



Tuvalu

HARBOURS ACT

2022 Revised Edition

CAP. 48.08



Tuvalu

HARBOURS ACT

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Tuvalu

HARBOURS ACT

AN ACT RELATING TO PILOTS, HARBOURS AND SHIPPING THEREIN¹

Commencement [5th June 1957]

PART I - PRELIMINARY

1 Short title

This Act may be cited as the Harbours Act.

2 Interpretation

In this Act, unless the context otherwise requires —

“**ballast**” includes any material or thing used for the ballasting of ships;

“**boat**” means every description of vessel propelled by oars only;

“**buoys**” and “**beacons**” include all marks and signs in aid of navigation;

“**goods**” means all kinds of movable personal property including animals;

“**harbour dues**” and “**dues**” means any due, rate, fee, toll, tax, pilotage rate, light due, port charge, or payment in the nature thereof payable or leviable under this Act;

“**harbour works**” include generally any works for the improvement, protection, management or utilization of a harbour, and in particular without limiting the general import of the term every basin, graving dock, slip, dock, pier, quay, wharf, jetty, bridge, viaduct, breakwater, embankment or dam, or a reclamation of land from the sea or from any navigable river, and any excavation, deepening, dredging or widening of any channel, basin or other

part of a harbour whether complete or incomplete, in the sea or any bay or arm thereof or of any navigable river flowing thereinto, and all buildings thereon and machinery used in connection with such harbour works;

“master” means the person in command or charge of any vessel not being a pilot;

“owner” when used in relation to goods includes any person being or holding himself out to be the owner, importer, exporter, consignee, agent or person possessed of or beneficially interested in or having any control of or power of disposition over the goods;

“owner” in respect of a ship includes every person acting as agent for the owner, or authorised to receive freights or other charges payable in respect of the ship;

“pilot” means any person not belonging to a ship who has the conduct thereof;

“ship” includes every description of vessel whether used in navigation or in any way kept or used as a hulk or store-ship or for any other purpose and not propelled exclusively by oars;

“tidal lands” or **“foreshore”** means such parts of the bed, shore or banks of a tidal water as are covered and uncovered by the flow and ebb of the tide at ordinary spring tides;

“tidal water” means any part of the sea or of a river within the ebb and flow of the tide at ordinary spring tides;

“vessel” means anything made or used to carry by water or to hold or contain on water any human being or goods or property whatsoever;

“warehouse” includes all warehouses, buildings or premises in which goods landed from or to be carried in vessels may be lawfully placed;

“wharves” includes all wharves, quays, piers, jetties and premises in or on or from which passengers or goods may be taken on board of or landed from vessels.

PART II - HARBOURS

3 Minister may declare harbours

The Minister may by notice declare any such place as may be expedient to be a harbour for the purposes of this Act, and may by notice revoke any such declaration.

4 Minister to define limits of harbours

The Minister shall by notice define, and may by notice vary, the limits of any harbour.

PART III - HARBOUR MASTERS AND PORT OFFICERS

5 Minister to appoint harbour masters and port officers

The Minister may from time to time appoint a fit and proper person to be the harbour master of any port and such other officers as he may deem necessary, and may remove such harbour master or other officers, and such harbour master shall be the port officer of the port of which he is harbour master.

6 Minister may also appoint harbour master for particular occasions

The Minister may appoint any person temporarily to act with a harbour master or in the place of a harbour master either generally or for some occasion only, and such person shall for the purposes of this Act have the same powers as a harbour master duly appointed under authority of the preceding section.

7 Harbour master to fly flag when on duty

- (1) The harbour master when on duty in any boat or vessel as harbour master shall fly on such boat or vessel such flag as may be prescribed.
- (2) If any person not being a harbour master uses a flag of the prescribed description he shall be guilty of an offence against this Act.

