



REPUBLIC OF VANUATU

INTERNATIONAL COMPANIES ACT [CAP222]

International Companies (Model Constitution) (Amendment) Order No. 33 Of 2011

In exercise of the powers conferred on me by subsection 3(4) of the International Companies Act [CAP222], I, MOANA CARCASSES KALOSIL, Minister of Finance and Economic Management make the following Order.

1 Amendment

The International Companies (Model Constitution) Order No. 13 of 1993 is amended as set out in the Schedule.

2 Commencement

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

Made at Port Vila this



Honourable MOANA CARCASSES KALOSIL
Minister of Finance and Economic Management

SCHEDULE

AMENDMENTS OF THE INTERNATIONAL COMPANIES (MODEL CONSTITUTION) ORDER NO. 13 OF 1993

1 Clause 1

Repeal the clause, substitute

“1 Model Constitution

- (1) The form of model constitution for each of the types of company specified in subsection 2(2) of the Act is set out in the Schedule to this Order.
- (2) To avoid doubt:
 - (a) subject to section 10 of the Act, a Company may in its Constitution adopt all or any of the rules contained in the model constitution appropriate of its type.
 - (b) in so far as the Constitution does not exclude or modify them, the rules contained in the model constitution appropriate for its type must, so far as applicable, be the rules of the Company in the same manner and to the same extent as if they were contained in its duly registered Constitution.”

2 Schedule (heading)

Delete “A COMPANY LIMITED BY SHARES”, substitute “AN INTERNATIONAL COMPANY”

3 Schedule-Clause 2

Repeal the clause, substitute

“Registered Office

2. The address within Vanuatu of the first registered office is-----.”

4 Schedule-Clause 3

Repeal the clause, substitute

“Registered Agent

3. (1) The name of the first registered agent of the Company in Vanuatu is-----.
- (2) The address within Vanuatu of the first registered agent of the Company is-----.”

5 Schedule- After clause 3

Insert

“Term of registration

- 3A. (1) Whether the Company elects to be registered:
- (a) for a period of one year; or
- (b) for a period longer than one year under long term registration.
- (2) If the Company elects to be registered under long term registration, whether the period of registration is 5 years, 10 years or 20 years.”

6 Schedule-Clause 4

Repeal the clause, substitute

“Objects and Purposes

4. (1) Without limiting subclause (1), the objects or purposes of the Company are-----.
- (2) Subject to section 10 of the Act, the objects and purposes of the Company are unrestricted.”

7 Schedule-Subclause 5(2)

Repeal the subclause, substitute

- “(2) The Company, being an international company, must not:
- (a) carry on business in Vanuatu; or
- (b) acquire or own an interest in immovable property situated in Vanuatu other than a lease referred to in paragraph (3)(b); or

- (c) carry on:
 - (i) banking business as defined by the Financial Institutions Act [CAP 254] ; or
 - (ii) banking business within the meaning of the International Banking Act [CAP 280] unless it is licensed under that Act; or
 - (iii) insurance business as defined by the Insurance Act No. 54 of 2005, unless it is licensed under that Act; or
 - (iv) trust business or company management business as defined by the Companies and Trust Service Providers Act No.8 of 2010 unless it is licensed under that Act; or
- (d) at any time have less than one member; or
- (e) make any invitation to the public to:
 - (i) subscribe for any shares or debentures in the Company; or
 - (ii) deposit money with or lend money to the Company.”

8 Schedule-after paragraph 5(3)(a)

Insert

“(aa) offers goods or services:

- (i) electronically from a place of business in Vanuatu; or
 - (ii) through an internet or other electronic service provider located in Vanuatu;
- (ab) makes it known by way of advertisement or by any statement on a website or by an electronic record as defined in the Electronic Transactions Act [CAP 263] that it may be contacted at a particular address in Vanuatu or it uses a Vanuatu domain address.”

