



**Tuvalu**

# **LAGOON SHIPPING ACT**

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Tuvalu

## LAGOON SHIPPING ACT

### Arrangement of Sections

#### Section

1	Short title.....	5
2	Interpretation.....	5
2A	Application.....	6
3	Appointment of licensing officers .....	6
4	Appointment of inspectors.....	6
5	Powers of inspectors and offences connected therewith.....	6
6	Examination to be instituted for masters, mates or engineers.....	7
7	Certificates of competency to be granted to those who pass .....	7
8	Examination of candidates for certificates.....	8
9	Vessels to be provided with certificated officers .....	8
10	Mechanically propelled vessels to be provided with a certificated engineer .....	8
11	Exemption from requirements of sections 9 and 10 .....	9
12	Penalty for engagement to service without proper certificate.....	9
13	Cancellation and suspension of certificates .....	9
14	Certificates of seaworthiness .....	9
15	Penalty on ship proceeding to sea without certificate .....	10
16	Limit of passengers to be carried .....	10
17	Fees for certificates of seaworthiness .....	10
18	If a vessel reported to be un-seaworthy survey to be made .....	10
19	Master or owner to report loss or damage of vessel .....	11
20	Regulations .....	11
21	General penalty .....	11
22	Licence fees for vessels registered outside Tuvalu.....	12
23	Licence for vessels employed in trading.....	12

### Supporting Documents

#### ENDNOTES

12





Tuvalu

## LAGOON SHIPPING ACT

### AN ACT TO PROVIDE FOR THE CONTROL AND SAFETY OF SHIPPING ON LAGOONS AND INLAND WATERS<sup>1</sup>

Commencement [1st January 1958]

#### 1 Short title

This Act may be cited as the Lagoon Shipping Act.

#### 2 Interpretation

In this Act unless the context otherwise requires —

“**engaged in trade**” includes the doing of any act with a view to or for the purposes of gain or profit;

“**foreign-going vessel**” means any vessel going between some place or places in Tuvalu and some place or places beyond the limits of Tuvalu;

“**inter-island vessel**” means any vessel going to any ports or places in Tuvalu beyond the protection of the reefs;

“**lagoon service vessel**” means a vessel employed in navigation on lagoons or inland waters;

“**licensing officer**” means a person appointed to be a licensing officer under the provisions of section 3;

“**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 but excludes —

- (i) the life boats, rafts, work boats or launches which form part of the equipment of a larger vessel while being used as such;
- (ii) punts, barges or other work boats whose sole means of propulsion is by man power or by towing;

- (iii) sailing or paddling canoes of native design while operating as a lagoon service vessel;
- (iv) dinghies and other boats having an overall length of less than 16 feet, while operating as a lagoon service vessel;

“**passenger**” means any person carried in any vessel other than the master and crew.

## **2A Application**

After the commencement of the Merchant Shipping Act,<sup>2</sup> this Act shall have effect only in so far as it applies in relation to, for the purposes of, or in connection with, lagoon service vessels.

## **3 Appointment of licensing officers**

The Minister may by notice appoint persons to be licensing officers to grant licences and certificates under the terms of this Act, and may assign districts to such officers.

## **4 Appointment of inspectors**

Licensing officers may appoint any persons to act as inspectors in their district to report to them upon the condition of vessels brought to them for inspection, and to examine candidates applying for certificates of competency under the provisions of this Act.

## **5 Powers of inspectors and offences connected therewith**

- (1) Every inspector appointed under section 4 shall have power at all reasonable hours —
  - (a) to go on board any vessel for the purpose of examining the hull, machinery, boats, wireless apparatus, equipment or any materials belonging to or on board such vessel in order to ascertain whether the provisions of this Act or any regulations made thereunder have been complied with;
  - (b) to enter upon and inspect any premises the entry upon or inspection of which appears to him to be requisite for purpose of the report which he is directed to make;
  - (c) to require the attendance of all such persons as he may consider necessary to call before him for a like purpose and may require answers to any questions he may think necessary to put and may require the production of any books, papers, log or other document he may consider necessary.

- (2) If any person without reasonable excuse (proof whereof shall lie on him) does any of the following things, namely —
- (a) fails to attend before an inspector or to make any answer or to produce any document or to make or sign any declaration or to refuse to allow any copies to be taken of any document; or
  - (b) prevents or impedes any inspector in the execution of his duty on board ship or elsewhere or knowingly misleads or deceives any inspector,
- he shall be guilty of an offence against this Act.

## **6 Examination to be instituted for masters, mates or engineers**

- (1) Examinations may be instituted for persons who wish to obtain certificates of competency for all or any of the following grades namely —
- (a) master of a foreign-going vessel;
  - (b) first mate of a foreign-going vessel;
  - (c) second mate of a foreign-going vessel;
  - (d) master of an inter-island vessel;
  - (e) mate of an inter-island vessel;
  - (f) principal in charge of a lagoon service vessel;
  - (g) engineer in charge of steam, diesel or petrol main engines or engines over 300 brake horse power;
  - (h) engineer in charge of steam, diesel or petrol main engines or engines over 150 brake horse power and up to and including 300 brake horse power;
  - (i) engineer in charge of diesel or petrol engines of 150 brake horse power or under;
  - (j) engineer in charge of the engine of a lagoon service vessel.
- (2) All applicants for examination for certificates of competency shall pay the appropriate fee prescribed:

Provided that no fee shall be payable where the applicant is a public officer required to possess a certificate of competency in connection with his duties in a Government vessel.