8 Powers of harbour master

Any harbour master or other officer appointed under this Act shall be entitled at any time while in the execution of his duty to enter and remain on any ship; and the harbour master may give directions regulating the time and the manner in which any vessel shall enter into, go out of or lie in the port, and the position, mooring, unmooring, placing or removing of any vessel within the same:

Provided that no harbour master shall direct that any vessel shall lie or be within any part of the port where any law directs that no vessel shall lie or be or moor, or remove from any part of the port duly appointed as a boarding, landing or quarantine station any vessel moored or placed there under the authority of any other law for the time being in force, or to moor or place any vessel alongside any wharf, quay, custom-house, station or other place appropriated to the service of the Customs.

9 Masters to comply with harbour master's directions - Penalty for non-compliance

The master of every vessel within the port shall regulate such vessel according to the direction of the harbour master made in conformity with this Act, and any master of any vessel who does not forthwith regulate such vessel according to such directions shall be liable to a fine of \$100 and in default of payment thereof to imprisonment for 3 months.

10 Powers of harbour master to move vessels

If the master of any vessel within the port does not moor, unmoor, place or remove such vessel according to the directions of the harbour master, it shall be lawful for the harbour master to cause such vessel to be moored, unmoored, placed or removed according to the directions aforesaid, and to employ a sufficient number of persons and appliances for that purpose, and the expenses attending such mooring, unmooring, placing or removing shall be paid by the master or owner of the vessel and the vessel shall not be cleared at the Customs until such expenses have been paid.

11 Penalty for hindering harbour master

If any person hinders or causes to be hindered the harbour master or any person employed by him in mooring or unmooring, placing or removing such vessel in the manner aforesaid, such person shall for every such offence be liable to a fine of \$400 and in default of payment thereof to imprisonment for 9 months.

12 Harbour master may order masts to be struck

- (1) The harbour master may issue such orders as to the striking of masts, yards and booms, veering and shortening of cable and other things which in his discretion he may deem fit for the security of any vessel or vessels in the harbour, and may cause to be received on board a vessel and made fast or cast off any line, warp, chain or hawser from any other vessel entering, leaving or shifting position in the harbour; and when any such line, warp, chain or hawser is received and made fast on any vessel as hereinbefore provided, no person shall let go, cut or unfasten the same unless authorised to do so by the harbour master.
- (2) Any person who is guilty of a breach of this section shall be liable to a fine of \$400 and in default of payment thereof to imprisonment for 9 months.

PART IV – PILOTS ²

PART V - EXPLOSIVES

22 As to vessels carrying explosives or other dangerous materials

- (1) Any vessel arriving in any harbour having on board gunpowder or any other explosive material or any cargo or material of a dangerous or inflammable nature shall not berth at any wharf without the permission of the harbour master and, if so required, shall remain moored at a place apart from the main harbour traffic until such gunpowder or other explosive material or inflammable material has been removed from such vessel or, in the opinion of the harbour master, shall have ceased to be dangerous, and from time of entering the harbour until such goods have been unloaded shall fly during the day time a red flag of not less than 6 feet by 4 feet from the mainmast head and during the night shall show a red light to be visible all round the horizon for a distance of at least 2 miles.
- (2) Subsection (1) applies in relation to dangerous goods (as defined in section 59 of the Merchant Shipping Act³) as it applies in relation to gunpowder.

23 Use of explosives and firearms prohibited

Any person using any explosive or discharging any firearm within the limits of a harbour without the permission of the harbour master shall be guilty of an offence against this Act.

PART VI - WRECKS, OBSTRUCTIONS, MOORINGS

24 Obstructions to be removed

Should any vessel or part thereof, raft, timber or other thing be sunk or stranded in any harbour, the master or owner thereof shall upon the receipt of an order to that effect from the harbour master, and within such time fixed in such order, clear the harbour of such vessel, raft, timber or other thing, and all parts of the same, and of the cargo or ballast of such vessel, and should the master or owner aforesaid fail to comply with such order the harbour master may direct the removal of such vessel or part of the same and cargo or ballast thereof or raft, timber or other thing at the expense of the owner thereof.

25 No person other than owner may destroy wreck without permission

No person other than the owner shall destroy or demolish or interfere with any wrecked or stranded vessel or any part thereof within the limits of a harbour without the permission of the owner thereof or of the harbour master.