9 Schedule-Clause 6

After “shares”, insert “/by guarantee/by both shares and guarantee”

10 Schedule-after clause 6

Insert

“6A. If the company is a company limited by guarantee, each member undertakes to contribute to the assets of the company in the event of it being wound up:

(a) while he or she is a member; or

(b) within 3 months after he or she ceases to be a member,

for payment of the debts and liabilities of the Company contracted before he ceases to be a member, and of the costs, charges and expenses of winding up and for adjustment of the rights of the contributories amongst themselves, such amount as required, not exceeding US \$.....(*State the amount*).

6B. If the company is limited both by shares and guarantee, each member giving a guarantee undertakes to contribute to the assets of the company in the event of it being wound up:

(a) while he or she is a member; or

(b) within 3 months after he or she ceases to be a member,

for payment of the debts and liabilities of the Company contracted before he or she ceases to be a member, and of the costs, charges and expenses of winding up, and for adjustments of the rights of the contributories amongst themselves, such amount as required, not exceeding US \$ (*State the amount*).”

11 Schedule-Clause 8

Repeal clause 8, substitute

“Amendment of Constitution

8. The Company may amend the Constitution by a resolution of members/by resolution of directors.”

12 Schedule--Paragraph 11(1)(k)

Repeal the paragraph.

13 Schedule-after subclause 11(1)

Insert

“(1A) Without limiting subclause (1) shares may carry the right to suspend the voting rights of other shares.”

14 Schedule- Subclause 12(1)

Delete “unissued and”

15 Schedule-Paragraph 18(c)

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

16 Schedule-Subclause 20(1)

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

17 Schedule-Clause 23

Delete the words “A share or”, substitute “Subject to the provisions of this Act and the regulations a bearer share or”

18 After clause 23

Insert

“Issue of Bearer Shares and Conversion of Registered Shares

23A. (1) Subject to the provisions of the Act and this Regulation, if the Company:

(a) issues a bearer share; or

(b) disposes of a treasury share that is a bearer share,

it must not deliver the share to any person other than a custodian who has agreed to hold the share.

(2) The Company must not deliver a bearer share converted from a registered share, to any person other than a custodian who has agreed to hold the share.”

19 Schedule-Clause 24 (heading)

After “Transmission of”, insert “Registered”

20 Schedule-Subclauses 31(2), 45(1),(45(2)and 48(2)

Delete “subparagraph”, substitute “subclause”

21 Schedule-Subclauses 36(2),41(2)

Delete "sub-paragraph", substitute "subclause"

22 Schedule-Subclause 53(1)

Delete "shares issued that have been cancelled", substitute "persons who are no longer members or information relating to bearer shares that have been cancelled"

23 Schedule-Paragraph 53(1)(a)

Repeal the paragraph, substitute

"(a) the names and addresses of the persons:

- (i) who hold registered share 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."

24 Schedule-Paragraph 53(1)(e)

Delete "shares issued to bearer"(first and second occurring), substitute "bearer shares"

25 Schedule- Paragraph 53(1)(f)

After "certificate for", insert "bearer"

26 Schedule-Subparagraph 53(1)(f)(ii)

Delete ",and", substitute";,"

27 Schedule-Subparagraph 53(1)(f)(iii)

After "certificate;"insert "and"

28 Schedule-After subparagraph 53(1)(f)(iii)

Insert

"(iv) the name and address of the custodian of its certificate"

29 Schedule- Subclauses 57(2), 57(3), 60(2) and 68(2)

Delete "subparagraph", substitute " subclause"

30 Schedule-Subclauses 64(6) and 65(1)

Delete "paragraph" substitute "subclause"

31 Schedule-Paragraphs 65(9)(c) and 65(9)(d)

Delete "subparagraph", substitute "paragraph"(wherever occurring)

32 Schedule-Subclause 68(1)

Delete "paragraph", substitute " clause"

33 Schedule- Paragraph 73(2)(a)

Delete " regulations", substitute "rules"