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Bill re Merchant Shipping Act, 2024.
Bill re Merchant Shipping (Liability and Compensation) Act, 2024.
Bill re Merchant Shipping (Liner Conferences) Act, 2024.
Bill re Merchant Shipping (Maritime Marriage) Act, 2024.
Bill re Merchant Shipping (Multimodal Transport) Act, 2024.

MERCHANT SHIPPING ACT, 2024

## OBJECTS AND REASONS

This Bill would make provision for

*(a)* the regulation of shipping activities in respect of international sea-going ships in Barbados waters;

*(b)* the regulation of international sea-going Barbados ships in any waters; and

*(c)* the repeal of the

(i) *Shipping Act*, Cap. 296;

(ii) *Shipping (Oil Pollution) Act*, Cap. 296A; and

(iii) *Better Security of Shipping Act*, Cap. 287.

# MERCHANT SHIPPING ACT, 2024

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**BARBADOS**

A Bill entitled

An Act to provide for the regulation of shipping activities in respect of international sea-going ships in Barbados waters, the regulation of international sea-going Barbados ships in any waters.

ENACTED by the Parliament of Barbados as follows:

PART I

PRELIMINARY

**Short title**

**1.** This Act may be cited as the *Merchant Shipping Act, 2024*.

**Objectives**

**2.** The objectives of this Act are to

*(a)* create an enabling framework for development of an economically viable, ecologically sustainable and innovative merchant shipping sector for Barbados;

*(b)* bolster maritime commerce and seaborne trading activities;

*(c)* enhance efficiency, safety, security and environmental performance in shipping; and

*(d)* give effect to the following international maritime Conventions:

(i) the International Convention on Maritime Liens and Mortgages, 1993;

(ii) the International Convention on Tonnage Measurement of Ships, 1969;

(iii) the International Convention on Load Lines, 1969 and the Protocol of 1988 relating to that Convention;

(iv) the Convention on the International Regulations for Preventing Collisions at Sea, 1972;

(v) the International Convention for the Safety of Life at Sea, 1974 and the 1988 Protocol relating to that Convention;

(vi) the International Convention on Maritime Search and Rescue, 1979;

(vii) the Convention on the International Maritime Satellite Organization, 1976;

(viii) the International Convention for Safe Containers, 1972;

(ix) the International Convention for the Prevention of Marine Pollution from Ships, 1973, as modified by the Protocol of 1978 and by the Protocol of 1997;

(x) the Convention on the Prevention of Marine Pollution by Dumping of Wastes and Other Matter, 1972 and the 1996 London Protocol;

(xi) the International Convention on the Control of Harmful Anti-fouling Systems on Ships, 2001;

(xii) the International Convention for the Control and Management of Ships' Ballast Water and Sediments, 2004;

(xiii) the International Convention relating to Intervention on the High Seas in Cases of Oil Pollution Casualties, 1969;

(xiv) the Protocol Relating to Intervention on the High Seas in Cases of Pollution by Substances Other than Oil, 1973;

(xv) the International Convention on Oil Pollution Preparedness, Response and Co-operation, 1990;

(xvi) the Protocol on Preparedness, Response and Co-operation to Pollution Incidents by Hazardous and Noxious Substances, 2000;

(xvii) the Nairobi International Convention on the Removal of Wrecks, 2007;

(xviii) the International Convention on Salvage, 1989;

(xix) the Convention for the Suppression of Unlawful Acts against the Safety of Maritime Navigation, 2005;

(xx) the Protocol for the Suppression of Unlawful Acts against the Safety of Fixed Platforms located on the Continental Shelf; and

(xxi) United Nations Convention on the International Effects of Judicial Sales of Ships, 2022.

**Definitions**

**3.**(1) In this Act

"Administration" means the Barbados Maritime Transport Administration;

"aircraft" means a ship or vessel designed for flying but capable of being manoeuvred on water, and includes a seaplane and a ship or vessel able to alight upon, or hover over, water;

"apprentice" means an apprentice to the sea service;

"authorized officer" means an officer of the Administration, the port or maritime law enforcement;

"authorized officer of the port" means a person undertaking duties connected with the navigation, processing and clearance of vessels and other technical, operational and administrative matters in respect of vessels in port or within areas under the authority of the port, and includes

*(a)* port officials;

*(b)* customs officials;

*(c)* immigration officials; and

*(d)* any other person authorized by the chief executive officer of the port, Comptroller of Customs, Chief Immigration Officer or Chief Environmental Health Officer to act in such a capacity.

"autonomy level" means the degree of self-controlling capabilities of a vessel;

"Barbados Maritime Transport Administration" means the Administration established under the *Shipping (Domestic Vessels) Act, 2024* (Act 2024-22)

*(a)* with responsibility under this Act for the management and administration of international shipping affairs in respect of Barbados vessels registered on the International Ships Register;

*(b)* with port state control responsibility in respect of foreign-registered vessels when in Barbados waters; and

*(c)* with such other responsibilities specified in relation to national maritime administrations in the various international maritime instruments.

"Barbados ship" means a ship registered in Barbados;

"Barbados Ships' Registry" means the agency of the Administration appointed to administer the international ship registry program and to execute the relevant provisions of this Act;

"Barbados vessel" means a vessel registered in Barbados;

"Barbados waters" includes

*(a)* the internal waters of Barbados;

*(b)* the territorial sea of Barbados;

*(c)* the contiguous zone of Barbados;

*(d)* the exclusive economic zone of Barbados; and

*(e)* the continental shelf adjacent to Barbados;

"blue bond" means a debt instrument issued by governments, development banks or others to raise capital from impact investors to finance marine and ocean-based projects that have positive environmental, economic and climate benefits;

"cargo ship" means a ship that is not a passenger ship, a fishing vessel or a pleasure yacht;

"Caribbean trade ship" means a vessel engaged in a voyage, commencing from within the domestic trading area or Caribbean trading area, during which the vessel proceeds beyond the limits of the domestic trading area but does not proceed beyond the limits of the Caribbean trading area;

"Caribbean trading area" has the same meaning as in the Code of Safety for Small Commercial Vessels Operating in the Caribbean;

"classification society" means an institution specialized in ship classification, nominated by the Administration, after consultation with the Director, to

*(a)* classify the condition of Barbados vessels in accordance with rules developed by the International Association of Classification Societies; and

*(b)* conduct such audits as the Administration considers necessary for the purposes of this Act and the regulations;

"clearance" includes transire;

"contiguous zone" has the meaning assigned to it in the *Shipping (Domestic Vessels) Act, 2024* (Act 2024-22);

"continental shelf" has the meaning assigned to it in the *Shipping (Domestic Vessels) Act, 2024* (Act 2024-22);

"customs officer" means an officer of Customs within the meaning of the *Customs Act*, Cap. 66;

"Director" means Director of Ocean Affairs;

"dollar" means the Barbadian dollar;

"domestic trading area" has the same meaning assigned to it in the *Shipping (Domestic Vessels) Act, 2024* (Act 2024-22);

"fishing vessel" means a vessel used for catching fish, whales, seals, walrus or other living resources of the sea;

"flag state control inspections" means inspections of Barbadian ships by the Administration, or by a recognized organization nominated by the Administration;

"foreign country" means a place outside Barbados that is

*(a)* an independent sovereign state; or

*(b)* an area of land, whether or not it is self-governing;

"foreign-going Barbados ship" means an international ocean-going ship flying the Barbados flag and operating solely in international waters;

"foreign ship" means a ship registered in a country other than Barbados;

"foreign vessel" means a vessel registered in a country other than Barbados;

"gross tonnage" means tonnage calculated in accordance with the tonnage measurement regulations contained in Annex I to the International Convention on Tonnage Measurement of Ships, 1969 or any successor Convention;

"GT" means gross tonnage;

"harbour" includes piers, jetties and other works in or at which ships can obtain shelter or ship and unship goods or passengers;

"harbour authority" includes all persons entrusted with the function of constructing, improving, managing, regulating, maintaining or lighting a harbour, and a person or body empowered by the chief executive officer of the port to impose charges in respect of ships entering or using facilities in a harbour in Barbados;

"harbour in Barbados" means a port, estuary, haven, dock or other place the waters of which are within Barbados waters that is entered into or used by ships or vessels;

"harbour master" includes a dock master or pier master, and any person appointed by a harbour authority for the purpose of enforcing the provisions of this Act and the regulations in relation to a harbour;

"HQ BDF" means Headquarters Barbados Defence Force;

"internal waters" has the meaning assigned to it in the *Shipping (Domestic Vessels) Act, 2024* (Act 2024-22);

"International Maritime Organization" means the United Nations specialized agency established in 1948 under the Convention on the International Maritime Organization;

"International Ships Register" means the division of the Barbados Ships' Registry that registers ships above 150 GT that are engaging in international voyages, other vessels above 150 GT engaged in the coastal trade and harbour tugs;

"international voyage" means a voyage from a port in one country to a port in another country;

"international waters" mean maritime areas outside of the exclusive economic zone of Barbados;

"managing director" in relation to a remote operations centre, includes any person in whom the authority for the management of the centre has been vested;

"managing owner" in relation to a ship, includes any person other than an agent in whom the owner of a ship has vested authority to manage and operate the ship;

"Marine Notice" means a notice issued under Division 11 of Part XXXIV;

"marine surveyor" means a person qualified to survey and inspect ships, and report on their condition;

"maritime autonomous surface ship" means a ship that to varying degrees, can operate independently of human interaction;

"maritime autonomous vessel" means any seaborne surface or submersible vessel fitted with automatic processes or systems capable of providing decision support or taking over all or part of the control and steering of the vessel,

irrespective of whether the exercise of control or steering takes place from the vessel, from another location at sea or from land;

"maritime convention" means an international maritime instrument of the International Maritime Organization, International Labour Organization or any other internationally recognized organization;

"Maritime (Financial Institution) licence" means a license issued by the Central Bank of Barbados for the establishment and operation of a private financial institution catering solely or mainly to the maritime sector;

"maritime investment activity" means any activity aimed at economic growth and development in the shipping sector and other related maritime sectors; and

"maritime jurisdiction of Barbados" means the maritime areas within its territory over which it has sovereignty and sovereign rights, in accordance with the United Nations Convention on the Law of the Sea;

"maritime law enforcement" means the Barbados Coast Guard or the Marine Police Unit of the Barbados Police Service;

"maritime law enforcement officer" means officers and enlisted members of the

*(a)* Barbados Defence Force; or

*(b)* the Marine Police Unit of the Barbados Police Service;

"maritime merchant bank" means a financial institution that solely or mainly provides ship finance services and other maritime-oriented financial services.

"master" means a person, other than a pilot, having command or charge of a ship;

"merchant shipping notice" means a notice issued in accordance with Part XXXIV, and a reference to a particular merchant shipping notice includes a reference to that notice as amended or replaced;

"Minister" means Minister responsible for shipping;

"foreign registered ship" means a ship flying the flag of a country other than Barbados;

"officer, in relation to ships' officers," means a master, deck officer, engineer, radio officer or medical officer;

"operations manager in relation to remote operations centre," means a person in charge of the overall operational activities of the centre;

"owner, in relation to a registered ship," means the registered owner or a person authorized in writing by him and, where a vessel is bareboat chartered, includes the person chartering the vessel;

"passenger" means a person carried on a ship other than

*(a)* a person employed or engaged in any capacity on board the ship in the business of the ship;

*(b)* a person on board the ship by reason of the obligation of the master to carry shipwrecked, distressed or other persons, or by reason of any circumstances that neither the master nor the owner could have prevented or forestalled; or

*(c)* a child less than one year of age;

"passenger ship" means a ship that carries more than 12 passengers;

"pilot" means a person not part of the crew of a ship who has the conduct of the ship;

"port" means an area of water, or land and water, intended for use wholly or partly in connection with the movement, loading, unloading, maintenance or provisioning of ships, and includes

*(a)* any buildings, installations or equipment situated in or on that land or water;

*(b)* areas of water, between the land of the port and the open waters outside the port, intended for use by ships to gain access to loading, unloading or other land-based facilities;

*(c)* areas of open water intended for anchoring, quarantining or otherwise holding ships before they enter areas of water described in paragraph *(b)*; and

*(d)* areas of open water between the areas of water described in paragraphs *(b)* and *(c)*.

"pleasure yacht" means a pleasure vessel as defined in the *Shipping (Domestic Vessels) Act, 2024* (Act 2024-22) that is over 24m in length;

"port of registry, in relation to a ship," means the port where she is for the time being registered;

"port state control inspection" means the inspection of a foreign ship in a national port by an authorized officer of the port and a port state control officer designated by the Ministry;

"port state control officer" has the same meaning as given in Chapter 1.7 of International Maritime Organization Resolution A.1119(30), or a later version thereto and includes a person authorized by the Administration who meets the International Maritime Organization requirements for such officers;

"Poseidon Principles Association" means the governing body of the Poseidon Principles, headquartered in Denmark, whose object is the management, administration, and development of the Poseidon Principles;

"Principal Registrar" means the person appointed by the Minister under section 29 to administer the Barbados' international ships registry program;

"proper officer, in relation to any function or activity," means an officer appointed to perform and engage in the performance of that function or activity, and includes a consular officer;

"recognized organization" means an organization recognized by the Administration, in accordance with International Maritime Organization Resolutions A.739(18) and A.789(19), or later versions thereto to verify compliance by Barbados vessels with International Maritime Organization safety, security and marine pollution prevention standards and that is specified in the *First Schedule*;

"register" means the International Ships Register;

"registered" means,

*(a)* in relation to a ship, registered in the International Ships Register; and

*(b)* in relation to a yacht, registered in the yacht register;

"regulations" means any regulations made under this Act;

"remote operations centre" means a designated physical area, either onshore or on board another vessel, reserved solely for maritime vessel operations that is detached from the vessel that is controlled;

"remote ship operator" means a person holding qualifications to a level equivalent to, or higher than, the master of a conventionally manned merchant ship who manages, operates and monitors the navigation of one or more autonomous vessels without being physically on board the vessel and who is entitled to represent the vessel to the authorities;

"seafarer" means

*(a)* a person who is employed, engaged or works in any capacity on board a ship;

*(b)* a person who remotely operates a ship from a remote operations centre;

*(c)* a person temporarily employed on the ship while in port other than

(i) a pilot; or

(ii) an apprentice;

unless otherwise expressly provided for in this Act;

"security incident, in relation to maritime transport or an offshore facility," means an unlawful interference, or the threat of an unlawful interference, with maritime transport or an offshore facility that is, or is likely to be, a terrorist act;

"ship" means a vessel used in navigation, and includes

*(a)* a craft designed, used or capable of being used solely or partly for navigation in, on, through or immediately above water, without regard to method or lack of propulsion;

*(b)* a maritime autonomous surface ship; and

*(c)* a lighter, barge or similar vessel, a hovercraft, a hydrofoil, a submersible and a floating craft however propelled;

"shipowner" means

*(a)* the owner of the ship; or

*(b)* another organization or person, such as a manager, agent or charterer, who has assumed the responsibility for the operation of the ship from the owner and who has agreed to take over the duties and responsibilities imposed on shipowners under this Act, a convention of the International Maritime Organization, a maritime convention of the International Labour Organization, or any other applicable international convention, regardless of whether any other organization or person fulfils certain of the duties or responsibilities on behalf of the owner;

"ship superintendent" means a person responsible for overseeing day-to-day technical and operational issues pertaining to assigned vessels, and whose primary responsibilities include

*(a)* safety of life at sea, vessel and cargo for vessels assigned;

*(b)* playing a critical role in a maritime emergency response organization;

*(c)* being the primary point of contact for day-to-day technical and operational issues regarding assigned vessels;

*(d)* having responsibility for regulatory compliance of the assigned vessels; and

*(e)* performance of other duties as specified by the Administration;

"Special Purpose Entities" or "SPE" means an entity

*(a)* resident in Barbados;

*(b)* is a formally registered or incorporated legal entity recognized as an institutional unit, with no or little employment up to a maximum of 5 employees;

*(c)* no or little physical presence and no or little physical production in Barbados, unless expressly agreed to otherwise in writing by parties to the special purpose entity arrangement;

*(d)* directly or indirectly controlled by non-residents;

"territorial sea" has the meaning assigned to it in the *Shipping (Domestic Vessels) Act, 2024* (Act 2024-22);

"transire" means a document allowing goods to pass through customs that describes the cargo, consignors and consignees for clearance and entry of coasting vessels;

"type approval" means a procedure for the approval of a marine product design, including

*(a)* drawing appraisal and prototype test performance;

*(b)* approval of a process, method, or voyage- and safety-critical apparatus installed on a vessel; and

*(c)* compliance with classification society or flag Administration requirements;

"type approval certificate" means a certificate of conformity granted in respect of a vessel, vessel equipment, apparatus or other vessel-related product or process that meets regulatory, technical and safety requirements;

"vessel" includes any craft or structure capable of navigation, and a reference to a vessel is also a reference to a ship;

"vessel registration" means the process by which a vessel, including a yacht, is documented in accordance with this Act and granted the nationality of Barbados; and

"Women in Maritime Association of the Caribbean, Barbados Chapter Inc." means the non-profit organization incorporated under the *Companies Act*, Cap. 308 on 27th September, 2021 as the Barbadian chapter of the regional organization known as Women in Maritime Association of the Caribbean, which was established in Jamaica in April 2015 under the auspices of the International Maritime Organization.

(2) A reference in this Act to the gross tonnage of a ship shall be construed as a reference to the tonnage of the ship ascertained in accordance with the regulations, and where in accordance those regulations alternative tonnages are assigned to a ship, the gross tonnage of the ship shall be taken to be the larger of those tonnages.

(3) For the purposes of this Act, damage to a ship or to her equipment does not include

*(a)* deterioration resulting from failure to maintain the ship or equipment; or

*(b)* defects that develop during the normal operation of the ship or equipment.

**Ambulatory references**

**4.** In respect of the international maritime conventions, codes, protocols, resolutions and other international maritime instruments given the force of law

under this Act or implemented in the regulations, a reference to those conventions, codes, protocols, resolutions or instruments shall be construed as

*(a)* a reference to those conventions, codes, protocols, resolutions and other instruments as modified from time to time; and

*(b)* if those conventions, codes, protocols, resolutions and other instruments are replaced in whole or in part by another instrument, as a reference to that instrument.

**Administration**

**5.** This Act will be administered by the Barbados Maritime Transport Administration.

**General application**

**6.** Except where expressly provided otherwise in the regulations or merchant shipping notice, this Act and the regulations apply to

*(a)* Barbados ships above 150 GT engaged in international ocean-going voyages;

*(b)* foreign registered ships above 150 GT calling at national seaports or otherwise in national waters;

*(c)* Caribbean trade ships above 150 GT;

*(d)* international sea-going fishing vessels registered under the national fisheries laws; and

*(e)* all other Barbados vessels above 150 GT.

**Specific application in respect of vessels 400 GT and above**

**7.** Except where expressly provided otherwise in this Act or any of its statutory instruments, Barbados vessels that are 400 GT and above shall comply with the requirements outlined in all of the international maritime conventions, codes, protocols, resolutions and other instruments to which Barbados adheres.

**Specific application in respect of vessels above 150 GT, but below 400 GT**

**8.**(1) Except where expressly provided otherwise in this Act or any of its statutory instruments, Barbados vessels above 150 GT but below 400 GT shall comply with the minimum requirements in the following mandatory International Maritime Organization instruments implemented under this Act and any of its statutory instruments:

*(a)* the International Convention for the Safety of Life at Sea, 1974;

*(b)* the Protocol of 1988 relating to the International Convention for the Safety of Life at Sea, 1974;

*(c)* the International Convention for the Prevention of Marine Pollution from Ships, 1973, as modified by the Protocol of 1978;

*(d)* the Protocol of 1997 (Annex VI) to amend the International Convention for the Prevention of Pollution from Ships, as modified by the Protocol of 1978;

*(e)* the International Convention on Load Lines, 1966;

*(f)* the Protocol of 1988 relating to the International Convention on Load Lines, 1966;

*(g)* the International Convention on Tonnage Measurement of Ships, 1969;

*(h)* the Convention on the International Regulations for Preventing Collisions at Sea 1972;

*(i)* the International Convention on Standards of Training, Certification and Watchkeeping for Seafarers, 1978; and

*(j)* the Maritime Labour Convention, 2006.

(2) Vessels of 150 GT and below shall comply with the requirements in the *Shipping (Domestic Vessels) Act, 2024* (Act 2024-22) and any statutory instruments thereunder.

**Application to ferries 400 GT and above**

**9.** Section 7 applies *mutatis mutandis* to ferries registered in, or otherwise operating in, Barbados that are 400 GT or above.

**Application to Ferries above 150 GT but below 400 GT**

**10.**(1) Section 8 applies *mutatis mutandis* to ferries registered in, or otherwise operating in, Barbados that are above 150 GT but below 400 GT.

(2) Ferries of 150 GT and below shall comply with the requirements in the *Shipping (Domestic Vessels) Act, 2024* (Act 2024-22) and any statutory instruments thereunder.

**Application of conventions to foreign-registered ships in Barbados waters**

**11.** Except where expressly provided otherwise in the Act or any of its statutory instruments, all foreign-registered ships are subject to port State inspections under

*(a)* the International Convention for the Safety of Life at Sea, 1974;

*(b)* the International Convention for the Prevention of Pollution from Ships, 1973, as modified by the Protocol of 1978;

*(c)* the Protocol of 1997 (Annex VI) to amend the International Convention for the Prevention of Pollution from Ships, as modified by the Protocol of 1978, as implemented into the *Marine Transport (Emissions Control) Act, 2024* (Act 2024-25) and any regulations made under it;

*(d)* the International Convention on Load Lines, 1966;

*(e)* the International Convention on Tonnage Measurement of Ships, 1969;

*(f)* the International Convention on Standards of Training, Certification and Watchkeeping for Seafarers, 1978;

*(g)* the Maritime Labour Convention, 2006;

*(h)* the International Convention on the Control of Harmful Anti-fouling Systems on Ships, 2001, as amended;

*(i)* the International Convention for the Control and Management of Ships' Ballast Water and Sediments, 2004, as amended; and

*(j)* any other instrument specified in the Caribbean Memorandum of Understanding on Port State Control.

**Application of Act to government ships**

**12.**(1) Except where expressly provided, this Act does not apply to government ships.

(2) The Minister may make regulations with respect to the manner in which government ships may be registered as Barbados ships under this Act.

(3) The regulations may

*(a)* prescribe the manner in which registration shall be carried out; and

*(b)* provide for the application of any provisions of this Act, subject to any exceptions or modifications made to any class of government ships.

(4) The regulations shall apply to government ships registered in accordance with the regulations as if they were registered in accordance with this Act.

(5) Notwithstanding the exemption of government ships under this Act or under any other enactment on shipping, in the interest of safe, secure, and sustainable shipping, the Government of Barbados shall make every effort to ensure that Government-owned ships operate in compliance with international maritime standards and best practices.

(6) In this section, "government ships" means

*(a)* ships belonging to the Government of Barbados;

*(b)* ships not forming part of the Barbados Defence Force; or

*(c)* ships that are held by any person on behalf of, or for the benefit of, the Government of Barbados.

**Application of Act to ships chartered by demise to the government**

**13.**(1) This section applies to a ship that, in accordance with regulations providing for the registration of government ships in the service of the relevant government department,

*(a)* is registered under Part VII; and

*(b)* is in the service of a government department by reason of a charter by demise to the Government of Barbados.

(2) Subject to subsections (3) and (4), the regulations referred to subsection (1) and the provisions of this Act, as they apply by virtue of regulations referred to in section 12(2), shall have the same effect in relation to a ship referred to in subsection (1) as they have in relation to a government ship in the service of the relevant department.

(3) Subject to subsection (4), Part V applies in relation to a ship to which this section applies in same manner as if it were not a ship belonging to the Government of Barbados

(4) The Minister may by order provide that any provision of this Act referred to in subsection (2) or (3) and specified in the order

*(a)* shall not have effect in accordance with that subsection in relation to a ship referred to in subsection (1); and

*(b)* shall have effect in relation to such a ship subject to any modifications specified in the order.

(5) In the application of any provision of this Act other than a provision of Part V in relation to a ship to which this section applies, a reference to the owner of the ship shall be construed as a reference to the relevant department.

(6) An order under this section may make such transitional, incidental or supplementary provisions as appear to the Minister to be necessary or expedient.

**Application of Act to certain structures**

**14.**(1) The Minister may by order provide that a thing designed or adapted for use at sea and described in the order is or is not to be treated as a ship for the purposes of a specified provision of this Act or of an instrument made under it.

(2) An order under this section may

*(a)* make different provision in relation to different occasions; or

*(b)* if it provides that a thing is to be treated as a ship for the purposes of a specified provision, provide that the provision shall have effect in relation to the thing with such modifications as are specified in the order.

**Non-application**

**15.**(1) Except where expressly provided otherwise, this Act does not apply to vessels regulated under the *Shipping (Domestic Vessels) Act, 2024* (Act 2024-22) and the statutory instruments made thereunder.

(2) The provisions specified in the *Second Schedule* shall be taken into account by owners and operators of vessels to which the *Shipping (Domestic Vessels) Act, 2024* applies.

(3) Notwithstanding the general application of this Act and its statutory instruments to vessels exceeding 24 metres in length, in the case of vessels exceeding 24 metres in length but not exceeding 150 GT, such vessels shall be, except where expressly provided otherwise by statutory instrument

*(a)* excluded from the scope of application of this Act and its statutory instruments; and

*(b)* regulated in accordance with the *Shipping (Domestic Vessels) Act, 2024* and statutory instruments thereto.

(4) Further to subsection (3), the Minister may by Order or by a Shipping Notice made pursuant to the *Shipping (Domestic Vessels) Act*, 2024, specify any

additional regulatory or operational requirements for small vessels exceeding 24 metres in length, but not exceeding 150 GT.

**Merchant Shipping instruments applying to small vessels**

**16.** Vessels to which the *Shipping (Domestic Vessels) Act, 2024* (Act 2024-22) applies shall observe any additional requirements applicable to merchant shipping that are prescribed by regulation.

**Restriction on the operation of ships**

**17.**(1) The Director shall specify in a Merchant Shipping Notice the relevant merchant shipping instruments that are applicable to small vessels registered under the *Shipping (Domestic Vessels) Act, 2024* (Act 2024-22).

(2) Barbados-registered vessels above 150 GT but not exceeding 300 GT operating in Barbados waters shall comply with

*(a)* the International Maritime Organization Code of Safety for Small Commercial Vessels Operating in the Caribbean; and

*(b)* any statutory instruments issued in relation to this category of vessels.

(3) Vessels referred to in subsection (1), when engaged on voyages in Barbados waters only, shall comply with

*(a)* the safety and operational requirements of the International Maritime Organization Code of Safety for Small Commercial Vessels Operating in the Caribbean;

*(b)* the training, licensing and certification requirements for boatmasters and engineers in the International Maritime Organization Code of Safety for Small Commercial Vessels Operating in the Caribbean;

*(c)* the Maritime Labour Convention Administration-approved equivalent standards in the International Maritime Organization Code of Safety for Small Commercial Vessels Operating in the Caribbean; and

*(d)* any other maritime labour protection requirements published in a merchant shipping notice by the Administration.

(4) Vessels referred to in subsection (1), when engaged on voyages in Barbados waters only, shall comply with requirements of the International Convention for the Prevention of Pollution from Ships, 1973, as modified by the Protocol of 1978 and by the Protocol of 1997.

(5) Barbados-registered vessels above 150 GT shall not operate under the provisions of the International Maritime Organization Code of Safety for Small Commercial Vessels Operating in the Caribbean beyond the exclusive economic zone of Barbados, but shall instead adhere to international maritime safety, security and marine pollution prevention rules.

(6) The owner, agent or master of a ship who contravenes this section commits an offence and is liable on summary conviction to a fine of $175 000.

**Local trade in Barbados waters**

**18.**(1) Except as otherwise provided in this Act, any regulations made under this section or any international agreement in force in relation to Barbados, only Barbados ships may engage in local trade in Barbados waters.

(2) The Minister may make regulations to provide for the circumstances under which foreign ships may engage in local trade in Barbados waters.

(3) The owner, agent or master of a ship that contravenes subsection (1) commits an offence and is liable on summary conviction to a fine of $100 000 and to have the ship detained.

**Requirements for Barbados vessels above 150 GT on voyages in Barbados waters**

**19.**(1) Vessels above 150 GT registered on the International Ships Register that are periodically operating in Barbados waters may operate under the provisions of the International Maritime Organization Code of Safety for Small

Commercial Vessels Operating in the Caribbean during those periods of operation.

(2) Such vessels above 150 GT but not more than 300 GT may operate under

*(a)* the Maritime Labour Convention equivalent standards approved by the Administration and published in a merchant shipping notice; or

*(b)* specific regulations on those equivalent standards as approved by the Administration, or as specified by the Administration in a merchant shipping notice.

(3) Such vessels above 150 GT but not more than 300 GT shall operate under national seafaring laws and any requirements specified in a merchant shipping notice.

(4) Vessels above 300 GT engaged on domestic voyages in Barbados waters only shall not operate under the International Maritime Organization Code of Safety for Small Commercial Vessels Operating in the Caribbean, and shall instead operate under national seafaring laws.

**Restriction on entry by foreign ships**

**20.** Foreign-registered ships shall hold a certificate of foreign registry in order to enter and remain in Barbados waters, but such a certificate does not entitle a foreign-registered ship to engage in commercial trade in Barbados waters.

**Requirement for insurance coverage**

**21.**(1) Every Barbados ship shall carry insurance coverage, or coverage in an equivalent form of financial security, against risks of loss, injury or damage to third parties, including

*(a)* coverage in respect of the shipowner's liability to a crew member under national seafaring laws; and

*(b)* coverage for claims in respect of loss or damage caused by any cargo on board the ship.

(2) Every foreign ship anchoring in, or voyaging to or from, Barbados waters or entering a port in Barbados shall carry insurance coverage, or coverage in an equivalent form of financial security, against risks of loss or damage to third parties.

(3) The owner of a ship that contravenes this section commits an offence and is liable on summary conviction to a fine of $75 000.

**Act binds the state**

**22.** This Act shall bind the state.

## PART II

## NATIONAL MARITIME ADMINISTRATIVE FRAMEWORK

**Functions of Administration**

**23.** The Administration shall have oversight of all matters relating to

*(a)* merchant shipping in Barbados;

*(b)* seafarers serving on board Barbados-registered vessels, in accordance with national seafaring laws and international instruments concerning seafarers to which Barbados is a party;

*(c)* seafarers serving on board foreign-registered vessels in Barbados waters;

*(d)* seafarers who are nationals of Barbados, irrespective of the nationality of the vessel such seafarers are serving on; and

*(e)* all other shipping and maritime matters to which this Act and the statutory instruments relate.

**Duties and Powers of the Administration**

**24.** The Barbados Maritime Transport Administration shall

*(a)* be responsible for the Administration of this Act and its statutory instruments;

*(b)* manage, oversee and regulate all merchant shipping and maritime affairs;

*(c)* ensure that Barbados-registered vessels and foreign-registered vessels when in Barbados' waters comply with international maritime safety, security, marine environmental protection and maritime labour standards

*(d)* issue notices, directives or guidelines, as may be necessary to ensure continued effective regulation of Barbados' merchant shipping sector;

*(e)* perform any function necessary to give effect to this Act and its statutory instruments.

**General power to dispense**

**25.** The Minister may, upon any conditions that he thinks fit to impose, exempt any ship from a requirement of this Act or the regulations, other than Part XXV, if he is satisfied that

*(a)* the requirement has been substantially complied with or that compliance with it is necessary in the circumstances; and

*(b)* the action taken or provision made in respect of the subject-matter of the requirement is as effective as, or more effective than, compliance with the requirement.

**Director of Ocean Affairs**

**26.**(1) There shall be a Director of Ocean Affairs to perform such functions as are imposed or authorized under this Act or under any other national instrument on maritime matters.

(2) The Director shall

*(a)* assist the Minister in the management and oversight of national maritime affairs;

*(b)* assist the Minister in executing the national maritime mandate and government directives for the maritime sector;

*(c)* assist the Minister in the development of the merchant shipping sector of Barbados;

*(d)* ensure that Barbados fulfils, to the extent possible, its flag state and port state duties under the maritime instruments to which Barbados is a party;

*(e)* advise the Minister on international maritime law and shipping affairs, generally;

*(f)* develop national maritime policies and legislation in alignment with international maritime legal and policy frameworks;

*(g)* be the focal point between the Government and agents of the Government in relation to international shipping affairs, and provide the requisite administrative and technical support and advice to facilitate the operations of the international ships registry;

*(h)* perform any other such functions, in consultation with the Minister, in the interest of the continued and sustainable development of the merchant shipping sector specifically, and maritime development generally, in Barbados; and

*(i)* perform any other such functions in furtherance of this Act and the regulations.