26 Harbour master's permission required to lay down buoy or mooring

No person shall lay down in the harbour any private buoy, mooring or anchor without the permission of the harbour master and under such conditions as may be prescribed; and any such permission may be at any time withdrawn whereupon any such buoy, mooring or anchor shall immediately be removed by the owner thereof and, failing such removal by such owner, it may be effected at the expense of the owner aforesaid.

27 Removal of ballast forbidden without permission

No person shall remove any stone, shingle or earth or other material from within the limits of any harbour without the authority given in writing of the harbour master.

PART VII - ERECTION OF WHARVES, SLIPS, ETC.**28 Minister may license occupation of foreshore for certain purposes**

- (1) The Minister may, subject to such conditions as he may deem fit and on payment of such fee or annual fee as may be prescribed, license and permit any part of the tidal lands and waters of a harbour to be used or occupied for all or any of the following purposes —
- (i) the building or repairing of ships or vessels of any kind;
 - (ii) the erection of and use of any boat-shed, landing-place or wharf;
 - (iii) the erection of baths and bath houses and any enclosure or fence necessary for the protection or privacy of the same;
 - (iv) any other purpose relating to the convenience of shipping or of the public as he may approve:

Provided that no such licence shall be granted for any period exceeding 21 years, and every such licence shall be subject to the condition that the Minister may at any time revoke such licence without payment of compensation or liability to any action or claim for damage in respect of such revocation except in the case where a licence has been granted for the purpose of constructing a dock or slip.

- (2) The revocation of any such licence shall not take effect until the expiration of 6 months after service on the licensee of a written notice of the revocation of the licence.
- (3) No such licence or permit shall be granted which will interfere with the free navigation of the harbour.

Fees which may be charged by licensee

- (4) The Minister may authorise the licensee to make such charges to the public for the use of a wharf as may be prescribed by the Minister; and such charges when incurred may be recovered as a simple contract debt.

29 Licensed part of foreshore to be lighted

There shall be exhibited such lights as may be required by the Minister upon any such part of the tidal lands and tidal waters licensed as above provided for.

PART VIII - ANCHORAGES

30 Prohibited anchorage

The Minister may by notice define any area within Tuvalu as a prohibited anchorage, and the master of a vessel, except under circumstances of unavoidable necessity, shall not anchor a vessel within the limits of such area.

31 Minister may set apart portion of harbour for particular purposes

The Minister may by notice set apart any area within Tuvalu where any class or classes of vessels only may anchor, and may restrict the navigation of such area to such vessels and times as he may deem fit.

PART IX - HARBOUR MASTER'S POWERS OF ENTRY

32 Powers of entry of harbour master in connection with lights

The harbour master or any person acting under authority of the Minister may at any time pass and re-pass without hindrance over any land in Tuvalu wheresoever situated in the execution of his duty in relation to lights, lighthouses, buoys and beacons, and may enter into and upon any lands and remove and take away any earth, clay, stones, sand or other material required in the building or repair of any lighthouse, beacons or other work in connection with the navigation of the waters of Tuvalu on payment of reasonable compensation, and may deposit sand, earth, stones

and other material or thing thereon, and carry on any work required in this connection on any of the lands as entered into and upon.

PART X - LIGHTS AND LIGHT DUES

33 Screening of lights

When in the opinion of the Minister any light exhibited or shown from any building or other place on shore is such as may be mistaken for or taken to be a harbour or navigation light, the Minister may order the discontinuance of such light or the effective screening of the same.

34 Light dues

There shall be levied and paid on vessels such rates of light dues as may be prescribed:

Provided that the Minister may exempt any vessel from the payment of these dues generally or in respect of any particular harbour.

PART XI - GOVERNMENT WHARVES AND WHARFAGE DUES

35 Government wharves and purlieus

The Minister may by notice declare any wharf to be a Government wharf and may define an area surrounding a Government wharf as being the purlieu of such wharf, and any vessel anchored or moored within such area shall be deemed for all purposes of this Act to be berthed at such wharf.

