



Tonga

# WHARVES ACT

**Chapter 48.24**

**2016 Revised Edition**





## WHARVES ACT

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Tonga

## WHARVES ACT

### AN ACT TO PROVIDE FOR THE MANAGEMENT OF GOVERNMENT WHARVES AND FOR LEVYING DUES<sup>1</sup>

Commencement [8th July, 1903]

#### 1 Short title

This Act may be cited as the Wharves Act.

#### 2 Interpretation

(1) In this Act —

“**day**” means any consecutive period of 24 hours, provided that the Sabbath Day or any part thereof shall not count for this purpose unless work actually takes place thereon;<sup>2</sup>

“**Government wharf**” means any wharf declared or proclaimed as such by subsection (2);

“**Minister**” means the Minister responsible for marine and ports.<sup>3</sup>

(2) The wharves at Niuatoputapu and Niuafu’ou, Lifuka, Neiafu and the wharf<sup>4</sup> at ’Eua called “Nafanua” are hereby declared as Government wharves and the Prime Minister may by Proclamation declare a wharf as a Government wharf.<sup>5</sup>

#### 3 Administration

The Minister shall be charged with the general administration of this Act.<sup>6</sup>

**4 Wharfage dues to be paid**

When any of the goods, animals or things enumerated in Schedule A hereto are imported into or exported from Tonga there shall be levied, collected and paid the wharfage dues in such Schedule specified whether such goods are shipped from or landed on a Government wharf or elsewhere excepting any port designated under any other Act.<sup>7</sup>

**5 Schedule may be altered**

Cabinet may by Order alter the rates specified in Schedule A hereto or may add to such Schedule any other goods, animals or things and such Order when published in the Gazette shall have the force of law.<sup>8</sup>

**6 Exemption from dues**

South Sea island produce when imported into Tonga for export shall not on account of such landing be liable to the payment of any wharfage dues.

**7 Landing permits**

All goods, animals or things imported into or exported from Tonga shall be landed or shipped from a Government wharf or any port designated under any other Act unless the Prime Minister or an officer duly authorized by him shall on special application being made give permission in writing for the landing of any goods, animals or things elsewhere.<sup>9</sup>

**8 Wharfage dues to be paid at time of entry**

Payment of wharfage dues upon imported goods shall be made at the time when the entry of such goods is passed at the Custom House.

**9 Goods obstructing wharf may be removed**

If any goods landed at a Government wharf or brought there for shipment shall be allowed to remain on such so as to impede the traffic thereon it shall be lawful for the Harbour Master or other officer authorised by him in the presence of the Collector or other officer of Customs to cause such goods to be removed and stored at the expense of the consignee or shipper.<sup>10</sup>

**10 Where neglect or refusal to pay dues goods may be seized**

Any goods in respect of which there shall be any neglect or refusal to pay the dues 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 and the surplus if any after such payments have been made shall be paid into the Treasury and if not claimed by the owner of the goods aforesaid within 12 months shall be forfeited to the Crown.

#### **11 Goods seized may be destroyed**

Should any goods as aforesaid be unsaleable or should their condition or value be such that the proceeds of sale would not in the opinion of the Controller of Customs pay the necessary expenses of sale by public auction such goods may be destroyed and neither the owner thereof nor any person or persons shall have any claim against any officer of Customs nor against the Crown for the destruction of such goods.

#### **12 Goods, etc., may be removed**

##### **Persons may be ordered to leave the wharf**

Whenever it shall appear necessary to any officer of the Marine and Ports or Customs or police officer it shall be lawful for them to cause to be removed any case or package or vehicle found upon any Government wharf and also to prevent any person from coming thereon and also to order any person already there to leave and any person neglecting or refusing to leave such place when requested so to do may be taken into custody without a warrant by any such officer of the Marine and Ports or Customs or police officer and shall upon conviction before any magistrate be liable to a fine not exceeding \$500.<sup>11</sup>

#### **13 Penalty for resisting officers**

Any person assaulting, resisting, interfering with or interrupting any officer of the Marine and Ports or Customs in the discharge of his duties in connection with this Act shall be liable on conviction in a summary manner to a penalty not exceeding \$500.<sup>12</sup>

## **STORAGE RATES**

#### **14 Storage rates to be levied**

There shall be collected and paid in respect of the storage of copra in Government sheds and in respect of the use of Government trucks the fees set out in Schedule B.

