



*Tonga*

# **HARBOURS ACT**

**1988 Revised Edition**





## HARBOURS ACT

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## HARBOURS ACT

*Acts Nos. 29 of 1903, 2 of 1925, 17 of 1927, 12 of 1943, 16 of 1950, 12 of 1960, 9 of 1969, 7 of 1971, 13 of 1976, 3 of 1978, 21 of 1981, 9 of 1982, 14 of 1984, 7 of 1985, 18 of 1985.*

### AN ACT TO PROVIDE FOR THE MANAGEMENT OF HARBOURS AND FOR LEVYING DUES

Commencement [8th July, 1903]

#### **1 Short title.**

This Act may be cited as The Harbours Act.

#### **2 Prime Minister may proclaim harbours.**

It shall be lawful for the Prime Minister from time to time by proclamation in the Gazette to declare such place as may be expedient to be a harbour for the purposes of this Act or to declare by like proclamation that any such harbour shall after a specified date cease to be a harbour under this Act.

#### **3 Appointment of harbour master, pilot and other officers.**

The Prime Minister may appoint a harbour master for any harbour as may be required who may also be pilot in connection with such harbour and may also appoint any other officer or officers that may be required for carrying the provisions of this Act into effect and such harbour master and other officer or

officers shall be under the general direction and control of the Controller of Customs for the time being.

#### **4 Harbour master when on duty shall fly a certain flag**

Every such harbour master when on duty as harbour master or pilot shall fly on his boat a flag which shall be of large dimensions compared with the size of the boat carrying it and which shall be of two colours-the upper horizontal half white with the letter H.M. conspicuous and the lower horizontal half red. Any person not being a harbour master or pilot using a flag of the above-mentioned description shall be deemed to have committed an offence against this Act.

#### **5 Signals to be made by master of vessel requiring a pilot.**

The master of any vessel making for any harbour and requiring a pilot shall—

- (a) in the daytime display at the fore the national colour usually worn by merchant ships or the international pilot signal indicated by P.T.; and
- (b) at night display a pyrotechnic light commonly known as a blue light every 5 minutes or a bright white light flashed or shown at short or frequent intervals just above the bulwarks for about a minute at time.

#### **6 Flag to be used by master of coasting vessel not requiring a pilot.**

The master of any licensed coasting vessel of 20 tonnes and over not requiring a pilot shall on approaching a harbour in the daytime hoist a white flag not less than 2 meters by 1.2 meters at the main and the master or person in charge of any such vessel or omitting to hoist a white flag as aforesaid shall be liable to the payment of pilotage rates, harbour and shipping dues at the ordinary rate for such vessel as if it had arrived from a foreign port. (*Amended by Act 9 of 1982.*)

#### **7 Master of vessel to comply with reasonable demands of harbour master.**

The master of any vessel arriving near or in any harbour shall bring to on being approached or hailed or otherwise signalled by the harbour master and comply with all reasonable directions issued by him as to the bringing of such vessel into harbour and any such master who refuses or neglects to comply with the provisions of this section shall be liable to a penalty not exceeding \$40 and in default of payment thereof shall be liable to imprisonment for a term not exceeding 14 days.

**8 Harbour master may determine places at which vessels may anchor, etc.**

The harbour master may appoint in any port the place where any vessel arriving in or present in such port shall cast anchor or moor and may at his discretion or on the request in writing of the master of such vessel cause or permit the same to be removed from one place of anchorage or of mooring to any other place or from any wharf to any other wharf or from any part of any wharf to any other part of it and may cause such acts to be done as may be necessary to facilitate such removal and for every such removal in harbour when carried out on the request of the master of any vessel there shall be paid the fee specified in the Schedule hereto.

**9 Master of vessel refusing to comply with directions given by harbour master subject to penalty.**

If any master of any vessel in any harbour shall refuse to anchor or moor such vessel as directed by the harbour master or shall remove his ship from one place to any other place within any harbour without the permission of the harbour master or shall not cause his ship to be removed on being required by such harbour master so to do or shall obstruct such harbour master in the removal of any vessel, such master shall on conviction in a summary manner be liable to a penalty not exceeding \$40 or imprisonment for a term not exceeding 14 days.

**10 Where vessel may be removed by harbour master at expense of master.**

Any vessel not being removed forthwith when so required by the harbour master from any anchorage or mooring or from any wharf or from any other place within any harbour may be removed by such harbour master and all expenses incurred in connection with such removal may be recovered from the master of such vessel in a summary manner before a magistrate and no vessel shall be cleared at the Customs till such expenses are paid.