(3) The Director may delegate in writing any or all of his functions under this Act, the regulations, or generally.

**Senior Ship Superintendent**

**27.**(1) There shall be a Senior Ship Superintendent, who shall perform such functions as are imposed or authorized under this Act and who shall liaise with the Director and Principal Registrar to the extent necessary to give effect to this Act.

(2) The Senior Ship Superintendent shall

*(a)* assist the Director in respect of shipping matters specific to ships below 400 GT;

*(b)* provide technical support to the Director in relation to shipping matters;

*(c)* supervise junior Ship Superintendents, in relation to any functions to be exercised by them under this Act and the regulations;

*(d)* exercise specific functions conferred on him under this Act or the regulations;

*(e)* authorize junior Ship Superintendents to exercise the functions and discharge the duties conferred on him under this Act or the regulations;

*(f)* perform such other functions as the Minister may direct; and

*(g)* perform any other necessary functions in furtherance of the objectives of this Act and the regulations, in consultation with the Director.

**Ship Superintendents**

**28.**(1) Ship Superintendents shall act as the focal point of contact between ships, shipowners, commercial operators, charterers, terminals, receivers, classification societies, flag state representatives, port state representatives, dry

dock companies, ship repair companies, marine equipment suppliers, marine service providers and other marine entities to deliver superintendence support.

(2) Ship Superintendents shall

*(a)* perform such functions as are necessary under this Act, the regulations and any other national laws on shipping; and

*(b)* perform any other functions directed by the Senior Ship Superintendent.

**Principal Registrar of international ships**

**29.**(1) The Minister shall appoint a Principal Registrar, who shall

*(a)* register international sea-going Barbados vessels;

*(b)* administer the Barbados international ships registry program;

*(c)* carry out administrative duties of the Administration and undertake the general conduct and supervision of all matters relating to the registration of ships under this Act outside of Barbados;

*(d)* be accountable to the Government of Barbados;

*(e)* maintain a register of ships, as specified in this Act;

*(f)* have authority, either directly or through any person who has been appointed as an agent,

(i) to administer oaths and take acknowledgements required by this Act;

(ii) to issue ship radio licenses for radio transmitting apparatus located on board a ship registered under this Act;

(iii) to issue any license, certificate or other documents for officers or ships' personnel on ships registered under this Act for the purpose of complying with this Act or any international convention to which Barbados is a party;

*(g)* be responsible for the maintenance of proper records of everything done by the Principal Registrar or his agents;

*(h)* keep the Director and the Administration informed of every action taken and every collection of fees or charge made by the Principal Registrar or his agents;

*(i)* account to the Government and transmit to it any fees collected;

*(j)* suspend, cancel or revoke the registration of any ship registered by him on the basis of gross non-compliance by that ship with the requirements of this Act or the regulations; and

*(k)* perform such other functions as are entrusted to him under this Act or the regulations, and any other functions incidental to his role.

(2) The Principal Registrar may

*(a)* appoint registrars in any port outside Barbados to assist him and to perform such duties as registrations of ships as the Principal Registrar may decide; and

*(b)* impose administrative fines of an amount and on such persons as he may prescribe during the course of the exercise of his duties and the responsibilities under this Act.

(3) The Principal Registrar shall be responsible for the conduct of registrars unless, in the case of any misconduct by a registrar, the Principal Registrar shows that he made every effort and took every precaution to prevent the misconduct by that registrar.

(4) Every registrar appointed by the Principal Registrar shall act in accordance with his instructions, unless instructed otherwise by the Administration.

(5) Any such registrar may be removed from office by the Principal Registrar acting on his own or on being instructed to do so by the Administration.

(6) The Principal Registrar, any officer acting in that capacity, and any person authorized to act as Registrar by the Principal Registrar shall not be liable for damages or otherwise for any loss accruing to any person by reason of an act done, or default made, by him as Principal Registrar, other than through his neglect or wilful act.

**Port state control officers**

**30.**(1) The Administration shall designate port state control officers to inspect foreign ships in national seaports to

*(a)* verify that foreign ships are compliant with international standards on maritime safety, marine environmental protection and maritime labour conditions, as specified in the International Maritime Organization and International Labour Organisation international instruments to which Barbados is a party;

*(b)* identify substandard ships and take necessary action in respect of such ships, consistent with the Caribbean Memorandum of Understanding on Port State Control;

*(c)* assist in the prevention of unnecessary delay during port state control inspections;

*(d)* ensure continued compliance by ships, by periodically inspecting all ships, including those with a good track record;

*(e)* perform any other functions conferred on them under this Act or the regulations; and

*(f)* perform any other functions directed by the Director.

(2) Port state control officers shall be appropriately identified as such and shall wear their identification while conducting port state control inspections.

(3) Port state control officers shall inspect ships in accordance with International Maritime Organization and International Labour Organization

instruments to which Barbados is a party, this Act, the regulations and any other national law on shipping.

**Marine surveyors and recognized organizations**

**31.**(1) Recognized organizations and marine surveyors working on behalf of the Government shall be nominated by the Administration to survey and inspect international sea-going Barbados vessels to

*(a)* confirm that the vessel and her equipment comply with the requirements of International Maritime Organization and International Labour Organization instruments to which Barbados is a party, this Act, the regulations, any other national law on shipping, international maritime safety and environmental and maritime labour standards; and

*(b)* identify deterioration, wear or damage to the vessel that may interfere with the ability of the vessel and her equipment to be compliant.

(2) The Principal Registrar may appoint marine surveyors working on behalf of the Barbados international ships' registry.

(3) Marine surveyors shall provide evidence of their qualifications to the Director, in the case of government-nominated marine surveyors, or to the Principal Registrar, in the case of marine surveyors nominated by the Principal Registrar.

(4) The Director shall have oversight of any organization or marine surveyor nominated by the Minister and shall ensure that each marine surveyor operates in accordance with this Act and the regulations.

(5) Recognized organizations shall be nominated in accordance with the Code for recognized organizations adopted by the Marine Environment Protection Committee of the International Maritime Organization

(6) The Director shall have oversight of any recognized organization nominated by the Minister, to ensure that the organization is operating in accordance with the Code for recognized organizations, and to ensure that the recognized organization is operating in compliance with the International

Maritime Organization Instrument Implementation Code framework and procedures.

(7) Marine surveyors and recognized organizations shall retain any information essential to safety that arises during the survey, and ensure that such information is recorded for future reference and transferred to others responsible for the safety of the vessel, or who may need to rely on, or act upon, that information.

(8) The survey and inspection process shall be structured and audited by the Director and other parties to ensure transparency.

(9) Subject to subsection (10), no marine surveyor or recognized organization shall enlist a third party to conduct a survey, or part of a survey, on behalf of the marine surveyor or recognized organization.

(10) Notwithstanding subsection (9), a third party may undertake activities and inspections that support surveys specified by the Administration in a contract, merchant shipping notice or other document, including

*(a)* verification of safety, navigation, and communication equipment, including long-range identification and tracking;

*(b)* material manufacture, product certification, type approvals and type approval certificates;

*(c)* electrical and gas certification; and

*(d)* provision of destructive and non-destructive examination reports.

(11) Where a marine surveyor or recognized organization relies upon a third party for a purpose specified in subsection (10), the marine surveyor or Recognized organization shall

*(a)* ensure that the results are reliable; and

*(b)* verify that the subject of the report complies with the required standard.

(12) The Code for Recognized Organizations shall have the force of law in Barbados.

(13) The degree to which the Administration chooses to delegate authority to a recognized organization shall be clearly specified in a memorandum of understanding agreed between the recognized organization and the Administration.

(14) Recognized organizations acting on behalf of the Administration may

*(a)* require ship repairs or other corrective action necessary to bring Barbados ships into compliance with international maritime safety standards, including maritime labour safety, security and environmental performance standards;

*(b)* withdraw or invalidate relevant safety, security and environmental certificates in respect of any non-compliant vessel, if corrective action is not taken to bring the vessel into compliance; and

*(c)* perform all other such functions within the framework of International Maritime Organization Resolution A.789(19) or a later version thereto.

(15) The quality system of a recognized organization acting on behalf of the Administration is subject to the certification by an independent body of auditors accepted by the Administration.

(16) A recognized organization is responsible and accountable to the Administration for the work that it carries out on behalf of the Administration.

**Contracts between recognized organizations and the Principal Registrar**

**32.** The Barbados Maritime Ships' Registry may enter into contracts with Administration-nominated recognized organizations on behalf of the Administration on the basis of

*(a)* International Maritime Organization Assembly Resolution A.739(18) or a later version thereto Guidelines for the Authorization of Organizations Acting on Behalf of the Administration and the annex and appendices to it;

*(b)* International Maritime Organization Resolution A.789(19) or a later version thereto Specifications on the Survey and Certification Functions of recognized organizations acting on behalf of the Administration and the annex to it;

*(c)* International Maritime Organization Resolutions MSC.349(92) and MEPC.237(65) Code for recognized organizations and the annex and appendices to them, as may be amended from time to time;

*(d)* Regulation 5.1.2 of the International Labour Organisation Maritime Labour Convention, 2006, as amended; and

*(e)* any other international maritime instrument applicable to recognized organizations.

**Chief Marine Surveyor**

**33.**(1) The Administration may, in writing, appoint a person to be a Chief Marine Surveyor, to perform tasks including

*(a)* ship surveys and inspections;

*(b)* maritime accident investigation;

*(c)* maritime asset evaluations;

*(d)* marine warranty surveys;

*(e)* charter surveys;

*(f)* flag state surveys;

*(g)* offshore structural surveys;

*(h)* hull and equipment surveys; and

*(i)* cargo surveys.

(2) The Principal Registrar may, in writing, appoint a person the capacity of Technical Manager to perform the functions of the Chief Marine Surveyor.

(3) Where the Principal Registrar appoints a Technical Manager under subsection (2), he shall inform the Director.

**Other Maritime Officers**

**34.** The Administration shall be assisted by such a number of Maritime Officers or other personnel with requisite competencies, as may be specified by the Administration or otherwise recommended by the Principal Registrar of International Ships to the Administration.

**Establishment of the Barbados Flag State Inspectorate**

**35.**(1) There shall be established a Barbados Flag State Inspectorate, under which the Administration or the Principal Registrar may appoint flag state control officers to

*(a)* carry out pre-registration inspection activities;

*(b)* inspect Barbados vessels in foreign ports;

*(c)* conduct vessel performance audits under the relevant International maritime instruments, as applicable to vessels in relation to their tonnage, vessel type and kind of operations;

*(d)* inspect and audit the operations of the international ships registry of Barbados; and

*(e)* exercise any other flag state functions as may be required by the Director to ensure compliance by ships with international maritime standards.

(2) For the purposes of continually improving the quality of the Barbados flag, reducing incidents of adverse port state control reports of Barbados international vessels and increasing registered tonnage under the Barbados flag, the scope of flag state inspections includes inspections of

*(a)* vessel particulars;

*(b)* vessel documentation;

*(c)* plans, manuals, records and bridge publications;

*(d)* lifesaving appliances and arrangements;

*(e)* firefighting equipment;

*(f)* general and structural ship conditions;

*(g)* maritime labour conditions;

*(h)* special items on passenger ships;

*(i)* oil tankers special items; and

*(j)* mobile offshore drilling units, floating production storage, and loading facilities special items.

(3) All reports of flag state inspections in respect of vessels and the international ships registry of Barbados shall be transmitted or otherwise made accessible to the Director.

**Reporting obligations: general**

**36.**(1) The following persons shall report to the Director:

*(a)* the Principal Registrar;

*(b)* the Senior Ship Superintendent;

*(c)* the Chief Marine Surveyor;

*(d)* recognized organizations;

*(e)* the Flag State Inspectorate; and

*(f)* port state control officers.

(2) The Director shall report to the Minister.

**Reporting obligations and unsafe vessels**

**37.**(1) Marine surveyors and recognized organizations shall report to the Principal Registrar where

*(a)* corrective action is required of a vessel;

*(b)* corrective action is required of a thing on the vessel, due to a defect or a non-conformity in the vessel or anything in respect of the vessel; or

*(c)* a matter being surveyed is complex or novel, and is not covered by an applicable standard.

(2) If during the conduct of a survey, a surveyor becomes aware of a defect, non-conformity or novel matter relating to the vessel or a thing on the vessel, the surveyor or recognized organization shall report the matter to the Principal Registrar as soon as practicable.

(3) Details of deficiencies or novel matters are to be

*(a)* notified in writing to the owner of the vessel;

*(b)* provided to the Principal Registrar; and

*(c)* retained by the marine surveyor or recognized organization.

(4) Where, during the course of an initial, renewal or intermediate survey, a marine surveyor or recognized organization identifies aspects of a vessel's arrangement, construction, machinery or equipment that are unsafe, or that can result in the vessel polluting the marine environment, including items that are not the subject of a specific provision under any other applicable legislation, exemptions or standards, the marine surveyor or recognized organization shall

*(a)* advise the owner of the vessel in writing of the deficiency; and

*(b)* advise the Principal Registrar of the matter as soon as practicable.

(5) The Principal Registrar shall make accessible to the Director any report made under this section.

(6) On completion of a survey, the marine surveyor or recognized organization shall make a recommendation to the Registrar about the vessel's compliance with applicable national legislation, International Maritime Organization instruments, exemptions and standards.

**Transmission of documents to Principal Registrar**

**38.** The following duties are imposed on all ship superintendents in relation to documents that are delivered, transmitted to, or retained by them under this Act:

*(a)* they shall take charge of the documents and keep them for such time as may be necessary for the purpose of settling any business arising at the place where the documents came into their possession, or for any other proper purpose; and

*(b)* they shall, if required, produce them for any of those purposes, and shall then transmit them to the Principal Registrar.

**Returns to the Minister**

**39.**(1) All ship superintendents are required to make and send to the Administration such returns or reports on any other matter relating to Barbados ships or seafarers as the Administration may require.

(2) All consular officers abroad acting on the request of the Administration are required to make such returns or reports on any matter relating to Barbados ships or seafarers as the Administration may require.

(3) All superintendents shall, when required by the Administration, produce to the Administration or anyone designated by the Administration all official log-books and documents that are delivered to them under this Act.

(4) All marine surveyors or recognized organizations shall make such returns as the Administration may require with respect to

*(a)* the build, dimensions, draughts, burden, speed and tank capacities of ships surveyed by them; and

*(b)* the nature and particulars of the machinery and equipment of such ships.

(5) The owner, master and engineer of any ship being surveyed shall give to the marine surveyor or recognized organization, as the case may be, all information and assistance within his power that is required for the purposes of a return under subsection (4).

(6) The owner, master or engineer of a ship who fails without reasonable excuse to give any information or assistance to a marine surveyor or recognized organization required under subsection (5), commits an offence and is liable on summary conviction to a fine of $3 000.

**Forms**

**40.**(1) The Administration may prescribe forms of any book, instrument or document required under this Act or any of its statutory instruments.

(2) Every prescribed form shall be marked with the distinguishing mark of the Administration.

(3) Prior to issuing or amending a form, the Administration shall give public notice of it in such a manner as it deems fit.

(4) Prescribed forms shall be supplied by the Ministry at a fee to be determined by the Administration, or the Administration may license a person to print and sell such forms.

(5) A book, instrument or paper that is not in the prescribed form is not admissible in evidence in any civil proceedings on the part of the owner or master of a ship.

(6) A book, instrument or paper in a form purporting to be the prescribed form and marked in accordance with subsection (2) is presumed to be in the form required by this Act.

(7) Subsections (1) to (6) do not apply where provision is made for different requirements under this Act.

(8) Any person who prints, sells or uses a document purporting to be a prescribed form knowing that the document is not a prescribed form or that the document has not been prepared or issued by the Minister commits an offence and is liable on summary conviction to a fine of up $5 000.

(9) Notwithstanding subsection (8), a prescribed form may be altered by the Principal Registrar for registration purposes.

## PART III

## MARITIME AND MERCHANT FINANCE FRAMEWORK

*Establishment of the Maritime and Merchant Bank of Barbados*

**Establishment of Bank**

**41.**(1) There may be established by the Finance Minister, in consultation with relevant stakeholders in the maritime, shipping and financial sectors, a bank to be known as the Maritime and Merchant Bank of Barbados, which shall function as a public financial institution owned by the Government of Barbados.

(2) The overarching objective of Maritime and Merchant Bank shall be to promote a niche maritime banking system, with effective, transparent and stable operations to enable the provision of financial resources for the maritime and merchant shipping sectors of Barbados, and make a valuable contribution to the fiscal stability and sustainable socio-economic development of Barbados.

(3) Notwithstanding anything provided in this Part, and where it would be beneficial, the Minister, after consultation with the Minister of Finance, may by Order extend the application of one or more provisions of the Barbados Blue Green Bank Act to financing activities related to merchant ships or other maritime and shipping related financial matters.

**State policy on maritime and merchant banking**

**42.**(1) The Finance Minister shall promote and encourage domestic and foreign investors to establish and be involved in the maritime and merchant banking business by defining policies, proposing regulations, taking measures and providing data, information and other facilitation to strengthen the marine banking sector.

(2) The Finance Minister shall promote maritime and merchant banks to invest and provide credit in order to support marine-focused production, business, and creation of employment to increase the income of the people, and to develop a base for the industrialization, modernization, and sustainable socio-economic development of Barbados.

**Protection of depositors' interests**

**43.** The Maritime and Merchant Bank of Barbados shall protect the interests of depositors by

*(a)* creating a depositors' protection fund, via insurance or through any other appropriate effective mechanism;

*(b)* creating conditions to facilitate customers to deposit or withdraw their money, including principal and interest, in a timely manner;

*(c)* maintaining the confidentiality of information relating to customer accounts;

*(d)* giving notice of rates of interests on deposits, services fees, and exchange rates, by appropriate means; and

*(e)* undertaking any other necessary action to ensure protection of depositors' interest.

**Independence in business operations**

**44.** The Maritime and Merchant Bank of Barbados shall have the independence to undertake its business operations under this Act and under any other applicable enactment.

**Application**

**45.** This Part, and any regulations made under this Part, shall apply to

*(a)* the Maritime and Merchant Bank of Barbados, including its branch offices;

*(b)* maritime and merchant banks, approved by the Finance Minister for establishment in Barbados, including their branch offices; and

*(c)* foreign maritime and merchant banks that have offices and operations in Barbados.

**International Co-operation**

**46.** The Finance Minister shall promote international cooperation in the maritime and merchant banking business in various forms, such as the exchange and sharing of experience, information and technology and the development of human resources, so as to strengthen the national maritime and merchant banking system to enable its integration at a regional and international level.

**Bank governance, management, operation and objectives**

**47.** Matters pertaining to the governance, management, operation and objectives of the Maritime and Merchant Bank of Barbados shall be detailed in its constitution or governing statute.

**Establishment - license applications**

**48.**(1) A person or organization that wishes to establish a maritime and merchant bank in Barbados shall submit an application to the Central Bank of Barbados for a Maritime (Financial Institution) licence.

(2) The application shall be accompanied by

*(a)* a business plan and organizational structure of the maritime and merchant bank;

*(b)* documentary evidence of the financial status of the principal shareholders and other documents evidencing the qualifications and experience of the proposed administrators, including their business and professional history for the past 5 years; and

*(c)* any other information requested by the Central Bank of Barbados.

(3) A foreign maritime and merchant bank that wishes to establish its branch offices or affiliates in Barbados shall provide the Central Bank of Barbados with written consent of its home country bank.

**License decisions**

**49.**(1) On receipt of an application, the Central Bank of Barbados shall consider the application and respond to the applicant in writing within 90 days from the date of receipt of the application for a license.

(2) The Central Bank shall grant a Maritime (Financial Institution) licence only if the applicant can satisfy the following conditions:

*(a)* has a sound and reasonable business plan;

*(b)* has provided documentation to prove that it has adequate capital;

*(c)* the qualifications, experience, and integrity of its administrators and principal shareholders are appropriate for undertaking banking and financial business in the maritime and merchant shipping sectors;

*(d)* has a sound and valid shareholders agreement and charter, and a feasibility study;

*(e)* the shareholders have paid in full their portions of shares;

*(f)* has adequate qualified employees;

*(g)* has facilities and premises to ensure its business operations; and

*(h)* has developed a comprehensive mechanism for internal audit control.

(3) If the applicant fails to comply within 180 days with the conditions specified in paragraphs (2)*(a)* to *(h)*, a license to establish a maritime and merchant bank in Barbados shall not be issued.

(4) Where the applicant has valid reasons, communicated in writing to the Central Bank of Barbados, for a failure to comply with the conditions specified in subsection (2), the Central Bank of Barbados may extend the period to comply with the conditions for an additional 90 days.

(5) Following receipt of a final approval for a license to establish a maritime and merchant bank in Barbados, the applicant shall pay the required license fees, register its enterprise in accordance with the *Companies Act*, Cap. 308 and undertake business operations as soon as practicable after receiving its company or enterprise registration certificate.

*(a)* the applicant has a sound and valid shareholders agreement and charter, and a feasibility study;

*(b)* the shareholders have paid in full their portions of shares;

*(c)* the applicant has adequate qualified employees;

*(d)* the applicant has facilities and premises to ensure its business operations; and

*(e)* the applicant has developed a comprehensive mechanism for internal audit control.

**Maritime (Financial Institution) licence**

**50.**(1) A person seeking a Maritime (Financial Institution) license shall apply in the specified form to the Central Bank of Barbados, pay the prescribed application fee.

(2) An applicant for a Maritime (Financial Institution) licence shall file with the Central Bank of Barbados, an application that contains

*(a)* the applicant's name, address, telephone number and email address;

*(b)* supporting documentation for the information supplied under paragraph *(a)*;

*(c)* as applicable, an Environmental and Social Impact Assessment (ESIA) Report;

*(d)* any other information requested by the Central Bank of Barbados.

(3) The Central Bank of Barbados may

*(a)* suspend the consideration of a Maritime (Financial Institution) licence until the matters identified by it as requiring rectification are addressed to the satisfaction of the Central Bank of Barbados;

*(b)* approve the application and grant the Maritime (Financial Institution) licence;

*(c)* deny the application for a Maritime (Financial Institution) licence.

(4) Where the Central Bank of Barbados suspends consideration of an application for a licence, it shall notify the person in writing of the matters which must be rectified for the applicant to qualify for the licence.

(5) The Central Bank of Barbados shall notify the applicant of the decision to deny or approve an application in writing, and where the decision is to grant

the licence, the instrument in writing shall notify the applicant that the licence will be issued on the payment of the specified fees.

(6) Where an applicant receives an instrument in writing denying an application for a Maritime (Financial Institution) licence that person may make written request for the reason for the denial of the application in accordance with section 14 of the *Administrative Justice Act*, Cap. 109B.

(7) Where the specified fee has been paid, the Central Bank of Barbados shall issue to the applicant the Maritime (Financial Institution) licence.

(8) A Maritime (Financial Institution) licence issued in accordance with this Act shall be subject to such terms or conditions as the Central Bank of Barbados specifies.

(9) A Maritime (Financial Institution) licence granted under this Act, may be transferred in accordance with the Act.

(10) A person who contravenes a provision of this section shall be liable to pay an administrative penalty.

**Conditions may be imposed in Maritime (Financial Institution) licence**

**51.** The Central Bank may in respect of

*(a)* the issue of a licence;

*(b)* the grant of any approval; or

*(c)* the authorisation of any matter,

in connection with the activities in respect of which the licence was granted, require such information and impose such conditions as it considers appropriate in the circumstances.

**Transfer of licence**

**52.**(1) A person granted a Maritime (Financial Institution) licence, in accordance with the Act shall not, without the approval of the Central Bank

transfer, wholly or partially, the rights and obligations of the licensee under the licence.

(2) A holder of a Maritime (Financial Institution) licence may within 90 days of a proposed transfer; and upon payment of the specified fee, apply to the Central Bank of Barbados for approval for the transfer.

(3) The Central Bank shall, within 30 days of receipt of the application, notify the licensee in writing of the decision to approve or not approve the transfer.

(4) The licensee shall ensure that a transfer is

*(a)* in writing and executed by the licensee and the assignee; and

*(b)* submitted to the Central Bank for the Bank to endorse on the transfer its approval of the transfer.

(5) A licensee shall not, by virtue of a transfer under this section, be relieved of any obligations and liabilities which the licensee incurred prior to the transfer.

(6) A person who contravenes paragraph (1) is liable to pay an administrative penalty.

**Surrender of Licence**

**53.**(1) A licensee shall not, without the approval of the Central Bank, surrender a licence.

(2) A licensee may

*(a)* within 90 days of a proposed surrender; and

*(b)* upon payment of the prescribed fee,

apply to the Central Bank for approval for the surrender.

(3) The Central Bank shall, within 30 days of receipt of the application, notify the licensee in writing of the decision to approve or not approve the surrender.

(4) The Central Bank shall not approve a surrender unless a licensee has, to the satisfaction of the Central Bank

*(a)* satisfied any monetary obligations incurred before the surrender or made arrangements for the satisfaction of the monetary obligations;

*(b)* made good any damage caused by the activity in relation to which the licence was granted;

*(c)* provided information that should have been but was not previously provided to the Central Bank of Barbados

*(d)* where applicable, removed or caused to be removed from the area to be surrendered all property brought into the area by the licensee or made arrangements with respect to the property; and

*(e)* do any such thing requested in writing by the Central Bank of Barbados prior to surrender.

(5) Where a licensee proposes to surrender a license, the licensee shall perform or discharge any outstanding obligations under the license prior to the surrender.

(6) The Central Bank shall specify the effective date of a surrender.

(7) A person who contravenes paragraph (1) is liable to pay an administrative penalty.

**Suspension of license by agreement**

**54.** The Central Bank may, by written agreement with a licensee, suspend a Maritime (Financial Institution) licence

*(a)* for a specified period; and

*(b)* on specified terms.

**Disciplinary power to suspend license**

**55.**(1) The Central Bank may, by written notice to a licensee, suspend a Maritime (Financial Institution) licence where the licensee

*(a)* fails to comply with

(i) this Act or any of its statutory instruments;

(ii) a requirement, obligation or other provision contained in any policy, plan, directive, standards or code of practice approved by the Central Bank, in relation to holders of Maritime (Financial Institution) licences;

*(b)* breaches a term or condition of the license.

(2) Where the Central Bank intends to suspend a Maritime (Financial Institution) licence, the Central Bank of Barbados shall, prior to the suspension, issue to the licensee a notice of default which

*(a)* specifies the default of the licensee;

*(b)* in the case of a default that is

(i) capable of remedy, requires the licensee to remedy the default within a specified period; or

(ii) incapable of remedy, requires the licensee to provide good grounds within a specified period as to why the license should not be suspended; and

*(c)* states the action that the Central Bank proposes to take where

(i) the default is not remedied; or

(ii) good grounds are not provided

within the specified period.

(3) Where the Central Bank is satisfied that a licensee has failed to

*(a)* remedy a default; or

*(b)* provide good grounds as to why the proposed action should not be taken,

the Central Bank may suspend the Maritime (Financial Institution) licence.

(4) The Central Bank shall specify the effective date of the suspension in the notice.

(5) A licensee shall not, by virtue of a suspension of a license, be relieved of any obligations and liabilities incurred by the licensee prior to and during the period of suspension.

(6) The Central Bank may, for the purpose of paragraph (3), suspend the license of a licensee

*(a)* for a specified period or until the licensee remedies a default that is capable of remedy; or

*(b)* indefinitely.

**Suspension of Maritime (Financial Institution) licence for Emergencies, etc.**

**56.**(1) The Central Bank may, in the event of a major crisis or an emergency, partially or totally suspend the activities of a licensee for a specified period.

(2) A licensee may, in the event of a major crisis or an emergency, partially or totally suspend activities

*(a)* with the approval of the Central Bank; and

*(b)* for a period of time agreed upon by the licensee and the Central Bank.

(3) Notwithstanding paragraph (2)*(a)*, where it is impractical or unreasonable in the circumstances for the licensee to obtain the approval of the Central Bank for the suspension of the licence, the license

*(a)* may suspend the activities; and

*(b)* shall notify the Central Bank as soon as practicable of the suspension.

(4) The Central Bank of Barbados may extend a period of suspension where necessary.

(5) Where the activities of a licensee are suspended by virtue of this section, the licensee shall not, by virtue of the suspension, be taken to be in breach of this Act or a term or condition of the license.

**Suspension of Maritime (Financial Institution) licence for Force Majeure**

**57.** Where the activities of a licensee are partially or totally suspended as a result of a force majeure event, BPI shall extend the license for the lesser of the following periods

*(a)* a period which corresponds to the length of time for which the activities were suspended; or

*(b)* 2 years.

**Cancellation of license**

**58.**(1) The Central Bank may, by written notice to a licensee, cancel the whole or part of a Maritime (Financial Institution) licence where the licensee

*(a)* fails to comply

(i) with this Act;

(ii) a requirement, obligation or other provision contained in any policy, plan, directive, standards or code of practice approved by the Central Bank, in relation to the licensee; or

*(b)* breaches a term or condition of the license;

*(c)* knowingly provides false or misleading information, or omits to provide material information to the Central Bank, in respect of the application for the license or any requirement of this Act;

*(d)* is declared bankrupt or placed into liquidation or where a receiver is appointed; or

*(e)* does not pay an amount payable by him pursuant to this Act or any other applicable statutory instrument within 90 days from the date on which the amount becomes payable.

(2) Where the Central Bank intends to cancel the license pursuant to paragraph (1)*(a)* or *(b*), the Central Bank shall, prior to the cancellation, issue to the licensee a notice of default which

*(a)* specifies the default of the licensee;

*(b)* in the case of a default that is

(i) capable of remedy, requires the licensee to remedy the default within a specified period; or

(ii) incapable of remedy, requires the licensee to provide good grounds, within a specified period, as to why the license should not be cancelled; and

*(c)* states the action that the Central Bank proposes to take where

(i) the default is not remedied; or

(ii) good grounds are not provided,

within the specified period.

(3) Where the Central Bank is satisfied that a licensee has failed to

*(a)* remedy a default; or

*(b)* (b) provide good grounds as to why the proposed action should not be taken,

the Central Bank of Barbados may cancel the license.

(4) The Central Bank of Barbados shall specify the effective date of the cancellation in the notice.

(5) A licensee shall not, by virtue of a cancellation of a license, be relieved of any obligations and liabilities incurred by the licensee prior to the cancellation.

**Varying the Maritime (Financial Institution) licence**

**59.**(1) A Maritime (Financial Institution) licence may be varied at any time by the Central Bank on application made to it or on its own initiative.

(2) Where the Central Bank decides to vary a Maritime (Financial Institution), the Central Bank of Barbados shall give

*(a)* written notice of that fact to the licence holder; and

*(b)* the licence as varied to the licence holder.

(3) A variation of a Maritime (Financial Institution) licence takes effect on the day specified in the notice given under paragraph (2)*(a)*, which shall be at least 21 days after the day the notice is given to the licence holder.

(4) Where, after receiving an application under subsection (1), the Central Bank refuses to vary the Maritime (Financial Institution) licence, the Central Bank of Barbados shall give written notice of the refusal, including reasons for the refusal.

(5) A person who is aggrieved by a decision made under this section may apply to a Judge in Chambers within 14 days of the decision.

**Merchant Shipping Sector Investment Schemes**

**60.**(1) The Administration may develop and manage schemes directed at investment in Barbados' merchant shipping sector.

(2) The Administration may facilitate entry into a merchant shipping sector investment scheme.

(3) The Administration shall ensure stakeholder consultation prior to the conclusion of an investment scheme.

(4) A proposed investment scheme shall be in writing and contain the following particulars:

*(a)* the parties to the scheme;

*(b)* the duration of the scheme;

*(c)* the scope of activities to be undertaken under the scheme;

*(d)* the rights and responsibilities of parties to the scheme;

*(e)* the insurance or other form equivalent financial security for the venture;

*(f)* the nature of the investment;

*(g)* the benefit-sharing arrangements;

*(h)* dispute settlement arrangements; and

*(i)* any other relevant particulars as determined by parties to the scheme.

(5) A party to an investment scheme shall comply with all relevant enactments and international shipping standards.

(6) A merchant shipping sector investment scheme shall not be concluded where it would be disadvantageous to Barbados' merchant shipping sector or otherwise detrimental to the economic, environmental, social or cultural interests of Barbados.

(7) A merchant shipping sector investment scheme shall be

*(a)* subject to the approval of the Cabinet; and

*(b)* legally binding on all parties to the scheme where the terms, conditions and other matters pertaining to the scheme have been agreed to in writing by the parties to the scheme.

(8) All investment schemes shall be registered with the Administration, including investment schemes specific to the small vessel sector and water sports industry.

**Suspension of an investment scheme**

**61.**(1) Subject to subsection (2), where after entering into an investment scheme its disadvantages become apparent, the scheme may be temporarily suspended to allow for rectification of the matters causing the identified disadvantages.