**15 Government sheds**

The storage of any goods or merchandise in Government sheds shall be at the consignee's risk except where any loss or damage is due to Government negligence.<sup>13</sup>

**16 Schedule may be altered**

Cabinet may by Order alter the rates mentioned in Schedule B or prescribe rates in respect of the storage of any goods or merchandise in Government sheds or the conveyance of the same along the Government wharves by means of vehicles other than Government trucks.<sup>14</sup>

## **BERTH DUES**

**17 Berth dues chargeable on vessel lying alongside wharf**

When any vessel of a measurement of not less than 2 tonnes shall be placed alongside a Government wharf there shall be collected and paid in respect of such vessel before obtaining her clearance or before she sails beyond the harbour in which such wharf is situated a duty per tonne as specified in Schedule C:

Provided that the Prime Minister may in the case of regular traders commute such duty for any period not exceeding one year on the payment in advance of such sum and upon such other conditions as he may deem expedient in the particular case.<sup>15</sup>

**18 Where tonnage shall be that specified in vessel's register**

The measurement of any Tongan or foreign vessel shall be determined by the Harbour Master having regard, where applicable, to the provisions of the Convention on Tonnage Measurement of Ships 1969, and to the ship's documents of registration.<sup>16</sup>

**19 Vessels not permitted to go alongside wharf except with permission of harbour master**

It shall not be lawful for any vessel to go alongside of or make fast to any Government wharf except with the permission of the harbour master and the master or person in charge of any vessel who shall fail to comply with the provisions of this section shall on conviction be liable to a penalty not exceeding \$100.<sup>17</sup>



**20 Proceedings in respect of offences and penalties, etc.**

All offences against this Act may be prosecuted by the police and all fines, penalties, dues and other moneys may be recovered at the suit of the Attorney General.<sup>48</sup>

**21 Appropriation of moneys received**

All fees, dues, fines and other moneys received under this Act shall be paid into the Treasury for the benefit of the general revenue.

## THE SCHEDULES

### SCHEDULE A <sup>19</sup>

#### WHARFAGE DUES

	\$
Anchors, Cables, Chain, per 100 kilograms or part hereof	.60
Bags or Sacks (Including Coconut Meals, Desiccated Coconut and Kava, Excluding cement) containing up to and including 5 kilograms	.05
Over 5 kilograms but not more than 25 kilograms	.15
Over 25 kilograms but not more than 30 kilograms	.25
Over 30 kilograms	.35
Ballast, Ships, Other than Iron per tonne or part thereof	.40
Bananas, per package or bunch	.05
Barrels, of not more than 50 litres capacity, each	.30
Over 50 litres capacity each	.60
Bicycles and Tricycles, each	.50
Boats, Launches, Yachts, per metre or over all measurement	2.00
Boilers (Engine) per 100 kilograms or part thereof	.60
Bricks, Tiles, Slates, per 100 or part thereof	.30
Candlenuts, per tonne or part thereof	.50

Carboys or Jars, if containing a Corrosive liquid, even when protected by a wicker basket or otherwise, each	1.00
If non corrosive, each	.35
Carts, each	3.00
Cement in paper bags each	.20
Coal or coke, per tonne or part thereof	.55
Coconut oil per 1000 litres or part thereof	3.00
Copra, per tonne or part thereof	.25
Doors, each	.30
Drums, same as Barrels except for copra driers, each	.05
Engines and Machinery per 100 kilograms or part thereof	.60
Fungus, per tonne or part thereof	.50
Goods imported as the property of or for the use of the reigning Monarch	Free
Goods imported for the use of Government	Free
Goods imported as charitable gifts, admitted as such by the Collector of Customs, by any organisation approved by the Controller of Customs and certified by the head of such organisation that such goods are for free distribution	Free
Hides each	.10
Iron, in bar, red, pig, rail per 100 kilograms or part thereof	.40
Livestock, horse, mule, ass, ox, each	1.00

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Sheep, pig, goat, each	.50
Motor vehicles: Motor car each	6.00
Motor cycle each	1.50
Motor Lorry or van up to and including point 5 tonne capacity each	6.00
Over point 5 tonne capacity, each	8.00
Oars, per pair	.20
Perambulators, each	.50
Petroleum products in bulk per 1000 litres or part thereof	6.00
Pianos, or similar musical instrument each	3.00
Pineapples, as for Bananas. Produce not otherwise enumerated, for export as for Bananas	.00
Spars per meter or part thereof	.20
Shooks, per 100 or part thereof	.15
Soap (manufactured in Tonga) in packages containing up to and including 5 kilograms	.05
Over 5 kilograms but not more than 25 kilograms	.15
Over 25 kilograms but not more than 30 kilograms	.15
Over 30 kilograms	.25
Timber, per cubic metre or part thereof	1.50
Water melons, each	.02
Water tanks, when imported empty, each when used as	3.00

container for goods same crate as for packages not otherwise specified

Wheel Barrows, each .80

Packages not otherwise specified not exceeding one cubic metre for each point two (0.2.) cubic metres or part thereof .30

