompanied baggage or through the Post by individuals for their own use;
- (c) goods to which Clause X40 of Schedule 3 of the Import Duties Act [CAP 91] refers;
- (d) containers, crates, pallets and other items used to facilitate the transport of goods.

21 Goods for export exempt from lodgement of declaration

The following goods or classes of goods are exempt from the requirements of section 61 of the Act:

- (a) bona fide gifts to persons residing outside Vanuatu;
- (b) trade samples supplied without charge to persons resident outside Vanuatu in a passenger's baggage and effects except;
 - (i) goods sold from a Customs controlled area licensed for the purpose described in paragraph 16(b) of the Act; or
 - (ii) goods subject to a claim for a drawback of duty;
- (c) goods exported by diplomatic missions;
- (d) film and video tape exported for use overseas and returned to Vanuatu;
- (e) commercial documents and newspapers;
- (f) ships and aircraft leaving Vanuatu under their own power, other than those departing for sale overseas.

PART 5 PROHIBITED IMPORTS AND PROHIBITED EXPORTS

22 Intellectual property rights

The owner of the goods prescribed in paragraph 65(1)(b) of the Act is responsible to produce evidence to prove that the goods are not counterfeit trademark goods, pirate copyright goods or goods infringing intellectual property rights.

PART 6 DUTIES

23 Currency and exchange rate

- (1) The conversion rate of exchange used to determine Customs value in the currency of Vanuatu, is the rate published by the Reserve Bank of Vanuatu.

- (2) The rate of exchange is valid from the first Monday of each calendar month.

PART 7 ASSESSMENT AND RECOVERY OF DUTY

24 Duty is a state debt

- (1) Duty is payable in full immediately upon the issuance of an assessment notice issued according to paragraph 73(3)(a) of the Act.
- (2) Subject to subsection 73(11) of the Act, duty is payable in full immediately upon the issue of an assessment notice in accordance with approvals for deferred duty payments.

25 Amendment of assessment

- (1) The Director is to provide written notice of an amendment to an assessment made under section 76 of the Act.
- (2) Additional Duty Assessed under section 74 of the Act or demanded under section 84 or 85 of the Act, is exclusive of value added tax.

26 Business records

The following are the business records required to be kept under section 80 of the Act by a licensee, importer, or exporter:

- (a) shipping, importation, exportation, and transportation records;
- (b) ordering and purchase documents;
- (c) manufacturing, stock, and resale documents;
- (d) banking and accounting documents;
- (e) chart and codes of accounts, accounting instruction manuals, and system and programme documents that describes the accounting system used by the licensee, importer, exporter, or agent;
- (f) papers, books, registers, disks, films, tapes, sound tracks, and other devices or things in or on which information contained in the records described in paragraphs (a) to (e) are recorded or stored.

27 Access to business records

A person to whom section 81 of the Act applies must provide to Customs, electronic access to the records that he or she is required to keep under section 80 of the Act, so as to:

- (a) allow Customs to access the information from within Vanuatu without the need to make an international connection; and
- (b) allow for a physical connection:
 - (i) with any Customs electronic system used for the purpose of viewing and using the required information; and
 - (ii) that enables Customs to view and use the information directly from a location designated by Customs for that purpose.

28 Refund of duty

- (1) A refund of duty according to section 88 of the Act may only be considered by the Director after receiving an application for refund made in the approved form.
- (2) A refund service fee of VT1,000 is payable to Customs for each application.
- (3) The minimum amount of duty and taxes refundable is VT5,000.
- (4) For the purpose of section 71 of the Act, refund of duty is to be made to the person who originally paid the duty.

29 Remission of duty

- (1) The Director may approve the refund or remission of duty on goods that are considered to be of faulty manufacture.
- (2) An application for refund or remission of duty lodged according to paragraph 89(a) of the Act, will not be considered for approval unless the Director is satisfied that any damage, destruction, pillage, loss, deterioration in condition, or diminution of value occurred while the goods were under Customs control.
- (3) The amount of refund or remission of duty is to be in proportion to the extent to which the Director is satisfied that the goods were damaged, deteriorated in condition, of faulty manufacture or diminished in value.

- (4) Duty must not be refunded or remitted in full unless the goods have been destroyed under the supervision of Customs.
- (5) If it can be proven that a goods was damaged by the licensee of the Customs controlled area, the licensee is liable to refund or remit the duty.

30 Goods temporarily imported

- (1) Subject to section 91 of the Act, security on temporary imports may be taken in the form of a cash deposit or a secured bank guarantee.
- (2) Receipt of return of the security must be acknowledged by the owner, prior to the exportation of the goods.

31 Drawback of duty

- (1) Drawback of duty in accordance with section 92 of the Act may be considered by the Director after receiving an application for refund made in the approved form.
- (2) A drawback service fee of VT1,000 is to be paid to Customs for each application.
- (3) The minimum amount of duty drawback payable is VT5,000.
- (4) The Director may approve, subject to terms and conditions, drawback schemes using imported materials in the manufacture of goods for export from Vanuatu.

