



TUVALU SHIP REGISTRY

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MARINE CIRCULAR

MC-2/2015/1

8/2016

FOR: Ship Owners, Ship Managers, Ship Operators, Ship Masters, Ship Officers, Classification Societies

SUBJECT: NAIROBI INTERNATIONAL CONVENTION ON THE REMOVAL OF WRECKS, 2007

DEFINITIONS:

The following abbreviations stand for:

- “EEZ” – Exclusive Economic Zone
- “GT” – Gross Tonnage in accordance to ITC 69
- “IG” – International Group of P&I Clubs
- “IMO” – International Maritime Organization
- “PSC” – Port State Control
- “WRC” – Wreck Removal Convention
- “WRCC” – Wreck Removal Convention Certificate

The following terms shall mean:

- “Administration” shall mean the Tuvalu Ship Registry;
- “Convention” shall mean the Nairobi International Convention on the Removal of Wrecks, 2007 (Wreck Removal Convention);
- “Convention area” means the exclusive economic zone of a State Party, established in accordance with international law or, if a State Party has not established such a zone, an area beyond and adjacent to the territorial sea of that State determined by that State in accordance with international law and extending not more than 200 nautical miles from the baselines from which the breadth of its territorial sea is measured.
- “Registered owner” means the person or persons registered as the owner of the ship or, in the absence of registration, the person or persons owning the ship at the time of the maritime casualty. However, in the case of a ship owned by a State and operated by a company which in that State is registered as the operator of the ship, “registered owner” shall mean such company.
- “Ship” means a seagoing vessel of any type whatsoever and includes hydrofoil boats, air-cushion vehicles, submersibles, floating craft and floating platforms, except when such platforms are on location engaged in the exploration, exploitation or production of seabed mineral resources.
- “State Party” means a country who has ratified to the Convention.

PURPOSE:

The purpose of this marine circular is to provide the requirements for the coming into force of the International Wreck Removal Convention on 14 April 2015.

REFERENCES:

- (a) The Nairobi International Convention on the Removal of Wrecks, 2007
- (b) Tuvalu Marine Circular MC-1/2004/1 – P&I Clubs Accepted by Tuvalu

APPLICATION:

The WRC requires the owners of all ships above 300 GT to take out insurance or provide other financial security to cover the costs of wreck removal, capped at an amount equal to the limits of liability under the applicable national or international limitation regime.

Owners of Tuvalu flagged ships who call at ports of State Parties that mandate the carriage of a WRCC as a port entry requirement should apply for a WRCC as set out under Section 2 below before the WRC comes into force on 14 April 2015.

As Tuvalu has acceded to the WRC (which will come into force for Tuvalu on 17 May 2015), all Tuvalu flagged ships above 300 GT will be required to hold a WRCC by 17 May 2015.

CONTENTS:

1. General

- 1.1. The WRC was adopted by an international conference held in Kenya in 2007 and enters into force on 14 April 2015. The Convention provides the legal basis for States to remove, or have remove, shipwrecks that may have the potential to adversely affect the safety of lives, goods and property at sea, as well as the marine environment.
- 1.2. The WRC intends to fill a gap in the existing international legal framework by providing the first set of uniform international rules aimed at ensuring the prompt and effective removal of wrecks located beyond the territorial sea. The Convention also includes an optional clause enabling States Parties to apply certain provisions to their territory, including their territorial sea.
- 1.3. The Registered owner of a ship is financially liable and obligated to remove a wreck at one's own expense by taking out insurance or providing other financial security to cover the costs of wreck removal.
- 1.4. The Coastal State can also take action at the owner's expense, if the owner fails to take action or in cases of imminent danger. To ensure the enforceability of this claim and for reasons of practicability the WRC provides for compulsory insurance of the registered owner and a direct claim of the coastal states against the insurance.
- 1.5. Articles in the Convention covers the:
 - reporting and locating ships and wrecks - covering the reporting of casualties to the nearest Coastal State; warnings to mariners and Coastal States about the wreck; and action by the Coastal State to locate the ship or wreck;
 - criteria for determining the hazard posed by wrecks, including depth of water above the wreck, proximity of shipping routes, traffic density and frequency, type of traffic and vulnerability of port facilities. Environmental criteria such as damages likely to result from the release into the marine environment of cargo or oil are also included;
 - measures to facilitate the removal of wrecks, including rights and obligations to remove hazardous ships and wrecks - which sets out when the registered owner is responsible for removing the wreck and when a Coastal State may intervene;
 - liability of the registered owner for the costs of locating, marking and removing ships and wrecks - the registered owner is required to maintain compulsory insurance or other financial security to cover liability under the convention; and

- settlement of disputes.

2. Procedure for WRCC Certification

2.1. For Tuvalu Flagged Ships

- 2.1.1. In accordance to Article 12 of the Convention, the registered owner is required to obtain a WRC "Blue Card" from their insurers (P&I club), evidencing that there is in place insurance meeting the liability requirements of the Convention, and submit this to the Administration in order to apply for a WRCC.
- 2.1.2. WRC "Blue Cards" are to be submitted by email to this Administration at support@tvship.com
- 2.1.3. This Administration shall then verify the WRC "Blue Card(s)" with the P&I Club and issue the WRCC if all is in order.
- 2.1.4. This Administration accepts a Bunker Convention "Blue Card" as proof of insurance or financial security issued by P&I Clubs found in Tuvalu Marine Circular MC-1/2004/1.
- 2.1.5. The period of validity of the WRCC is in principle the same as that of the insurance in place or financial security provided i.e. as stated on the WRC "Blue Card".

2.2. For non-Tuvalu Flagged Ships who wishes to apply for a WRCC as their flag under a non-State Party, the same procedures above will apply. However, in addition to submitting a copy of the WRC "Blue Card", the following are required:

- 2.2.1. A WRC "Blue Card" issued by a P&I club meeting the requirements of Section 2.1.4 above; and
- 2.2.2. Submission of a copy of the ship's Certificate of Registry which clearly states the information of Registered Owner.

This Administration shall not issue WRCCs for vessels that are already flagged under a State Party.

Yours sincerely,

Deputy Registrar
Tuvalu Ship Registry