**11 As to vessels having on board explosive materials.**

Any vessel arriving at any harbour having on board gunpowder or any other explosive material (except kerosene) exceeding 5 kilograms in mass or any vessel whatever having on board any cargo or material that may be considered by the harbour master to be of a dangerously inflammable nature shall be anchored at a place to be set apart for such vessels and shall remain until such gunpowder, explosive or such material shall have been removed from such vessel or shall have ceased to be dangerous and from the time of entering the harbour until such removal or until the harbour master shall consider that no

danger is to be apprehended from such inflammable material the master of such vessel shall continue to fly a red flag not less than 2 metres by 1.2 metres from the main masthead. (*Amended by Act 9 of 1982.*)

## **12 Harbour master may order masts, etc., to be struck.**

### **Swinging booms or warps.**

The harbour master shall have power to issue such orders as to striking masts, yards or booms as in his discretion he may deem fit. No swinging booms shall be used in the harbour nor shall any warps or lines be made fast from any vessel to any other vessel nor from any vessel to any kedge, wharf, buoy or any other object so as to obstruct the harbour except by permission of the harbour master.

## **13 Security of vessels in harbour.**

The master of any vessel moored or anchored in any harbour shall on the request of the harbour master veer or shorten in cable and shall carry out any reasonable direction of the harbour master for the security of such vessel and shall if requested so to do by the harbour master cause to be received made fast or cast off any line, warp, chain or hawser from any vessel entering or leaving the harbour or shifting its position.

## **14 Lines, warps, etc., not to be let go without authority of harbour master.**

When any line, warp, chain or hawser shall by the direction of the harbour master have been received and made fast on board any vessel as hereinbefore provided, no person shall let go, cut or unfasten the same unless authorised to do so by such harbour master.

## **15 Use of explosives prohibited.**

Any person using dynamite, gun-cotton or any other explosive or discharging any firearm within the limits of any harbour without the permission of the harbour master shall be guilty of an offence against this Act.

## **16 Owner of any condemned vessel may destroy same.**

No person other than the owner shall without the special permission in writing of the harbour master destroy or demolish either partially or entirely any condemned or abandoned vessel within the limits of the harbour.

**17 Penalty for throwing rubbish, ballast, etc., into the harbour.**

Any person who shall throw or cause to be thrown any rubbish, ballast, earth or refuse into any harbour without the permission of the harbour master or except at such place and in such manner as the harbour master may direct shall on conviction for every such offence be liable to a penalty not exceeding \$20 or in default of payment to imprisonment for a term not exceeding one month and any person shall in addition to any penalty inflicted as aforesaid on the order of the harbour master and within the time specified therein cause the removal of any such rubbish, ballast, earth or refuse and in the event of non-compliance with such order the harbour master may cause such removal to be carried into effect at the expense of such person.

**18 Fishing with net in Pangai Harbour.**

No person shall without the special permission in writing of the harbour master fish in the harbour of Pangai, Lifuka, with a drag or heavy net. In cases of dispute the harbour master shall be the sole judge as to whether any particular net is one the use of which is forbidden by this section. (*Added by Act 12 of 1943.*)

**19 Vessels when laid up to be anchored where harbour master directs.****Caretaker to be provided.**

When any vessel is laid up in any harbour such vessel shall be anchored where the harbour master directs and the owner or master thereof shall provide a competent person to take charge of such vessel and should such owner or master on the request of the harbour master fail to comply with this provision the harbour master may provide such competent person at the expense of the owner or master of such vessel.

**20 Penalty for injuring property or removing marks or material.**

If any person shall wilfully or negligently injure or destroy any wharf, pier, jetty, beacon or lighthouse or wilfully or negligently injure, destroy or remove any buoy, anchor, mooring, dolphin or mark erected on sea or land or in an river for the convenience of navigation or if any person shall remove from or near from any wharf, pier, jetty or landing place in any harbour any stones, sand, earth or coral or any such material whatever without the permission of the harbour master, such person shall on conviction be liable to a penalty not exceeding \$40 or imprisonment for a term not exceeding one month in addition to payment of the amount of injury caused by such person.

**21 Vessels causing obstruction to public wharves or landing places to be removed.**

It shall not be lawful for any person to make fast to or near to any public wharf or landing place any boat or vessel by any rope, chain or other means so as to cause an obstruction at or near any such wharf or landing place and the harbour master or chief officer of Customs may cause the removal of any boat or vessel forming such obstruction to any other place within the harbour at the expense of the owner or master of such boat or vessel and any person having placed such boat or vessel so as to form an obstruction as aforesaid shall on conviction be liable to a penalty not exceeding \$2 and failing payment thereof to imprisonment for a term not exceeding 3 days.

