



**Tuvalu**

# **MERCHANT SHIPPING (LOAD LINE AND SAFETY CONVENTIONS) REGULATIONS**

**2008 Revised Edition**

**CAP. 48.28.3**





Tuvalu

## MERCHANT SHIPPING (LOAD LINE AND SAFETY CONVENTIONS) REGULATIONS

### Arrangement of Regulations

#### Regulation

<b>PART I - PRELIMINARY</b>	<b>5</b>
1 Citation.....	5
2 Interpretation.....	5
3 Specification of Conventions.....	6
4 Conventions to have force of law .....	6
5 General provisions .....	6
6 Specified surveyors.....	6
7 Conditional exemptions .....	7
<b>PART II - LOAD LINE CONVENTION</b>	<b>7</b>
8 Surveys and inspections.....	7
9 Periodical surveys .....	7
10 Issue of certificates .....	7
11 Control .....	7
12 Failure to comply with Load Line Convention.....	7
13 Concealing, etc., load line.....	8
14 Submersion of load line .....	8
<b>PART III - SAFETY CONVENTION</b>	<b>9</b>
15 Surveys and inspections.....	9
16 Surveys of hull machinery and equipment of cargo ship.....	9
17 Issue of certificates .....	9
18 Control .....	10
19 Deck log book.....	10
20 Failure to comply with Safety Convention .....	10

**PART IV - PROCEEDING TO SEA** **10**

---

21 Production of appropriate certificate.....10

**SCHEDULE** **12**

---

LOAD LINE AND SAFETY CERTIFICATES REQUIRED 12

**Supporting Documents**

---

**ENDNOTES** **14**

---



Tuvalu

# MERCHANT SHIPPING (LOAD LINE AND SAFETY CONVENTIONS) REGULATIONS

MADE UNDER SECTION 141 OF THE MERCHANT SHIPPING ACT<sup>1</sup>

---

## PART I - PRELIMINARY

### 1 Citation

These Regulations may be cited as the Merchant Shipping (Load Line and Safety Conventions) Regulations.

### 2 Interpretation

In these Regulations, unless the context otherwise requires —

“**the Act**” means the Merchant Shipping Act;<sup>2</sup>

“**the Load Line Convention**” means, in terms of paragraph 1 of Schedule 1 of the Act, the International Convention on Load Lines, 1966, as affected by any amendment made under Article 29 of that Convention, other than an amendment not accepted by Tuvalu;

“**Registrar**” means the Registrar of Ships;

“**the Safety Convention**” means, in terms of paragraph t of Schedule 1 to the Act, the International Convention for the Safety of Life at Sea 1974 as affected by any amendment made under Article VIII of the Convention, other than an amendment not accepted by Tuvalu, and includes the Protocol of 1978 relating to the Convention.

### **3 Specification of Conventions**

The Load Line Convention and the Safety Convention are specified as the International Maritime Conventions which these regulations are made for the purpose of implementing, or enabling legal effect to be given to, in Tuvalu.

### **4 Conventions to have force of law**

The Load Line Convention and the Safety Convention shall have the force of law in Tuvalu.

### **5 General provisions**

- (1) Where, under the Load Line Convention or under the Safety Convention, the several countries which are parties to the Load Line Convention or the Safety Convention, as the case may be, have a discretion as to whether any, and if so what, action should be taken under them, that discretion may be exercised by the Minister.
- (2) Notwithstanding any requirement under the Act for the purposes of giving effect to, or implementing any provision of the load Line Convention or of the Safety Convention which requires a particular fitting, material, appliance or apparatus to be fitted or carried in a ship, or any particular provision to be made in a ship, the Minister may allow any other fitting, material, appliance or apparatus or type of fitting, material, appliance or apparatus to be fitted or carried, or any other provision to be made, if he is satisfied that that other fitting, material, appliance or apparatus or provision is at least as effective as that required by the Load Line Convention or by the Safety Convention, as the case may be.
- (3) Where, under the Load Line Convention or under the Safety Convention. the several countries which are parties to the Load Line Convention or the Safety Convention, as the case may be, are under a duty to do any act or thing, that act or thing shall be done by the Minister.

### **6 Specified surveyors**

- (1) The Minister may, by notice under section 139 of the Act, designate a surveyor as a specified surveyor for the purposes of Part II or Part III, or for both those Parts.
- (2) Subject to sub-regulation (3), for the purposes of the exercise and performance of his functions under these Regulations a specified surveyor may exercise all or any of the powers specified in section 138(7) of the Act.
- (3) The Minister may, in writing, impose limitations and restrictions on the powers of specified surveyors.

- (4) A Classification Society may be designated under this regulation as a specified surveyor.

## **7 Conditional exemptions**

Where, under the Load Line Convention or the Safety Convention, the Minister grants any exemption subject to conditions, the exemption shall not have effect if those conditions are not complied with.