(2) The scheme may be temporarily suspended where

*(a)* a request for temporary suspension of the scheme is made, in writing, by an affected person or group of persons to the Minister; and

*(b)* the request is accompanied by reasons and supporting evidence.

(3) Where the identified disadvantages cannot be wholly remedied, the Minister shall ensure that an equitable compromise is agreed to in writing by the parties and the investment scheme is modified accordingly.

**Benefits to entities holding licenses under this Part**

**62.**(1) Entities holding a license for maritime investment activity or a license to establish a maritime and merchant bank in Barbados, are eligible for the following benefits:

*(a)* a tax exemption on income arising from financing the building of maritime facilities or the purchase of Barbados-registered vessels;

*(b)* a tax exemption on income arising from interests and commissions earned by maritime and merchant banks and other maritime financing entities;

*(c)* a tax exemption on income of legal entities that commence operations in Barbados to build shipyards, conventionally-manned or autonomous

merchant ships, military vessels, yachts, and other kinds of seaborne vessels;

*(d)* a tax exemption on profits arising from insurance and reinsurance to guarantee credits gained by maritime financing entities or maritime financeable projects;

*(e)* a 5% import tax and fees applicable to the introduction of machinery, maritime equipment, materials, rolling stock, tools and other necessaries for the maritime development project in question;

*(f)* a tax exemption or other economic or social incentives specified, by order, by the Finance Minister in relation to any other maritime and merchant shipping business ventures; and

*(g)* any other benefits in respect of maritime ventures, whether or not directly involving merchant shipping activities, as may be specified by an order issued by the Finance Minister.

(2) In this section, "maritime financeable projects" includes projects that are oriented towards

*(a)* the construction of ships, shipyards and other premises for marine uses;

*(b)* workshops or yards for ship repair or ship recycling;

*(c)* manufacture and repair of containers used in foreign seaborne trade;

*(d)* establishment of shipping banks and other financial institutions providing services to the maritime sector; and

*(e)* any other project oriented towards development of the sea-going and shore-based merchant marine sector.

**Special Purpose Entities**

**63.**(1) The Minister, in consultation with the Administration may facilitate the creation of one or more Special Purpose Entities to

*(a)* obtain specific advantages for Barbados' shipping sector;

*(b)* enable the Special Purpose Entities to obtain advantages provided by Barbados in relation to its shipping sector;

*(c)* enable the Special Purpose Entities to grant its owner access to shipping-oriented capital markets or shipping-related sophisticated financial services;

*(d)* isolate Special Purpose Entities established in Barbados from financial risks;

*(e)* safeguard the confidentiality of transactions of Special Purpose Entities and their owner.

(2) An entity wishing to be established in Barbados as a Special Purpose Entity specifically for shipping affairs shall meet the following criteria:

*(a)* be registered or incorporated in accordance with the *Companies Act*, Cap. 308;

*(b)* be directly or indirectly controlled by non-residents;

*(c)* be established in fulfillment of the objectives specified at subsection (1);

*(d)* have none or up to 5 employees;

*(e)* the parent company of the Special Purpose Entity is not based in Barbados and has no or little physical production in Barbados;

*(f)* conducts transactions almost entirely with non-residents;

*(g)* obtain a Special Purpose Entities (Maritime) Activities licence from the Administration.

**List of Special Purpose Entities**

**64.**(1) The Administration shall main an electronic List of Special Purpose Entities for the Shipping Sector, in which shall contain all particulars of the Special Purpose Entities established in Barbados for shipping purposes.

(2) For the period of operation of the Special Purpose Entity in Barbados, the Special Purpose Entity shall pay

*(a)* an application fee for a Special Purpose Entities (Maritime) Activities licence; and

*(b)* an annual Special Purpose Entities (Maritime) Activities licence fee,

as prescribed by regulations made by the Minister.

*Blue Bonds*

**Blue bonds - general**

**65.** The Government of Barbados, through the Central Bank of Barbados or Maritime and Merchant Bank of Barbados, may enter into blue bond arrangements and issue blue bonds to raise capital to finance ocean-based projects that yield positive environmental, climate and economic benefits.

**Blue bonds - merchant marine sector**

**66.** The Government of Barbados may enter into blue bonds with the investors in Barbados' merchant marine sector, in order to raise capital from that sector for financing ocean-based projects that have positive environmental, climate and economic outcomes, especially in relation to projects oriented towards reducing the impacts of shipping and seaborne trade on the marine and atmospheric environment.

**Area of application of blue bonds**

**67.** For the purposes of protecting, preserving or restoring maritime areas within and beyond Barbados waters, blue bonds may apply to

*(a)* activities in maritime areas within Barbados waters; or

*(b)* activities in maritime areas beyond Barbados waters, conducted by international sea-going Barbados-registered vessels.

**Scope**

**68.** Sections 69 to 72 apply to all loans, all investments and all financial activities connected to the shipping industry.

**Ship finance reference framework**

**69.** Ship finance activities carried on in Barbados by public and private financial institutions shall take account of instruments and standards issued by, or derived from

*(a)* the works of the United Nations organization;

*(b)* the works of the Comité Maritime International;

*(c)* the works of the International Maritime Organization;

*(d)* the works of the International Labour Organization;

*(e)* the Caribbean Memorandum of Understanding on Port State Control; and

*(f)* the Poseidon Principles for Responsible Ship Finance, adopted by the Poseidon Principles Association.

**Critical analysis criteria**

**70.** Public and private financial institutions shall rely upon best practices set out in the instruments and standards referred to in section 82 when assessing the environmental and social management of its clients.

**Analysis criteria related to shipbuilding, dismantling and recycling**

**71.**(1) Public and private financial institutions shall assess each financing or investment project related to shipbuilding, ship dismantling or ship recycling activities, based on

*(a)* the capacity and commitment of the project or the client to dialogue with stakeholders and to manage environmental and social risks, including

(i) the quality of the assessment of environmental and social impacts;

(ii) the quality of the management plans of these various impacts;

(iii) the quality of the management plans for accidents or hazards, including intervention plans in case of spillage of toxic waste;

(iv) consultation with affected populations and consent from local coastal and fishing communities; and

(v) the quality of a grievance management mechanism at the project level;

*(b)* the project's environment related commitments, including

(i) potential impacts on biodiversity and ecoservices;

(ii) discharge and emissions of pollutants, including management of industrial waste;

(iii) management of water resources; and

(iv) impacts on natural heritage; and

*(c)* the project's human rights social commitment, including

(i) labour law and working conditions, including compliance with the conventions of the International Labour Organization referred to in section 72;

(ii) workforce health and safety;

(iii) communities' health and safety;

(iv) the impact on local communities, including the physical or economic displacements of persons; and

(v) impacts on cultural heritage.

(2) The quality of the assessment and management by clients of financial institutions of environmental and social impacts shall be assessed against the International Finance Corporation's performance standards and applicable environmental, health and security guidelines, including the set up and maintenance of an environmental and social management system, adapted to the nature and size of the environmental and social risks concerned and designed to monitor over time the impacts and mitigating measures.

(3) An assessment under subsection (2) may also be based on the recommendations issued by the organizations referred to in section 69.

**Ship finance for merchant vessels' acquisition and operation**

**72.**(1) In financing the acquisition and operation of merchant vessels, public and private financial institutions shall take into account the regulatory frameworks for

*(a)* safety of life at sea, set out in the International Convention for the Safety of Life at Sea;

*(b)* maritime labour laws, including living and working standards on board vessels, set out in the Maritime Labour Convention;

*(c)* the quality of crew training set out in the International Convention on Standards of Training, Certification and Watchkeeping for Seafarers and Code;

*(d)* the prevention, reduction and control of ship-source pollution into the marine environment, set out in the International Convention for the Prevention of Marine Pollution from Ships, Annexes I-V;

*(e)* the prevention, reduction and control of greenhouse gas emissions from ships into the atmosphere, set out in the International Convention for the Prevention of Marine Pollution from Ships, Annex VI;

*(f)* the energy efficiency performance of ships, set out in the International Convention for the Prevention of Marine Pollution from Ships, Annex VI;

*(g)* the control of pollution by harmful anti-fouling systems in ships set out in the Anti-fouling Systems Convention;

*(h)* ballast water and sediment management control, set out in the Ballast Water Management Convention;

*(i)* environmentally safe ship recycling and scrapping; and

*(j)* the quality of shipowner's fleet management.

(2) Public and private financial institutions shall, where applicable, request a cradle-to-cradle, ship-specific plan covering ship design, ship operation and end-of-life ship management when considering applications for acquisition and operation of merchant vessels.

## PART IV

## MARITIME COMMERCE AND TRADE

**Definitions**

**73.** In this Part

"Merchant Shipping Sector Development Plan" means the plan adopted in accordance with section 78; and

"national maritime transport policy" means a statement of principles and objectives to guide decisions in the maritime transport sector, with a view to achieving the maritime vision of Barbados and ensuring that the sector is

governed in an efficient, sustainable, safe and environmentally sound manner.

**National maritime transport policy**

**74.**(1) There shall be developed by the Administration, in consultation with public and private sector shipping interests, a well-structured national maritime transport policy.

(2) Due consideration shall be given to the training package and materials developed by the International Maritime Organization to assist developing countries in formulating and enhancing their national maritime transport policies.

**Barbados national maritime transport policy: adoption**

**75.**(1) There shall be adopted, consistent with the objectives of the Act and the overarching objectives of Barbados' National Ocean Policy and Regional Maritime Transportation Plan and commensurate with international maritime transport best practices promoted by the Comité Maritime International, International Maritime Organization, International Labour Organization, United Nations Conference on Trade and Development, the United Nations Commission on International Trade Law and Baltic and International Maritime Council, a policy to be known as Barbados national maritime transport policy, which shall empower Barbados to become an effective participant in the maritime sector and to harness the full potential of the shipping sector of the blue economy.

(2) The Barbados national maritime transport policy shall be formulated by the Administration, in consultation with relevant stakeholders, and with the technical assistance of the International Maritime Organization, as necessary, within 18 months after the entry into force of this Act.

(3) The policy shall be reviewed by the Minister and shall be approved by the Cabinet as an official national instrument to be used in the development of Barbados' maritime transport sector, and upon such approval and shall have effect for the purposes of this Act.

(4) Within 4 years after the entry into force of this Act, and at each 4-year interval after that, the Administration, in consultation with relevant stakeholders, shall evaluate, review and update the policy.

**Binding effect of policy**

**76.** All persons are bound by a Barbados national maritime transport policy that has been adopted in accordance with this Act.

*Merchant Shipping Sector Development Plan*

**Merchant Shipping Sector Development Plan**

**77.** The Administration, in consultation with public and private sector shipping interests, shall design a Merchant Shipping Sector Development Plan the shipping sector of the blue economy to fulfil the following objectives

*(a)* expand and upgrade the Barbados merchant marine fleet of conventionally-manned and autonomous vessels;

*(b)* increase and maintain the deadweight carrying capacity of Barbados-registered international sea-going vessels to over one million tonnes, in order to compete in the global market;

*(c)* facilitate and attract private sector investment in Barbados' shipping sector;

*(d)* create an environment supportive of unimpeded maritime sector growth;

*(e)* create an environment conducive to investment in the maritime sector;

*(f)* diversify shore-based and at-sea seaborne trade and commercial activities;

*(g)* ensure efficient operation of locally-based ports and other marine facilities;

*(h)* enhance utilization of trained persons in the maritime sector by ensuring the availability of appropriate marine training and education facilities, so as to enhance productivity and make those persons internationally marketable;

*(i)* bolster national shipbuilding, ship repair and ship recycling capacity;

*(j)* ensure a tangible and significant contribution by the shipping sector of the blue economy to the national economy, including by augmenting foreign exchange earnings and reducing freight bills; and

*(k)* maintain the International Maritime Organization international shipping mandate of safe, secure and efficient shipping on clean oceans.

**Merchant Shipping Sector Development Plan adoption, modification and revocation**

**78.**(1) The Minister shall develop a plan consistent with the objectives set out in section 90, to be known as the Merchant Shipping Sector Development Plan, to guide maritime commerce and trade activities.

(2) After considering any submissions in relation to a draft plan, the Minister shall submit the draft Merchant Shipping Sector Development Plan to the Cabinet for approval.

(3) The Cabinet may

*(a)* approve the Barbados Merchant Shipping Sector Development Plan, with or without amendment; or

*(b)* refuse to approve the Merchant Shipping Sector Development Plan and direct the Minister to amend the Plan.

(4) The Minister shall publish notice of the approval of the Merchant Shipping Sector Development Plan in the *Official Gazette.*

(5) The Merchant Shipping Sector Development Plan comes into operation

*(a)* on a date on which the notice under subsection (4) is published in the *Official Gazette;* or

*(b)* on any later date specified in the notice.

**Merchant Shipping Sector Development Plan duration and periodic review**

**79.**(1) The Minister shall review the Merchant Shipping Sector Development Plan no later than 5 years after its commencement.

(2) After the review of the Merchant Shipping Sector Development Plan, the Minister may, with the approval of Cabinet, amend the Plan.

**Binding effect of Merchant Shipping Sector Development Plan**

**80.**(1) All persons are bound by a Merchant Shipping Sector Development Plan that has been adopted in accordance with this Act.

(2) The Merchant Shipping Sector Development Plan may be deviated from where it is necessary for reasons of maritime safety, security or protecting the marine environment.

**Withdrawal of the Merchant Shipping Sector Development Plan**

**81.**(1) The Minister may, with the approval of Cabinet, withdraw a Merchant Shipping Sector Development Plan, if he considers it appropriate to do so and a prospective one is prepared and implementation-ready.

(2) Where the Minister withdraws a Merchant Shipping Sector Development Plan, he shall publish a notice of withdrawal in the Official Gazette, and the Plan ceases to have effect on the date of that publication.

(3) The Minister shall also take such further steps as he considers appropriate to ensure that the withdrawal of a Merchant Shipping Sector Development Plan is brought to the attention of interested persons.

(4) Following the withdrawal of a Merchant Shipping Sector Development Plan, the Minister shall ensure the adoption of a new Merchant Shipping Sector Development Plan.

(5) In this section, "interested persons", in relation to a Merchant Shipping Sector Development Plan, means

*(a)* any persons appearing to the Minister to be likely to be interested in, or affected by, the withdrawal of the Merchant Shipping Sector Development Plan; or

*(b)* members of the general public.

## PART V

## ROLE OF THE BARBADOS-BASED PRIVATE SECTOR SHIPPING ORGANIZATIONS

**Definitions**

**82.** In this Part, "Comité Maritime International" means the non-profit international organization for shipowners, agents, shipbrokers, charterers, and other shipping interests, that was established in Antwerp in 1897.

**Role of Barbados-based private sector shipping organizations**

**83.** Barbados-based private sector shipping organizations shall

*(a)* collaborate with the Ministry responsible for shipping in fulfilling the objectives of this Act;

*(b)* advance, for consideration and adoption by the Government, policies, programs and initiatives to support maritime commerce and trade;

*(c)* collaborate with Government in promoting the participation by Barbados at the Comité Maritime International, with a view to aligning, at the national level, private aspects of maritime policy, legal

frameworks and agendas with those of the Comité Maritime International;

*(d)* assist the Government in unifying, at the domestic and regional level, private maritime law and commercial practices consistent with Comité Maritime International's mandate;

*(e)* at the request of the Administration, advise the Administration and make recommendations on shipping and shipping-related affairs; and

*(f)* assist in maritime industry solution planning activities in response to internal and external maritime industry-specific issues directly impacting local maritime communities.

**Merchant shipping sector co-development arrangements**

**84.** The Government of Barbados and Barbados-based private sector shipping organizations may enter into written co-development arrangements in respect of specific activities or projects within the merchant shipping sector of Barbados, particularly in the realm of seaborne trade, transportation, commercial maritime affairs and development and harmonization of private maritime law policy and regulatory regimes.

**Establishment of a National Maritime Law Association**

**85.**(1) The Administration may establish a Barbados National Maritime Law Association, under the Comité Maritime International, consistent with the Comité Maritime International Guidelines for the Formation of National Maritime Law Associations, in an effort to

*(a)* effectively reflect, on a continuous basis, maritime industry practice, and appropriately respond to contemporary maritime realities, in law;

*(b)* advance reforms in national maritime law;

*(c)* facilitate justice in the administration of maritime law;

*(d)* promote uniformity in enactment and interpretation of maritime law;

*(e)* provide a forum for discussion and consideration of issues affecting maritime law and its administration;

*(f)* participate in activities of the Comité Maritime International and as an affiliated organization of the Barbados Bar Association; and

*(g)* act with other Comité Maritime International-recognized national maritime law associations in order to promote unity in shipping laws, regulations and practices of other shipping nations.

(2) The Administration and Barbados-based private sector shipping organizations shall jointly contribute to the work of the Barbados National Maritime Law Association in fulfilment of the objectives listed at paragraphs (1) *(a)* to *(g)*.

(3) Given Barbados-based private sector shipping organizations' exclusive concern and industry experience with commercial maritime affairs, Barbados-based private sector shipping organizations shall provide advice in relation to maritime commercial practice to the Barbados National Maritime Law Association and to the Administration.

## PART VI

## SHIP SUPPLIERS AND MARITIME SERVICE PROVIDERS

**Definitions**

**86.** In this Part

"Code of Ethics" means the Code of Ethics adopted by the International Ship Suppliers Association as a standard of business conduct and fair business practice for ship suppliers and maritime service providers;

"conditions of sale" means the conditions of sale developed by the International Ship Suppliers and Services Association; and

"International Ship Suppliers Association" means the International Ship Suppliers and Services Association established in 1955, registered in 1963 at the Court of Registry in The Hague, Netherlands, which aims to

*(a)* promote the economic interests of ship suppliers;

*(b)* promote contacts with, and discussion among, organizations of ship suppliers concerning questions of common interest;

*(c)* establish contact on an international level with organizations of shipowners concerning their relationship with ship suppliers; and

*(d)* represent ship suppliers on an international level.

**National Association of Ship Suppliers**

**87.** To facilitate the full membership by Barbados in the International Ship Suppliers Association, and ensure access to the benefits of that membership, local shipping industry stakeholders may establish a National Association of Barbados Ship Suppliers, to enable international representation of

*(a)* local ship suppliers; and

*(b)* local maritime service providers.

**Quality standards for ship supply industry**

**88.** Locally-based ship suppliers shall comply with the minimum standards for the ship supply industry developed by the International Ship Suppliers Association.

**International Ship Suppliers Association Code of Ethics**

**89.**(1) Local ship suppliers and maritime service providers shall adhere to International Ship Suppliers Association Code of Ethics as a standard of business conduct and, to this end, shall not

*(a)* deceive or mislead purchasers, by advertising, labelling or otherwise, as to the character, quantity, size or weight of any product;

*(b)* substitute one product for another, where such substitution may deceive or mislead a purchaser;

*(c)* publish misleading price lists;

*(d)* issue an invoice or similar document that might deceive or mislead a purchaser, competitor or member of the public;

*(e)* give any credit, discount, refund or other price differential that would offend the existing practice in trade, where this would discriminate unfairly between purchasers of similar goods and give one of them a monopoly or unfair advantage;

*(f)* engage in prohibited forms of trade restraint;

*(g)* sell products below cost or at unreasonably low prices with the intention of lessening competition, prejudicing a competitor or creating a monopoly;

*(h)* entice away the employee or sales representative of a competitor with the intention of lessening competition; or

*(i)* disparage a competitor by falsely imputing inefficiency, questionable credit standing or other misconduct.

(2) For avoidance of doubt, paragraph (1)*(h)* does not preclude an employee or sales representative from seeking more favourable employment with another employer.

**Conditions of sale between ship suppliers and purchasers**

**90.** The conditions of sale adopted by the International Ship Suppliers Association in April 2015 and specified in the *Third Schedule*, setting out the rights and duties of ship suppliers and purchasers from ship suppliers, apply to the sale and purchase activities between local ship suppliers and their purchasers.

**Small business ship suppliers scheme**

**91.**(1) The Minister, in consultation with Commerce Minister, shall develop a small business ship suppliers scheme to enable the equitable participation of small businesses in the ship supply and maritime service provision industries.

(2) The scheme shall be developed in consultation with small business and maritime industry stakeholders.

## PART VII

## VESSEL REGISTRATION

### *Registration General*

**Obligation to register Barbados ships**

**92.**(1) Every ship owned wholly by persons qualified to own a registered Barbados ship shall, unless it is registered in some other state, be registered in Barbados in the manner provided by this Part.

(2) Where the master of a ship owned wholly by persons qualified to own a registered Barbados ship fails, on demand, to produce the certificate of registration of the ship or such other evidence as satisfies the Minister that the ship complies with the requirements of subsection (1), that ship may be detained until the certificate is produced.

(3) A ship owned by a person qualified to own a Barbados ship that was, immediately before the commencement of this Act, registered in Barbados in accordance with the *Shipping Act,* Cap. 296, is entitled to be registered under this Act, subject to such conditions as may be prescribed by the Administration.

(4) The Principal Registrar shall make necessary amendments to ship registration certificates and other documentation issued under the *Shipping Act,*

Cap. 296, to bring those certificates and that documentation into conformity with the requirements of this Act.

(5) Paragraphs (3) and (4) shall not be construed to mean that a ship previously registered under the *Shipping Act*, Cap. 296, is required to undergo the ship registration process again in order to be registered in accordance with those subsections.

(6) A ship required to be registered under this Act shall not be recognized as a Barbados ship and is not entitled to the rights and privileges accorded to Barbados ships under this Act unless it is so registered.

**Barbados International Ships Registry Program**

**93.**(1) There is established a Program to be known as the Barbados International Ships Registry Program for the overall management of international shipping affairs in respect of Barbados-registered vessels.

(2) The Program shall

*(a)* guide the work of Barbados' international ships registry and registry-related activities;

*(b)* support the undertaking of actions to continuously give effect to this Act and its statutory instruments;

*(c)* serve as a guiding framework for continuous improvement and development of Barbados' merchant shipping sector.

(3) The Administration shall be responsible for the design, development and implementation of the Program, and shall ensure the proper administration of the Program by the Principal Registrar.

(4) Any modifications to the Program shall be the sole responsibility of the Administration, and such modifications shall be made in consultation with relevant stakeholders.

(5) In administering and managing the Program, including its specialized registries sub-programs, measures shall be taken to prevent the fraudulent

registration and fraudulent registries of ships, in accordance with the applicable international maritime instruments.

**Register of Barbados ships**

**94.**(1) The Administration shall maintain a register of international ships for all international ships' registration under the Barbados flag.

(2) The international ships register shall be maintained by the Principal Registrar of the international division of the Barbados Maritime Ships' Registry.

(3) The register of domestic ships shall be maintained in accordance with the *Shipping (Domestic Vessels) Act, 2024* (Act 2024-22) by the Registrar of Domestic Ships.

(4) The register may consist of separate register books or be in an electronic format.

(5) The register shall distinguish between registrations of small ships, pleasure yachts and submersible craft and may otherwise distinguish between classes or descriptions of ships.

(6) The register shall include a part for ships chartered-in by demise charter by Barbados charterers.

**Inspection of register**

**95.**(1) A physical inspection of the register by members of the public shall be available by appointment during registry office hours, and such inspections shall be subject to fees as prescribed under this Act.

(2) A virtual inspection of any electronic register shall be available 24 hours per day, and shall be facilitated through access credentials provided by the Principal Registrar after payment for that access.

**Other registers**

**96.** The Principal Registrar shall also maintain

*(a)* an electronic register database or a register book for the various types of international vessels registered pursuant to this Act;

*(b)* an electronic register database or book for international vessels under construction; and

*(c)* a provisional international registry file, in electronic or physical format.

**Regulations**

**97.** The Minister may, by regulation or a merchant shipping notice, make further provisions for the registration of ships under this Part.

**Entries in the register in relation to property in a ship**

**98.**(1) Entries in the register in relation to title in or ownership of a ship shall be made as follows:

*(a)* the property in a ship shall be divided into 64 shares;

*(b)* subject to the provisions of this Act with respect to joint owners or owners by transmission, not more than 64 individuals are entitled to be registered at the same time as owners of any one ship;

*(c)* a person shall not be entitled to be registered as owner of a fractional part of a share in a ship, but up to 5 persons may be registered as joint owners of a ship or of any share in it;

*(d)* joint owners shall be considered as constituting one person only as regards the persons entitled to be registered, and shall not be entitled to dispose in severalty of any interest in a ship, or of any share in it in respect of which they are registered; and

*(e)* a body corporate shall be registered as owner by its corporate name.

(2) Paragraph (1)*(b)* shall not affect the beneficial title of any persons or of any company represented by, or claiming under or through, a registered owner or joint owner.

**Ships' registration - basic provisions**

**99.**(1) A vessel of any kind qualifies for registration under this Act if the vessel is

*(a)* above 150 GT;

*(b)* in terms of length, exceeding 24 metres in length, but not falling in the category of vessels specified under section 15(3);

*(c)* intended for international sea-going trade;

*(d)* above 150 GT, but intended for use in other maritime activities in Barbados waters, including, but not limited to:

(i) marine scientific research activities;

(ii) activities directed at underwater cultural and natural heritage;

(iii) offshore energy development activities;

(iv) deep-sea mining activities; or

(v) other maritime activities;

*(e)* at least 44 of the vessel's 64 shares are owned singly or in association.

(2) No ship described in subsection (1) may be registered except with the express written approval of the Principal Registrar.

(3) This approval may be given only where the completion of the ship occurred no more than 20 years before the year in which the application for registration is made, or such greater period as the Principal Registrar may state in writing in any specific case.

(4) Where the Principal Registrar specifies in writing that a ship that was completed more than 20 years before the year in which the application for

registration is made, a valid certificate of class from a recognized international classification society shall be produced by the shipowner or agent to the Principal Registrar.

(5) In this section "foreign-going trade" means

*(a)* trade to or from, but not within, the states of the Caribbean Community; or

*(b)* trade between ports outside the Caribbean Community.

**Survey for measurement and identification of ships**

**100.** When the tonnage of a ship has been ascertained and registered in accordance with the regulations, that tonnage shall be treated as the tonnage of the ship except so far as those regulations provide, in specified circumstances, for the ship to be re-measured and the register amended accordingly.

**Marking of ship**

**101.**(1) Every ship, other than a small ship, shall, before or at the time of registration, be marked permanently and conspicuously in accordance with recognized international standards on marking of ships.

(2) The vessels load line shall be marked in accordance with the freeboard marking requirements under the International Convention on Load Lines.

(3) Load line marking shall be verified at initial, annual and renewal vessel surveys, in accordance with the regulations.

(4) Unless the Director directs otherwise, a private or commercial vessel of 24m in length or over is deemed to be in compliance with subsection (1) if her name and the name of her port of registry is marked on her stern in the manner provided in that subsection.

(5) Where the scale showing the ship's draught of water is inaccurate, so as to be likely to mislead, the owner of the ship commits an offence and is liable on summary conviction to a fine of $50 000.

(6) If an owner or master of a registered ship neglects to keep the ship marked as required by this section, or if any person conceals, removes, alters, defaces, or obliterates or permits a person under his control to conceal, remove, alter, deface, or obliterate any such marks, that owner, master or person commits an offence and is liable on summary conviction to a fine of $10 000.

(7) On receipt of a certificate from a surveyor of ships stating that a ship is insufficiently or inaccurately marked, the Administration or a maritime law enforcement officer may detain the ship until the deficiency has been remedied.

(8) It shall be a defence for an owner, master or person referred to in subsection (6) to prove

*(a)* that he took all reasonable precautions and exercised all due diligence to avoid the commission of the offence; or

*(b)* that the commission of the offence was for the purpose of escaping capture by an enemy.

(9) Where a ship proceeds to sea

*(a)* without being marked in accordance with this section, or

*(b)* with insufficient freeboard;

the owner commits an offence and is liable on summary conviction to a fine of $75 000.

(10) The Principal Registrar may, with the written approval of the Administration, exempt, in writing, any ship or class of ships from any or all of the requirements of this section.

**Application for registration**

**102.**(1) An application for registration of a ship shall be made

*(a)* in the case of an individual, by the person applying to be registered as owner, or by his agent;

*(b)* in the case of a group of individuals, or by one or more of the persons so applying, or by their agent; and

*(c)* in the case of a body corporate, by its agent.

(2) The authority of an agent shall be evidenced in writing

*(a)* if appointed by one or more individuals, under the signature of each individual; and

*(b)* if appointed by a body corporate, by a deed or instrument of that body corporate.

**Declaration of eligibility**

**103.**(1) A person shall not be entitled to be registered as the owner of a ship, or of a share in its ownership, unless the applicant – or in the case of a body corporate, the person authorized by this Act to make declarations on behalf of the body corporate – has signed a declaration of eligibility, in the prescribed form, referring to the ship as described in the certificate of the surveyor and containing the following:

*(a)* in the case of an individual, a statement of his qualification to own a Barbados ship;

*(b)* in the case of a body corporate, partnership or other association of individuals, a statement that the constitution and business of the corporation qualify it to own a Barbados ship;

*(c)* a statement of the time and place where the ship was built;

*(d)* a statement of the name and citizenship of the master, if known;

*(e)* a statement of the number of shares in the ship the legal title to which is vested in the person or body corporate, as the case may be, whether alone or jointly with any other person or persons;

*(f)* a declaration that no unqualified person is known to have any legal or beneficial interest in the ownership or in any share of the ship; and

*(g)* in the case of a foreign ship, a statement of her foreign name.

(2) A ship shall not be registered under this Act unless, before registration, the following evidence is produced:

*(a)* subject to subsection (3), a certificate, signed by the builder of the ship, or a person recognized by the Principal Registrar or Director as the builder of a ship, containing

(i) the proper estimated denomination and tonnage of the ship;

(ii) the time when, and the place where, she was built;

(iii) the name of any person on whose account the ship was built; and,

(iv) if there has been a sale, the bill of sale or other document under which the ship was transferred to the applicant for registration;

*(b)* where the ship has previously been registered in a foreign country, a certificate issued by the government of the country of last registration, or such other evidence as the Registrar may accept, that the ship's registration in that country has been closed or will be closed immediately upon the issuance of a certificate of registration under this Act;

*(c)* a statement that there are no liens or encumbrances, mortgages, claims or taxes due; and

*(d)* evidence to the satisfaction of the Principal Registrar, or as may be prescribed by the Minister, to show that the ship is in a seaworthy condition, as evident by the ship's current certificate of classification.

(3) If a ship is not a newly built ship and the person applying to register the ship declares that the time and place of her building are unknown to him, or that the builder's certificate cannot be procured, there shall be required only the bill of sale or any other document under which the ship was transferred to the applicant for registration.

**Entry of Particulars in Register**

**104.**(1) When the requirements specified in section 103 have been complied with, the Principal Registrar shall enter in the register

*(a)* the name of the ship and the Port of Bridgetown as the port of registry;

*(b)* the information included in the surveyor's certificate of tonnage;

*(c)* the information respecting her origin stated in the declaration of ownership;

*(d)* the name, address and occupation of the registered owner and managers, and if there are more owners than one, the name of all of them and the proportion in which they are interested;

*(e)* the official number and the IMO number of the ship;

*(f)* information respecting the vessel's construction, including the name of the builder, place and year of build, main class and classification notations at the time of build;

*(g)* the date of deletion or suspension of any previous registration of the vessel, unless it is recorded in another public document readily accessible to the Principal Registrar;

*(h)* information respecting any mortgages or other similar charges upon the vessel, unless it is recorded in another public document readily accessible to the Principal Registrar;

*(i)* the name, address and any other relevant information respecting the bareboat charterer, where the vessel is bareboat chartered-in, unless it is recorded in another public document readily accessible to the Principal Registrar;

*(j)* the name, address and the nationality of the master, when the master is not the owner or the bareboat charterer; and

*(k)* such further information respecting the ship as may be specified by the Principal Registrar.

(2) In this section, "IMO number" means the permanent and unique number assigned to a ship for identification purposes, pursuant to the International Maritime Organization Ship Identification Number Scheme.

**Documents to be retained by Principal Registrar**

**105.** On the registration of a ship, the Principal Registrar shall retain in his possession the documents specified in section 103.

**Port of registry**

**106.**(1) Subject to subsection (2), Bridgetown Barbados shall be the port of registry of a ship registered or deemed to be registered under this Act and the port to which that ship belongs.

(2) The Minister may, by order, declare any other port of Barbados as a port of registry.

*Certificate of Registration*

**Certificate of registration**

**107.** On completion of the registration of a ship, the Principal Registrar shall grant a certificate of registration that includes the information respecting the ship specified in the *Fourth Schedule*.

**Custody of certificate**

**108.**(1) The certificate of registration shall be used only for the lawful navigation of the ship, and shall not be subject to detention by reason of any title, lien, charge, or interest had or claimed by any owner, mortgagee or other person to, on, or in the ship.