**22 Taking in cargo at private unlicensed wharves prohibited.**

No boat or vessel shall go alongside any private wharf or jetty in any harbour containing a Government wharf for the purpose of taking in thereat cargo intended for export beyond the Kingdom unless the shipper of such cargo shall have first obtained permission in writing of the Controller of Customs or of some harbour or Customs officer authorized by him to issue such permission for such shipment of goods as aforesaid and any cargo or produce found being shipped from any such private wharf or jetty shall be liable to seizure by the harbour master of such harbour or by any officer of Customs and may be sold for the benefit of the public revenue.

**23 Private buoys, etc., not to be laid down without permission of harbour master.**

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

**24 As to removing ballast from any harbour.**

No stones, coral, sand, earth or other material shall be removed from the beach or from any part of any harbour as ballast or for any other purpose without the permission of the harbour master.

**25 Application stating quantity to be made to harbour master to supply ballast.**

When the owner or master of any boat wishes to employ such boat in carrying ballast to any vessel in any harbour such owner or master shall apply to the harbour master in writing for permission to supply such ballast and shall state what boat is to be so employed, the nature and probable quantity of the ballast to be supplied and whence it is to be procured whereupon the harbour master if he sees fit may grant a written permission to the person applying for ballast to supply such ballast as aforesaid:

Provided always that nothing contained in this section shall prevent the Controller of Customs from granting permission to any vessel to proceed to any place for the purpose of taking in ballast.

**26 Where dispute arises as to ballast supplied harbour master to decide.**

When any dispute shall arise between the owner or master of any boat and the master or owner of any vessel in any harbour as to the quantity of ballast that may have been supplied to such vessel the harbour master shall if requested so to do by the disputing parties estimate the quantity of ballast so supplied and his decision given in writing shall be final and binding on both parties.

**27 Encroachment on harbour without permission prohibited.**

Any person whatever who encroaches without the permission in writing of the Controller of Customs on any harbour whether by the formation of any wharf, jetty, stage, landing place or by deposit of any rubbish, earth, stones, timber or by any other means whatever shall be deemed to be guilty of an offence against this Act and any person convicted of such offence shall in addition to any penalty that may be imposed in respect thereof remove or cause to be removed any material constituting such encroachment.

**28 Mode of signalling for police.**

When the services of the police are required on board any vessel in any harbour the same shall be indicated during the day by hoisting the ensign at the main and at night by displaying two bright white lights one at the mast-head or peak and the other 1.5 metres below it. (*Amended by Act 9 of 1982.*)

**29 Penalty for obstructing harbour master when on duty.**

Any person who shall interfere with or obstruct whether directly or indirectly the harbour master in the execution of his duty shall in cases not herein specifically

provided for be liable on conviction in a summary manner to a penalty not exceeding \$20 or in default of payment to imprisonment for a term not exceeding one month.

**30 Offences where no specific penalty is specified.**

For any offence against any of the provisions of this Act not liable to a specific penalty a fine not exceeding \$20 may be imposed and in default of payment thereof imprisonment for a term not exceeding 14 days.

## **PILOTAGE AND SHIPPING DUES**

**31 Pilotage rates and shipping dues to be levied.**

Subject to the exemptions contained in the Schedule hereto there shall be levied and collected in respect of vessels entering or leaving any harbour (proclaimed as such) the harbour, light and pilotage dues and any other charges at such rates and specifications as shall be specified in such Schedule:

**Power to exempt from payment.**

Provided that the Prime Minister may by proclamation if expedient so to do exempt vessels entering or leaving any harbour from the payment of all rates and dues in such Schedule specified and may at any subsequent time remove such exemption.

*(Amended by Act 13 of 1976.)*

**32 Regulations.**

The Controller of Customs with the consent of the Privy Council may from time to time make regulations not inconsistent with the provisions of this Act for the better carrying into effect the provisions of this Act and such regulations when published in the Gazette shall have the force of law and any infringement of such regulations shall carry with it the penalty provided in section 29 thereof.

**33 Exemption from civil liability.**

No civil action for the recovery of damages or otherwise shall lie against any pilot or harbour master in the employment of the Tongan Government in respect of any damage caused by negligence or want of skill in the performance of his duties and no civil action for damages shall lie against the Tongan Government or any member thereof in respect of any damage caused by any such pilot or harbour master in the discharge of his duties.