# **PART II - LOAD LINE CONVENTION**

## **8 Surveys and inspections**

For the purposes of the Load Line Convention, the survey, inspection and marking of a ship shall be carried out by a specified surveyor designated under regulation 4 for the purposes of this Part.

## **9 Periodical surveys**

For the purposes of Article 14(1) of the Load Line Convention the periodic surveys shall be carried out at intervals not exceeding 4 years,

## **10 Issue of certificates**

- (1) Where he is satisfied in the particular case that he may do so, a specified surveyor shall, in respect of a Load Line Convention ship that has been surveyed by him, issue an International Load Line Certificate.
- (2) An International Load Line Exemption Certificate may be issued by the Minister on the advice of a specified surveyor.

## **11 Control**

For the purposes of Article 21 of the Load Line Convention, “officer duly authorized” means an officer duly authorised by the Minister, by instrument in writing, to exercise the powers specified in that Article,

## **12 Failure to comply with Load Line Convention**

- (1) Where, in respect of a ship that is —
- (a) registered under this Act; and

- (b) a Load Line Convention ship,
- there is a failure to comply with a requirement of the Load Line Convention the master and the owner of the ship are each guilty of an offence and liable on conviction to imprisonment for 3 months and to a fine not exceeding \$100.
- (2) Where, in respect of a ship to which sub-regulation (1) applies, there is a failure to comply with a requirement of the Load Line Convention then, without prejudice to any liability which is or may be incurred under sub-regulation (1) in respect of the failure, the Registrar may suspend the certificate of registry of the ship until the failure is rectified.
- (3) It is a sufficient defence if a person charged with an offence under sub-regulation (1) proves that he had exercised all due diligence to prevent the commission of an offence and was personally unaware that an offence was committed.

### **13 Concealing, etc., load line**

- (1) A person who wilfully conceals, alters or defaces any load line marked for the purposes of the Load Line Convention on a ship is guilty of an offence.
- (2) The owner or master of a ship who suffers or permits any load line marked for the purposes of the Load Line Convention on a ship to be concealed, altered or defaced is guilty of an offence.
- (3) A person convicted of an offence under this regulation is liable on conviction to imprisonment for 3 months and to a fine not exceeding \$100.

### **14 Submersion of load line**

- (1) This regulation applies in relation to —
- (a) a Load Line Convention ship that is registered under this Act and marked with a load line; and
- (b) a Load Line Convention ship that is marked with a load line but not registered under this Act.
- (2) A ship referred to —
- (a) in sub-regulation (1)(a); or
- (b) in sub-regulation (1)(b) which is within a port or place in Tuvalu,
- shall not be so loaded as to submerge the appropriate load line of each side of the ship in sea water when the ship has no list.
- (3) Subject of sub-regulation (5), where any ship in relation to which this regulation applies is loaded in contravention of subregulation (2) the owner and master are each guilty of an offence and liable to a fine not exceeding \$100 for every centimetre or fraction of a centimetre by which the appropriate



line on each side of the ship was submerged or would have been submerged if the ship had been floating in sea water and had no list.

- (4) Where a ship referred to in subregulation (1)(a) is loaded in contravention of sub-regulation (2) and proceeds to sea —
- (a) the master of the ship; and
  - (b) any other person who, having reason to believe that the ship is so loaded, sends or is a party to sending, the ship to sea,
- are each guilty of an offence, without prejudice to any offence under sub-regulation (3), and liable on conviction to imprisonment for 3 months and to a fine not exceeding \$100,
- (5) It is a defence to a prosecution for an offence under sub-regulation (3) if the accused proves that contravention was due solely to deviation or delay and that the deviation or delay was caused solely by stress of weather or other circumstances which neither the master nor the owner of the ship could have prevented or forestalled.

## **PART III - SAFETY CONVENTION**

### **15 Surveys and inspections**

For the purposes of the Safety Convention, the survey and inspection of a ship shall be carried out by a specified surveyor designated under regulation 4 for the purposes of this Part.

### **16 Surveys of hull machinery and equipment of cargo ship**

For the purposes of Regulation 10 of Chapter I of the Annex to the Safety Convention, the required surveys of hull, machinery and equipment of a cargo ship shall be carried out, following the survey on completion, at intervals of not more than 12 months,

### **17 Issue of certificates**

- (1) Where he is satisfied in the particular case that he may do so, a specified surveyor shall, in respect of a Safety Convention ship that has been surveyed by him, issue the appropriate certificate (other than an Exemption Certificate) prescribed in the Schedule.
- (2) An Exemption Certificate may be issued by the Minister on the advice of a specified surveyor.

**18 Control**

For the purposes of Regulation 19 of Chapter I of the Annex to the Safety Convention, “officer duly authorized” means an officer duly authorised by the Minister, by instrument in writing, to exercise the powers specified in that Regulation.

**19 Deck log book**

For the purposes of the Safety Convention, “the prescribed log book” means the deck log book.