32 Minimum amount of duty payable

- (1) The minimum amount of duty payable on imported goods is VT5,000.
- (2) This regulation does not apply to goods imported by a crewmember or any passenger disembarking from any craft arriving from a point outside Vanuatu.

PART 8 CUSTOMS RULINGS

33 Customs rulings

- (1) The application fee for a Customs ruling is VT5,000.

- (2) For the purposes of subsection 95(2) of the Act, the time prescribed for which a Customs ruling is to be made, is 40 days.

PART 9 ADMINISTRATIVE PENALTIES

34 Penalties for materially incorrect entries

Despite subsection 104(1) of the Act, the minimum administrative penalty that may be imposed is VT10,000 and the maximum amount that may be imposed is VT1,000,000.

35 Penalties for technical offences

For the purposes of subsection 105(1) of the Act, the administrative penalty for a person who:

- (a) fails to communicate information to Customs is VT20,000; or
- (b) fails to deal with goods according to the Act is VT50,000; or
- (c) fails to deal with a craft according to the Act is VT40,000; or
- (d) fails to keep, retain or produce documents or records is VT40,000; or
- (e) fails to comply with a term or condition of a licence or permission issued under the Act is VT40,000; or
- (f) fails to allow or permit unauthorised entry to a Customs controlled area is VT 20,000; or
- (g) fails to answer questions, or in answering those questions makes a statement to a Customs officer or authorised person which is false or misleading is VT40,000; or
- (h) fails to lodge documents required under the Act for the correct dealing with goods is VT30,000; or
- (i) uses the Customs computerised entry processing system unique user identifier in an unauthorised manner is VT30,000.

PART 10 CUSTOMS COMPUTERISED ENTRY PROCESSING SYSTEM

36 Registered users fee

The fee for registering a person as a user of a Customs computerised processing system is VT25,000.

PART 11 POWERS OF CUSTOMS OFFICERS

37 Access to Customs control areas

Despite paragraph 116(a) and section 133 of the Act, a Customs officer or any authorised person is required to be identified according to the requirements of the authority responsible for security of the port, airport or Customs controlled area.

38 Assistance to search

A Customs officer may request any person to assist him or her in searching a craft or goods at the cost of Customs.

39 Firing on ships

An act to fire at or into a ship according to paragraph 121(b) of the Act must not be taken without the permission of the Director.

40 Use of interpreter

- (1) For the purpose of sections 124, 125 and 126 of the Act, a Customs officer may request the assistance of an interpreter when questioning a person.
- (2) The cost of using an interpreter under subclause (1) is to be met by the Department.

41 Detention of persons

A person detained under section 127 of the Act, must be informed of the reasons for his or her detention and be provided with such sustenance as required.

42 Search of Persons

If a person is required to be detained for the purposes of a search pursuant to subsections 132(1), (3) and (4) he or she is entitled to the following rights:

- (a) the right to be advised that a search is to be conducted and the level of that search prior to the commencement of the search; and
- (b) the right to have access to an area which provides adequate privacy for the search to be conducted.

43 Notice of detention

If a Customs officer:

- (a) pursuant to his or her powers under subsection 134(1) of the Act, determines that certain goods are to be examined, weighed, analysed or tested; or
- (b) pursuant to his or her powers under subsection 135(3) of the Act, takes and retains goods; or
- (c) forfeits goods to the State according to section 180 of the Act; or
- (d) possesses and retains documents pursuant to subsections 148(1) and 150(1) of the Act,

he or she must issue to the owner or person in charge of the goods, a notice of detention.

44 Taking of samples

Samples of goods taken according to subsection 134(6) of the Act, must be returned to the owner or person in charge of the goods, upon the completion of the actions required, unless the samples have been consumed in the process of testing or analysis.

45 Examination of goods

- (1) For the purposes of section 134, goods must be examined within 3 days after the Customs declaration is lodged.
- (2) The examination of a live animal or perishable goods must take place within 1 day after the Customs declaration is lodged.

PART 12 FORFEITURE AND SEIZURE

46 Notice of seizure

A notice of seizure is to be issued for all goods seized under subsection 154(1) and section 181 of the Act.

47 Method of disposal of condemned goods

- (1) Condemned goods may be sold by way of public auction or by way of tender as determined by the Director.
- (2) Condemned goods may be converted for use by the State through inclusion in the national asset registry.
- (3) Condemned goods may be donated to any education institution, hospital or charitable organisation, as determined by the Director.
- (4) A Customs officer must complete a certificate of destruction for all condemned goods that are destroyed.

48 Distribution of proceeds from sale of condemned goods

Any proceeds from the sale of condemned goods, is to be used in the following manner:

- (a) paying the costs associated with organising the sale through auction or tender; and
- (b) 40% (of the proceeds remaining after settling costs under paragraph (a) is to be used to pay outstanding storage fees, freight or other charges; and
- (c) paying the remainder of the proceeds to the Government revenue.