## **7 Certificates of competency to be granted to those who pass**

A licensing officer shall deliver to any applicant who has passed the prescribed examination satisfactorily and has given satisfactory evidence of his sobriety, ability and general good conduct a certificate of competency in the prescribed form to the effect that he is competent to act in the capacity therein described.

## **8 Examination of candidates for certificates**

All applicants for certificates for competency as master or mate under this Act shall also pass an examination for colour blindness and in the rule of the road at sea.

## **9 Vessels to be provided with certificated officers**

- (1) Every vessel, whatever its means of propulsion, engaged in trade or passenger traffic navigating from any port or place in Tuvalu must be provided with officers holding valid certificates of competency under this Act or holding similar or equivalent unexpired certificates from the Department of Trade of the United Kingdom or other competent authority according to the scale required by the laws of the country in which she is registered or else according to the following scale —
  - (a) if she be a foreign-going vessel of 500 tons register and upwards, with the master, first mate and second mate duly certificated;
  - (b) if she be a foreign-going vessel of 120 tons and less than 500 tons, with the master and first mate duly certificated;
  - (c) if she be a foreign-going vessel of less than 120 tons with the master duly certificated.

In an inter-island vessel, that is to say —

- (d) of or under 120 tons with a master duly certificated;
- (e) of over 120 tons with a master and mate duly certificated.

In a lagoon service vessel with a principal in charge duly certificated.

- (2) Every certificate of competency for employment in a foreign-going vessel shall be deemed to be of a higher grade than the corresponding certificate for employment in an inter-island vessel, and every certificate of competency for employment in an inter-island vessel shall be deemed to be of a higher grade than the certificate for a principal in charge of a lagoon service vessel; and the lawful holder of any higher grade certificate shall be entitled to go to sea in a capacity requiring a lower grade certificate.

## **10 Mechanically propelled vessels to be provided with a certificated engineer**

Every vessel, whose primary means of propulsion is mechanical, engaged in trade or passenger traffic navigating from any port or place in Tuvalu must be provided with at least 1 engineer duly certificated in addition to any officer required to be carried by section 9:

Provided that a lagoon service vessel shall not be required to carry an engineer in addition to the principal in charge when such principal is also a certificated engineer.



**11 Exemption from requirements of sections 9 and 10**

- (1) Notwithstanding anything contained in this Act, where he is satisfied that it is in the public interest to do so the Minister may by order exempt any vessel or class of vessels from any of the requirements of sections 9 and 10, subject to such conditions as he may specify in the order.
- (2) Any person who uses a vessel to which an order under subsection (1) applies in contravention of any condition specified in the order shall be guilty of an offence.

**12 Penalty for engagement to service without proper certificate**

Any person who having been engaged to serve in any capacity for which a certificate is required under this Act goes to sea or serves in any vessel without being at the time possessed of the necessary certificate, and every person who employs any person in any such capacity in such a vessel who at the time is not possessed of such certificate, and any person who navigates or causes to be navigated any such vessel without the proper complement of officers or engineer required by sections 9 and 10 shall, for each such offence, be liable to a fine of \$100 or in default of payment to imprisonment for 3 months.

**13 Cancellation and suspension of certificates**

- (1) A licensing officer may, if, after due enquiry, he is satisfied that the holder of any certificate issued under section 7 is unfit to discharge his duties, cancel, suspend or lower the grade of such certificate, as he may think fit.
- (2) Any licensing officer exercising these powers shall report the result of his decision to the Minister and no new certificate of any grade shall be granted or certificate restored without the approval of the Minister.
- (3) Any person aggrieved by any decision of a licensing officer may appeal against such decision to the Minister, who may, if he thinks fit order a further enquiry with a view to restoring the certificate cancelled, suspended or lowered in grade.
- (4) For the purpose of such enquiry the licensing officer or the Minister shall have the powers of a magistrate.

**14 Certificates of seaworthiness**

- (1) A licensing officer may grant to vessels engaged in trade or passenger traffic a certificate of seaworthiness in the form prescribed or as near thereto as circumstances permit and such certificate shall be liable to be revoked at any time on good cause by a licensing officer; and such certificate shall state whether the vessel to which any certificate is given shall be employed on foreign-going or inter-island or lagoon service purposes, the name of the

owner, the number of passengers (including crew) and the quantity of cargo which may be carried under different circumstances, the period during which the vessel may ply and the date on which the certificate may expire.