36 Vessels to obtain permission to berth at Government wharf

No vessel shall berth at a Government wharf or lie within the purlieu thereof except with the permission of the harbour master or other person authorised by him to give such permission.

37 Wharfage dues to be prescribed on vessels

There shall be levied or paid on vessels berthed at a Government wharf wharfage dues according to a scale prescribed by regulations.

38 Vessel may be detained for dues

A harbour master may detain any vessel berthed at a wharf until the dues have been paid or secured to his satisfaction.

39 Wharfage dues on goods to be prescribed

There shall be levied and paid in respect of all goods loaded or discharged at a Government wharf wharfage dues according to the scale prescribed.

40 Exemption by Minister

The Minister may exempt any vessels or goods from the payment of wharfage dues either in respect of any particular wharf or generally.

PART XII - HARBOUR DUES AND PORT CHARGES**41 Harbour dues may be prescribed**

There shall be levied and paid in respect of any vessel and of all goods loaded or discharged in a harbour dues as may be prescribed by regulations.

42 Port charges may be prescribed

There shall be levied and paid on all vessels being in a harbour, whether plying for hire or otherwise, such port charges as may be prescribed by regulations.

43 Goods may be sold if dues unpaid

Any goods in respect of which there shall be any neglect or refusal to pay the dues or charges appointed to be paid by this Act may be seized and detained at the expense and risk of the owner, consignee or exporter, as the case may be, and after the expiration of 14 days from the date of seizure may be sold by public auction, and there shall be paid out of the proceeds of sale all customs and wharfage dues and all storage and other expenses incurred in respect of such goods.

PART XIII - OFFENCES

44 Offences relating to harbours

Every person commits an offence who does or causes or permits to be done any of the following things, that is to say —

- (i) casts or suffers to fall either from on board any vessel or from land any ballast, rock, stone, slate, shingle, gravel, sand, earth, cinders, sawdust, mill-refuse, dead animal or other substance or thing into the harbour:
Provided that the harbour master may permit the master of a vessel to discharge ballast or ashes and ships' refuse at such places and in such manner as he may direct;
- (ii) casts or suffers to fall any such substance or thing on land in a position where the same is liable to fall or descend or be carried or washed down by ordinary or high tides or by any stream or flow of water or by any storm or flood or otherwise into any harbour;
- (iii) casts or places or leaves any vessel laid by or neglected as unfit for sea service or any floating or other timber or any other thing in any harbour;
- (iv) erects any beacon in a harbour without the authority of the harbour master;
- (v) injures any harbour light or light-ship or lights exhibited therein or any buoy or beacon;
- (vi) removes, alters or destroys any harbour light, light-ship, buoy or beacon;
- (vii) rides by, makes fast to or runs foul of any harbour light, light-ship, buoy or beacon or harbour works;
- (viii) removes, alters, injures or destroys any signal or signal staff used for purposes in aid of vessels navigating the harbour;
- (ix) removes, destroys, injures or interferes with any life-buoy or life-saving appliance,

and for each offence the offender shall, in addition to the expenses of removal, replacing or of making good any damage occasioned, be liable to a fine of \$1000 or in default of payment thereof to imprisonment for 12 months.

45 Wilfully destroying moorings

Every person excepting the harbour master or person acting under his authority who wilfully cuts, breaks or destroys the mooring or fastening of any vessel or buoy shall be liable to a fine of \$200 or in default thereof to imprisonment for 12 months.

46 Injury or destruction of lights, etc., outside harbours

Every person commits an offence who does or causes to be done any of the following things anywhere within Tuvalu —

injures, removes, alters or destroys any lighthouse, lightship, beacon, buoy, or any light exhibited therein or thereon, or rides by, makes fast to, or runs foul of, any of the same,

and for each such offence the offender shall, in addition to the expenses of removal, replacing or of making good any damage occasioned, be liable to a fine of \$100 or in default of payment thereof to imprisonment for 6 months.

47 Wilful damage to harbour works

Every person commits an offence punishable by imprisonment for 5 years who wilfully breaks, throws down, destroys or in anywise damages or injures any wharf, harbour, light, lighthouse, shed, building or any harbour work whatsoever or any part thereof constructed or in course of construction by or under the authority of the Government.