(2) Notwithstanding subsection (1), where a person, whether interested in the ship or not, refuses on request to deliver the certificate of registration that is in his possession or control to a person entitled to the custody of it for the purposes of the lawful navigation of the ship, or to the Principal Registrar, an officer of customs, or any other person entitled by law to require such delivery, a magistrate, by warrant, or a court capable of taking cognizance of the matter may summon the person refusing to deliver it to appear before the court and to be examined regarding the refusal, and unless it is proved to the satisfaction of the court that there was reasonable cause for the refusal, that person commits an offence and is liable on summary conviction to a fine of $15 000.

(3) Where on an examination under subsection (2) it is shown to the court that the certificate is lost, the person summoned shall be discharged and the court shall certify that the certificate of registration is lost.

(4) Where the person refusing to deliver a certificate is proved to have absconded so that the warrant of a justice or process of a court cannot be served on him, or if the person persists in not delivering the certificate, the justice or court shall certify that fact, and the same proceedings may then be taken as in the case of a certificate that was mislaid, lost or destroyed, or as near to those as the circumstances permit.

**Penalty for use of improper certificate**

**109.** Where a master or owner of a ship uses or attempts to use for the navigation of the ship a certificate of registration not legally granted in respect of the ship, the master or owner of that ship commits an offence, and in respect of each such offence, is liable on summary conviction to a fine of $50 000 and the ship is subject to forfeiture under this Act.

**Power to grant new certificate**

**110.** The Principal Registrar may, with the approval of the Director, and upon the surrender to him of the certificate of registration of a ship, grant a new certificate in lieu of it.

**Duplicate certificates**

**111.**(1) Where it is shown to the satisfaction of the Principal Registrar that the certificate of registration of a ship is missing or damaged, having been lost, stolen or destroyed or become defaced or illegible, he may issue to the owner a duplicate of that certificate, which shall be marked as such, and shall have the same effect as the original.

(2) Where a duplicate certificate of registration is issued, the original, if then available or if subsequently found or recovered, shall be surrendered without delay to the Principal Registrar.

(3) The proper officer of a ship, on receipt of a declaration, made before him, as to the loss, theft, destruction, defacement or illegibility of a certificate, by the master of the ship or some other person having knowledge of the facts of the case, shall notify the Principal Registrar of a missing or damaged certificate

*(a)* if the ship is in port at the time its certificate of registration goes missing or damaged, immediately; or

*(b)* in any other case, when the ship first arrives in Barbados afterwards.

(4) On being notified of a missing or damaged certificate and being satisfied that the ship is entitled to be issued with a duplicate certificate, the Principal Registrar shall send to the proper officer, by electronic transmission, a copy of the duplicate certificate, which the proper officer shall endorse with a statement of the circumstances under which it is granted.

(5) Where there are no facsimile or other electronic transmission facilities available to the Principal Registrar, he shall advise the proper officer, who shall issue a temporary certificate so endorsed.

(6) A facsimile or other electronically transmitted version of the duplicate certificate, or the temporary certificate, as the case may be, shall be surrendered to the Principal Registrar as soon as an original duplicate certificate referred to in subsection (1) is received by the owner.

(7) Any person who fails, without reasonable cause to surrender a certificate of registration when required to do so under subsection (2) commits an offence and is liable on summary conviction to a fine of $15 000.

**Endorsement of change of ownership**

**112.**(1) Whenever a change occurs in the registered ownership of a ship, the Principal Registrar may endorse the change on the certificate of registration or issue a new certificate of registration.

(2) After such a change, the master of the ship shall, for the purpose of that endorsement, deliver the certificate of registration to the Principal Registrar without delay.

(3) A master who fails to deliver to the Principal Registrar the certificate of registration as required by this section commits an offence and is liable on summary conviction to a fine of $15 000.

**Provisional certificate**

**113.**(1) Where a ship becomes entitled to be registered while in port in a country outside Barbados, the proper officer may, subject to subsection (2), on the application of the master of the ship, grant a provisional certificate of registration in the model prescribed in the *Fifth Schedule*, and shall forward a copy of the certificate at the first convenient opportunity to the Principal Registrar.

(2) No provisional certificate shall be granted under this section unless the proper officer is satisfied that an application for registry of the ship has been made or is intended.

(3) A provisional certificate shall have the effect of a certificate of registration until the earlier of

*(a)* the expiration of 6 months from its date or, where it has been extended, 12 months from that date; and

*(b)* the ship's arrival at the port of Bridgetown.

(4) Where a provisional certificate has been granted for a ship under this section, no further provisional certificate shall be granted for the ship within one year from the date of that certificate, except as determined by the Principal Registrar.

**Provisional registration**

**114.**(1) A vessel may be provisionally registered where

*(a)* a person who is the vessel's owner has submitted all of the registration documentation, but is awaiting tonnage measurement documents;

*(b)* the vessel is under construction, and the owner intends to fully register the vessel under the Barbados flag on completion of vessel construction;

*(c)* the vessel is in the process of being transferred from another register to the Barbados Register;

*(d)* the vessel has not yet performed her sea trials;

*(e)* outstanding documents required for permanent registration have not been submitted; or

*(f)* the vessel is required to be provisionally registered by the Principal Registrar, pending satisfaction of a registration condition specified under this Act.

(2) When a vessel is provisionally registered, a provisional certificate shall be granted in accordance with section 113.

*Interim Registration in the Course of Transfer of Ownership*

**Registration of transfer of ownership**

**115.**(1) This section applies if

*(a)* in the case of a new ship, there is in existence a written contract for the transfer of the ship or a share in the ship;

*(b)* in the case of any other ship, there is in existence a bill of sale;

*(c)* pursuant to the terms of that contract or Bill of Sale, the owner has agreed

(i) to transfer the ship or any share in the ship to a person qualified to own Barbados ships and who intends to register the ship in Barbados; and

(ii) to provide the transferee with a bill of sale of the ship and a certificate stating that the ship is free from registered mortgages; and

*(d)* upon the execution of the bill of sale, the ship will be entitled to be registered in Barbados, subject to the completion of registration requirements.

(2) Where this section applies, the Principal Registrar may, if satisfied that it is proper to do so

*(a)* enter in the register the name and description of the transferee of the ship or of the share in it;

*(b)* enter a note that the registration is conditional upon a bill of sale transferring the ship or the share to the person or persons named in the register being produced to the Principal Registrar within 21 days; and

*(c)* enter any other information required by the regulations.

(3) The Principal Registrar shall make the entry in the register and grant a certificate of registration pursuant to this Act only if

*(a)* the relevant provisions of this Act have been complied with; and

*(b)* the transferee or, in the case of a body corporate, the person authorized by this Act to make declarations on behalf of the body corporate provides the Principal Registrar with a certified copy of a signed

declaration, referring to the ship as described in the surveyor's certificate, and containing the following information:

(i) if transferee is a person qualified to own a Barbados ship, a statement of his qualifications to own such a ship or, in the case of a body corporate, a statement that the constitution and business of the corporation qualify it to own a Barbados ship;

(ii) if the ship is a foreign ship, a statement of the ship's foreign name;

(iii) evidence of the transfer of the ship or of a share in the ship and that the ship is not registered in Barbados; and

(iv) a statement that the owner has agreed

(A) to the transfer of the ship or any share in the ship to the transferee;

(B) to provide the transferee with a bill of sale of the ship and a certificate stating that the ship is free from registered mortgages; and

(C) to procure the termination of the registration of the ship in the country in which it is then registered.

(4) Where a ship is registered pursuant to subsection (2), the transferee shall, within 21 days after the date of issue of the certificate of registration granted pursuant to subsection (3), deliver to the Principal Registrar a declaration made in accordance with section 103 and a bill of sale executed pursuant to the contract, a certified copy of which has been produced to the Principal Registrar pursuant to subsection (3).

(5) On receipt of a declaration and bill of sale under subsection (4), the Principal Registrar shall make the entries in the register required by section 104 and grant a certificate of registration pursuant to section 107.

(6) Where the transferee does not comply with the requirements of subsection (4), the registration of the ship shall automatically terminate at the expiration of the certificate of registration granted pursuant to subsection (3) and the certificate

of registration and any certificate issued in respect of the ship under this Act shall be delivered to the Principal Registrar.

**Consequences of registration under section 115**

**116.**(1) A ship registered under section 115 is deemed to be a Barbados Ship for the purposes of this Act.

(2) A ship registered pursuant to section 115 shall not hoist any colours other than

*(a)* Barbados national colours specified in section 222; or

*(b)* company house colours.

**Application of Act where ship is registered under section 115**

**117.** Where a certificate of registration has been granted in respect of a ship pursuant to section 115(3)

*(a)* this Part shall apply to the ship and its registration;

*(b)* any act or thing required to be done or not done under this Act by the owner of a ship is deemed to be required to be done or not done by the transferee;

*(c)* the transferee is liable for doing or omitting to do such act or thing as if he were the owner of the ship; and

*(d)* a reference to "owner" in this Act shall, in the case of such a ship, be deemed to be a reference to the transferee and the words "registered owner" and "registered ownership" shall be construed accordingly.

**Interpretation**

**118.** In sections 115 and 117, "transferee" means a person to whom the ownership of a ship or a share in a ship is to be transferred in the circumstances set out in section 115(1).

**Rules as to name of ship**

**119.**(1) A ship shall not be described by any name other than the name in which she is registered.

(2) A ship shall be marked with

*(a)* an official number;

*(b)* its net tonnage; and

*(c)* its International Maritime Organization ship identification number.

(3) The information specified in subsection (2) shall be carved onto a plate that is permanently affixed to the vessel's main beam, or another main structural member, where it is clearly visible.

(4) Subject to subsection (5), the name of a ship shall be marked on each of its bows, and both the name and port of registry shall be marked on the vessel’s stern.

(5) On a pleasure yacht, it is sufficient for one marking if the ship's name to be made on the vessel’s stern.

(6) Once a vessel is properly marked, a marine surveyor shall verify this by signing and returning or electronically submitting the carving and marking note to the Principal Registrar within 21 days.

(7) In this section and section 120, “carving and marking note” means a note specifying how the vessel is to be marked.

**Conditions applicable to change of name of ship**

**120.**(1) A change shall not be made in the name of a ship without the approval of the Principal Registrar.

(2) An application for an approval under subsection (1) may be in either paper or digital format and, if the Principal Registrar is of the opinion that the

application is reasonable, he may approve it and require notice of the change to be published in the form and manner he thinks fit.

(3) On an approval being given to a change in the name of a ship,

*(a)* evidence of carving and marking is required in the form of a completed carving and marking note; and

*(b)* the ship's name shall be altered in the register, in the ship's certificate of registration, and on the bows and stern of the ship.

(4) Where it is shown to the satisfaction of the Principal Registrar that the name of a ship has been changed without his permission, the Principal Registrar shall direct that the name be altered to that which the ship bore before the change, and the name shall be altered on the bows and stern of the ship accordingly.

**Offences**

**121.**(1) Where a person acts, or permits a person under his control to act, in contravention of sections 119 or 120, or omits to do, or permits any person under his control to omit to do, anything required by those sections, he commits an offence, and is liable on summary conviction for each such offence to a fine of $10 000.

(2) Where an application is made under section 120 with respect to a foreign ship that has since been registered as a Barbados ship, the ship may be detained until there is compliance with that section.

*General Conditions of Registration*

**International Maritime Organization compliance verification**

**122.**(1) In order to be pre-registered under the Barbados flag, a vessel, including a bareboat-chartered vessel, shall hold and present to the Principal Registrar at the time of registration relevant valid certificates in accordance with

*(a)* International Convention for the Safety of Life at Sea, 1974;

*(b)* Protocol of 1988 relating to the International Convention for the Safety of Life at Sea, 1974;

*(c)* the International Convention for the Prevention of Marine Pollution from Ships, 1973, as modified by the Protocol of 1978;

*(d)* Protocol of 1997 (Annex VI) to amend the International Convention for the Prevention of Pollution from Ships, as modified by the Protocol of 1978;

*(e)* the International Convention on Load Lines, 1966;

*(f)* the International Convention on Tonnage Measurement of Ships, 1969;

*(g)* Protocol of 1988 relating to the International Convention on Load Lines, 1966; and

*(h)* the Convention on the International Regulations for Preventing Collisions at Sea 1972.

(2) Subject to section 124(2), a vessel that is not compliant with the instruments specified in subsection (1) shall not be registered, or otherwise be entitled to sail under the Barbados flag, until it has been brought into compliance with those instruments.

(3) Subsection (1) does not apply to vessels under construction or vessels undergoing modification or alteration to meet the requirements under the International Maritime Organization instruments specified in subsection (1), and a provisional registration may be made in respect of such vessels.

**Maritime labour compliance verification**

**123.**(1) Within 6 months of registration of a Barbados vessel, the vessel shall hold valid certificates in accordance with the Maritime Labour Convention 2006.

(2) Subject to subsection 124(2), a vessel that cannot prove it complies with subsection (1) within 6 months of registration will be temporarily suspended from the register until such time as valid Maritime Labour Convention 2006 certificates can be produced in respect of the vessel.

(3) Subsection (1) does not apply to vessels under construction or vessels undergoing modification or alteration to meet Maritime Labour Convention 2006 requirements, and a provisional registration may be made in respect of such vessels.

**Lack of valid certificates at pre-registration**

**124.**(1) Where at the pre-registration stage a vessel does not hold valid certificates as specified in section 122 and 123, the Principal Registrar may provisionally register the vessel in accordance with section 112 or 113 and conduct a survey in respect of the vessel to verify her compliance with the relevant International Maritime Organization and International Labour Organization maritime instruments.

(2) Following a successful survey and the issuance of the relevant certificates in respect of the vessel, the vessel may be fully registered.

(3) A vessel found not to be compliant with one or more of the International Maritime Organization and International Labour Organization maritime instruments following a survey shall be given an opportunity to correct the deficiencies, and the provisional registration shall continue during the period that the vessel is being brought into compliance.

(4) Subsection (1) does not apply to vessels under construction or vessels undergoing modification or alteration.

**Transmission of evidence of compliance**

**125.**(1) Where the Principal Registrar registers a vessel under this Act, he shall advise the Director that the vessel is International Maritime Organization- and International Labour Organization-compliant.

(2) Where a vessel at the time of registration is not International Maritime Organization-or International Labour Organization-compliant in accordance with sections 122 and 123, the vessel shall be given an opportunity to be brought into compliance, followed by an inspection by the relevant classification society

or flag state control officer designated by the Administration and verification that the vessel has been brought into compliance, before being entered on the register.

**Other registration conditions**

**126.**(1) In order to be registered under the Barbados flag, a vessel shall satisfy the following additional conditions:

*(a)* a registration application in respect of the vessel shall be made in the prescribed form, accompanied by

(i) where the vessel is owned by a corporation, a copy of the certificate of incorporation;

(ii) proof of ownership, such as a bill of sale, builder's certificate or deletion certificate;

(iii) confirmation from the relevant classification society that the vessel is in class and has valid statutory certificates;

(iv) a report of a pre-registration vessel survey, including particulars as to vessel's International Maritime Organization and International Labour Organization compliance under the mandatory International Maritime Organization instruments outlined in this Act and the Maritime Labour Convention, 2006;

(v) a copy of its international tonnage certificate; and

(vi) proof of a valid ship radio license or radio license issued by the Principal Registrar on initial registration;

*(b)* ships carrying more than 2,000 tonnes of oil as bulk cargo shall have relevant insurance coverage of liability, such as a P&I Club Blue Card or other equivalent financial security, in order to obtain the certificate required under the International Convention on Civil Liability for Oil Pollution Damage, 1969;

*(c)* ships carrying more than 1,000 GT of oil as bulk cargo shall have relevant insurance coverage of liability, such as a P&I Club Blue Card

or other equivalent financial security, in order to obtain the certificate required under the International Convention on Civil Liability for Bunker Oil Pollution Damage, 2001; and

*(d)* ships carrying more than 12 passengers shall have relevant insurance coverage of liability, such as a P&I Club Blue Card or other equivalent financial security, in order to obtain

(i) the Athens Convention relating to the Carriage of Passengers and their Luggage by Sea, 1974 certificate;

(ii) a wreck removal certificate; and

(iii) any other International Maritime Organization statutory certificates requiring compulsory insurance or other form of equivalent financial security.

(2) A bill of sale signed in Barbados shall be attested by a notary, other proof of ownership signed in the Caribbean Community and Common Market shall be notarized, and proof of ownership signed outside of the Caribbean Community and Common Market shall be apostilled or notarized.

*Conditions and Procedure for Bareboat Charter Registration*

**Interpretation**

**127.** For the purposes of sections 128 to 136

"bareboat" means a ship without a crew;

"bareboat charter" means a contract for the lease or sublease of a vessel, for a stipulated period of time, by virtue of which the charterer acquires full control and complete possession of the vessel, including the right to appoint her master and crew for the duration of the charter, but excluding the right to sell or mortgage the vessel;

"bareboat charter registration" means the registration of a vessel in a barefoot charter registry under the name of the charterer;

"barefoot charter registry" means the registry of the state whose flag the vessel is entitled to fly during the period in which the charterer is registered as the bareboat charterer;

"compatible registry" means a vessel registry of a foreign state declared by the Principal Registrar or Director to be a compatible registry in accordance with section 128; and

" day" means a calendar day.

*Conditions of Bareboat Charter Registration*

**Bareboat charter registration**

**128.**(1) Whenever it appears to the Director or Principal Registrar that the provisions of the law of a state with regard to bareboat charter registration are compatible with the provisions of this Act, he may declare the ship registry of that state to be a compatible registry for the purposes of sections 128 to 136.

(2) Notwithstanding section 99, a vessel that is not eligible under that section to be registered as a Barbados vessel is eligible to be registered at the discretion of the Principal Registrar as a Barbados vessel if

*(a)* the vessel is bareboat chartered to a national of Barbados domiciled in Barbados or to any person authorized in writing to be so registered, by the Principal Registrar, after consultation with the Administration;

*(b)* the vessel is not a Barbados vessel and is registered in a compatible registry;

*(c)* subject to subsection (6), the vessel is not registered in another bareboat charter registry;

*(d)* the applicable fees and taxes are paid; and

*(e)* such certified documents as the Principal Registrar may require are submitted to him, including

(i) an application for registration under sections 128 to 136 by the charterer or his authorized agent containing such information as may be required by the Principal Registrar;

(ii) a declaration of bareboat charter made by the charterer, accompanied by a copy of the charter agreement;

(iii) a copy of the existing tonnage certificate;

(iv) a certificate of good standing of the bareboat charterers, if they are foreign;

(v) true copies of all relevant mortgages in the English language, or an authenticated translation, indicating the name of the vessel, the name of the parties, the total original amount, the discharge amount, and the date of maturity;

(vi) confirmation from the relevant classification society that the vessel is in class and has valid statutory certificates;

(vii) a transcript or an extract of the underlying registration of the vessel that includes a description of the vessel, the owners and, where applicable, all registered mortgages and encumbrances of the vessel; and

(viii) the written consent for the vessel to be bareboat chartered in Barbados, by the appropriate authorities of the underlying registry, the owners of the vessel and all holders of registered mortgages, hypotheques and charges.

(3) Documents referred to in subparagraph *(d)*(vii) shall be available for public inspection.

(4) A charter agreement submitted to the Principal Registrar under subsection (3) shall not be available for public inspection.

(5) The Principal Registrar may require the authorities referred to in subparagraph *(d)*(viii) to declare that during the period of bareboat charter registration the vessel will not be entitled to fly their flag.

(6) The charterer shall produce to the Principal Registrar within 30 days any amendments or modifications to the bareboat charter.

(7) Where amendments or modifications are made to the underlying registration, the charterer shall

*(a)* within 7 days from the amendments or modifications being made, communicate them to the Principal Registrar; and

*(b)* within 30 days of the amendments or modifications being entered into the underlying register, produce to the Principal Registrar a transcript or an extract of the underlying registration showing the amendments or modifications.

(8) The Principal Registrar may, under such circumstances and conditions as he may prescribe, permit the registration of a vessel pursuant to this section that is already bareboat chartered with a foreign registry.

(9) Subject to subsection (11), the tonnage of a vessel to be registered pursuant to this section shall be ascertained in accordance with the tonnage regulations made under this Act.

(10) At the request of the charterer, the Principal Registrar may accept the tonnage of the vessel to be the tonnage registered in the underlying registry if the Principal Registrar is satisfied that the International Convention on Tonnage Measurement of Ships, signed in London on 23rd June 1969, applies to the vessel and that its provisions have been adhered to, in which case the certificate of survey shall be that issued by the underlying registry.

(11) Subject to subsection (13), a vessel shall be registered under this section by the name under which she is registered in the underlying registry, provided that the name is not already the name of a registered Barbados vessel or a name so similar as to be calculated to deceive.

(12) The name of a vessel to be registered or of a vessel already registered under this Part may be changed prior or subsequent to registration under sections 131 to 138, as the case may be, if the appropriate authorities of the underlying registry, the owners and the registered mortgagees, if any, have consented to it and the change is made in accordance with the provisions of section 120.

**Procedure for bareboat charter registration**

**129.**(1) Where the Principal Registrar is satisfied that all conditions for registration specified in this Act have been complied with and upon payment of the prescribed fee, the Principal Registrar shall

*(a)* enter in the register of Barbados ships as a bareboat charter registration all particulars of the vessel and her underlying registration, owners and charterers, the expiry date of the registration and of any mortgages affecting the vessel;

*(b)* inform the appropriate authorities of the underlying registry of the registration under this section; and

*(c)* issue a certificate of bareboat charter registration that includes the name and particulars of the vessel, the name of the home port Bridgetown, Barbados and the expiry date of the registration.

(2) Upon the issuance of a certificate of bareboat charter registration, all documents issued to the vessel by the underlying registry shall be surrendered to the appropriate authorities of that registry and within 30 days of the issuance of the certificate, the charterer shall make and deliver to the Principal Registrar a declaration to that effect.

(3) Subject to subsection (4), the duration of the registration shall be for a period not exceeding the least of

*(a)* the duration of the bareboat charter;

*(b)* the expiry date of the underlying registration; and

*(c)* 5 years.

(4) Subject to subsection (6), at the request of the charterer or his authorized agent, the Principal Registrar may extend and further extend the bareboat registration for the remaining period of the charter, until the expiry date of the underlying registry, or for 3 years, whichever is the shortest period, if he has received written consent to the extension from the appropriate authorities of the underlying registry, the owners and any registered mortgagees within 7 days from the Principal Registrar having informed them of the request for extension.

(5) Upon the grant of an extension, the Principal Registrar shall

*(a)* enter the new date of expiry in the register of the vessel;

*(b)* issue a certificate of extension of bareboat charter registration that includes the date of expiry; and

*(c)* inform the appropriate authorities of the underlying registry.

(6) No extension of a bareboat charter registration under subsection (5) shall be granted beyond a period of 5 years from the date of first registration of the bareboat charter, unless the charterer or his authorized agent has received written permission from the appropriate authorities of the underlying registry, the owners and any registered mortgagees, such permission to be produced to the Principal Registrar.

(7) If a charterer or authorized agent wishes to extend a bareboat charter beyond 5 years, the bareboat charter shall be classified on the register as a long-term charter.

(8) A vessel registered under this section is deemed to be a Barbados vessel and, except where otherwise provided in the regulations or a merchant shipping notice, shall be under the jurisdiction and control of Barbados and shall comply with the laws applicable to Barbados.

(9) A vessel registered under this section shall hoist the Barbados flag only as provided for in this Act.

(10) The home port of a vessel registered under this section shall be Bridgetown, shall be shown on the certificate of bareboat charter registration and shall be marked in the stern accordance with section 119(4).

(11) The registration of a vessel under this section does not affect its ownership and has no effect with regards to title, transfer and transmission of the vessel.

(12) The charterers shall notify the Principal Registrar of any transfer of ownership of a vessel registered under this section, in which case the registration of the vessel under this section shall be closed, unless the new owners, within 7 days, inform the Principal Registrar that they have no objection to the registration of the vessel in accordance with this section and within 30 days of having made the declaration deliver in writing to the Principal Registrar their consent to the registration.

(13) The registration fee of vessels on bareboat charter are as specified in the regulations.

**Mortgages and encumbrances: bareboat chartered vessels**

**130.**(1) No mortgage or encumbrance shall be registered under this Act in respect of a ship registered under section 129.

(2) The Principal Registrar or Director shall refuse to register such a mortgage or encumbrance, the registration of which shall remain vested in the underlying registry.

(3) Extracts of mortgages, hypotheques and charges recorded in a foreign registry shall be recorded in a bareboat charter registry book in the same order as they are recorded in the foreign registry.

(4) The bareboat charter book shall be maintained at the offices of the Principal Registrar.

(5) The information contained in the bareboat charter book shall be endorsed upon the vessel’s bareboat charter certificate of registration.

(6) The bareboat charter book may be in electronic format.

**Closure of bareboat charter registration**

**131.**(1) The Minister or the Director may order that the registration of a vessel under section 129 be closed

*(a)* if any of the provisions of this Act applicable to a vessel registered pursuant to this section are not complied with; or

*(b)* for any reason specified in section 142 that would be applicable to a vessel registered under this section.

(2) The charterer of a ship registered under this section may apply to the Principal Registrar to close the bareboat charter registration of the ship.

(3) An application under subsection (2) shall include all information that the Principal Registrar may require for the purpose.

(4) The application shall be granted if all liabilities and obligations in respect of the vessel towards the Government of Barbados, including fees, charges and fines, have been satisfied.

(5) The Principal Registrar shall close the registration of a vessel under section 129, and shall make an entry to that effect in the register, if

*(a)* the Minister or Principal Registrar has ordered the closure in terms of subsection (1);

*(b)* a voluntary closure of registry has been requested and the request has been granted by the Principal Registrar under subsection (2);

*(c)* the appropriate authorities of the underlying registry, the owners or a mortgagee have withdrawn their consent to the bareboat charter registration in Barbados;

*(d)* the registration in the underlying registry has been terminated;

*(e)* the charter lapses or is terminated by any of the parties to it; or

*(f)* the period for which the vessel has been bareboat charter registered lapses and no extension has been granted in accordance with section 128.

(6) Upon the closure of a registration under subsection (3), the vessel shall cease to be a Barbados vessel and the Principal Registrar shall immediately notify the appropriate authorities of the underlying registry and the owners of the closure.

(7) The Principal Registrar may refuse to issue a deletion certificate or a transcript of registry showing the closure of registry until

*(a)* the certificate of bareboat charter registration issued under section 129 has been surrendered to him; and

*(b)* all liabilities and obligations in respect of the vessel towards the Government of Barbados, including fees, charges and fines, have been satisfied.

**Bareboat charter registration in a foreign registry**

**132.**(1) Notwithstanding any other provision of this Act, a Barbados vessel registered under 129 may be bareboat charter registered in a foreign registry if the Principal Registrar gives his consent under subsection (2).

(2) The Principal Registrar may, under such conditions as he considers fit to impose, consent to the registration of a bareboat charter with a foreign registry and issue a confirmation of registration and letter of authorization to that charter if

*(a)* the vessel is registered as a Barbados vessel in accordance with this Act;

*(b)* the bareboat charter registry where the vessel is to be registered is a compatible registry;

*(c)* payment of applicable fees and taxes is forthcoming; and

*(d)* the following documents are submitted to him:

(i) an application for bareboat charter registration in a foreign registry made by the owners containing such information as may be required by the Principal Registrar;

(ii) the consent in writing to the registration of all registered mortgagees, if any;

(iii) a written undertaking by the owners to surrender the certificate of registration issued under this Act within 15 days from the entry into the bareboat charter registry;

(iv) a written undertaking by the charterer that the Barbados flag shall not be hoisted during the period of bareboat charter registration; and

(v) a copy of the bareboat charter.

(3) The owners shall produce to the Principal Registrar any amendments or modifications to the bareboat charter within 30 days of the amendments or modifications being made.

(4) Subject to subsection (5), a vessel registered under section 129 shall be bareboat charter registered in a foreign registry by the name under which it is registered under this Act.

(5) The name of a Barbados registered vessel that is bareboat charter registered in a foreign registry may be changed only with the written permission of the Principal Registrar under section 119 if the change is also made in the bareboat charter registry.

(6) The registration in a foreign bareboat charter registry of a vessel registered under this Act that is not made in accordance with this Act is void.

(7) Upon the bareboat charter registration of a Barbados vessel in a foreign registry,

*(a)* the owners shall immediately notify the Principal Registrar of the registration and within 30 days surrender to the Principal Registrar the certificate of registration issued to the vessel under this Act and a transcript or extract of the foreign bareboat charter registration; and

*(b)* if the Principal Registrar is satisfied that the registration has been made according to this Act, the Principal Registrar shall make an entry to that effect in the register of the vessel.

(8) The owners shall immediately notify the Principal Registrar of the closure or lapse of a bareboat charter registration in a foreign registry and shall, within 30 days of the closure or lapse of the registry, deliver to the Principal Registrar a transcript or extract of the foreign bareboat charter registration showing the closure or lapse.

(9) Unless otherwise provided for in this section, the owners of a Barbados vessel shall comply with the laws of the foreign registry.

(10) During the time a Barbados vessel is bareboat charter registered in a foreign registry in accordance with this section,

*(a)* notwithstanding section 223, the vessel shall not hoist the flag of Barbados and shall be permitted to fly the flag of the foreign bareboat registry; and

*(b)* notwithstanding section 106, the home port of the vessel shall be that of the bareboat charter registry.

(11) The owners shall, within one month from the entry into the foreign bareboat charter registry, make and deliver to the Principal Registrar

*(a)* a copy of the foreign flag carving note; or

*(b)* a declaration to the effect that the name of the foreign home port has been marked on the stern of the vessel in lieu of the name Bridgetown, Barbados.

(12) Barbados vessels bareboat charter registered in a foreign registry shall continue to be subject to the payment of all the fees set out in the regulations in respect of Barbados ships.

(13) Where a Barbados vessel is bareboat charter registered in a foreign registry,

*(a)* all matters with respect to title over the vessel, mortgages and encumbrances shall continue to be governed by the law of Barbados and the International Convention on Maritime Liens and Mortgages 1993;

*(b)* any transaction affecting the title over the vessel or relating to the registration, amendment, transfer and transmission and discharge of mortgages shall be made and registered in accordance with this Act and only by the person specified in this Act; and

*(c)* the registration of any mortgages or encumbrances in the foreign bareboat charter registry is void.

(14) A Barbados vessel that is bareboat chartered registered in a foreign registry shall be issued with certificates under international conventions to which Barbados is a party, under the authority of the government of the bareboat charter registry, unless the state of the bareboat charter registry is not a party to those conventions, in which case the certificate may be issued under the authority of the Government of Barbados.

(15) The Principal Registrar may withdraw the consent referred to in subsection (1) if any of the provisions of this Act are not complied with if

*(a)* the Minister, in the national interest or in the interest of Barbados shipping and after giving the owners and the charterers of the vessel a reasonable opportunity to make representations, has ordered the Principal Registrar to withdraw the consent;

*(b)* any of the conditions specified in subsection (2) are not fulfilled; or

*(c)* the charter terminates or is terminated by any of the parties to it.

(16) Upon the withdrawal of the consent of the Principal Registrar under subsection (15),

*(a)* the Principal Registrar shall inform the appropriate authorities of the bareboat charter registry, the owners and the charterers of the withdrawal; and

*(b)* the bareboat charter registration shall be terminated.

(17) Upon the termination of a bareboat charter registration,

*(a)* the Principal Registrar or Director shall make an entry to that effect in the register, and the vessel shall then again be subject to the laws of Barbados;

*(b)* within 30 days from the termination of the registration, the owners shall make and deliver a declaration to the Principal Registrar that the certificate of bareboat charter registration has been surrendered to the foreign bareboat charter registry, on receipt of which the Principal Registrar shall, unless the registration of the vessel under this Act is also being closed, again deliver to the owners the certificate of registration surrendered to him under subsection (2); and

*(c)* within 30 days from the termination of the registration, the owners shall deliver to the Principal Registrar a transcript or extract of a register showing that the bareboat charter registration has been cancelled.

**Duration of bareboat charter-out**

**133.**(1) The duration of a charter-out registration shall not exceed the duration of the bareboat charter, the expiry date of the present registration, if any, or 5 years, whichever is the shortest.

(2) A certificate of registration is renewable every year by paying the annual fees and submitting the required documentation.

(3) On the expiry of the period of a bareboat charter, the following are required:

*(a)* an addendum to the charter party agreement; and

*(b)* a consent from underlying registry.

**Payment of fees during charter-out period**

**134.** A Barbados vessel that is bareboat charter registered in a foreign registry continues to be subject to the payment of all the fees set out in respect of Barbados under the regulations.