PART 13 CUSTOMS BROKERS, PRINCIPAL BROKERS AND CORPORATE IMPORTERS AND EXPORTERS

49 Licensing of a customs broker

A person who intends to be a licensed Customs Broker, must:

- (a) apply to the Director in the form set out in Schedule 1; and
- (b) successfully complete an exam in customs procedures; and
- (c) pay an annual licence fee of VT50,000; and
- (d) be a registered user of the customs computerised entry processing system.

50 Licensing of principal brokers

A person who intends to be a licensed Principal Broker, must:

- (a) apply to the Director in the form set out in Schedule 1; and
- (b) successfully complete an exam in customs procedures; and
- (c) submit more than 200 entries within a 12 month period; and
- (d) pay an annual licence fee of VT75,000; and
- (e) be a registered user of the customs computerised entry processing system.
- (f) lodge a security for an amount to be determined by the Director in consideration of the number, value and frequency of entries lodged.

51 Licensing of a Corporate Importer or Corporate Exporter

A person who intends to be a licensed corporate importer or corporate exporter must:

- (a) apply to the Director in the form set out in Schedule 1; and
- (b) submit more than 100 entries within a 12 month period; and
- (c) pay an annual licence fee of VT50,000; and

- (d) employ a licensed customs broker to submit entries on his or her behalf.

52 Condition of licenses issued under this Part

- (1) A license issued under clause 49, 50 or 51 is subject to the following conditions:
 - (a) the license holder must not be convicted of an offence involving any fraudulent activity; or
 - (b) the license holder must not be in liquidation; or
 - (c) the license holder must not abuse the rights and privileges associated with the license; or
 - (d) the license holder must not make any false or misleading statement when applying for his or her licence; or
 - (e) the license holder must not frequently or repeatedly prepare erroneous or unreasonable entries or other documents.
- (2) The Director may by notice suspend, cancel, amend or otherwise impose restrictions on the holder of a license issued under this Part if the license holder breaches any of the conditions set out in subclause (1).

53 Period of license

A license issued under this Part is due on 1 January each year and must be paid within 5 days of receiving a notice to pay.

PART 14 MISCELLANEOUS

54 Normal working days and hours

- (1) The normal working days for a Customs officer are Monday to Friday (not including public holidays).
- (2) The normal working hours for a Customs officer are from 7:30am to 4:30pm of each working day.

55 Customs officers must not submit declaration

- (1) A Customs officer must not submit or assist in preparing a customs declaration on behalf of an importer, exporter, operator licensed under section 16 of the Act, customs broker, principal broker or corporate importer or exporter.
- (2) A Customs officer who contravenes subsection (1) commits a disciplinary offence as set out under section 36 of the Public Service Act [CAP 246].

56 Postal articles

Any postal article received from the same person at varying times or dates in Vanuatu, and addressed to the same person, may be treated as a single postal article consigned to a single person.

57 Commencement

This Order commences on the day on which it is made.

Made at Port Vila this 19 day of June, 2014.

Honourable MAKI SIMELUM
Minister of Finance and Economic Management

SCHEDULE 1

APPLICATION FOR CUSTOMS BROKER LICENSE

(SECTION 205 OF CUSTOMS ACT CAP No. OF 2013)

Lodgment number:

1. Contact Details For Application		
Name:	Designation:	
Phone:	Mobile:	e-mail:
Postal address:		
2. Type of License		
Type of license	Evidence required	Internal use
Application for License as Principal Broker	(a) pass an exam in customs procedures to the satisfaction of the Director after having completed a course of study or instruction; and	
	(b) to pay an annual license fee of VT 75,000; and	
	(c) be registered as a user of the customs computerised entry processing system; and	
	(d) lodge a security for an amount to be determined by the Director, in consideration of the risk to revenue posed by the number and frequency of customs declarations lodged; and	
	(e) Provide a police clearance as evidence of a fit and proper person to hold the license.	
Application for License as Corporate Importer/Exporter	(a) to pay an annual license fee of VT 50,000; and	
	(b) be registered as a user of the customs computerised entry processing system; and	
	(c) employ a licensed customs broker to submit declarations on their behalf; and	
	(d) Provide a police clearance as evidence of a fit and proper person to hold the license.	
Application for License as Customs Broker	(a) pass an exam in customs procedures to the satisfaction of the Director after having completed a course of study or instruction; and	
	(b) to pay an annual license fee of VT 25,000; and	
	(c) be registered as a user of the customs computerised entry processing system; and	
	(d) Only lodge declarations on behalf of their employer.	
	(e) Only lodge declarations on behalf of their employer.	
I hereby declare that I have supplied all information required in this licence application form and attachments as outlined above. I also declare that all the information provided above and the relevant attachments in relation to this licence application are true and correct.		Title:
Name:	Date:	Licence fee receipt:
Signature of applicant:		
		Date Stamp