48 Discharging sewage without permission an offence

Every person commits an offence who permits any privy to discharge into the waters of a harbour or casts or discharges or suffers to be cast or discharged any night soil, sewage or other filth into a harbour except at such times and places as may be permitted by the harbour master.

49 Offering bribes to officers

Every person commits an offence who gives or offers any money or thing by way of reward or bribe to any harbour master, pilot or other officer employed about a harbour for the purpose of gaining an undue preference in the execution of his office or for the purpose of inducing him to do or omit to do anything relating to his office.

50 Licence to erect wharf required

Every person commits an offence who erects or constructs any wharf in any harbour or in any other place in Tuvalu or encroaches in any way on the waters of any harbour without having first obtained a licence and a permit to do so from the Minister.

51 Penalty where none specially provided

Every person is liable, where no other penalty is in that behalf specially provided, to a fine of \$40 or in default of payment thereof to imprisonment for 3 months who

fails, refuses or neglects to do, or in any manner obstructs, impedes or interferes with the doing of, anything enjoined or authorised to be done, or does anything prohibited by this Act or molests or makes use of any threatening language to a harbour master, pilot or other officer or person whilst in the execution of his duty under this Act or in any other respect offends against any of the provisions of this Act.

PART XIV - MISCELLANEOUS

52 Civil procedure

When any dues leviable or charges or other expenses incurred under this Act have not been paid, they may be recovered at the suit of the harbour master in any court of competent jurisdiction.

53 Regulations

The Minister may make regulations and prescribe penalties for the breach thereof in regard to —

- (i) regulating the use of wharves, docks, quays, boat harbours, landing-stages and other landing-places, and the traffic thereon;
- (ii) prescribing the scale of dues for the storage of goods and charges to be paid for the taking and delivering the same from warehouses or buildings belonging to or in occupation of the Crown;
- (iii) regulating the conduct of all persons employed on any wharf or in any warehouse;
- (iv) regulating the control and management of steam or other mechanically propelled ferry boats plying for hire at wharves or other public thoroughfares;
- (v) regulating the conduct of licensed porters, boatmen, and watermen practising their calling;
- (vi) regulating the cleaning and repair of private wharves, and keeping the same in a fit state for the convenience and safety of persons walking upon or landing on or embarking from the same;
- (vii) regulating the time, place, order and mode of the shipping, landing, warehousing, stowing and separating of goods, and of the landing and embarking of passengers;
- (viii) regulating the order of priority of vessels using Government wharves and removing vessels therefrom to permit of the use of the wharves by vessels having the privilege of priority of use thereof;

- (ix) providing for the safe navigation of any harbour and regulating all matters relating to the protection of life and property in or on vessels using any such harbour;
- (x) regulating or prohibiting the towage within a harbour of vessels;
- (xi) providing for the effective lighting of ships and wharves at all times while passengers or goods are being loaded, unloaded or transported at any time between sunset and sunrise;
- (xii) providing that vessels shall not be brought to any wharf or moored to or unmoored from or removed from any wharf unless such vessels are in charge of the master of the vessel or of some other competent person;
- (xiii) regulating the laying up of any vessel within the harbour and fixing charges for such laying up;
- (xiv) regulating for the use of efficient mufflers, silencers or below-water exhausts by motor vessels navigating or lying in a harbour;
- (xv) regulating the use of searchlights in a harbour;
- (xvi) regulating the use of whistles, horns, sirens or similar contrivances in a harbour;
- (xvii) all other matters for which by this Act regulations are required or permitted to be made or with respect to which regulations are necessary or convenient for giving effect to the provisions of this Act.

ENDNOTES

¹ 1990 Revised Edition, Cap. 88 – Acts 5 of 1957, 8 of 1968, 8 of 1971, 3 of 1972, 14 of 1974, 11 of 1987

Amended by Act 17 of 2017, commencement 24 November 2017

² This PART, sections 13 to 21, repealed by Act 17 of 2017 (Merchant Shipping) (Amendment) Act)

³ Cap. 48.28