**Registration of floating structures and fixed facilities**

**135.**(1) In order to register floating structures that are intended for the performance of works in Barbados' waters and fixed facilities, the owner shall submit the following documents to the Principal Registrar:

*(a)* an application in the prescribed form;

*(b)* a certified copy of the registration certificate of the merchant, where merchant is foreign, and an identity document for a natural person;

*(c)* evidence of an expropriation agreement entered into with the Government of Barbados;

*(d)* evidence of any applicable offshore energy permit or license, or marine renewable energy permit or licence, issued in accordance with national energy laws;

*(e)* where a new structure or equipment has been built, a builder's statement or certificate, indicating the acquirer of the vessel;

*(f)* a valid certificate of class from a recognized international classification society;

*(g)* International Maritime Organization Mobile Offshore Drilling Units Code Safety Certificates, for mobile offshore drilling units; and

*(h)* a document issued by the flag state inspectorate of the Administration, specifying the technical data and equipment of the floating structure or fixed equipment.

(2) Floating structures and fixed facilities originally or mainly intended for the provision of living, recreational or entertainment conditions on water shall not be registered.

(3) In order to be registered, a floating structure shall be engineered to perform certain specific works on the water and shall include structural elements and devices for such specific and identifiable works.

(4) Floating structures and fixed installations used for the exploration, extraction, storage of underwater natural resources or similar activities may, on an application by the owner, be registered in the register of international ships, if they are wholly or partly located in Barbados or on Barbados' continental shelf and do not contravene Barbados' obligations under applicable international instruments.

(5) Fixed installations and floating structures shall in all cases be compliant with applicable International Maritime Organization requirements, International Association of Classification Societies Rules, International Organization for Standardization standards and national laws.

**Registration of deep-sea mining work vessels**

**136.**(1) In order to register vessels specially designed for the prospecting, drilling and recovery of oil and gas, seabed minerals, marine diamonds, or other non-living natural resources contained in Barbados' seabed, the subsoil thereof, or in Barbados waters, the owner shall submit the following documents to the Principal Registrar:

*(a)* an application in the prescribed form;

*(b)* a certified copy of the registration certificate of the merchant, where merchant is foreign, and an identity document for a natural person;

*(c)* evidence of a deep-sea mining agreement entered into with the Government of Barbados;

*(d)* evidence of any applicable deep-sea mining permit or license;

*(e)* where a new structure or equipment has been built, a builder's statement or certificate, indicating the acquirer of the vessel;

*(f)* a valid certificate of class from a recognized international classification society;

*(g)* Certificates issued pursuant to the Code for the Construction and Equipment of Mobile Offshore Drilling Units;

*(h)* Code of Safe Practice for the Carriage of Cargoes and persons by Offshore Supply Vessels; and

*(i)* any other documentation requested by the Administration.

(2) Foreign-registered vessels carrying out deep-sea mining activities in Barbados waters, shall in addition to providing proof of registration with the relevant country of registry, shall provide to the Administration

*(a)* documents specified at paragraphs *(c)*, *(d)*, *(f)* and *(g)* of section 136(1);

*(b)* where applicable, document specified at paragraph *(e)* of section 136(1);

*(c)* any other documentation requested by the Administration.

(3) Deep-sea mining work vessels, irrespective of place of registry, operating in Barbados waters, shall in all cases be compliant with applicable International Maritime Organization requirements, International Association of Classification Societies Rules, International Organization for Standardization standards and any applicable national and international laws.

**Registration of special purpose vessels**

**137.**(1) In this section, "special purpose vessel" means a vessel whose hull, equipment and mechanisms are designed for a specific activity, that is intended

for sailing in Barbados, and whose crew consists of specially trained personnel to perform functions specific to the purpose of the vessel.

(2) In order to register a special purpose vessel under the Barbados flag, the owner shall submit the following documents to the Principal Registrar:

*(a)* an application in the prescribed form;

*(b)* a certified copy of registration certificate of the merchant, where the merchant is foreign, and an identity document for a natural person;

*(c)* documentary evidence pertaining to the special purpose activity in which the vessel will be engage;

*(d)* evidence of a license or permit specific to the special purpose activity;

*(e)* where a new structure or equipment has been built, a builder's statement or certificate indicating the acquirer of the vessel;

*(f)* a valid certificate of class from a recognized international classification society; and

*(g)* a document issued by the flag state inspectorate of the Administration, specifying the technical data and equipment of the special purpose vessel.

(3) Foreign-registered special purpose vessels carrying out activities in Barbados waters, shall in addition to providing proof of registration with the relevant country of registry, shall provide to the Administration

*(a)* documents specified at paragraphs *(c)*, *(d)*, *(f)* and *(g)* of section 137(2);

*(b)* where applicable, document specified at paragraph *(e)* of section 137(2); and

*(c)* any other documentation requested by the Administration.

(4) Special purpose vessels, irrespective of place of registry, operating in Barbados waters, shall in all cases comply with applicable International Maritime Organization requirements, International Association of Classification Societies

Rules, International Organization for Standardization standards and any applicable national and international laws.

**Registration of vessels under construction**

**138.**(1) In order to register a vessel under construction, including a floating dock, floating workshop, floating filling station, debarker or cargo pontoon, or fixed equipment in Barbados, a shipbuilder shall upon commencing shipbuilding or concluding the shipbuilding contract, submit to the Principal Registrar

*(a)* an application and a document issued by the flag state inspectorate of the Administration confirming the commencement of shipbuilding; or

*(b)* a copy of the shipbuilding contract.

(2) Floating structures under construction intended for the performance of certain works on water, as determined by the Principal Registrar in consultation with the Administration and specified in a merchant shipping notice, shall not be registered.

**Vessel construction certificate of registration**

**139.**(1) Upon a written request to the Principal Registrar for a vessel construction certificate of registration and upon payment of the fees specified in the regulations, the Principal Registrar or his designate may issue a vessel construction certificate of registration to the vessel owner, if the owner has furnished proof satisfactory to the Principal Registrar or his designate

*(a)* that the construction contract has been entered into, by providing a certified copy of the construction contract;

*(b)* that construction on the vessel has commenced; and

*(c)* that the party seeking registration of the vessel under construction has paid to the Principal Registrar the prescribed construction registration fee.

(2) As soon as reasonably practicable after completion of a vessel under construction, a provisional certificate of registration shall be issued by the Principal Registrar in place of the vessel construction certificate of registration, and the vessel construction certificate shall be surrendered as promptly as circumstances permit to the Principal Registrar.

(3) The vessel construction certificate of registration shall be in the form set out in the *Sixth Schedule*.

*Registration – General*

**Refusal of registration**

**140.**(1) The Director, after consultation with the Minister, may direct the Principal Registrar not to register a ship in respect of which an application for registration has been made and that is otherwise entitled to be registered if he is satisfied that it would be detrimental to the interests of Barbados or of international shipping for the ship to be registered, having regard to

*(a)* the condition of the ship, so far as it is relevant to safety or to any risk of pollution;

*(b)* the safety, health and welfare of persons employed or engaged in any capacity on board the ship; or

*(c)* the possibility that the ship is being used for criminal purposes.

(2) Where it appears to the Director that a ship in respect of which an application for registration has been made is not entitled to be registered, having regard to a matter referred to in paragraph (1)*(a)*, *(b)* or *(c)*, he shall inform the applicant, or any representative person appointed in relation to the ship, and the Principal Registrar shall not register the ship.

**No registration of fishing vessels**

**141.** No fishing vessel, whether local or foreign, shall be registered under this Act, but shall instead be registered in accordance with the national fisheries laws or national fisheries laws.

**Termination of registration**

**142.**(1) The Principal Registrar may, subject to subsection (5), terminate a ship's registration

*(a)* where the Director is satisfied that

(i) having regard to the matters referred to in paragraphs 126(1) *(a)*, *(b)* and *(c)*, it would be detrimental to the interests of Barbados or of international shipping for a registered ship to continue to be registered;

(ii) a penalty imposed on the owner of a registered ship in respect of a contravention of this Act, or of any instrument in force under this Act, has remained unpaid for a period of more than 3 months and no appeal against the penalty is pending; or

(iii) a summons for such a contravention has been duly served on the owner of the ship, the owner has failed to appear at the time and place appointed for the trial of the information or complaint in question, a period of not less than 3 months has elapsed since that time, and the Director has so informed the Principal Registrar;

*(b)* where the annual tonnage fees of the ship have remained unpaid for a period not exceeding 3 months;

*(c)* where the ship is no longer entitled to remain registered;

*(d)* on the application by the registered owner stating that he wishes to terminate the registration of the ship; or

*(e)* upon a registered ship becoming a total loss or being otherwise destroyed, such as by shipwreck, demolition, fire or sinking.

(2) Where a registered ship is in any condition referred to in paragraph (1) *(e)*, every registered owner of the ship or of any share in it shall, immediately upon obtaining knowledge of the condition, inform the Principal Registrar, who shall make an entry of it in the register.

(3) Where the registration of a ship is terminated under subsection (1), the Principal Registrar shall

*(a)* notify all registered mortgagees of the closure the ship's registration; or

*(b)* keep the registration open in respect of the ship until the mortgage is recorded as discharged.

(4) Where the registration of a ship is terminated under paragraph (1)*(d)* or *(e)*, the Principal Registrar shall without delay issue a closure transcript to the owner of the ship.

(5) On receipt of notification of the termination of a registration, the owner shall return the certificate of registration to the Principal Registrar prior to the issuance of the closure transcript.

(6) In the circumstances referred to in paragraph (1)*(a)*, where it appears to the Principal Registrar that paragraph (1)*(b)*, *(c)* or *(e)* applies, he may serve notice on the owner, or on any representative person appointed in relation to that ship, to produce to the Director or the Principal Registrar, within 21 days, evidence sufficient to satisfy him that the ship is eligible to remain on the register.

(7) If, at the expiry of that period, the Director or the Principal Registrar, as the case may be, is not so satisfied, the Principal Registrar may

*(a)* extend the notice and ask for further information or evidence; or

*(b)* serve a final notice informing the owner or the representative person of the termination of the ship's registry, in which case the termination shall take effect 7 days after the service of that notice.

(8) Where the Principal Registrar serves a notice under this section on the owner of a ship in respect of which a mortgage is registered, the Principal Registrar shall send a copy of that notice to the mortgagee at the address recorded for him in the register.

(9) Where a ship's registration is terminated under this section, the Principal Registrar shall issue a closure transcript and the owner of the ship shall surrender its certificate of registration without delay.

(10) A person who, in connection with the making of representations under subsection (6), knowingly or recklessly furnishes information that is false in a material particular commits an offence and is liable on summary conviction to a fine of $10 000 or on conviction on indictment to a fine of $50 000.

(11) A person who fails, without reasonable cause, to surrender a certificate of registration when required to do so under subsection (9) commits an offence and is liable on summary conviction to a fine of $15 000.

**Restriction on de-registration of ships**

**143.** Subject to subsection 142(6), the Principal Registrar shall not permit the de-registration of a ship, except after giving prior notice in writing to all registered holders of mortgages of that ship registered under this Act.

**Certificate of de-registration**

**144.**(1) Upon the de-registration of a ship, the Principal Registrar shall issue to the owners shown in the register a certificate of de-registration in the prescribed form.

(2) On receipt of a certificate of de-registration referred to in subsection (1), the owners shall immediately surrender the ship's certificate of registration to the Principal Registrar for cancellation.

(3) A person who fails, without reasonable cause, to surrender a certificate of registration when required to do so under this section commits an offence and is liable on summary conviction to a fine of $10 000.

**Registration of alterations and registration anew**

**145.**(1) When a Barbados ship greater than 150 GT is altered so as to no longer correspond with the particulars relating to its tonnage or description in the register, the owner of the ship shall give notice of the alteration within 30 days after its completion to the Principal Registrar, accompanied by a certificate from a proper surveyor or recognized organization stating the particulars of the alteration.

(2) Upon receipt of a notice of alteration of a Barbados ship under subsection (1), the Principal Registrar shall either register the alteration or direct that the ship be registered anew.

(3) Where there is a failure to comply with the requirements of subsection (1) or with a direction under subsection (2), the Registrar may suspend the certificate of registration of the ship in respect of which the failure occurs.

**Procedure for registration of alterations**

**146.**(1) On the registration of an alteration in a Barbados ship, the owner of the ship shall produce the ship's certificate of registration to the Principal Registrar within 60 days after the registration.

(2) Where a certificate of registration has been produced to the Principal Registrar under subsection (1), the Principal Registrar may

*(a)* endorse and sign on that certificate a statement of the alteration; or

*(b)* retain that certificate and issue a new certificate of registration that contains a description of the ship as altered.

(3) The particulars of the alteration made, and the fact of the new certificate having been granted or an endorsement having been made, shall be entered by the Principal Registrar in the register.

**Offence**

**147.** The owner of a ship who fails to comply with section 145 or 146 commits an offence and is liable on summary conviction to a fine of $10 000 and to an additional fine of $300 for every day during which the offence continues after conviction.

**Registration anew or change of ownership**

**148.** Where the ownership of a ship is changed, the Principal Registrar may, on the application of the owners of the ship, register the ship anew, although registration anew is not required under this Act.

**Procedure for registration anew**

**149.**(1) Where a ship is to be registered anew, the Principal Registrar shall proceed as in the case of a first registration and shall register the ship anew and grant a new certificate

*(a)* on the surrender to him of the existing certificate of registration; and

*(b)* on compliance with the other requirements for registration or, in the case of a change of ownership, on compliance with such requirements as the Principal Registrar considers material.

(2) When a ship is registered anew,

*(a)* her former register shall be considered as closed, except in relation to any unsatisfied mortgage or existing certificates of sale or mortgage entered on the register;

*(b)* the names of all persons appearing on the former register as owners or mortgagees shall be entered on the new register; and

*(c)* the registration anew shall not affect the rights of any of those persons.

**Restriction on registration**

**150.**(1) Where a ship is entitled to be registered in Barbados under section 92 and the ship is so registered, the ship shall not be registered under the law of any other country.

(2) Where a ship is registered under the law of another country in contravention of subsection (1), the registered owner, subject to subsection (3), commits an offence and is liable on summary conviction to a fine of $15 000.

(3) It is a defence for a person charged with an offence under this section to prove that he had taken all reasonable steps to secure the termination of the registry of the ship under the law of the country in which the ship is registered in contravention of subsection (1).

**Trusts, equitable interests and liabilities of beneficial interests**

**151.**(1) Subject to subsection (2), no trust, express, implied or constructive, shall be registered by the Principal Registrar.

(2) Where on the bankruptcy of a registered owner or mortgagee his title in a Barbados ship is transmitted to a trustee in bankruptcy, the trustee may be registered as the owner or mortgagee of the ship or of a share in it, if the ship remains entitled to be registered as a Barbados ship pursuant to section 92.

(3) In this section, "beneficial interest" includes interests arising under contract and other equitable interests.

(4) A beneficial interest may be enforced by or against an owner or mortgagee of a ship in respect of his interest in it in the same manner as in respect of any other personal property and without prejudice to

*(a)* the provisions of this Act for preventing trusts from being entered in the register or received by the Principal Registrar;

*(b)* the powers of disposition and of giving receipts conferred by this Act on registered owners and mortgagees; and

*(c)* the provisions of this Act relating to the exclusion of unqualified persons from the ownership of Barbados ships.

(5) Where a person has beneficial interest, other than by way of a mortgage, in a ship or in a share of a ship registered in the name of another person as owner, both the person and the registered owner are subject to all pecuniary penalties imposed by this or any other Act on the owners of ships or of shares in ships, and proceedings may be taken for the enforcement of any such penalties against both or either of those persons, with or without joining either of them.

**Principal Registrar may dispense with declaration or evidence**

**152.**(1) When, under this Part, a person is required to make a declaration on behalf of himself or of any body corporate or evidence is required to be produced to the Principal Registrar and it is shown to the satisfaction of the Principal Registrar that from any reasonable cause the person is unable to make the declaration or produce the evidence, the Principal Registrar may, with the approval of the Director, and on the production of such other evidence, and subject to such terms as he may reasonably think fit, dispense with the declaration or evidence.

(2) Declarations required by this Part may be made on behalf of a body corporate by the secretary or any other officer of the body corporate authorized by it for that purpose.

**Evidence of certificate of registration and other documents**

**153.**(1) The following documents shall be admissible in evidence in the manner provided by this Act:

*(a)* a certificate of registration under this Act purporting to be signed by the Principal Registrar or other proper officer;

*(b)* an endorsement on a certificate of registration purporting to be signed by the Principal Registrar or other proper officer; and

*(c)* a declaration made under this Part.

(2) A person may, on payment of a prescribed fee, make a request to the Principal Registrar, during the hours of his official attendance, to inspect the register.

(3) A person is entitled, on payment of the prescribed fee, to obtain a copy, certified as a true copy by the Principal Registrar, of any information contained in an entry in the register, and any document purporting to be such a certified copy shall be evidence of the matters stated in the document.

(4) A person is entitled, on payment of the prescribed fee, to obtain a certified copy of the information entered in the register in respect of the registration of a ship, together with a statement certified by the Principal Registrar identifying the owner of the ship.

(5) The *Merchant Shipping (Liability and Compensation) Act, 2024* (Act 2024- ) shall apply to any document supplied under subsection (3) or (4).

**Forms of documents**

**154.**(1) The instruments referred to in this Part shall, subject to subsection (3), be in the form prescribed.

(2) The Principal Registrar shall not be required to receive and enter in the register any bill of sale, mortgage, or other instrument of the disposal or transfer of a ship or share, or of an interest in one, that is made in a form other than that required under this Part, or that contains any particulars other than those provided for in such a form.

(3) The Principal Registrar may make necessary amendments to any forms and documents not derived from international maritime conventions.

(4) In this Part,

*(a)* references to a form include references to alterations made to it from time to time; and

*(b)* such public notice of the alteration of a form shall be given as may be necessary in order to prevent inconvenience.

**Instructions as to registration**

**155.** The Director may, for carrying into effect this Part, give such instructions to his officers as he thinks fit as to

*(a)* the manner of making entries in the register;

*(b)* the execution and attestation of powers of attorney;

*(c)* any evidence required for identifying a person;

*(d)* the referring to the Director of any question involving doubt or difficulty; and

*(e)* generally, any act or thing to be done under this Part.

**Forgery of documents**

**156.**(1) No person shall forge or fraudulently alter

*(a)* an entry or endorsement in the register;

*(b)* any other document referred to in this Part; or

*(c)* any entry in or endorsement on such a document.

(2) A person who contravenes subsection (1) commits an offence and is liable

*(a)* on summary conviction, to a fine of $20 000 or to imprisonment for a term of 18 months, or to both; or

*(b)* on conviction on indictment, to a fine of $50 000 or to imprisonment for a term of 3 years, or to both.

**False declarations**

**157.**(1) Any person who, in a declaration made in the presence of or produced to the Principal Registrar under this Part, or in any document or other evidence produced to the Registrar

*(a)* wilfully makes, assists in making or procures to be made a false statement concerning the title to, or ownership of, an interest in any ship or in any share in a ship; or

*(b)* utters, produces or makes use of a declaration or document containing such a false statement knowing it to be false,

commits an offence and, in respect of each such offence, is liable on summary conviction to a fine of $20 000.

(2) A person who wilfully makes a false declaration respecting his qualification or that of any other person or body corporate to own a Barbados ship or a share in one, or respecting the entitlement of a ship to be registered, commits an offence and is liable on summary conviction to a fine of $40 000.

(3) A ship or share in it that is subject of a false declaration referred to in subsection (2) is subject to forfeiture under this Act to the extent of the interest of the declarant in it, unless it is proved that the declaration was made without the authority of the person or body corporate on behalf of whom the declaration was made.

**Prevention of registration of phantom ships**

**158.**(1) The Principal Registrar shall endeavour to prevent the registration of a phantom Barbados-registered ship, and shall take due account of International Maritime Organization Resolution A.923 (22) or later versions thereto – Measures to Prevent the Registration of Phantom Ships.

(2) The Principal Registrar shall, when accepting documents for ship registration purposes, accept only

*(a)* original paper documents; or

*(b)* verified authentic electronically submitted documents.

(3) Electronically submitted ship registration documents shall comply with the United Nations Commission on International Trade Law international standards on electronic documentation, and to the extent practicable, the *Electronic Transaction Act*, Cap. 308B.

(4) The Principal Registrar shall use all available means to obtain evidence that a ship previously registered under another state's flag has been deleted, or that consent to the transfer of the ship has been obtained from that state's register.

(5) No ship shall be registered if the ship has not previously been registered, unless sufficient evidence of her not being registered has been received by the Principal Registrar.

(6) Notwithstanding subsection (4), the Principal Registrar may reactivate the registration of a laid-up ship whose registration has lapsed, subject to any necessary re-registration requirements specified by the Principal Registrar.

(7) Prior to the registration of a ship, the Principal Registrar shall verify the ship's identity, including its International Maritime Organization identification number, and, where appropriate, other records of the ship, to ensure the ship does not simultaneously fly the flag of two or more states.

(8) In this Part, "phantom ship" means a ship that has been registered on the basis of false or inaccurate information.

**Fraudulent ship registration and operations by fraudulent registries**

**159.**(1) A person commits an offence who

*(a)* fraudulently registers a ship;

*(b)* registers a ship without the knowledge or approval of the Administration;

*(c)* continues to fly the Barbados flag on a vessel after its registration has expired or has been terminated;

*(d)* makes a fraudulent representation to the International Maritime Organization, or submits fraudulent documentation to the International Maritime Organization, without the knowledge of the Administration, in order to obtain International Maritime Organization documentation and a ship identification number;

*(e)* operates a fraudulent registration company representing itself as a legally operating entity in or on behalf of Barbados, operates within an authentic-looking website or otherwise deceptively operates, and claims to be the official registration offices authorized to grant to ships Barbadian nationality;

*(f)* broadcasts falsified automatic identification system data, including the intentional manipulation of such data to materially alter the ship's identifying information or reflect the data of an entirely different vessel; or

*(g)* commits any other act of fraudulent ship registration or ship registration operation.

(2) A person who commits an offence under subsection (1) is liable on summary conviction to a fine of $500 000.

**Registration practices that can bring the Barbados flag into disrepute**

**160.**(1) No person shall engage in registration practices that can bring the Barbados flag into disrepute.

(2) The following are registration practices that can bring the Barbados flag into disrepute:

*(a)* the registration of a ship that is not in class;

*(b)* the registration of a ship contrary to the provisions of this Act or the regulations;

*(c)* keeping a ship on the register that has been detained 3 times for non-conformity with International Maritime Organization instruments of mandatory status or the International Labour Organization's Maritime Labour Convention, 2006; and

*(d)* any other registration practice that can lead to the grey or blacklisting of the Barbados flag under the Memorandum of Understanding on Port State Control Regimes.

(3) It is the duty of the Principal Registrar to ensure against the practices described in subsection (2).

**Verification of IMO compliance and maritime labour compliance**

**161.** All vessels shall undergo initial, renewal and intermediate surveys, as appropriate, to ensure their continued compliance with applicable mandatory International Maritime Organization instruments and the International Labour Organization's Maritime Labour Convention.

**Registration regulations**

**162.** The Minister may make regulations in respect of the registration of ships in Barbados, including

*(a)* the persons by whom, and the manner in which, applications in connection with registration are to be made;

*(b)* the information and evidence, including declarations of Barbados connection, to be provided in connection with such applications and such supplementary information or evidence as may be required by any specified authority;

*(c)* the shares in the property, and the numbers of owners (including joint owners), of a ship permitted for the purposes of registration and the

persons required or permitted to be registered in respect of a ship or to be registered in specified circumstances;

*(d)* the issuance of certificates of registration, including provisional certificates, and their production and surrender;

*(e)* restricting and regulating the names of ships registered or to be registered;

*(f)* the period for which registration is to remain effective without renewal;

*(g)* the production to the Principal Registrar of declarations of Barbados ownership, Barbados connection or other related information, respecting registered ships at specified intervals or at his request;

*(h)* the survey and inspection of ships registered or to be registered and the recording of their tonnage as ascertained or re-ascertained;

*(i)* the refusal, suspension and termination of registration in specified circumstances;

*(j)* matters arising out of the expiration, suspension or termination of registration, including the removal of marks and the cancellation of certificates;

*(k)* the charging of fees in connection with registration or registered ships;

*(l)* the transfer of the registration of ships between the register and other registers or corresponding records in Barbados; and

*(m)* the payment of fees for any services rendered under this Act and for the inspection of any record or any document kept under this Act by a public officer.

**Statutory certificates issued under the authority of the Government**

**163.**(1) Statutory certificates to be issued under the authority of the Government of Barbados under this Act or the regulations are to be in the form

prescribed in the relevant International Maritime Organization instrument by the Minister.

(2) A shipowner who has more than one Barbados-registered ship shall obtain the required statutory certificates and other documentation specified under this Act and the regulations for each ship.

(3) Where a recognized organization is acting on behalf of the Administration, the recognized organization shall issue a statutory certificate to each Barbados-registered ship after the requisite initial, annual, intermediate and renewal ship surveys, and the subsequent verification following those surveys, and confirm that the ship complies with the applicable safety, operational and environmental performance standards specified in this Act and the regulations.

(4) Where statutory certificates are issued by a recognized organization on behalf of the Administration, the certificate fees shall be those specified by the recognized organization.

**Standards of seaworthiness**

**164.**(1) The current classification of a vessel with a recognized organization, as agents for the Administration in the issuance of documents required by the International Convention for the Safety of Life at Sea, the International Load Line Convention, the International Convention of Tonnage Measurement of Ships, 1969 and the International Convention for the Prevention of Pollution from Ships, shall be accepted as evidence that the vessel is in seaworthy condition.

(2) A commercial yacht or a yacht engaged in trade shall be able to demonstrate that its hull and machinery were built to a known high standard, which may be done by demonstrating that the yacht was built to Class rules and issued a class certificate.

(3) In order to register as a passenger yacht, a yacht shall be classed.

(4) A commercial yacht or a yacht engaged in trade of 500 GT or more and all passenger yachts of any tonnage shall maintain classification.

(5) Obtaining or maintaining classification is voluntary for pleasure yachts.

(6) A certificate of survey or compliance certificate issued by an organization recognized or individual authorized by the Administration to conduct surveys shall be accepted as evidence that a pleasure yacht is in seaworthy condition.

(7) A certificate of survey or compliance certificate shall, in addition to verifying substantial compliance with any applicable legislation, regulations or codes, confirm a reasonable period of satisfactory operation or, in the case of new or recent construction, the same period of satisfactory operation of sister vessels or yachts of similar design, construction and outfitting.

(8) A shipowner shall promptly notify the Administration of any intention to change the classification or classification society of a vessel or yacht, or the appointed representative of a yacht, and when that change actually occurs.

**Issuance of certificates in respect of foreign registered ships**

**165.**(1) When the Minister is requested by another contracting government of an International Maritime Organization instrument given force of law under this Act, the *Merchant Shipping (Liability and Compensation) Act, 2024* (Act 2024- ) or the regulations made under those Acts to issue certification on behalf of the requesting government's ships, the Minister shall, before issuing such certification

*(a)* cause a survey to be carried out in respect of the vessel, to verify that vessel's compliance with the International Maritime Organization instrument; and

*(b)* on completion of that survey and payment of a prescribed fee, issue the requested certification in respect of that ship or endorse such a certification;

where the Minister is satisfied that the ship complies with the requirements contained in the International Maritime Organization instrument.

(2) Where the survey reveals that a vessel does not comply with the International Maritime Organization instrument for which certification is sought, the Minister shall not issue a certification until the vessel is brought into

compliance with that instrument, or measures have been put in place by the vessel owner to bring the vessel into compliance.

(3) Where certification on behalf of the requesting government's ship is refused, the Minister shall communicate the reasons for refusing to issue the certification.

(4) A document issued under subsection (1) shall

*(a)* be in English;

*(b)* be in the form set out in the relevant convention or applicable national legislation implementing the convention; and

*(c)* have the same effect as if it had been issued by the contracting government that made the request to the Minister.

(5) The Minister shall, as soon as possible, send to the requesting contracting government a copy of

*(a)* the documentation issued; and

*(b)* the survey report.

(6) Subject to subsections (7) and (8), the Minister shall not issue International Maritime Organization documentation in respect of a ship that

*(a)* is registered in a county whose government is not a contracting government of the International Maritime Organization instrument in relation to which the documentation is requested; or

*(b)* is not registered in, but is entitled to fly the flag of, a country whose government is not a contracting government of the International Maritime Organization instrument in relation to which the documentation is requested.

(7) The Minister may, at the request of the Administration of a non-contracting government, ascertain International Maritime Organization compliance in accordance with this Act and the regulations and issue the relevant International Maritime Organization certificates accordingly, in which case the

certificate shall be endorsed to the effect that it has been issued at the request of the government of the state whose flag the ship is or will be flying and copies of the certificates shall be transmitted to the requesting government as soon as possible.

(8) At the request of the owner of a foreign registered ship flying the flag of a state whose government is not a contracting government, the Minister may issue International Maritime Organization statutory certification to the ship “for use only in Barbados waters".

**Issuance of certificates by another government in respect of Barbados ships**

**166.**(1) The Minister may request a contracting government to

*(a)* survey a Barbados ship;

*(b)* issue certification in respect of the ship; and

*(c)* issue or authorize the issue, or endorse or authorize the endorsement, of International Maritime Organization statutory certification, in accordance with International Maritime Organization instruments to which Barbados is party;

if the contracting government is satisfied that the ship complies with the requirements of the relevant International Maritime Organization instrument.

(2) Where International Maritime Organization statutory certification is issued under subsection (1)

*(a)* the Minister is to be treated as the certifying authority in relation to it; and

*(b)* any reference in this Act to the certifying authority that issued the certificate is to be treated as a reference to the Minister.

**Ships' registry co-management arrangements**

**167.**(1) The Minister, after consultation with the Administration, may enter into co-management arrangements with any entity wishing to assist Barbados in the management of its international ships registry, to facilitate joint management of international shipping affairs and ships' registry-related matters.

(2) Where a co-management arrangement is entered into for the joint management of international shipping business and ships' registry-related matters, it shall at a minimum detail

*(a)* the parties to the arrangement;

*(b)* the duration of the arrangement;

*(c)* the scope of activities within the arrangement;

*(d)* the rights and responsibilities of each party, in respect of the arrangement;

*(e)* approaches to conflict resolution;

*(f)* terms of termination of the arrangement; and

*(g)* financial matters in respect of the arrangement.

(3) A co-management arrangement shall be in writing and signed by the parties to it.

(4) A co-management arrangement shall not be contrary to national or international shipping laws.

(5) The Government of Barbados retains its existing role and functions in the management, regulation and enforcement of any international shipping business in relation to international ships registry operations managed within a co-management arrangement.

(6) An entity entering into a co-management arrangement with the Government of Barbados shall pay to the Government

*(a)* a percentage of the proceeds generated from international ships registry operations determined by the Administration;

*(b)* an annual pre-determined fee determined by the Minister; or

*(c)* any other payment arrangement determined by the Minister.

(7) The Minister shall indicate, in writing, the mode, manner and timeframe in which proceeds from international ships registry operations are to be paid to the Government of Barbados, and communicate that to the Principal Registrar.

(8) There shall be no transfer of ownership of the international ships registry of Barbados under any co-management arrangement.

**Communication of information on registries of ships to the IMO**

**168.** The Director shall transmit to the Secretary-General of the International Maritime Organization any relevant information on registries of ships in Barbados in the manner prescribed in the Annex to Resolution A.1142 (31): Measures to Prevent the Fraudulent Registration and Fraudulent Registries of Ships as may be amended from time to time.

**Fees generally**

**169.**(1) A vessel shall pay the fees for services rendered in respect of the vessel, as prescribed in the regulations, or as otherwise prescribed in a shipping fee notice.

(2) In this section, “shipping fee notice” means a merchant shipping notice specifying services and fees in relation to shipping.

**Annual tonnage tax**

**170.** An annual tonnage tax in relation to vessels shall be determined by reference to the vessel’s net tonnage, in the amount per tonnage as specified in the regulations.

**Modification fees**

**171.** A Barbados vessel engaged on international voyages shall pay the modification fees specified in the regulations, if it incurs any modifications or alterations of the information stated in the vessel certificate of registration, or due to performance by the Administration of administrative acts regarding the documentation of such vessels.

## PART VIII

## YACHTS

**Barbados Yacht Registry**

**172.**(1) There is hereby established a Barbados Yacht Registry, to be managed by the Administration or managed by an entity engaged as part of a co-management arrangement.

(2) There is established within the Barbados International Ships Registry Program a Sub-program to be known as the Barbados Yacht Registry Sub-program, which shall

*(a)* guide the work of Barbados' Yacht Registry, and yacht registry related activities;

*(b)* enhance the attractiveness and competitiveness of Barbados' yachting industry;

*(c)* support capacity-building, training and employment opportunities in the yachting industry;

*(d)* support the undertaking of any action that will continually ensure safety, security, environmental sustainability, and economic viability of Barbados' yachting industry.

