



TUVALU SHIP REGISTRY

Vaiaku, Funafuti, Tuvalu

Email: info@tvship.com Website: www.tvship.com

REGISTRY CIRCULAR

RC-6/2012/1

3/2019

FOR: Ship Owners, Ship Managers, Ship Operators, Authorized Lawyers, Financial Institutions

SUBJECT: TUVALU SHIP REGISTRY MORTGAGE REGISTRATION PROCEDURES

PURPOSE: This Circular is to inform all interested parties on the procedures to record a mortgage for a vessel registered under Tuvalu flag. It should be noted that Charterers who have registered their vessels under Bareboat Charter-In registration with Tuvalu will not be allowed to record any mortgages.

A. RECORDING A MORTGAGE

To record a Mortgage, the Registry requires the following documents to be submitted:

1. Original Notarised Mortgage Deed (Form M1) - 2 sets - duly filled and executed on Section 1 and 2 of Page 1. After recording of mortgage, the original Form M1 should be kept together with its Page 2 as Section 3 of Form M1 will need to be executed for the Discharge of the Mortgage in future.
2. Original Notarised Mortgage Agreement (Deed of Covenant) and/or Loan / Facility Agreement with details of the loan such as Loan Amount, Date of Maturity, Interest, Repayment Schedule etc. - If the Deed of Covenant contains all the details required for the Mortgage Deed (Form M1), then the submission of the Loan / Facility Agreement is not mandatory.
3. Copy of Notarised Power of Attorney issued to the Attorneys by the Mortgagor and Mortgagee (if applicable - see **NOTE (a)** below for explanation).
4. Copy of Certificate of Incumbency or Register of directors showing the names of the directors of the Mortgagor (Owner).
5. If the vessel is still under Provisional Registration i.e. the Original Bill of Sale has not been sighted by the Registry, then the Registry will require a letter from the Mortgagee or authorised Attorney stating that they have sighted the Original Bill of Sale.
6. Original or Certified copy of Letter of Consent from prior Mortgagee(s) - this is required if the vessel already has earlier mortgage(s) recorded under different Mortgagee(s).

Upon submission of a copy of all the above documents (either by email), the Registry will provisionally record the date, time and priority of the mortgage registration using the time the email was received PROVIDED that all documents have been properly executed and found in order. The client should then undertake to courier the original Mortgage Deed (Form M1) and Mortgage Agreement to this office.

Upon receipt of the original documents, the Registry will permanently record the date, time and priority of the mortgage registration as at what was recorded provisionally when the copies were received and subsequently issue an electronic Certificate of Mortgage Registration.

The Registry will keep a copy of the Certificate of Mortgage Registration and the Mortgage Deed (Form M1) in the ship's file, and return 1 set of original Mortgage Deed (Form M1) to the applicant including any original documents submitted e.g. Mortgage Agreement (Deed of Covenant) and/or Loan / Facility Agreement.

The priority code AA represents the 1st priority mortgage that is recorded with the Registry, while priority code BB represents the 2nd priority mortgage recorded, and so on. For a vessel with more than one recorded mortgage, it should be noted that the priority assigned is not based on the date of the Mortgage Agreement or Deed of Covenant, but instead based on the date and time at which the Mortgage is presented for record with the Registry.

B. DISCHARGING A RECORDED MORTGAGE

To discharge a Mortgage that was previously recorded, the following documents need to be submitted:

1. Original Notarised Mortgage Deed (Form M1) executed during the Record of Mortgage with execution of Section 3 by the Mortgagee to Discharge of the Mortgage.
2. Original Notarised letter from the Mortgagee confirming the discharge of the Mortgage.
3. Copy of Notarised Power of Attorney issued to the Attorneys by the Mortgagee (if applicable - see **NOTE (b)** below for explanation).

Upon receipt of the Original Notarised Mortgage Deed (Form M1) with execution of Discharge by the Mortgagee and the Original Notarised Letter from the Mortgagee confirming the discharge of the Mortgage, the Tuvalu Ship Registry will Discharge the Mortgage and return the original Mortgage Deed to the applicant.

NOTES RELATING TO SECTION (A) & (B) above:

- (a). The person who executes the Mortgage Deed (Form M1) on behalf of the Mortgagor should be the same person who executes the Mortgage Agreement, and this person should be a Director of the Company (Mortgagor). The person who executes the Mortgage Deed on behalf of the Mortgagee should be the same person who executes the Mortgage Agreement, and this person should be an officer with the authority to execute such a document on behalf of the Mortgagee). If executed by different persons (e.g. Attorneys), then he/she must hold a Power of Attorney executed in his/her favour by the Mortgagor and Mortgagee.*
- (b). The person executing the Discharge of the Mortgage on the Mortgage Deed (Form M1) on behalf of the Mortgagee should be the same person that executed the Mortgage Agreement. In the event that the Mortgagee uses another signatory to execute the discharge other than the one who executed the Mortgage Agreement, then this person must hold a Power of Attorney executed in his/her favour by the Mortgagee. This Power of Attorney shall be notarised and submitted to this office to process the discharge of mortgage.*
- (c). ALL the above documents, whether for RECORDING or DISCHARGE are required to be in the English language.*
- (d). Copies of ALL the above documents, whether for RECORDING or DISCHARGE are to be sent to this office via email (support@tvship.com).*

C. APPLICATION FORMS

Form M1 can be downloaded at: <https://tvship.com/forms>

Please do not hesitate to contact us should you have any further queries.

Best regards,

Operations Department
Tuvalu Ship Registry