Exceeding one cubic metre for each cubic metre or part thereof 1.50

**SCHEDULE B <sup>20</sup>**

**COPRA RATE FOR STORAGE IN GOVERNMENT SHEDS**

\$

For the first and subsequent weeks or part thereof per tonne .....0.10

**GOODS OTHER THAN COPRA FOR STORAGE IN GOVERNMENT SHEDS**

Packages not exceeding one cubic metre for each point two (0.2) cubic metre or part thereof—\$0.25 per day for the first week.

Packages exceeding 1 cubic metre for each cubic metre or part thereof \$1.25 per day for the first week.

For the second week the above rate is doubled.

For the third and subsequent weeks, the above rate is tripled.

Containers stored at open areas at Queen Salote Wharf shall be charged per unit per day or part thereof after the third day as follows —

20 foot containers \$0.50.

40 foot containers \$1.00.

**SCHEDULE C****BERTH DUES<sup>21</sup>**

Description of Vessels	Charge for each vessel's gross registered tonnage (GRT) for each hour (part of an hour is to be regarded as 1 hour) that the vessel is alongside the wharf.
<b>Passenger Vessels</b> - Local (With Coasting Licence) - Overseas	\$0.01 per tonne (during loading/Unloading) \$0.65 per 100 tonnes (less than 100 tonnes is to be regarded as 100 tonnes).
<b>Other Vessels</b> - Overseas & Local	\$0.01 per tonne

There is a minimum charge of \$4.00 per docking. Local registered vessels under 15 gross registered tonnes are exempt.

Provided that in the event of Cruise Ships belonging to the same Shipping Line making a total of between 1 and 4 visits in a calendar year only 75% of the Berth Dues will be charged for such visits and further provided that if such ships make between 5 and 8 visits in a calendar year only 5% of the Berth Dues shall be charged for such visits and for visits in excess of 8 in a year Berth Dues of 17½% shall be charged

**ENDNOTES**

<sup>1</sup> **1988 Revised Edition, Chapter 138-** Acts 30 of 1903, 3 of 1922, 4 of 1922, 17 of 1927, 10 of 1947, 13 of 1950, 14 of 1976, 11 of 1981, 23 of 1981, 15 of 1982, 15 of 1984, 6 of 1985, GS 3/1981, GS 1/1982, G. 142/82;

**Amending Acts after 1988**

<b>Amending Acts</b>	<b>Commencement</b>
Act 16 of 1992	24 September 1992
Act 25 of 1992	18 January 1993
Act 4 of 1994	23 June 1994
Act 18 of 1997	14 January 1998
Act 9 of 1998	1 October 1998
Act 42 of 2010	24 November 2010
Act 5 of 2012	30 January 2012

Rates Amended by GS 7/1990, GS 4/1992-A

<sup>2</sup> Added by Act 10 of 1947

<sup>3</sup> Inserted by Act 25 of 1992; Amended by Act 5 of 2012

<sup>4</sup> See GS 47/1963

<sup>5</sup> Amended by Act 9 of 1998

<sup>6</sup> Amended by Act 25 of 1992

<sup>7</sup> Amended by Act 9 of 1998

<sup>8</sup> Amended by Act 42 of 2010

<sup>9</sup> Amended by Acts 9 of 1998 and 25 of 1992

<sup>10</sup> Amended by Act 25 of 1992

<sup>11</sup> Amended by Acts 25 of 1992 and 4 of 1994

<sup>12</sup> Amended by Acts 25 of 1992 and 4 of 1994

<sup>13</sup> Inserted by Act 23 of 1981

<sup>14</sup> Amended by Act 42 of 2010

<sup>15</sup> Amended by Act 15 of 1982

<sup>16</sup> Substituted by Act 25 of 1992

<sup>17</sup> Amended by Act 25 of 1992

<sup>18</sup> Amended by Act 25 of 1992

<sup>19</sup> Substituted by GS 3/1981 and Amended by G. 141/1982

<sup>20</sup> Substituted by GS 3/1981 and Amended by GS 1/1982

<sup>21</sup> Amended by Act 18 of 1997