**Registrar of Yachts**

**173.**(1) The Minister may appoint a Registrar of Yachts who shall

*(a)* maintain in electronic format a yacht register in which shall be registered particulars related to all yachts exceeding 24 metres in length, sailing under the Barbados flag;

*(b)* register yachts in accordance with the registration provisions of this Act or any of its statutory instruments;

*(c)* liaise with the Principal Registrar of International Ships, as necessary, in relation to the registration and management of registered yachts, consistent with IMO standards;

*(d)* assist, as specified in writing by the Administration, in the management and regulation of foreign-registered yachts when in Barbados waters;

*(e)* issue any permits, licenses or other authorizations to yachts in respect of activities requiring such instruments, as may be specified in regulations or otherwise specified by in writing by the Minister;

*(f)* take steps to give effect to any directive or policy issued by the Administration, after approval of the Minister, or issued directly by the Minister, in relation to Barbados-registered yachts; and foreign-registered yachts in Barbados waters;

*(g)* perform any function to give effect to the Barbados Yacht Registry Sub-program, the Act and any statutory instruments thereunder.

(2) Where a Registrar of Yachts is not appointed, the Principal Registrar of International Ships shall perform the functions specified in relation to the Registrar of Yachts.

**Yachts' registry co-management arrangements**

**174.**(1) The Administration, after consultation with the Minister, may enter into co-management arrangements with the Barbados Yacht Registry, for the purpose of jointly managing yachts' registry-related matters.

(2) Where a co-management arrangement is entered into for the joint management of yachts' registry-related matters, it shall at a minimum detail

*(a)* the parties to the arrangement;

*(b)* the duration of the arrangement;

*(c)* the scope of activities within the arrangement;

*(d)* the rights and responsibilities of each party in respect of the arrangement;

*(e)* approaches to conflict resolution;

*(f)* terms of termination of the arrangement; and

*(g)* financial matters in respect of the arrangement.

(3) A co-management arrangement shall be in writing and signed by the parties to it.

(4) A co-management arrangement shall not be contrary to national or international shipping laws.

(5) The Government of Barbados retains its existing role and functions in the management, regulation and enforcement of any yacht registry operation managed within a co-management arrangement.

(6) An entity entering into a co-management arrangement with the Government of Barbados shall pay to the Government

*(a)* a percentage of the proceeds generated from Barbados Yacht Registry operations determined by the Administration;

*(b)* an annual pre-determined fee determined by the Minister; or

*(c)* any other payment arrangement determined by the Minister.

(7) The Minister shall indicate, in writing, the mode, manner and timeframe in which proceeds from Barbados Yacht Registry operations are to be paid to the Government of Barbados, and communicate that to the Administration.

(8) There shall be no transfer of ownership of the Barbados Yacht Registry under any co-management arrangement.

**Registration of yachts**

**175.**(1) A yacht may be registered as

*(a)* a pleasure yacht;

*(b)* a commercial yacht; or

*(c)* a passenger yacht.

(2) The Registrar of Domestic Vessels designated under the *Shipping (Domestic Vessels) Act, 2024* (Act 2024-22) shall maintain registers for the following categories of domestic yachts:

*(a)* pleasure yachts of less than 24m in length;

*(b)* commercial yachts of less than 24m in length; and

*(c)* passenger yachts of less than 24m in length.

**Provisional registration of yachts under the Barbados flag**

**176.**(1) At initial registration, all yachts, whether for private or commercial use, shall be provisionally registered by the Principal Registrar under the Barbados flag for 6 months, during which period all documentation is to be finalized.

(2) A provisional registration may be extended for a further period or periods not exceeding in the aggregate one year.

**Requirements for provisional registration**

**177.** A yacht may be provisionally registered if the owner or an authorized representative

*(a)* makes an application for registration including, if required, an application for change of the name of the yacht;

*(b)* provides proof that the owner is qualified to own a Barbados yacht or, where the owner is a body corporate, the document of incorporation;

*(c)* where the owner is a non-resident, appoints a resident agent;

*(d)* provides, where applicable, copy of the yacht's international tonnage certificate;

*(e)* makes a declaration of ownership before the Registrar;

*(f)* where the yacht is a commercial yacht of more than 24 metres in length, makes an application for a minimum safe manning certificate;

*(g)* where applicable, makes an application for a ship radio station licence;

*(h)* complies with any applicable yacht code; and

*(i)* pays the initial registration fees and annual tonnage tax.

**Documents to be submitted during provisional registration**

**178.**(1) The following documents are to be submitted during provisional registration:

*(a)* a builder's certificate in the name of the applicant or, where there was a previous owner, a bill of sale or any other document by which the vessel was transferred to the applicant;

*(b)* where applicable, cancellation of a registry certificate issued by the Administration where the yacht was last documented;

*(c)* in the case of an international seagoing commercial yacht of over 500 GT, a copy of the last updated continuous synopsis record, required under the International Convention for the Safety of Life at Sea for all vessel grossing over 500 GT, and issued by the Administration where the yacht was last documented;

*(d)* a certificate of survey and a copy of the international tonnage certificate issued by an appointed surveyor or recognized organisation; and

*(e)* evidence that the yacht has been marked in accordance with a carving and marking note.

(2) Where valid appropriate convention certificates are not in place, the yacht shall be issued with a certificate of provisional registration.

**Final registration**

**179.**(1) Final registration of a yacht shall be done by the Principal Registrar on completion of the provisional registration process.

(2) A Barbados certificate of registration shall be issued on completion of the provisional registration process.

(3) A Barbados certificate of registration for a domestic yacht shall be renewed on each anniversary of its Barbados registration.

(4) A Barbados certificate of registration for international seagoing yachts is of unlimited duration, unless a change occurs in the registered ownership of the yacht.

**Small commercial and pleasure yachts not exceeding 150GT**

**180.**(1) A Barbados-registered commercial and pleasure yacht under 24m in length is subject to the *Shipping (Domestic Vessels) Act, 2024* (Act 2024-22) and the statutory instruments made under it, and shall undergo surveys in accordance with those enactments.

(2) A foreign-registered commercial and pleasure yacht under 24m in length is subject to the *Shipping (Domestic Vessels) Act, 2024* and the statutory instruments made under it when in Barbados waters, and shall either present a valid certificate of survey from its registry, or undergo surveys in accordance with that Act.

(3) A Barbados international seagoing commercial and pleasure yacht under 24m in length is subject to all applicable Barbados statutory instruments and international conventions as appropriate to its length, gross tonnage and number of persons carried on board and shall undergo surveys in accordance with those instruments.

(4) A Barbados-registered commercial and pleasure yacht over 24m in length but not exceeding 150 GT is subject to the *Shipping (Domestic Vessels) Act, 2024* and the statutory instruments made under it and shall undergo surveys in accordance with those enactments.

(5) A foreign-registered commercial and pleasure yacht over 24m in length but not exceeding 150 GT is subject to the *Shipping (Domestic Vessels) Act, 2024* and the statutory instruments made under it when in Barbados waters, and shall either preset a valid certificate of survey from its registry or undergo surveys in accordance with that Act.

**Large pleasure yachts 24m in length and over – survey and audit certification**

**181.**(1) A Barbados-registered pleasure yacht 24m or more in length and less than 400 GT is subject to surveys and audits.

(2) Where a Barbados-registered pleasure yacht 24m or more in length is 400 GT or over, it must have

*(a)* an international oil pollution prevention certificate;

*(b)* an international sewage pollution prevention certificate;

*(c)* an international air pollution prevention certificate; and

*(d)* an engine international air pollution prevention certificate with NOx technical files, demonstrating that its NOx level complies with the International Convention for the Prevention of Marine Pollution from Ships, 1973, Annex VI.

(3) An engine international air pollution prevention certificate shall be issued by a recognized organization, classification society or a foreign authority recognized by the Administration.

(4) Foreign-registered pleasure yachts 400 GT and over are required to have on board the certificates specified in paragraphs (1)*(a)* to *(d)* when in Barbados' jurisdiction.

(5) In accordance with the *Marine Transport (Emissions Control) Act, 2024* (Act 2024-25) as evidence that a marine diesel engine has been certified and tested in accordance with the NOx Technical Code of the International Convention for the Prevention of Marine Pollution from Ships, 1973, Annex VI, the owner of a Barbados-registered yacht, or of a foreign-registered yacht when in Barbados, shall present the following to the Administration:

*(a)* an engine international air pollution prevention certificate issued by a recognized classification society, recognized organization or a foreign authority recognized by the Administration;

*(b)* an International Maritime Organization NOx technical file from the engine manufacturer; and

*(c)* a record book of engine parameters in which component replacements that may influence NOx emissions are recorded in accordance with the technical file.

(6) A Barbados international seagoing pleasure yacht 24m or more in length is subject to all applicable national regulations and international conventions as appropriate to its length, gross tonnage and number of persons carried on board and shall undergo surveys in accordance with those instruments.

**Requirements for commercial yachts under 400 GT**

**182.**(1) A Barbados-registered commercial yacht, or a foreign-registered commercial yacht under 400 GT when in Barbados waters, shall have an engine international air pollution prevention certificate with NOx technical files, if any of the engines installed have a power output of more than 130 kW.

(2) A yacht that is certified to carry more than 12 persons, including guests, staff and crew, shall carry onboard an international sewage pollution prevention certificate.

(3) The surveys for an international sewage pollution prevention certificate and an international air pollution prevention certificate may be performed by a recognized organization.

**Large commercial yachts 24m in length and over**

**183.**(1) A Barbados-registered domestically operating commercial yacht or Barbados-registered international seagoing commercial yacht of 24m or more in length is subject to surveys and audits in accordance with the requirements of the international maritime conventions implemented into the laws of Barbados.

(2) Where the Barbados Ships' Registry is unable to visit each Barbados-registered large commercial yacht at least once a year and undertake yacht surveys, a recognized organization may be delegated by the Administration on a case-by-case basis to undertake the yacht surveys.

(3) All yachts on international voyages of 300 GT and over are required to have an automatic identification system.

(4) Barbados-registered yachts proceeding beyond the exclusive economic zone of Barbados are required to comply with the long-range identification and tracking requirements of the International Convention for the Safety of Life at Sea, Chapter V 19-1.

(5) Yachts over 500 GT that are engaged in trade are subject to the International Management Code for the Safe Operation of Ships and for Pollution Prevention.

(6) The audits required in compliance with the International Management Code for the Safe Operation of Ships and for Pollution Prevention for domestic yacht shall be conducted by the Barbados Registry, except where directed otherwise by the Administration.

(7) The Administration may delegate the audits required to comply with the International Management Code for the Safe Operation of Ships and for Pollution Prevention for international seagoing yachts to a recognized organizations.

(8) To comply with the International Management Code for the Safe Operation of Ships and for Pollution Prevention, the yacht owner shall implement and maintain a safety management system committed to by both sea-going yacht staff and shore-based yacht staff.

(9) A safety management system shall incorporate

*(a)* a safety and environmental policy;

*(b)* procedures to ensure safe yacht operation and protection of the marine environment;

*(c)* levels of authority and lines of communication between sea-going and shore-based yacht staff;

*(d)* procedures for reporting yacht accidents;

*(e)* procedures for responding to emergency situations; and

*(f)* procedures for internal audits and management reviews.

(10) The following compliance documents shall be made available by a Barbados yacht or foreign-registered yacht when in Barbados waters:

*(a)* a safety management manual;

*(b)* a document of compliance; and

*(c)* a safety management certificate.

(11) An international yacht over 500 GT that is engaged in trade is subject to the International Ship and Port Facility Security Code.

(12) The audits required in compliance with this Code shall be conducted by the Barbados Ships' Registry, except as directed otherwise by the Administration

(13) To comply with the International Ship and Port Facility Security Code, the yacht manager or yacht company shall conduct a yacht security assessment and implement and maintain a yacht security plan accordingly.

**Barbados passenger yachts**

**184.**(1) Barbados-registered international seagoing passenger yachts are subject to surveys and audits in accordance with the requirements of the international conventions implemented into the laws of Barbados.

(2) Barbados-registered international seagoing passenger yachts shall comply with an International Maritime Organization-recognized passenger yacht code or a national yacht code adopted under a merchant shipping notice.

(3) All passenger yachts shall comply with the requirements of long-range identification and tracking requirements contained in the International Convention for the Safety of Life at Sea, Chapter V 19-1, the International Management Code for the Safe Operation of Ships and for Pollution Prevention, and the International Ship and Port Facility Security Code.

(4) The Administration may delegate the audits required in compliance with the International Management Code for the Safe Operation of Ships and for Pollution Prevention Code and International Ship and Port Facility Security Code to a recognized organization.

**Barbados Large Yacht Code**

**185.**(1) The Administration shall develop, in consultation with relevant stakeholders, a Barbados Large Yacht Code and Barbados Passenger Yacht Code

to provide for the safe, environmentally sound, and efficient operation of yachts and matters related to yacht surveys, certification and compliance verification.

(2) The Administration may delegate the development of the Barbados Large Yacht Code to the Principal Registrar.

(3) The Barbados Large Yacht Code shall be completed within 24 months after the coming into force of this Act and shall have the force of law in Barbados upon its adoption.

(4) A Barbados Large Yacht Code certificate of compliance and Barbados Passenger Yacht Code certificate of compliance shall be in the form prescribed in the *Schedule* to the Barbados Large Yacht Code.

(5) A yacht survey shall be carried out each year within 3 months before or after the expiry date of a Barbados Large Yacht Code certificate.

(6) If an annual survey of a yacht is not carried out in accordance with subsection (5), the yacht's certificate becomes invalid, in which case a renewal survey shall be completed and a new certificate issued.

**Large Yacht Permits**

**186.**(1) The owner of a foreign-registered large yacht who plans to keep the large yacht in Barbados for one year shall obtain a large yacht cruise permit from the Administration.

(2) A large yacht cruise permit is valid for one year.

(3) An applicant for a large yacht cruise permit shall pay the fee prescribed in the regulations.

(4) A new large yacht cruise permit may be applied for on the expiry of an existing permit.

(5) An applicant for a cruise permit for a yacht

*(a)* under 24 metres in length; or

*(b)* over 24 metres in length but not exceeding 150 GT,

shall pay the fee prescribed under the *Shipping (Domestic Vessels) Act, 2024* (Act 2024-22) or any statutory instruments made thereunder.

(6) In this section, "large yacht" means a yacht exceeding 24 metres in length.

**Application of Part XIII and Part XIV to Part VIII**

**187.** The provisions of PART XIII and PART XIV apply *mutatis mutandis* to

*(a)* Barbados-registered yachts; and

*(b)* mortgages in respect of vessels of any kind registered under the *Shipping (Domestic Vessels) Act, 2024* (Act 2024-22).

**Delegation of responsibility for Yachts**

**188.** Notwithstanding the application of this Part to yachts above 24 metres in length, the Minister may by order assign the responsibility for management of yachts to the Registrar of Yachts for yachts of any size, including yachts registered under the *Shipping (Domestic Vessels) Act, 2024* (Act 2024-22) to be managed as part of the Yacht Registry Sub-program.

## PART IX

## CRUISE SHIP REGISTRY

**Establishment of Barbados Cruise Ship Registry**

**189.**(1) There is established a Barbados Cruise Ship Registry, to be managed by the Administration or by an entity engaged as part of a co-management arrangement.

(2) The cruise ship registry shall be managed consistent with the Barbados Cruise Ship Registry Sub-program referred to in section 190.

**Barbados Cruise Ship Registry Sub-Program**

**190.**(1) There is established within the Barbados International Ships Registry Program a Sub-program to be known as the Barbados Cruise Ship Registry Sub-program.

(2) The Sub-program shall

*(a)* guide the work of Barbados' Cruise Ship Registry, and cruise ship registry related activities;

*(b)* create and maintain an enabling environment for continued advancement of Barbados' cruise industry;

*(c)* promote strategies that will attract cruise ships to, and retain cruise ships under, the Barbados flag;

*(d)* support capacity-building, training and employment opportunities in the cruise industry;

*(e)* support the undertaking of any action that will continually secure a safe, secure, sustainable and economically viable cruise industry for Barbados.

**Cruise Ship Registrar**

**191.**(1) The Minister may appoint a Cruise Ship Registrar who shall

*(a)* maintain in electronic format a cruise ship register in which shall be registered particulars related to all cruise ships sailing under the Barbados flag;

*(b)* register cruise ships in accordance with the registration provisions of this Act or any of its statutory instruments;

*(c)* liaise with the Principal Registrar of International Ships, as necessary, in relation to the registration and management of registered cruise ships, consistent with IMO standards;

*(d)* assist, as specified in writing by the Administration, in the management and regulation of foreign-registered cruise ships when in Barbados waters;

*(e)* issue any permits, licenses or other authorizations to cruise ships in respect of activities requiring such instruments, as may be specified in regulations or otherwise specified by in writing by the Minister;

*(f)* take steps to give effect to any directive or policy issued by the Administration, after approval of the Minister, or issued directly by the Minister, in relation to Barbados-registered cruise ships; and foreign-registered cruise ships in Barbados waters;

*(g)* perform any function to give effect to the Barbados Cruise Ship Registry Sub-program the Act and any statutory instruments thereunder.

(2) Where a Cruise Ship Registrar is not appointed, the Principal Registrar of International Ships shall perform the functions specified in relation to the Cruise Ship Registrar.

**Regulation of Cruise Ships**

**192.** Except expressly provided otherwise in an instrument, Barbados-registered cruise ships and foreign-registered cruise ships when in Barbados' waters shall comply with the applicable requirements of this Act and its statutory instruments.

**Special Regulation of Cruise Ships**

**193.** Where it is deemed necessary in the circumstances to do so, the Cruise Ship Registrar, in consultation with the Administration and cruise industry stakeholders may develop a Barbados Cruise Industry Code to

*(a)* enhance safety and security of cruise passengers;

*(b)* ensure safety, security and environmental performance of cruise ships consistent with international standards;

*(c)* tailor specific frameworks for continued sustainable development of the cruise industry and sectors directly interfacing with the cruise industry;

*(d)* provide for appropriate regulatory regimes for any other matter specific to cruise ships not covered by this Act or any of its statutory instruments.

**Cruise Ship Registry Co-management arrangements**

**194.** Section 167 applies *mutatis mutandis* to co-management arrangements in respect of Barbados' Cruise Ship Registry.

## PART X

## MARIFEM CERTIFICATION SCHEME

### *General*

**MARIFEM certification scheme – meaning**

**195.** MARIFEM certification means the Barbadian-origin maritime certification scheme for promoting gender equality in the maritime sector, in relation to

*(a)* Barbados-registered vessels;

*(b)* vessels of foreign territories voluntarily participating in the scheme;

*(c)* local shipping companies;

*(d)* seaport and other port-based entities;

*(e)* local shipbuilding, ship repair and ship recycling facilities;

*(f)* foreign-based shipping companies engaged in maritime business with Barbados, voluntarily participating in the scheme;

*(g)* training and educational institutions; and

*(h)* other offshore and shore-based maritime industries.

**MARIFEM certification scheme - aim**

**196.** The aim of the MARIFEM certification scheme shall be to support women and young females to achieve representation, visibility and equality in the maritime sector.

**MARIFEM certification scheme – regulation and administration**

**197.**(1) The MARIFEM certification scheme shall be regulated and administered by Administration, in consultation with relevant stakeholders, including

*(a)* the Women in Maritime Association of the Caribbean, Barbados Chapter Inc.;

*(b)* the Bureau of Gender Affairs; and

*(c)* other relevant national, regional and international gender-focused entities, particularly those specific to the maritime sector.

(2) Notwithstanding subsection (1), the Administration may designate in writing any of the entities specified at (1)*(a)* to *(d)* to manage the MARIFEM certification scheme on its behalf.

**Gender equality and Barbados-registered vessels**

**198.**(1) Vessels registered under the Barbados flag may voluntarily participate in the MARIFEM certification scheme.

(2) Barbados-registered vessels participating in the scheme shall create and submit to the Administration or the entity designated in writing to manage the scheme on its behalf, where such is the case for review and endorsement their

*(a)* vessel-specific gender equality plan, program or initiative;

*(b)* fleet-specific gender equality plan, program or initiative; and

*(c)* do periodic plan-do-check-act analyses for effectiveness of the plan, program or initiative, as well as for the purpose of continuous improvement.

**MARIFEM certification scheme – guidance**

**199.** Scheme participants shall determine their performance on the basis of

*(a)* the representation of females on board their vessels or otherwise in shore-based employment provided by the shipping company;

*(b)* pay equity;

*(c)* maritime training and career opportunities for females;

*(d)* effectiveness of maritime gender policies and practices; and

*(e)* other activities undertaken by shipping companies and other entities specified at section 195.

**MARIFEM certification levels**

**200.** MARIFEM certification shall be granted in the following 3 levels:

*(a)* MARIFEM-COMMIT certification based on initiatives to recognize or commit to promoting women in the maritime sector;

*(b)* MARIFEM-ACT certification based on measurable progress in integrating and empowering females in shipping and the wider maritime sector; and

*(c)* MARIFEM-LEAD certification based on demonstrated leadership by women in seagoing and shore-based maritime settings, including shipping organizations, seaport organizations, maritime educational and training institutions or in other maritime-related areas.

**MARIFEM certification – issuance**

**201.** The MARIFEM certification shall be issued by the Administration, after verification that the scheme participant meets the relevant certification requirements.

**MARIFEM certification maintenance – MARIFEM-COMMIT level**

**202.** To remain certified at the MARIFEM-COMMIT level, scheme participants shall demonstrate continued alignment with the MARIFEM-COMMIT certification level.

**MARIFEM certification maintenance – MARIFEM-ACT level**

**203.** To remain certified at the MARIFEM-ACT level, scheme participants shall demonstrate continued alignment with the MARIFEM-ACT certification level.

**MARIFEM-LEAD level**

**204.** To remain certified at the MARIFEM-LEAD level, scheme participants shall demonstrate continued alignment with the MARIFEM-LEAD certification level.

**MARIFEM certification criteria**

**205.**(1) The MARIFEM certification criteria shall be developed by

*(a)* the Administration; or

*(b)* the entity designated in writing to manage the MARIFEM Certification Scheme, where this is the case

in consultation with relevant entities.

(2) The criteria when developed, shall be appropriately publicized by the Administration or the entity designated in writing by the Administration to manage the Scheme, as the case may be.

**MARIFEM certification – accreditation**

**206.** For quality assurance purposes, the MARIFEM certification program and processes shall be audited and verified by the Barbados Accreditation Council or another recognized accreditation body specializing in gender-based accreditation, certification or performance verification.

**MARIFEM certification – fees and proceeds of fees**

**207.**(1) The fees for MARIFEM certification shall be set by

*(a)* the Administration, in consultation with the Minister; or

*(b)* the entity designated in writing to manage the MARIFEM Certification Scheme, in consultation with the Minister, where this is the case.

(2) The proceeds of fees from MARIFEM certification shall be directed towards

*(a)* the activities of the Women in Maritime Association of the Caribbean, Barbados Chapter Inc.; and

*(b)* other maritime- specific gender-based activities, as determined by the Administration.

**MARIFEM certification – validity**

**208.**(1) MARIFEM-COMMIT certification shall be valid for one year.

(2) MARIFEM-ACT certification shall be valid for 3 years.

(3) MARIFEM-LEAD certification shall be valid for 5 years.

**Action on expiry**

**209.**(1) MARIFEM certifications become invalid immediately upon their expiry.

(2) MARIFEM certification scheme participants wishing to maintain the certification shall re-apply to the Administration.

**MARIFEM certified Barbados-registered vessels**

**210.**(1) MARIFEM certified Barbados-registered vessels are eligible for

*(a)* discounts on annual vessel registration fees; or

*(b)* fleet discounts.

(2) The following are eligible for discounts:

*(a)* a vessel or fleet attaining MARIFEM-COMMIT certification within 6 months of registering under the Barbados flag;

*(b)* a vessel or fleet attaining MARIFEM-ACT certification within one year of registering under the Barbados flag;

*(c)* a vessel or fleet attaining MARIFEM-LEAD certification within 2 years of registering under the Barbados flag;

*(d)* a vessel or fleet maintaining MARIFEM-COMMIT certification throughout the 1-year validity period of the certification;

*(e)* a vessel or fleet maintaining the MARIFEM-ACT certification throughout the 2-year validity period of the certification; and

*(f)* a vessel or fleet maintaining MARIFEM-LEAD certification throughout the 3-year validity period of the certification.

**MARIFEM Certified Barbados-based shipping companies**

**211.** The Administration, in consultation with representatives of Barbados-based shipping companies, may determine the extent, manner and mode of participation by Barbados-based shipping companies in the MARIFEM certification scheme, and collaborate on participation incentives and benefits.

**Other benefits**

**212.**(1) The Principal Registrar, a shipowner, master, agent, or any other person having an interest in gender-related maritime-specific matters may propose to the Administration other benefits deemed appropriate for vessels participating in the MARIFEM certification scheme.

(2) Apart from the entities specified in subsection (1), other entities specified at section 195 may propose benefits deemed appropriate to such entities participating in the MARIFEM Certification Scheme.

(3) The Administration, in consultation with relevant stakeholders may review any benefits proposal and make recommendations regarding the benefits to the Minister.

(4) The benefits shall take effect upon the Minister's approval.

*Foreign Vessels and Foreign-based Shipping Companies – MARIFEM Certification Scheme Participation*

**Participation by foreign vessels and foreign-based shipping companies**

**213.**(1) Foreign vessels visiting Barbados ports, anchorages or offshore terminals or working in offshore areas in Barbados, may participate in the MARIFEM certification scheme.

(2) Foreign-based shipping companies doing business with Barbados may participate in the MARIFEM certification scheme.

**Benefits to foreign participants**

**214.** The Administration, in consultation with relevant stakeholders, including foreign-vessel owners, masters, or agents and foreign-based shipping companies may determine the extent, manner and mode of participation by foreign participants in the MARIFEM certification scheme, and collaborate on participation incentive and benefits.

**Continuation of MARIFEM certification scheme**

**215.** Where the Administration designates in writing an entity to manage the MARIFEM Certification Scheme and

*(a)* that entity communicates in writing to the Administration that it can no longer manage the scheme; or

*(b)* the Administration rescinds its decision,

the Administration shall relinquish management of the scheme, unless it re-designates in writing management of the scheme to another entity of its choosing.

**Promoting and maintaining a gender balanced maritime sector**

**216.**(1) Apart from the MARIFEM Certification Scheme, the Administration, in consultation with relevant stakeholders shall undertake actions consistent with

*(a)* the International Maritime Organization's Gender Program; and

*(b)* international best practices in the field of gender and development,

to ensure a balancing of opportunities for males and females in the maritime sector, and promote and maintain diversity, equity and inclusion in the maritime sector, and promote and maintain diversity, equity and inclusion in the maritime sector.

(2) The Minister, in consultation with the Director, may appoint a public officer with qualifications and experience in gender and development, to be known as the Chief Gender-in-Maritime Officer, for the purposes of ensuring

*(a)* continued and effective implementation of the International Maritime Organization's mandate for gender and development in the maritime sector, at the national level;

*(b)* proper management and efficient operationalization of the MARIFEM Certification Scheme; and

*(c)* the undertaking of necessary maritime-specific gender-oriented policies, programs, plans of action, initiatives, strategies and other activities to

(i) equitably balance opportunities for males and females in the maritime sector; and

(ii) continually promote and maintain diversity, equity and inclusion in the maritime sector.

## PART XI

## BARBADOS SHIPS

**Definitions - Part XI**

**217.** In this Part

"Barbados connection" means a connection to Barbados established by a natural or legal person by virtue of complying with the requirements of section 219;

"beneficial owner" means

*(a)* a person with legal title to a ship;

*(b)* a natural person who ultimately owns or controls a ship;

*(c)* a person recognized in equity as owner of a ship because use and title belong to that person, even though legal title may belong to someone else, including a person for whom property is held in trust; or

*(d)* any other person who holds a degree of control over a ship that allows him to benefit from it.

**Barbados ships**

**218.**(1) A ship is a Barbados ship if

*(a)* the ship is registered in Barbados under this Act;

*(b)* the ship is a Government ship registered in Barbados under regulations made under section 12; or

*(c)* the ship is not registered under Part VII but is wholly owned by a qualified owner and is not registered under the law of a country outside Barbados.

(2) In this section, "qualified owner" mean a person qualified to own a Barbados ship in accordance with this Act or a person prescribed by regulation.

**Vessel Ownership and management requirements**

**219.**(1) Subject to this Act, a merchant ship or other international sea-going vessel qualifies for registration as a domestic vessel in the Register of Domestic Vessels where at least 44 of its 64 shares are owned by persons singly or jointly.

(2) No vessel shall be registered under this Act unless the vessel-owning company or a subsidiary of the vessel-owning company is incorporated in Barbados and has its principal place of business in Barbados.

(3) Where the principal place of business of the vessel-owning company or a subsidiary vessel-owning company is not in Barbados, such company shall ensure that there is a representative or management person who is a national or permanent resident of Barbados.

(4) A representative or management person referred to in subsection (3)

*(a)* may be a natural or juridical person established or incorporated in Barbados, as the case may be, and empowered to act on the vessel owner's behalf or account;

*(b)* shall meet the vessel owner's responsibilities in accordance with this Act, its statutory instruments and any other enactment;

*(c)* shall be accountable for the management and operation of the vessel;

*(d)* meet any financial obligations that may arise from the operation of such vessel;

*(e)* cover any risks which are normally insured in maritime transportation in respect of damage to third parties

*(f)* shall produce documents evidencing that the vessel owner has given authorization to the representative to act on the vessel owner's behalf

*(g)* an adequate guarantee including valid insurance policy or other equivalent form of security in respect of the vessel; and

*(h)* an appropriate mechanism including a maritime lien, mutual fund, wage insurance, social security scheme, or any governmental guarantee provided by an appropriate agency of the country of the accountable person.

(5) A vessel owner or bareboat charterer shall notify the Principal Registrar of International Ships of any transfer or change of vessel ownership.

(6) No person may be registered as an owner of any shares in a vessel until a declaration of ownership has been made and signed by him, in the case of an individual, or by a person authorised in writing to do so, in the case of a corporation or an agent.

(7) A valid declaration of ownership shall

*(a)* refer to the vessel as described in the certificate of seaworthiness; and

*(b)* contain

(i) the full name and address of the declarant; and

(ii) a statement of the number of shares in the vessel for which he is entitled to be registered as owner.

**Barbados connection and majority interest**

**220.**(1) Subject to any exemptions granted by the Administration,

*(a)* a person or group of persons shall be treated as owning a majority interest in a ship if there is vested in that person or group, taken together, the legal title to 33 or more shares in the ship, excluding any

share in which a beneficial interest is owned by a person who is not entitled to be an owner of a Barbados ship; and

*(b)* a body corporate shall be treated as resident in Barbados if it is incorporated or registered there and carries on business from a place maintained by it in Barbados.

(2) Subsection (1) does not require the owner of a vessel interested in flagging that vessel in Barbados to open offices, or appoint representatives in, Barbados.

**Offences relating to a ship's Barbadian ownership and Barbados connection**

**221.**(1) A person who, in relation to any matter relevant to the Barbados ownership or Barbados connection of a ship,

*(a)* makes to the Principal Registrar a statement that he knows to be false or recklessly makes a statement that is false; or

*(b)* furnishes to the Principal Registrar information that is false,

commits an offence.

(2) If there occurs, in relation to a registered ship any change affecting the Barbados ownership of the ship or any change affecting the Barbados connection of the ship, the owner of the ship shall notify the Principal Registrar of that change

*(a)* within 48 hours of the occurrence of the change affecting such ownership;

*(b)* within 7 days of the occurrence of the change affecting such a connection; or

*(c)* such longer period as the Principal Registrar may allow.

(3) A person who fails to provide a notification required under subsection (1) commits an offence.

(4) A person who intentionally alters, suppresses, conceals or destroys a document that contains information relating to the Barbadian ownership of a ship

or Barbados connection of a ship and that has been required to be produced to the Principal Registrar commits an offence.

(5) This section applies to acts committed within Barbados and outside Barbados.

(6) A person who commits an offence under this section is liable on summary conviction to a fine of $50 000.

**National colours**

**222.**(1) The flag of Barbados constitutes the national colours of a Barbadian ship or vessel and such a ship or vessel shall wear no other colours.

(2) A Barbadian ship or vessel shall hoist the national colours on entering or leaving any port, and on a signal being made to the ship or vessel.

**National flag**

**223.**(1) The flag that every Barbados ship is entitled to fly is the national flag of Barbados without any defacement or modification.

(2) Subsection (1) does not apply to Government ships.