**20 Failure to comply with Safety Convention**

- (1) Where, in respect of a ship that is —
  - (a) registered under the Act; and
  - (b) a Safety Convention ship,

there is a failure to comply with a requirement of the Convention the master and owner of the ship are each guilty of an offence and liable on conviction to imprisonment for 3 months and to a fine not exceeding \$100.

- (2) Where, in respect of a ship to which sub-regulation (1) applies, there is a failure to comply with a requirement of the Safety Convention then, without prejudice to any liability which is or may be incurred under sub-regulation (1) in respect of the failure, the Registrar may suspend the certificate of registry of the ship until the failure is rectified.
- (3) It is a sufficient defence if a person charged with an offence under sub-regulation (1) proves that he had exercised all due diligence to prevent the commission of an offence and was personally unaware that an offence was committed.

**PART IV - PROCEEDING TO SEA****21 Production of appropriate certificate**

- (1) Subject to sub-regulation (2), this regulation applies in relation to a ship that is —
  - (a) a Load Line Convention ship; or
  - (b) a Safety Convention ship.
- (2) A ship which is not subject to-
  - (a) the Load Line Convention; or

(b) the Safety Convention,

at the time of its departure on any voyage shall not become subject to this regulation on account of any deviation from its intended voyage due to stress of weather or any other cause or of *force majeure*.

- (3) The Harbour Master or an inspector may, before a ship to which this regulation applies goes to sea on an international voyage, direct the master of the ship to produce to him the appropriate certificate in respect of the ship.
- (4) A master of a ship who refuses, or fails without reasonable cause, to comply with a direction given under sub-regulation (3) is guilty of an offence and liable on conviction to imprisonment for 3 months and a fine not exceeding \$100.
- (5) Nothing in this regulation affects any control which may be exercised in respect of —
  - (a) a Load Line Convention ship under Article 21 of the Load Line Convention; or
  - (b) a Safety Convention ship under Regulation 19 of Chapter 1 of the Annex to the Safety Convention.
- (6) For the purposes of this regulation, “appropriate certificate” means, in respect of a ship, any certificate (including an Exemption Certificate) prescribed in the Schedule which is appropriate in relation to that ship for the voyage on which the ship is, or is to be, engaged.

**SCHEDULE**

Regulations 17 and 21

**LOAD LINE AND SAFETY CERTIFICATES REQUIRED**

	TYPE OF SHIP	REQUIRED CERTIFICATE
A.	Passenger Ships:	
	1. Passenger	(i) Passenger Safety Certificate and any appropriate Exemption Certificate; and  (ii) International Load Line Certificate and any appropriate Exemption Certificate.
	2. Passenger on short international voyage	(i) Passenger Short International Voyage Safety Certificate and any appropriate Exemption Certificate; and  (ii) International Load Line Certificate and any appropriate Exemption Certificate.
	3. Nuclear Passenger	(i) Nuclear Passenger Safety Certificate;  (ii) International Load Line Certificate; and  (iii) Any appropriate Exemption Certificate.
B	Cargo Ships	

	TYPE OF SHIP	REQUIRED CERTIFICATE
	<p>1. Cargo of a gross tonnage of 500 tons or more on an International Voyage</p>	<p>(i) Cargo Ship Safety Construction Certificate and any appropriate Exemption Certificate;</p> <p>(ii) Cargo Ship Safety Equipment Certificate and any appropriate Exemption Certificate;</p> <p>(iii) Either a Cargo Ship Safety Radiotelegraphy Certificate or a Cargo Ship Safety Radiotelephony Certificate, and any appropriate Exemption Certificate; and</p> <p>(iv) International Load Line Certificate and any appropriate Exemption Certificate.</p>
	<p>** 2. Cargo of a gross tonnage of 300 tons or more but less than 500 tons on an International Voyage</p>	<p>(i) Cargo Ship Safety Radiotelephony Certificate and any appropriate Exemption Certificate; and</p> <p>(ii) International Load Line Certificate and any appropriate Exemption Certificate.</p>
	<p>** 3. Cargo of a gross tonnage of less than 500 tons on an International Voyage which is either —</p> <p>(a) a new ship of 24 metres or more in length; or</p> <p>(b) an existing ship of gross tonnage of 150 tons or more.</p>	<p>International Load Line Certificate, and any appropriate Exemption Certificate.</p>

	TYPE OF SHIP	REQUIRED CERTIFICATE
	4. Nuclear Cargo of a gross tonnage of 500 tons or more	(i) Nuclear Cargo Ship Safety Certificate or Nuclear Passenger Ship Safety Certificate; (ii) International Load Line Certificate; and (iii) Any appropriate Exemption Certificate.
<p><b>Note:</b> In this Schedule, a reference to “an appropriate Exemption Certificate” means an Exemption Certificate required either by the Safety Convention or the Load Line Convention, as appropriate, to be issued in relation to the voyage on which the ship is, or is to be, engaged.</p> <p>(** Additional or alternative certificates may be required under the Regulations.)</p>		

**ENDNOTES**

---

<sup>1</sup> Cap. 48.28

<sup>2</sup> Cap. 48.28