**34 Exemption for ships of war.**

The provisions of this Act shall not apply to ships of war.

**SCHEDULE**

*(Inserted by Act 14 of 1984 and Amended by Acts 7 of 1985 and 18 of 1985.)*

**EXEMPTIONS**

1. Vessels under contract with the Government of Tonga.
2. Vessels put back in distress.
3. Men of War.

**HARBOUR LIGHT AND PILOTAGE DUTIES**

All amounts payable shall be calculated on the Gross Registered Tonnage (GRT) of each vessel. Harbour dues and light dues will be charged, where applicable inwards only per call or in the case of a vessel being laid up in Tonga. Harbour and light dues will be payable every 3 months at full rates.

Pilotage dues shall be charged separately for inward journeys and separately for outward journeys and shall be payable whether or not a pilot is used. The minimum charge will be \$25 and the maximum charge will be \$450 for the inward journey, and the same minimum and maximum charges will be levied and paid separately for the outward journey.

**CRUISE SHIPS**

Vessels which arrive in Tonga in the course of a scheduled cruise and which may only embark or disembark passengers and their luggage.

Harbour Dues .....\$0.045 per GRT

Light Dues .....\$0.02 per GRT

Pilotage .....\$0.05 per GRT

Provided that in the event of Cruise Ships belonging to the same Shipping Line making a total of between one and four visits in a calendar year only 75% of the Light Dues and Harbour Dues will be charged for such visits and further provided that if such ships make between five and eight visits in a calendar year only 50% of the Light Dues and Harbour Dues shall be charged, and for visits in excess of eight in a year, Light and Harbour Dues of 17½% shall be charged for such visits.

**CARGO/PASSENGER SHIPS (FOREIGN GOING)**

Vessels arriving in Tonga to unload and/or load cargo, and/or discharge and/or embark passengers.

Harbour Dues .....\$0.055 per GRT

Light Dues .....\$0.025 per GRT

Pilotage .....\$0.05 per GRT

**COASTING VESSELS (LOCAL) AND YACHTS**

Including local registered vessels laid up or otherwise and vessels holding current coasting licences (not being a temporary coasting licence) and yachts.

Harbour Dues .....\$2.75 per GRT per calendar year or \$0.30 per GRT per month

Light Dues .....\$1.75 per GRT per calendar year or \$0.20 per GRT per month

**OTHER SHIPS**

In respect of other vessels half of the total dues required of cargo/passenger vessels shall be payable.

**SECOND AND SUBSEQUENT PORT OF CALL**

Vessels calling at a second and subsequent port in Tonga in the course of the same voyage, half the dues otherwise payable shall be payable.

**MOORING AND UNMOORING**

For each operation of mooring or unmooring, when the service is rendered the following charges will apply.

Mooring or unmooring vessels not exceeding 1000 GRT .....\$25.00

Mooring or unmooring vessels exceeding 1000 GRT but .....\$50.00  
not exceeding 15000 GRT

Mooring or unmooring vessels exceeding 15000 GRT .....\$80.00

**REMOVAL CHARGES**

Pilotage removal charge of \$60.00 will apply only if a pilot is used. This charge will cover both outward to anchor and return.

Mooring and unmooring. A rate of 25% of the normal mooring and unmooring rates will apply to vessels required to move to anchor.

**PILOT DETENTION CHARGES**

A charge of \$40.00 per hour but not exceeding \$400.00 per day will apply for time spent by the pilot waiting for a vessel at any time of day or night.

**OTHER CHARGES**

Fresh Water per 1000 litres or part thereof	\$2.50 plus labourers' wages.
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**WHARF CLEANING**

Cruise Ships	\$15.00 per call
Cargo and Tender Vessels not discharging cement	\$20.00 per call
Cargo vessels discharging cement	\$30.00 per call
Coasting vessels carrying passengers	\$25.00 per call

**TELEPHONE HIRE**

Vessels and/or agent to apply direct to Tonga Telecommunications Commission.

**MOORING IN FAUA BASIN**

The following charges will apply to all vessels moored in Faua Basin per three (3) months period or part thereof but not less than one day.

Vessels not exceeding 5 metres in length	FREE
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Vessels exceeding 5 metres in length but not exceeding 8 metres in length \$6.00

Vessels exceeding 8 metres in length but not exceeding 12 metres in length \$12.00

Vessels exceeding 12 metres in length but not exceeding 15 metres in length \$24.00

Vessels exceeding 15 metres in length \$35.00