(3) Where a warrant is pursued from the President any colours allowed to be worn on a ship by the President, as specified in writing, will be the proper national colours.

(4) A person who uses, or permits any other person to use, the flag of Barbados on board a foreign ship or vessel for the purpose of making that ship or vessel appear to be a Barbadian ship or vessel commits an offence and is liable on summary conviction to imprisonment for 2 years or to a fine of $100 000, or to both.

(5) In the prosecution of an offence under this section, the burden of proving the right to use the flag and assume the appearance of a Barbadian ship or vessel is upon the person using the flag of Barbados.

**Offences relating to Barbados character of the ship**

**224.**(1) If the master or owner of a ship that is not a Barbados ship does anything, or permits anything to be done, to cause the ship to appear to be a Barbados ship, subject to subsections (2) and (3), the ship is liable to forfeiture and the master, owner and any charterer each commit an offence.

(2) No liability arises under subsection (1) where the assumption of Barbadian nationality has been made for the purpose of escaping capture by an enemy, or by a foreign ship of war in the exercise of a belligerent right.

(3) Where the registration of a ship has terminated, any marks prescribed by registration regulations displayed on the ship within the period of 14 days after the date of that registration shall be disregarded for the purposes of subsection (1).

(4) If the master or owner of a Barbados ship does anything, or permits anything to be done, to conceal the nationality of the ship, the ship is liable to forfeiture and the master, the owner and any charterer of the ship each commit an offence.

(5) Actions subject to subsections (1) and (4) include

*(a)* the flying of a national flag other than the national flag of Barbados;

*(b)* the carrying or production of certificates of registration or other documents indicating that the nationality of the ship is not Barbadian; and

*(c)* the display of non-Barbados marks required by the law of any country.

(6) This section applies to actions taken outside, as well as within, Barbados.

(7) A person who commits an offence under subsection (1) or (4) is liable on summary conviction to a fine of $100 000.

**Duty to declare national character of ship**

**225.**(1) No officer of customs shall grant clearance for any ship until the master of the ship has declared to that officer the name of the nation to which he claims the ship belongs.

(2) The officer of customs shall enter that name declared on the clearance.

(3) If a ship proceeds to sea without clearance, the ship may be detained until a declaration under subsection (1) is made.

**Proceedings on forfeiture of a ship**

**226.**(1) Where a ship or a share in a ship has become liable to forfeiture under this Part

*(a)* any commissioned naval or military officer; or

*(b)* any person appointed by the Minister for the purpose of this section,

may seize and detain the ship and bring the ship for adjudication before the Supreme Court of Barbados.

(2) Where a ship is subject to adjudication under this section, the Court may

*(a)* adjudge the ship and her equipment to be forfeited to the Government of Barbados; and

*(b)* make any other order that it considers just.

(3) No officer or person bringing proceedings under this section is liable in damages in respect of the seizure or detention of the ship, whether or not the ship is proceeded against, or if proceeded against, is adjudicated not liable to forfeiture, if the Court is satisfied that there were reasonable grounds for the seizure or detention.

(4) If the Court is not so satisfied, the court may award costs and damages to the party aggrieved and may make such other order as it thinks fit.

PART XII

AUTONOMOUS VESSELS AND REMOTE SHIP OPERATORS

**Regulatory approach to autonomous shipping**

**227.**(1) The Minister shall make regulations for autonomous vessels sailing under the Barbados flag, and ensure that they

*(a)* align with International Maritime Organization standards for autonomous vessels;

*(b)* do not pose a hindrance to technological developments and the commercial use of autonomous technologies in shipping;

*(c)* are limited to areas unique to autonomous vessels;

*(d)* are framed within the standard international maritime shipping framework of safety, security and marine environmental protection; and

*(e)* are technologically neutral, focusing only on protective considerations, as opposed to specific technologies.

(2) The Minister may make regulations for autonomous vessels of 150 GT or below that operate only in Barbados and the Caribbean trading area and are registered under the *Shipping (Domestic Vessels) Act, 2024* (Act 2024-22).

**Regulations – inspections on autonomous vessels**

**228.** In any regulations on autonomous vessels, provisions on inspections of autonomous vessels shall

*(a)* require recognized organizations to provide electronic data regarding the vessel’s technical condition and survey-related information in respect of the vessel; and

*(b)* require owners, managers or agents of such vessels to direct the vessel sensor's data to the Administration and the Principal Registrar, for further processing and verification of compliance.

**Maritime safety and marine environmental standards for autonomous vessels**

**229.** Autonomous ships sailing under the Barbados flag shall be as safe as, and environmentally perform to the standards of, or better than, conventionally manned vessels.

**Register of autonomous vessels**

**230.**(1) There shall be 2 separate registers for autonomous vessels registered in Barbados

*(a)* an International Register of Autonomous vessels, for international ocean-going autonomous vessels above 150 GT; and

*(b)* a Domestic Register of Autonomous vessels, for locally and Caribbean-regionally-operating autonomous vessels of 150 GT or below.

(2) The Principal Registrar shall be responsible for the registration of autonomous vessels above 150 GT.

(3) The Registrar of Domestic Vessels referred to in the *Shipping (Domestic Vessels) Act, 2024* (Act 2024-22) shall be responsible for the registration of autonomous vessels 150 GT or below.

(4) The register for autonomous vessels shall contain

*(a)* particulars of the vessel's remote operations centre or other base from which vessel is remotely operated;

*(b)* particulars of the vessel, including its name, any previous registry, class, length and tonnage;

*(c)* particulars of the vessel's owner;

*(d)* the vessel's International Maritime Organization number or other identification number, as applicable;

*(e)* particulars of the vessel's construction, including the name of its builder and place and year of build;

*(f)* particulars as to trials in respect of vessel;

*(g)* particulars as to vessel's trade area and autonomy level;

*(h)* particulars as to the vessel's insurance or other equivalent form of financial security;

*(i)* if the vessel is above 150 GT, the date of deletion or suspension of the previous registration of the vessel, unless it is recorded in another public document readily accessible to the Principal Registrar;

*(j)* if the vessel is 150 GT or below, the date of deletion or suspension of the previous registration of the vessel, unless recorded in another public document readily accessible to the Registrar of Domestic Ships;

*(k)* if the vessel is above 150 GT, particulars of any mortgages or other similar charges upon the vessel, unless they are recorded in another public document readily accessible to the Principal Registrar;

*(l)* if the vessel is 150 GT or below, particulars of any mortgages or other similar charges upon the vessel, unless they are recorded in another public document readily accessible to the Registrar of Domestic Ships; and

*(m)* any other particulars determined by the Minister.

**Conditions of registration for autonomous vessels**

**231.**(1) Except where expressly provided otherwise in the regulations or a merchant shipping notice, the conditions and procedures of

*(a)* registration;

*(b)* provisional registration;

*(c)* bareboat charter registration;

*(d)* vessel-under-construction registration; and

*(e)* mortgages,

for autonomous vessels shall be the same as that for conventionally manned vessels under Part VII.

(2) A shipowner, agent or master applying to register an autonomous vessel under the Barbados flag shall submit to the Administration an autonomous vessel safety operations plan for that vessel.

(3) Where there is a change to particulars of the remote operations centre by the owner of a vessel from which an autonomous vessel will be operated, the owner of the vessel shall immediately notify the Principal Registrar.

**Regulatory approval for autonomous vessels**

**232.**(1) Before being entered on the register of Barbados International Ships, an autonomous vessel shall

*(a)* meet regulatory approvals in respect of

(i) safety performance standards;

(ii) environmental performance standards; and

(iii) technological and automotive performance standards, including data collection, data processing, automated decision-making and interconnectivity capabilities;

*(b)* be surveyed;

*(c)* be inspected in respect of her systemic and operational level; and

*(d)* be verified to be equal to, or better than, conventionally manned vessels in terms of safety, security, environmental performance standards and structural and operational standards.

(2) The Minister may make regulations matters relating to surveys, verification and certification for autonomous vessels sailing under the Barbados flag.

**Testing areas**

**233.**(1) The Minister shall, in consultation with the Coastal Zone Management Unit, the Barbados Coast Guard and other private entities with expertise in autonomous vessel operations, designate areas for trials of maritime autonomous surface and submersible vessels in Barbados.

(2) Where the Minister has designated an area for maritime autonomous vessel trials, he shall publish a description of that area in the *Official Gazette*.

(3) An area designated by the Minister for maritime autonomous vessel trials shall be properly demarcated.

(4) Permits issued for each type of autonomous vessel shall take into account the general international maritime safety, security and marine environmental protection framework, as set by the International Maritime Organization.

**Maritime autonomous testing permits**

**234.**(1) No autonomous vessel shall be tested in Barbados' waters without a maritime autonomous testing permit issued by the Minister.

(2) On receipt of an application in writing, the Minister may issue a testing permit in respect of any autonomous vessel, irrespective of her place of registration.

(3) An autonomous vessel that is not yet registered may nonetheless apply for and obtain a testing permit.

(4) An application for a testing permit shall contain

*(a)* the name of individual, company or organization responsible for vessel to be trialed;

*(b)* particulars of the vessel, including its size, type and level of autonomy, and its insurance or other equivalent form of security;

*(c)* a description of the purposes for which testing will be done;

*(d)* a description of the activities that will be tested; and

*(e)* details as to degrees of automation and human involvement per automated function during testing.

(5) Not more than 6 weeks after an application is received, the Minister shall issue a decision as to whether a testing permit will be approved or denied.

(6) Where an application has been denied, the decision shall be accompanied by reasons for the denial.

(7) Where the Minister approves an application for a testing permit, to obtain the permit an applicant shall pay a fee, determined by the Minister, based on the size, testing duration and level of autonomy of the vessel.

**Regional and international relations on autonomous shipping and trade**

**235.**(1) The Minister may, after Cabinet approval, enter into on behalf of the Government of Barbados arrangements to promote and develop maritime autonomous shipping and trade, including

*(a)* bilateral, regional, or other arrangements with other Caribbean Community states;

*(b)* bilateral, regional, or other arrangements with states within the Caribbean and Latin America region that are not Caribbean Community states; and

*(c)* bilateral or other arrangements with states outside of the Caribbean region.

(2) An arrangement under subsection (1) may provide for

*(a)* the establishment of trade areas and routes for inter-Caribbean autonomous shipping and trade; and

*(b)* international autonomous shipping and trade from and to the Caribbean region.

**Establishment of a National Maritime Vessels Remote Operations Centre**

**236.** The Minister may establish a National Maritime Vessels Remote Operations Centre for the purposes of facilitating regional and international autonomous shipping and trade, to and from Barbados, through remotely operated navigation.

**Operations of autonomous vessels**

**237.**(1) Autonomous vessels shall be operated only in accordance with subsections (3) to (11).

(2) All remote operations of an autonomous vessel's functions shall be performed from within its remote operations centre.

(3) A human master shall be responsible for the operation of an autonomous vessel.

(4) Where a human master is not physically on board an autonomous vessel, he shall have a means to physically intervene when necessary.

(5) Only one remote operations centre shall be responsible for an autonomous vessel at any given time.

(6) Designated physical locations in the remote operations centre shall be arranged for each of the vessel's operational roles, and adequate personnel shall be provided to remotely control and supervise those roles.

(7) Remote ship operators shall be able to perform from the work station the combined tasks of all functions under the responsibility of the role entrusted to them.

(8) Remote work stations shall be arranged to facilitate the simultaneous performance of tasks under the responsibilities of remote operations centre personnel without interfering with each other.

(9) Remote operations centres shall be sufficiently staffed and ensure that the roles, responsibilities and number of work stations ensure the safe and secure operation of remotely controlled vessels.

(10) Remote ship operators shall take into account not only normal operational conditions, but also emergency conditions and demanding operational situations.

(11) Remote work stations shall be laid out to enable the officer on watch to perform tasks with a reliability and efficiency equivalent to, or better than, that of tasks being performed from a work station on board a conventional vessel.

**Regulations on remote work stations**

**238.** The Minister may make regulations specifying additional requirements in relation to autonomous vessels for

*(a)* the design and arrangements of work stations for engineering watch;

*(b)* the design and arrangements of work stations for navigational watch;

*(c)* the design and arrangements of work stations for other vessel functions, including cargo loading, discharging and monitoring, watertight doors control and monitoring, ballast water control and monitoring, fire detection, firefighting and logging of data and events;

*(d)* the design and arrangements of work stations for special operations, including dynamic positioning, damage control, rescue operations and seabed mapping; and

*(e)* any other matters in relation to remote operations centres and work stations within remote operations centres.

**Human element in shipping: autonomous shipping**

**239.**(1) Except where provided otherwise in this Act or in any other national or international law on autonomous shipping, the provisions on remotely operating seafarers in national seafaring laws apply with any necessary changes to remote ship operators referred to in this Act.

(2) The conditions of employment for remotely operating seafarers shall be equivalent to, or better than, the conditions of employment for conventional sea-going seafarers.

**Private remote operations centres**

**240.**(1) A person intending to establish and operate a private remote operations centre in Barbados shall obtain a remote operations centre private operator license from the Minister.

(2) The Minister may issue a remote operations centre private operator license upon submission of the prescribed application and payment of the prescribed fee by the applicant.

(3) Private operators are subject to the requirements specified in this Part in respect of autonomous vessels.

**Barbados maritime autonomous ships systems technical working group**

**241.** In effort to develop Barbados' autonomous shipping industry, the Administration, in consultation with stakeholders holding the necessary technical expertise, shall formulate a Barbados maritime autonomous ship systems technical working group to develop industry conduct standards, operational principles and best practices for owners and operators of autonomous vessels operating in Barbados and between Barbados and the Caribbean trading area.

**Autonomous Vessel Operations Code**

**242.** The Administration shall develop an Autonomous Vessel Operations Code for Ships and Ports that is consistent with the International Maritime Organization requirements for maritime autonomous surface ships, in consultation with relevant stakeholders.

**IMO regulatory framework for autonomous vessels**

**243.** Barbados-registered autonomous vessels shall operate in accordance with the regulatory framework developed by the International Maritime Organization specific to autonomous shipping.

## PART XIII

## PROPRIETARY INTERESTS IN REGISTERED SHIPS

**Rights of owners and mortgagees**

**244.**(1) Subject to subsection (2) and to any rights and powers appearing from the International Ships Register to be vested in any other person, the registered owner of a ship or of a share in a ship shall have the power to dispose of it in accordance with this Act.

(2) A power to dispose of a ship is subject to any interests arising under contract or other equitable interests in relation to a ship or a share in a ship, and such interests may be enforced by or against owners and mortgagees of ships in the same manner as in respect of any other personal property.

(3) The registered owner of a ship or of a share in a ship may give an effectual receipt for any money paid or advanced by way of consideration on any disposal of the ship or share.

**Transfers and transmissions**

**245.**(1) A transfer of a registered ship, or of a share in such a ship, shall be effected by a bill of sale.

(2) The bill of sale shall contain the description of the ship contained in the surveyor's seaworthiness certificate, or another description sufficient to identify the ship to the satisfaction of the Principal Registrar, and shall be executed by the transferor in the presence of, and be attested by, a witness.

**Declaration of transfer**

**246.** Where a registered ship, or a share in one, is transferred in accordance with section 245(1), the transferee shall not be entitled to be registered as the owner of it until the transferee, or in the case of a body corporate, the person authorized by this Act to make declarations on behalf of the body corporate, has made and signed a declaration in relation to the ship containing

*(a)* a statement of the qualification of the transferee to own a Barbados ship or, if the transferee is a body corporate, a statement that the constitution and business of the corporation qualify it to own a Barbados ship; and

*(b)* a declaration that, to the best of his knowledge and belief, a majority interest in the ship is owned by persons qualified to be the owners of Barbados ships, and that the ship is otherwise entitled to be registered.

**Registration of transfer**

**247.**(1) Every duly executed bill of sale for the transfer of a registered ship, or of a share in one, shall be produced to the Principal Registrar with the declaration of transfer.

(2) Upon being satisfied that the ship remains entitled to be registered in Barbados, the Principal Registrar shall enter in the register the name of the

transferee as owner of the ship or share, and shall endorse on the bill of sale the fact of that entry having been made with the date and time of it.

(3) Bills of sale of a ship, or of shares in one, shall be entered in the register in the order of their production to the Principal Registrar.

(4) Upon the transfer being registered under subsection (2), the Principal Registrar shall issue a new certificate of registration.

**Transmission of property in ship on death, bankruptcy, or marriage**

**248.**(1) Where the property in a registered ship, or a share in one, is transmitted to a person by a lawful means other than a transfer under section 245 and a majority interest remains in the ownership of a person qualified to be an owner of a Barbados ship,

*(a)* that person shall authenticate the transmission by making, signing and providing to the Principal Registrar a declaration identifying the ship and containing the statements required to be contained in a declaration of transfer, with such modifications as the circumstances require, and provide a statement of the manner in which the property has been transmitted;

*(b)* where the transmission is consequent on bankruptcy, the declaration of transmission shall be accompanied by such evidence as is acceptable by the court adjudicating the bankruptcy as proof of the title of persons claiming under a bankruptcy;

*(c)* where the transmission is consequent on the death of the owner, the declaration of transmission shall be accompanied by the death certificate or an official extract from it; and

*(d)* where the transmission was consequent upon an order or judgment of a court, a copy of the order or judgment.

(2) The Principal Registrar, on receipt of the declaration of transmission and any accompanying documents, and upon being satisfied that the ship remains entitled to be registered in Barbados, shall enter in the register the name of the

person entitled under the transmission as owner of the ship or share the property in which has been transmitted.

(3) Where more than one person is entitled to be registered under the transmission, the Principal Registrar shall enter the names of all those persons in the register, but those persons shall, for the purposes of this Act relating to the number of persons entitled to be registered as owners, be considered as one person.

**Order for sale on transmission to unqualified person**

**249.**(1) Where the property in a registered ship, or a share in one, is transmitted to a person by a lawful means other than a transfer referred to in section 246, but as a result of the transmission the ship no longer remains in the ownership of persons qualified to be owners of a Barbados ship, then the court seized of the matter may, on an application by or on behalf of that person, order a sale of the transmitted property and direct that the proceeds of sale, after deducting the expenses of the sale, shall be paid to that person or otherwise as the court directs.

(2) The court may require any evidence in support of the application that it considers necessary, and may make the order on any terms and conditions it considers just, or may refuse to make the order, and generally may act in the case as justice requires.

(3) An application for sale shall be made within 4 weeks after the occurrence of the event in relation to which the transmission has taken place, or within such further time, not exceeding in one year from the date of the occurrence, as the court allows.

(4) Where such an application is not made within the time prescribed in subsection (3), or if the Court refuses an order for sale, the ship or share transmitted shall be subject to forfeiture under this Act.

**Transfer of ship or sale by court order**

**250.**(1) Where a court, whether under this Act or otherwise, orders the sale of a ship or share in one, the order of the court shall contain a declaration vesting

in a person named by the court the right to transfer the ship or share, and that person shall then be entitled to transfer the ship or share in the same manner and to the same extent as if he were the registered owner of it.

(2) The Principal Registrar shall deal with an application relating to the transfer of the ship or share made by the person named under subsection (1) as if that person were the registered owner.

**Power of court**

**251.**(1) A court may, without prejudice to the exercise of any other power of the court, on the application of an interested person, with or without costs,

*(a)* make an order prohibiting, for a time specified, any dealing with a ship or a share in one, on any terms or conditions it thinks just;

*(b)* refuse to make the order; or

*(c)* discharge the order when made.

(2) The Principal Registrar shall, on being served with the order or an official copy of it, obey the order, irrespective of whether he was made a party to the proceedings.

**Mortgages and maritime liens: mortgage of ship or share**

**252.**(1) In this section,

"mortgage" includes any security for the repayment of a loan or other valuable consideration or the discharge of any other obligation; and

"ship" includes a ship under construction.

(2) A registered ship, or a share in such a ship, may be made a security for a mortgage.

(3) A mortgage on a registered ship, or a share in such a ship, shall be in the form prescribed.

(4) Where a mortgage executed in prescribed form is submitted to the Principal Registrar, he shall register the mortgage in the prescribed manner.

(5) To be valid, a mortgage shall comply with the following formalities:

*(a)* the mortgage shall be endorsed upon the ship's documents;

*(b)* the mortgage shall be registered under subsection (4); and

*(c)* an affidavit shall be filed with the record of mortgage to the effect that the mortgage is made in good faith and without any design to hinder, delay, or defraud any existing or future creditor of the mortgagor or any person holding a lien of the mortgaged ship.

(6) There shall be endorsed upon the certificate of registration of a ship subject to a valid mortgage

*(a)* the names of the mortgagor and the mortgagee;

*(b)* the date and time that the endorsement is made; and

*(c)* the amount and date of maturity of the mortgage.

(7) Mortgages shall be registered in the order in which they are submitted for registration to the Principal Registrar and he shall enter and sign on each mortgage a statement to the effect that it has been registered by him, together with the date and time of the registration.

(8) Where a mortgage instrument states that it is prohibited to create further mortgages over the ship without the prior written consent of the mortgagee, the Principal Registrar shall make a note of that in the register, and shall not register any further mortgage unless the consent in writing of the holder of a prior mortgage is produced to him.

(9) A mortgage registered other than in accordance with subsection (8) is null and void.

(10) Where a mortgage instrument states that it is prohibited to transfer the ownership of the ship or terminate the registration of the ship, without the prior written consent of the mortgagee, the Principal Registrar shall make a note of

that in the register, and shall not record a transfer of ownership of the ship or terminate the ship's registration, unless the appropriate consent in writing of the holder of the mortgage is submitted to him.

(11) A transfer of ownership or a termination of the ship's registration registered other than in accordance with subsection (10) is null and void.

(12) A mortgage may be registered in the register in respect of a provisionally registered ship, and a mortgage so registered is subject to the provisions of this Act relating to mortgages and any registration regulations made under this Act.

(13) A mortgage registered under subsection (12) shall continue to be a registered mortgage until it is discharged, even if the provisional registration of the ship in respect of which the mortgage was registered ceases to be effective.

(14) A mortgage in respect of a ship under construction shall be entered in the register.

(15) Where the registration of a ship under construction is transferred to another part of the register, the entries relating to any mortgage that is not discharged shall in like manner be transferred to that part of the register.

(16) A mortgage in respect of a ship under construction shall, for the purpose of determining priority under this or any other law and in all other respects, be treated as a registered ship mortgage until it is discharged, even if the ship under construction ceases to be registered under this Act, and a ship under construction shall, for the purposes of a mortgage on it under this Act or any other law, be treated as maritime property.

(17) Notwithstanding subsections (2) to (6), where a ship has been previously registered in a foreign country and mortgages were registered against that ship and at the time of its registration as a Barbadian ship, the applicant for registration shall produce to the Principal Registrar the written consent of every mortgagee.

(18) On production of the required consents, those mortgages shall be recorded by the Principal Registrar in the order of precedence indicated in the previous register.

(19) No mortgage instrument shall be recorded in the register in respect of a bareboat chartered ship that has been registered under the law of a foreign country and that has an existing registration as a Barbadian ship.

**Priority of mortgage**

**253.**(1) Where 2 or more mortgages are registered in respect of the same ship or share, the priority of the mortgagees between themselves shall, subject to subsection (2), be determined by the order in which the mortgages were registered.

(2) The Minister may make regulations to permit intending mortgagees to give priority notices to the Principal Registrar in a form prescribed by the regulations that will, when recorded in the register, determine the priority of the mortgage interest to which the notice relates.

**Entry of discharge of mortgage**

**254.**(1) Where a registered mortgage is discharged, the Principal Registrar shall, on the production of the mortgage deed, with a receipt for the mortgage money endorsed on it, duly signed and attested, make an entry in the register to the effect that the mortgage has been discharged.

(2) On the entry under subsection (1) being made, any estate that passed to the mortgagee shall vest in the person in whom it would have vested if the mortgage had not been made.

(3) Where for good reason the registered mortgage cannot be produced to the Principal Registrar, he may, on being satisfied that the mortgage has been properly discharged, record in the register that the mortgage has been discharged.

**Protection of undischarged mortgage**

**255.**(1) Where the registration of a ship terminates under this Act, the termination shall not affect any entry in the register of an undischarged registered mortgage of the ship or of any share in.

(2) Subsection (1) shall not apply to an entry in the register where the Principal Registrar is satisfied that a person appearing on the register to be interested as a mortgagee under the mortgage in question has consented to the entry ceasing to have effect.

**Mortgagee not owner and mortgagee's power of sale**

**256.**(1) Except as far as may be necessary for making a mortgaged ship or share available as a security for the mortgage debt, the mortgagee shall not by reason of the mortgage be deemed to be the owner of the ship or share, nor shall the mortgagor be deemed to have ceased to be owner of it.

(2) Subject to subsection (3), every registered mortgagee may, if the mortgage money or any part of it is due, sell the ship or share in respect of which he is registered and give receipts for the purchase money.

(3) Where 2 or more mortgagees are registered in respect of the same ship or share, a subsequent mortgagee shall not, except under an order of a court of competent jurisdiction, sell the ship or share without the concurrence of every prior mortgagee.

**Mortgage not affected by bankruptcy**

**257.** A registered mortgage of a ship or share shall not be affected by any act of bankruptcy committed by the mortgagor after the date of the registration of the mortgage, notwithstanding that the mortgagor at the commencement of the bankruptcy had the ship or share in his possession, order or disposition, or was the reputed owner of it, and the mortgage shall be preferred to any right, claim, or interest in the ship or share of the other creditors of the bankrupt or of any trustee or assignee on their behalf.

**Transfer of mortgages and transmission of mortgage interest**

**258.**(1) A registered mortgage of a ship or share may be transferred to any person and on production of the instrument effecting the transfer the Principal Registrar shall record it by entering in the register the name of the transferee as

mortgagee of the ship or share, and shall enter and sign on the instrument of transfer a statement to the effect that it has been registered by him, stating the date and the time of the registration.

(2) Where a mortgage interest in a ship or share is transmitted to any person by a lawful means other than by a transfer under subsection (1), that person shall produce to the Principal Registrar a statement of the manner in which and the person to whom, the property has been transmitted, accompanied by the same evidence this Act requires for a transmission of the ownership of a ship or share.

(3) The Principal Registrar, on the receipt of the documents and the production of the evidence referred to in subsection (2), shall enter the name of the person entitled under the transmission in the register as mortgagee of the ship or share.

**Lien of registered mortgage**

**259.**(1) A mortgage validly registered under this Act shall constitute a maritime lien upon the vessel in the amount of the outstanding mortgage indebtedness secured by the vessel.

(2) A mortgagor, before executing a registered mortgage, shall disclose to the mortgagee in writing the existence of every maritime lien, prior mortgage or other obligation or liability upon the vessel to be mortgaged that is known to the mortgagor.

(3) After the execution of the mortgage and before the mortgagee has had a reasonable time in which to record it and have proper endorsements made upon the documents of the vessel, the mortgagor shall not, without the consent of the mortgagee, incur any contractual obligation creating a maritime lien upon the vessel other than liens denominated in Article 4 of the International Convention on Maritime Liens and Mortgages, 1993.

(4) A preferred mortgage may bear the rate of interest that the parties to the mortgage mutually agree.

**Record of notice of claim of lien, discharge of lien and mortgage**

**260.**(1) The Principal Registrar shall, at the request of any person, record notice of the person's claim of a mortgage or lien upon a vessel registered under this Act, together with the nature, date of creation and amount of the mortgage or lien and the name and address of the person.

(2) A person who has caused notice of such a claim to be recorded shall, upon a discharge in whole or in part of the indebtedness, without delay file a certificate of discharge with the Principal Registrar, who shall then record the certificate of the discharge of the mortgage or lien.

(3) The mortgagor shall, upon the discharge of any mortgage indebtedness in part or in full, without delay file a certificate of the discharge duly executed by the mortgagee, his successor or assigns with the Principal Registrar, who shall then record the certificate.

(4) The Principal Registrar shall endorse the fact of such a discharge on the certificate of registration of the vessel and a certificate of the endorsement, giving the time, place and description of the endorsement, shall also be recorded in the register.

(5) Where an endorsement on a certificate of registration is made by a person other than the Principal Registrar, the certificate shall be promptly furnished to the Principal Registrar for recording purposes.

**Jurisdiction and procedure on mortgages**

**261.**(1) Notwithstanding section 260, a lien in respect of a mortgage may be enforced in Barbados by a suit *in rem* in the High Court upon default of any of its terms or conditions and, in addition to any notice by publication, the applicant shall give notice of the commencement of suit, in such a manner as the High Court may direct, to the master, other ranking officer or caretaker of the vessel and to any person who has recorded a notice of claim of an undischarged lien upon the vessel.

(2) Subsection (1) does not apply where, in spite of a *bona fide* attempt made by the applicant to the satisfaction of the High Court, the person could not be traced within Barbados.

(3) Subject to section 251, the lien of a mortgage may also be enforced by a suit *in rem* or otherwise in any foreign country in which the vessel may be found, in accordance with the procedure of that country for the enforcement of ship mortgages constituting maritime liens on vessels documented under the laws of that country.

(4) Notwithstanding anything in this Act, a mortgagee may, in addition to any other remedies granted under this section, bring a suit *in personam* against the mortgagor in a court of competent jurisdiction for the amount of the outstanding mortgage indebtedness or for any deficiency in the full payment of it.

(5) Nothing in this Act is deemed to authorize the enforcement by suit *in rem* in the High Court of the rights of the mortgagee in respect of assets or personal property other than vessels covered by a mortgage.

**Consequences of sale by the court**

**262.** The sale of a vessel may be made by the order of a competent court in accordance with the mortgage deed under Article 12 of the International Convention on Maritime Liens and Mortgages, 1993.

**Maritime lien and waiver**

**263.**(1) A person who provides repairs, towage, supplies or other necessaries, or permits the use of dry dock, to a vessel, whether domestic or foreign, shall, at the request of the owner or of any person authorized by the owner, have a maritime lien on the vessel from the time of the transaction for the amounts due in that respect.

(2) Marine liens created pursuant to this section shall be governed by the international conventions referred to in section 264.

(3) Nothing in this section is deemed to confer a lien in favour of a person referred to in subsection (1) if the person knew, or with the exercise of reasonable diligence could have ascertained, that the person who requisitioned the services, supplies or other necessaries was acting without authority.

(4) A person who is entitled to a lien under subsection (1) may, at any time by agreement or otherwise, waive his right to the lien or, in the case of preferred mortgage, to the preferred status of the lien.

**International Convention on Maritime Liens and Mortgages, 1993**

**264.**(1) Article 16 of the International Convention on Maritime Liens and Mortgages, 1993 shall have the force of law in Barbados, but without prejudice to any transaction enacted prior to the date of coming into force of this Act to which Article 1-11 of the Brussels Convention 1926 applied.

(2) Notwithstanding Article 6 of the International Convention on Maritime Liens and Mortgages 1993, a maritime lien is valid for a period of 12 months from the time when the claim secured by it arose.

## PART XIV

## PREFERRED SHIP MORTGAGES AND MARITIME LIENS

**Application**

**265.** This Part applies to mortgages that are the first lien that may be claimed against a vessel and that take precedence over all other liens on the vessel, other than liens specified under Article 4 of the International Convention on Maritime Liens and Mortgages 1993.

**Meaning of preferred mortgage**

**266.** In this Part, “preferred mortgage” means a mortgage recorded against a vessel registered in Barbados that meets the requirements of section 269.

**Recording and contents**

**267.**(1) A sale, conveyance, hypothecation, mortgage or assignment of mortgage of a vessel, against a person other than the grantor or mortgagor, his heirs or devises and persons having actual notice of it is not valid until the instrument evidencing the transaction is recorded under this section.

(2) The Principal Registrar shall record an instrument referred to in subsection (1), in the order of its receipt, in the indices to be kept for that purpose, showing

*(a)* the name of the vessel;

*(b)* the names of the parties;

*(c)* the time and date of receipt of the instrument;

*(d)* the interest of the vessel transferred or affected; and

*(e)* the amount of the direct or contingent obligations, including those provided for in section 275, that are or may become secured by the mortgage.

**Registration, recording and discharge of financing charters**

**268.**(1) Without adversely affecting the documentation, eligibility for documentation or renewal of documentation of a vessel, a documented owner and a charterer who has executed a contract in the form of a demise or bareboat charter of a documented vessel may register for recording a copy of the contract with the Principal Registrar in the name of the documented owner.

(2) The contract shall be signed and acknowledged by the documented owner and the charterer and shall include

*(a)* the name and official number of the vessel;

*(b)* the date of the contract;

*(c)* the names and addresses of the documented owner and the charterer;

*(d)* the total amount secured; and

*(e)* the maximum aggregate of the nominal amount of all charter hire payments, termination payments, and purchase or put option amounts that could under any circumstances be due and payable under the financing charter, excluding any interest, indemnities, expenses or fees.