- (2) Such certificate shall, unless revoked, remain in force for not more than 12 months from the date thereof:

Provided always that if any such vessel has been absent from Tuvalu for 30 days previous to the date of expiration of the certificate last granted in respect of such vessel, such last certificate, if not revoked, shall continue in force till the return of such vessel to Tuvalu.

### **15 Penalty on ship proceeding to sea without certificate**

- (1) No vessel engaged in trade or passenger traffic, whatever its means of propulsion, shall proceed upon any voyage or excursion unless such vessel has a certificate of seaworthiness issued under section 13 or by other competent authority, valid and unexpired, which must be produced together with the certificates of competency of the officers and engineer required for the voyage to a customs officer before any clearance can be obtained or on demand by any lawfully appointed officer.
- (2) Any master or owner of a vessel which proceeds upon any voyage or excursion in contravention of this section shall be liable to a fine of \$200 or in default of payment to imprisonment for 3 months:

Provided that where the owner of such vessel is a limited company or other corporation, such limited company or other corporation shall for any such offence as above mentioned be liable to a fine of \$200 recoverable by distress.

### **16 Limit of passengers to be carried**

Any master or person in charge of any vessel who carries a greater number of passengers than is specified in such vessel's certificate shall be liable to a fine of \$4 per day for each excess passenger so carried or, in default, to imprisonment for 3 months.

### **17 Fees for certificates of seaworthiness**

The owner of any vessel requiring a certificate of seaworthiness under this Act shall pay on application such fee as may be prescribed.

### **18 If a vessel reported to be un-seaworthy survey to be made**

- (1) When a licensing officer has received a complaint, or has reason to believe that any vessel is, by reason of the defective condition of her hull, equipment or machinery or by reason of overloading, unfit to proceed to sea without

serious danger to human life, he may direct an inspector to survey such vessel and the equipment and machinery thereof.

- (2) The licensing officer, if he thinks such vessel cannot proceed to sea without serious danger to human life, may make such order as he may think requisite as to the detention of the vessel or as to her release either absolutely or upon the performance of such conditions with respect to the execution of repairs or alterations, or the unloading or re-loading of cargo as he may impose; and the licensing officer may also from time to time vary or add to such orders, and a copy of such order and any alteration thereof shall be served as soon as possible on the owner or master of the vessel.

## **19 Master or owner to report loss or damage of vessel**

Whenever any vessel has been lost or sustained damage either in her hull or any part of her machinery, the owner or master of such vessel shall, at the earliest opportunity, make to the licensing officer, who gave the vessel her current certificate of seaworthiness, a report of such accident or damage stating the name of such vessel, the port to which she belongs, and the place where she is, and if such owner or master neglect to do so he shall be liable to a fine of \$40 or in default to imprisonment for 3 months.

## **20 Regulations**

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

- (i) such matters as may have been required to be prescribed;
- (ii) the qualifications of applicants for certificates of competency;
- (iii) the standards for seaworthiness, equipment and machinery of all vessels engaged in trade or passenger traffic;
- (iv) the requirements as regards safety at sea equipment;
- (v) the lights to be shown, signals to be used, and the sailing rules to be observed;
- (vi) the marking, naming or numbering of vessels; and
- (vii) generally for carrying out the provisions of this Act.

## **21 General penalty**

Any person committing any offence against any of the provisions of this Act for which no specific penalty is provided, or against any of the regulations made under this Act, shall be liable to a fine of \$50 or in default of payment to imprisonment for 3 months.

## **22 Licence fees for vessels registered outside Tuvalu**

Every foreign-going vessel registered outside Tuvalu and engaged in trade or passenger traffic within Tuvalu shall take out a licence in the form which may be prescribed and pay the fee as may be prescribed.

## **23 Licence for vessels employed in trading**

- (1) Without prejudice to section 22, no vessel shall be used within Tuvalu for the purpose of trade or passenger traffic unless there is in force at that time a licence in the form which may be prescribed granted in respect of that vessel by a licensing officer under this section:

Provided that the Minister may by notice exempt any vessel or class of vessels from the restriction imposed by this subsection.

- (2) Subject to subsection (3), a licence granted under this section shall —
- (a) contain such terms and conditions as regards the use for the purpose of trade or passenger traffic of the vessel concerned as the licensing officer may in each case direct;
  - (b) remain in force for 2 years:  
Provided that the licensing officer may revoke a licence where he is satisfied that there has been a wilful breach of any term or condition thereof.
- (3) In exercise of the powers conferred by subsections (1) and (2) the licensing officer shall comply with such directions as may be given to him by the Minister.
- (4) Any person who uses a vessel in contravention of this section or of any term or condition contained in a licence granted under this section shall be liable to a fine of \$20,000 and to imprisonment for 2 years.

## **ENDNOTES**

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<sup>1</sup> 1990 Revised Edition, Cap. 89 – Acts 6 of 1957, 1 of 1958, 8 of 1971, 9 of 1971, 17 of 1972, 2 of 1975, L.N. 1/77, 11 of 1987

<sup>2</sup> 1st June 1988, Cap. 48.28