(3) A security interest in a vessel in favour of a documented owner, evidenced by a contract that is a financing charter, that is registered for recording in compliance with this section, is deemed to be a preferred mortgage on the vessel in favour of the documented owner for all purposes, effective as of the date and time of filing.

(4) This Part shall apply to any contract registered in accordance with this section that is a financing charter.

(5) A documented owner may also register for recording, any renewals, amendments, supplements, assignments or other instruments related to a contract registered under subsection (1).

(6) A documented owner may grant one or more preferred mortgages encumbering the whole of a vessel, and any supplements, amendments, assignments or other instruments related to them, notwithstanding that the documented owner or predecessor in interest has entered into a contract that is deemed to be a preferred mortgage on the vessel pursuant to subsection (1).

(7) The mere registration or recording of a contract as a financing charter under this section shall not constitute evidence that the contract is, in fact, a financing charter or that it creates a security interest.

(8) The documented owner party to a financing charter is deemed to be a mortgagee under a preferred mortgage and the finance charterer is deemed the mortgagor, for all purposes under the laws of Barbados.

(9) Without affecting the validity of a financing charter as a preferred mortgage, the parties to a financing charter may redact or omit any exhibit to it, including any schedule with respect to the due date and amount of individual

instalments of charter hire and the timing and amount of individual purchase options, termination payments or puts.

(10) An existing demise or bareboat charter that does not meet the requirements of this section may be eligible for filing as a financing charter upon execution and acknowledgment of an amendment or supplement that specifically attaches and incorporates the existing demise or bareboat charter, if the amendment or supplement meets the recording requirements of this section.

(11) The Principal Registrar may accept for filing a discharge of a preferred mortgage maritime lien that is evidenced by a recorded financing charter under this section, if the filing will not affect the registration of the vessel or otherwise affect any rights or obligations of the parties under the financing charter.

**Preferred mortgage**

**269.**(1) A valid mortgage that at the time it is made includes the whole of a vessel, including a vessel under construction, shall have a preferred status in respect of the vessel as of the date of its recording under this Act.

(2) The preferred status of a mortgage under this Part shall not be prejudiced or impaired by reason

*(a)* that the mortgage secures the payment, pledge or assignment of monies or rights, due or to become due, such as guarantee fees, insurance options, charter hire, freight revenues or any other fees, costs or charges, direct or contingent, incidental to the sale, purchase or operation of a Barbados vessel;

*(b)* of the applicability of or compliance with section 275; or

*(c)* that no advance of monies is or has been made at the time of its recording.

(3) Notwithstanding subsection (1), a valid mortgage, whenever made, that

*(a)* includes the whole of any vessel;

*(b)* is recorded as provided in this Part; and

*(c)* is granted in continuation of a prior recorded mortgage, hypothecation or similar charge on the vessel, whether granted under the laws of Barbados or the laws of another nation under which the vessel was documented at the time the prior mortgage was recorded,

shall have preferred status in respect of the vessel as of the date of recording of the prior mortgage, hypothecation or similar charge.

(4) For purposes of this section, a mortgage that is granted in continuation of a prior recorded mortgage, hypothecation or similar charge is deemed a mortgage on a Barbados vessel if

*(a)* the vessel covered by the mortgage is covered by the prior mortgage, hypothecation or similar charge;

*(b)* the obligations secured by the mortgage are obligations secured by the prior mortgage, hypothecation or similar charge;

*(c)* the mortgage is granted by the current vessel owner, whether or not the owner is the vessel owner who granted the prior mortgage, hypothecation or similar charge to secure obligations secured by the prior mortgage, hypothecation or similar charge; and

*(d)* for a vessel entering the Barbados international ships registry, the mortgage is recorded during the period defined in subsection (6).

(5) Nothing in subsection (4) shall be construed to pre-empt any court judgment that would recognize the preferred status of a mortgage on a vessel of Barbados prior to the date of its recording.

(6) For a vessel entering the Barbados international ships registry, the preferred status of a mortgage, hypothecation or similar charge on the vessel recognized under section 284 shall continue for a period of 30 days following registration of the vessel, if the information with respect to the mortgage required by the Principal Registrar is furnished to the Principal Registrar in connection with the registration of the vessel under this Act.

(7) The preferred status of a mortgage shall not be adversely affected by the deletion or release of the mortgage as a matter of record from the vessel's prior register in connection with, or as a condition to, deletion of the vessel from that register.

(8) A certified extract of the preferred mortgage index of the public register maintained by the Principal Registrar, a certificate of ownership and encumbrance issued by the Principal Registrar or, in the case of a mortgage, hypothecation or similar charge recorded in another nation, similar documentation, including a transcript of registry, certified or issued by the appropriate governmental agency in that nation, shall be accepted as evidence of the granting and recording of a mortgage, hypothecation or similar charge, including the date of its recording.

**Termination of mortgagee's interest**

**270.**(1) The interest of a mortgagee in a vessel registered under this Act shall not be terminated by a forfeiture of the vessel for a violation of any law of Barbados, unless the mortgagee authorized, consented or conspired to effect the act, failure, or omission that constituted the violation.

(2) Subject to subsection (3), a vessel that is the subject of a preferred mortgage may not be cancelled from the register for so long as the indebtedness secured by the preferred mortgage remains unsatisfied or the mortgage is not otherwise discharged.

(3) The Principal Registrar may, not less than 60 days following the mailing of notice to all mortgagees of record at their last known mailing addresses of his intent to do so, strike a vessel from the registry and flag of Barbados as a result of receipt by the Principal Registrar of evidence satisfactory to him that the vessel has been lost, destroyed or transferred to another registry following sale by order of an admiralty court in a civil action *in rem*.

(4) The striking of a vessel under subsection (3) shall not impair or affect the lien or status of any preferred mortgage recorded under this Part or terminate the interest of a mortgagee in the vessel.

**Conditions precedent for ship mortgage**

**271.**(1) A mortgage in relation to a vessel shall not be recordable unless it states the interest of the mortgagor in the vessel, and the interest mortgaged.

(2) A mortgage or instrument of release or discharge of a mortgage shall not be recorded unless it is notarized, bears an apostille, has been acknowledged or is submitted with such other proof of due execution required by the laws of Barbados.

**Bill of sale; recording**

**272.** The Principal Registrar may accept for recording a bill of sale or other conveyance of a vessel, or a facsimile of one, if

*(a)* the original has been received by a notary public or a special agent that recites the interest of the seller in the vessel and the interests sold or conveyed;

*(b)* it has previously been acknowledged or is submitted with such other proof of due execution required by the laws of Barbados; and

*(c)* if it is a bill of sale of a vessel already documented under the laws of Barbados, it has attached to it a copy of its latest certificate of registration.

**Recording of mortgage**

**273.**(1) The Principal Registrar may accept for recording a mortgage on a vessel if

*(a)* it recites the interest of the mortgagor in the vessel and the interest mortgaged;

*(b)* it is notarized, bears an apostille, has been acknowledged or is submitted with such other proof of due execution required by the laws of Barbados; and

*(c)* written proof is furnished to the Principal Registrar of the amounts and dates of any documents or evidence of debts in support of it.

(2) The Principal Registrar shall record a mortgage or related instrument submitted in proper form, and shall, upon request, issue a certified extract of the preferred mortgage index of the public register maintained by the Principal Registrar as evidence of recording of a preferred ship mortgage under this Part.

(3) A certificate of ownership and encumbrance shall, upon request, be issued by the Principal Registrar, setting forth all recorded mortgages, encumbrances and related instruments with respect to a vessel registered under this Act as at the time and date of its issuance.

**Allocation of mortgage indebtedness**

**274.**(1) If a preferred mortgage includes more than one vessel or includes property that is not a vessel, the mortgage may provide for the separate discharge of each vessel and of all property not a vessel by the payment of a part of the mortgage indebtedness.

(2) If a vessel that is covered by a preferred mortgage includes more than one vessel, or property that is not a vessel, is to be sold on the order of an admiralty court in a civil action *in rem* and the mortgage does not provide for a separate discharge as provided in subsection (2), the preferred mortgage shall constitute a lien on that vessel in the full amount of the outstanding mortgage indebtedness, and an allocation of mortgage indebtedness for the purpose of a separate discharge may not be made by that court among the vessel and other property covered by the mortgage.

**Advances and repayments pursuant to commitment**

**275.**(1) A preferred mortgage may secure future advances, including contingent obligations, and shall not be extinguished or lose its priority because all previously outstanding obligations secured by it have been fully repaid or otherwise performed, if an advance or other value is to be given at a later time pursuant to commitment existing at the time the mortgage is recorded.

(2) For the purpose of subsection (1), an advance or other value is given pursuant to commitment if the mortgagee or other person entitled to the benefit of the security of the mortgage has bound himself to give it, whether or not a subsequent event of default or other event not within his control has relieved, or may relieve, him from that obligation.

(3) When a preferred mortgage secures an obligation in respect of which one or more advances or repayments may be made from time to time in the future and the maximum amount outstanding under the obligation at any one time is limited to a certain amount, the amount to be recorded with respect to that obligation may be either

*(a)* the maximum amount that may be outstanding at any one time; or

*(b)* the aggregate of all possible advances that may be made.

(4) A preferred mortgage made pursuant to commitment shall clearly indicate whether the amount is the maximum amount that may be outstanding at any one time or is the aggregate of all possible advances.

**Advances or other value given pursuant to agreement**

**276.**(1) Notwithstanding any other provision of this Part, a preferred mortgage may secure an agreed-upon maximum amount representing all debts or obligations arising or that may arise between the debtor and the creditor within a specified period.

(2) Such a maximum amount may exceed the value of the vessel or vessels, which may themselves represent only a part of all of the assets that are subject to the preferred mortgage.

(3) Only indebtedness that incurred on or prior to the maturity date or date of termination of a preferred mortgage made pursuant to agreement shall retain its status and ranking as a preferred maritime lien under this Part, and that indebtedness shall include all expenses and interest associated with the indebtedness prior to maturity.

(4) A preferred mortgage made pursuant to agreement under this section shall not be required to represent a commitment to lend on the part of the mortgagee, but shall secure all debts or obligations arising or that may arise between the parties as a result of transactions the nature of which are subject to the provisions of the mortgage deed, whether present or future, actual or contingent, and shall set forth in addition to other terms and conditions the maximum amount and the maturity date, or a statement of the date of termination if it is other than the maturity date.

(5) Nothing contained in this section shall be construed to impair the lien status, recordability, validity or enforceability with respect to a vessel registered under this Part of a preferred mortgage granted by its owner that

*(a)* secures obligations, in whole or in part, arising out of specific successive business contracts or other transactions, whether or not such contracts or transactions are related to or arise from the construction, purchase, sale or chartering of a vessel registered under this Part; or

*(b)* secures all debts or obligations owed or to be owed under it, so long as the aggregate amount of such debts or obligations does not exceed at any one time the stated maximum amount of the mortgage.

(6) The preferred status of a mortgage made pursuant to agreement in accordance with this section that may be secured by property that is not a vessel or more than one vessel shall not be impaired by reason that the mortgage does not provide for a separate discharge of it.

**Units of account**

**277.**(1) The obligations secured by a preferred mortgage may be expressed in any unit or units of account to which the parties may agree, including the currency of Barbados and the currency of a foreign state, or in equivalents of any other unit or units of account established by intergovernmental organizations.

(2) If a preferred mortgage secures an obligation in one or more specified units of account and there is an option to have a unit of account altered from time

to time, the principal amount of the mortgage to be recorded shall be denominated in one or more of the specified units of account.

(3) A recording referred to in subsection (2) may include as additional words "or an equivalent amount in any alternate unit of account" or similar language, and if such additional words are recorded, no change in the recorded amount shall be required to reflect the fact that the obligation or any portion of it is subsequently denominated in a different unit of account, unless the parties otherwise agree.

(4) When a preferred mortgage secures an obligation in respect of which there is an option to have the obligation amount denominated from time to time in alternate units of account but which continues to be payable in, or by reference to, a specified unit of account

*(a)* the amount of the obligation to be recorded shall be expressed in the specified unit of account; and

*(b)* notwithstanding any exercise of the option, no change in the recorded amount shall be required.

(5) A preferred mortgage described in subsections (2) or (4) may additionally secure a loss up to a specified amount arising out of fluctuations between a specified unit of account and any alternate unit of account in which the obligation amount may be denominated from time to time, and that specified amount shall also be recorded.

**Lien of preferred mortgage**

**278.**(1) A preferred mortgage shall constitute a maritime lien upon the mortgaged vessel in the amount of the outstanding mortgage indebtedness secured by the vessel.

(2) The lien of a preferred mortgage shall not be in any way impaired or affected because the vessel's document following recording of the mortgage has expired, or has been restrictively endorsed, suspended, revoked or cancelled.

**Interest on preferred mortgage**

**279.** Notwithstanding any other law or regulation to the contrary, a preferred mortgage may secure an interest, including interest in an interest, on an obligation secured by the mortgage as the parties may agree, including at a fixed rate, variable rate, rate based upon a formula, or by adding margins to the mortgagee's cost, from time to time, of funding an obligation secured by the mortgage.

**Priority, disclosure of liens and penalty**

**280.**(1) A mortgagor, before executing a preferred mortgage, shall disclose to the mortgagee in writing the existence of any maritime lien, prior mortgage or other obligation or liability upon the vessel to be mortgaged that is known as the mortgagor.

(2) After the execution of a mortgage and before the mortgagee has had a reasonable time in which to record it, the mortgagor shall not incur without the consent of the mortgagee any contractual obligation creating a lien upon the vessel, other than a lien specified under Article 4 of the Convention on Maritime Liens and Mortgages 1993.

(3) A mortgagor, or the president or principal officer of a corporate mortgagor, who contravenes this section with the intent to hinder, delay or defraud an existing or future creditor of the mortgagor or of a lien on the mortgaged vessel commits an offence and is liable on summary conviction to a fine of $75 000.

(4) On the conviction for an offence under subsection (3), the mortgage indebtedness shall become immediately due and payable at the election of the mortgagee.

**Exhibition of certified copies**

**281.**(1) Upon the recording of a preferred mortgage, 2 certified copies of it shall be delivered to the mortgagor, who shall place and use due diligence to

retain one copy on board the mortgaged vessel, and cause the copy and the document of the vessel to be exhibited by the master of the vessel to any person having business that may give rise to a maritime lien or to the sale, conveyance or mortgage of the vessel.

(2) The license of a Master who wilfully fails to exhibit a document and copy referred to in subsection (1) may be suspended or revoked.

**Discharge of mortgage**

**282.**(1) A mortgagor, upon the complete discharge of the mortgage indebtedness, shall without delay file a certificate of the discharge, duly executed by the mortgagee, or his successors or assigns, with the Principal Registrar, who shall record the certificate.

(2) A mortgagor may similarly file a certificate of partial discharge, which shall be similarly recorded.

**Jurisdiction and procedure on foreclosure and default**

**283.**(1) The lien of a preferred mortgage may be enforced in Barbados by a suit *in rem* in the High Court of Barbados, sitting in Admiralty, upon default of any term or condition of the mortgage.

(2) In addition to any notice by publication, actual notice of the commencement of such a suit shall be given by the libellant, in such manner as the Court directs, to the master, other ranking officer or caretaker of the vessel, and to any person who has recorded a notice of claim of an undischarged lien upon the vessel, unless after search by the libellant satisfactory to the Court no such person is found within Barbados.

(3) Failure to give notice under subsection (2) shall not constitute a jurisdictional defect, but the libellant is liable to a person who has recorded a notice of claim of an undischarged lien upon the vessel for damages in the amount of any interest in the vessel terminated by the suit.

(4) The lien of a preferred mortgage may also be enforced by a suit *in rem* in admiralty or otherwise in any foreign country in which the vessel is found, pursuant to the procedure of that country for the enforcement of ship mortgages constituting maritime liens on vessels documented under the laws of that country.

(5) Notwithstanding anything in this Part, a mortgagee may, in addition to any other remedy under this Part, bring suit *in personam* against the mortgagor, maker, co-maker or guarantor in any court of competent jurisdiction for the amount of the outstanding mortgage indebtedness or for any deficiency in the full payment of it.

(6) The enforcement by a suit *in rem* in admiralty of the rights of a mortgagee with respect to a vessel covered by a preferred mortgage shall not be precluded or impaired, notwithstanding the enforcement of any rights that the mortgagee may have under the mortgage to property that is not a vessel.

**Preferred status**

**284.**(1) In sections 261, 266, 268 and 270

"preferred mortgage" means

*(a)* a preferred mortgage made under this Part;

*(b)* a mortgage, hypothecation or similar charge created as security upon a documented foreign vessel, if the mortgage, hypothecation or similar charge was duly and validly executed and registered in accordance with the laws of the nation where the vessel's ownership is documented; or

*(c)* a financing charter of a foreign vessel that has been registered in a public registry at the port of registry of the vessel or at

(i) the central office in the foreign country under whose laws the ownership of the vessel is registered in the name of the person stated to be the owner of the financing charter; and

(ii) if applicable, the central office in the foreign country under whose bareboat charter registry laws the financing charter of the vessel

is registered in order to permit the vessel to sail under the flag of that foreign country; and

"preferred mortgage lien" includes a lien of such a mortgage, hypothecation or similar charge.

(2) In sections 251 and 252, "preferred mortgage" includes a financing charter of a foreign vessel that has been registered in a public registry at the port of registry of the vessel or at

*(a)* the central office in the foreign country under whose laws the ownership of the vessel is registered in the name of the person stated to be the owner of the financing charter; and

*(b)* if applicable, the central office in the foreign country under whose bareboat charter registry laws the financing charter of the vessel is registered in order to permit the vessel to sail under the flag of that foreign country.

**Priority of preferred mortgage lien on foreclosure**

**285.**(1) Subject to subsection (2), upon the sale of any vessel in a suit *in rem* in the High Court of Barbados, sitting in Admiralty, for the enforcement of a preferred mortgage lien, all pre-existing claims in the vessel, including any possessory common law liens, shall terminate and attach in like amount and in accordance with their respective priorities to the proceeds of sale.

(2) In the circumstances referred to in subsection (1), a preferred mortgage lien shall have priority over all claims against the vessel, except maritime liens specified under Article 4 of the International Convention on Maritime Liens and Mortgages 1993 and costs taxed by the Court.

**Enforcement of lien for necessaries**

**286.**(1) A person who repairs, supplies or provides towage, use of dry dock or marine railway or other necessaries to a foreign or domestic vessel upon the

order of the owner or person authorized by the owner shall have a maritime lien on the vessel.

(2) The managing owner, ship's agent, master, or any person to whom the management of the vessel at the port of supply is entrusted, including any person appointed by a charterer, owner *pro hac vice* or agreed purchaser in possession, is presumed to have authority from the owner to procure such necessaries.

(3) Subsection (2) does not apply to a person tortiously or unlawfully in possession or charge of the vessel.

(4) Subsection (1) does not apply if the furnisher knew, or by exercise of reasonable diligence could have ascertained that, because of the terms of a charter party, agreement for sale of the vessel or for any other reason, the person ordering necessaries was without authority to bind the vessel for them.

**Waiver of lien for necessaries**

**287.** This Part shall not prevent the furnisher of repairs, supplies, towage, use of a dry dock or marine railway or other necessaries, or a mortgagee, from waiving the right to a lien or, in the case of a preferred mortgage lien, the right to the preferred status of such a lien, by agreement or otherwise.

**Recording of yacht mortgage or security agreement**

**288.** The Principal Registrar may accept for recording a mortgage or other document securing an instalment loan or other debt with respect to the financing of a yacht, the original of which has been received by a notary public or special agent, if it has been acknowledged or is submitted with such other proof of due execution as may be required by the laws of Barbados.

**Execution and form of required acknowledgement**

**289.**(1) An acknowledgment shall be in the prescribed form, and be a part of or permanently attached to the executed document, and shall be subscribed by

*(a)* in the case of a vessel owned by individuals, the owner, managing owner, part owner, or the vessel owner's agent authorized by a power of attorney;

*(b)* in the case of a corporate-owned vessel, the president, vice president, secretary or assistant secretary of the corporation or other officer or agent of the corporation as authorized in writing; or

*(c)* by a special agent, a notary public or any other officer authorized to administer oaths.

(2) Where proof of due execution is specified as an alternative to acknowledgment in this Act or the regulations, the proof shall

*(a)* in form and in substance, be a full legal acknowledgment that the document was duly executed in accordance with the laws of the place of execution of the document;

*(b)* be subscribed by, and legibly bear, the name and title of a notary public or other officer authorized by the laws of the place of execution of the document to take acknowledgments; and

*(c)* be a part of, or permanently attached to, the executed document.

**Bill of sale recording for existing ships**

**290.**(1) Where a Barbados-registered vessel is sold or transferred and re-registered under this Act, a bill of sale issued in connection with the sale or transfer shall be recorded by the Principal Registrar as soon as practicable after the sale or transfer.

(2) In the case of a new-build, the builder's certificate or, in the case of a transfer from another flag state, the bill of sale is not required to be recorded.

**Mortgage recording**

**291.**(1) No mortgage shall be recorded unless it is submitted in 4 originals, all duly executed, and acknowledged or with proof of due execution.

(2) All mortgages shall be in the English language.

**Yacht mortgage or security agreement**

**292.** The Administration, the central office of the Principal Registrar in the United Kingdom or its duly authorized agent elsewhere may accept for recording a mortgage or other document securing an instalment loan or other debt with respect to the financing of a yacht, if it has been received in 4 originals by a notary public or special agent and has been acknowledged or is submitted with proof of its due execution.

**Construction contracts**

**293.** A construction contract shall be submitted for recording in the form of one certified copy.

**Fees regarding title of deeds of vessels**

**294.** A person applying for a title of deed of a vessel shall pay the fee specified in the regulations.

## PART XV

## MEASUREMENT AND TONNAGE

**Tonnage measurement**

**295.**(1) The tonnage of any ship to be registered under Part VII shall be ascertained in accordance with the regulations.

(2) Wherever the tonnage of a ship has been ascertained and registered in accordance with the regulations, the same tonnage shall be used every subsequent registration of the ship unless

*(a)* an alteration is made in the form or capacity of the ship; or

*(b)* it is discovered that the tonnage of the ship has been erroneously computed,

in which case the tonnage shall be re-measured, determined and registered in accordance with the regulations.

**Tonnage of ships of foreign countries adopting tonnage regulations**

**296.**(1) The Director may order that ships of a foreign country that has adopted the International Convention on Tonnage Measurement of Ships, 1969 shall, without being re-measured in Barbados, be treated as being of the tonnage denoted by their certificates of registry or other national papers to the same extent, and for the same purposes, as the tonnage denoted in the certificate of registration of a Barbados ship.

(2) Any such order may

*(a)* operate for a limited time; and

*(b)* be subject to such conditions and qualifications as the Director may consider expedient.

(3) Where it appears to the Director that the tonnage of a foreign ship, as measured by the rules of the country to which the ship belongs, materially differs from what it would be under the regulations, he may order that any ships of that country shall, for all or any of the purposes of this Act, be re-measured in accordance with the regulations.

# PART XVI

## MARITIME SAFETY - CONVENTIONS, METEOROLOGY AND DIGITAL TWINNING

*Maritime Safety Conventions*

**Incorporation of international maritime safety conventions**

**297.**(1) The following International Maritime Organization conventions on maritime safety shall have the force of law in Barbados:

*(a)* the International Convention for the Safety of Life at Sea, 1974, as amended;

*(b)* the Protocol of 1988 relating to the International Convention for the Safety of Life at Sea, 1974, as amended;

*(c)* the International Convention on Load Lines, 1966, as amended;

*(d)* the Protocol of 1988 relating to the International Convention on Load Lines, 1966, as amended;

*(e)* the International Regulations for Preventing Collisions at Sea, 1972, as amended;

*(f)* the International Convention on Maritime Search and Rescue, 1979, as amended;

*(g)* the Convention on the International Maritime Satellite Organization, 1976, as amended; and

*(h)* the International Convention for Safe Containers, 1972, as amended.

(2) A person or vessel that is found not compliant with the requirements stipulated in the instruments specified at subsection (1) shall be required to execute necessary rectifications in order to become compliant.

(3) Any intentional act resulting in breach of any of the instruments specified at subsection (1) and consequential injury, loss of life, damage, including damage to the marine environment or to cargo is liable on conviction to a fine of

*(a)* in respect of a violation of the International Convention for the Safety of Life at Sea 1974, as amended, $700 000;

*(b)* the Protocol of 1988 relating to the International Convention for the Safety of Life at Sea, 1974, as amended, $700 000;

*(c)* in respect of a violation of the International Convention on Load Lines, 1966, as amended, $300 000;

*(d)* Protocol of 1988 relating to the International Convention on Load Lines, 1966, as amended, $300 000;

*(e)* in respect of a violation of the International Regulations for Preventing Collisions at Sea, 1972, as amended, $500 000;

*(f)* in respect of a violation of the International Convention on Maritime Search and Rescue, 1979, as amended, $700 000;

*(g)* in respect of a violation of the Convention on the International Maritime Satellite Organization, 1976, as amended $250 000; and

*(h)* in respect of a violation of the International Convention for Safe Containers, 1972, as amended, $700 000.

(4) A person who contravenes a convention referred to in subsection (1) commits an offence and is liable on conviction to a fine of

*(a)* in respect of a violation of the International Convention for the Safety of Life at Sea, $700 000;

*(b)* in respect of a violation of the International Convention on Load Lines, 1966 or Protocol of 1988 relating to the International Convention on Load Lines, 1966, $300 000;

*(c)* in respect of a violation of the International Regulations for Preventing Collisions at Sea, 1972, $500 000;

*(d)* in respect of a violation of the International Convention on Maritime Search and Rescue, 1979, $500 000;

*(e)* in respect of a violation of the Convention on the International Maritime Satellite Organization, 1976, $150 000; and

*(f)* in respect of a violation of the International Convention for Safe Containers, 1972, $700 000.

*Maritime Meteorological Services*

**Definitions - Part XVI**

**298.** In this Part,

"emergency" has the same meaning as in the *Emergency Management Act*, Cap. 160A.

"early warning system" means a system for generating and disseminating timely and meaningful warning information to enable individuals, communities and organisations threatened by a meteorological or ocean-related event to prepare and to act appropriately and in sufficient time to reduce the risk of harm to human life, damage to property and the environment;

"meteorological information" means a meteorological observation, analysis, forecast or warning, and includes any other statement relating to existing or expected meteorological conditions;

"meteorological observation" a statement of meteorological conditions related to a specific time and location;

"meteorological property" means

*(a)* in the case of real property, an facility, equipment, instrument and infrastructure on land or in the sea in Barbados, installed or erected for the performance of the functions of the Barbados Meteorological Services under this Act, the regulations made under this Division or any other Act;

*(b)* in the case of personal property, property subject to copyright protection under this Act; and

*(c)* any other property, both real and personal, in the use of the Barbados Meteorological Services for the performance of its functions under this Act or any other Act;

"meteorological-related event" means

*(a)* drought;

*(b)* extreme temperature;

*(c)* flash flooding;

*(d)* fog;

*(e)* hail;

*(f)* heavy rain;

*(g)* strong, gale, storm or hurricane force winds not associated with a tropical system;

*(h)* a thunderstorm, including lightening;

*(i)* a tornado;

*(j)* a tropical system, including a tropical disturbance, tropical depression or tropical cyclone;

*(k)* El Nino; or

*(l)* La Nina;

"meteorological services" mean the development and supply of meteorological information by the Barbados Meteorological Services, by any means prescribed under this Act, and includes services derived from its functions under this Act;

"meteorological warning" means a statement on observed and expected conditions related to a meteorological-related event that requires a response

to minimise the risk of harm to life or damage to property or the environment;

"Minister" means the Minister responsible for meteorological affairs;

"Ministry" means the Ministry responsible for meteorological affairs;

"ocean forecast" means a statement of expected ocean conditions relating to ocean temperature, sea level, tides and waves for a specific time and location;

"ocean information" means an ocean observation, analysis, forecast or warning relating to ocean temperature, sea level, tides and waves, and includes any other statement relating to it;

"ocean observation" means a statement of ocean conditions relating to ocean temperature, sea level, tides and waves for a specific time and location;

"ocean-related event" means

*(a)* damaging swells;

*(b)* an extreme ocean temperature;

*(c)* an extreme tide;

*(d)* sea flooding;

*(e)* sea level rise;

*(f)* a storm surge; or

*(g)* a tsunami;

"ocean services" mean the development and supply of ocean information by the Barbados Meteorological Services by any means prescribed under this Act, and includes services derived from its functions under this Act;

"precautionary principle" means the taking of precautionary measures, including the making of a decision considered appropriate and necessary in the circumstances by a person with a power to act under this Act or the regulations, to anticipate, prevent or minimise the risks and impacts of a

meteorological or ocean-related event that threatens to endanger, or is likely to endanger, life, property or the environment; and

"World Meteorological Organization" means the organization established under the Convention of the World Meteorological Organization.

**Maritime Meteorological Services**

**299.**(1) Activities related to maritime meteorological services and warnings shall be managed by the Barbados Meteorological Services, in accordance with national policies, laws and international best practices.

(2) The Administration may publish as necessary guidelines in respect of maritime meteorological matters, in the interest of safety of life at sea.

(3) Prior to the Administration issuing any guidelines pursuant to subsection (2), it shall consult with the Barbados Meteorological Services.

**Precautionary principle**

**300.**(1) A person or authority exercising a power or performing a function under this Act shall at all times consider the precautionary principle in the exercise of the power or the performance of the function as the paramount consideration, to reduce the risk of harm to human life and damage to property and the environment.

(2) The fact that limited scientific information on the status of a meteorological or ocean-related event is available shall not be a reason for postponing the taking of measures or the making of a decision.

**Authority of the Barbados Meteorological Services**

**301.**(1) The Barbados Meteorological Services are hereby designated as the national authority for the provision of official meteorological and ocean information and services under this Act or any of its statutory instruments.

(2) Any warnings produced by the Barbados Meteorological Services for Barbados shall be free of charge.

(3) Any other meteorological information produced or service supplied by the Barbados Meteorological Services may be subject to a fee under this Act or regulations made under this Division.

**Functions of the BMS**

**302.**(1) The Barbados Meteorological Services shall perform the following functions

*(a)* taking, recording, quality control, dissemination and storage of meteorological and ocean observations and other observations required for the purpose of meteorological and ocean services;

*(b)* providing meteorological and ocean forecasts;

*(c)* providing meteorological and ocean-related warnings to minimise the risk of harm to human life, damage to property and the environment;

*(d)* supplying meteorological and ocean information and services in accordance with this Act;

*(e)* publishing meteorological and ocean information;

*(f)* promoting the use of meteorological and ocean information and services;

*(g)* promoting the advancement of meteorological and ocean science, by means of research and investigation or otherwise;

*(h)* collecting, archiving and making available meteorological and ocean information in accordance with this Act or the regulations;

*(i)* developing, improving and strengthening communication systems with relevant authorities, including the mass media and communication service providers, for the provision of meteorological and ocean services under this Act or any other Act;

*(j)* providing general advice on meteorological and ocean-related matters in accordance with this Act;

*(k)* keeping a continuous watch of meteorological and ocean conditions and responding in a timely manner to a meteorological or ocean-related event;

*(l)* implementing policies, conventions, agreements, programmes, projects and initiatives in connection with the functions of the Barbados Meteorological Services under this Act or any other Act;

*(m)* developing, providing and facilitating training and instructions for persons whose duties and responsibilities concern matters relevant to meteorological and ocean services or events;

*(n)* promoting the understanding, recognition and use of verified traditional practices and knowledge related to meteorological and ocean-related events and services through the observation of indicators occurring in nature and by other means;

*(o)* liaising and coordinating with relevant authorities, including persons of an organisation, to provide meteorological and ocean information for the purpose of disaster risk reduction and response to climate change, and any other related matters under this Act or any other Act;

*(p)* providing public awareness on meteorological and ocean information and services;

*(q)* the free and unrestricted exchange of meteorological data with meteorological services of other jurisdictions in accordance with the Convention of the World Meteorological Organization for the purpose of meteorology;

*(r)* operating national maritime radio systems for the purpose of

(i) communicating with ships operating within the boundaries of Barbados for safe navigation at sea;

(ii) broadcasting and receiving of meteorological and ocean information to and from ships operating within the boundaries of Barbados;

(iii) keeping a continuous watch on relevant international distress frequencies for the purpose of safety of life at sea;

(iv) assisting relevant authorities in search and rescue operations at sea under this Act or any other Act; and

(v) providing public information, as necessary, on the movement of ships within the boundaries of Barbados to any person or authority;

*(s)* making arrangements with any authority for the advancement of meteorological and ocean information and services for Barbados; and

*(t)* such other functions as are conferred on the Barbados Meteorological Services by any other Act.

(2) The Barbados Meteorological Services shall perform its functions under this Act in the public interest generally and in particular

*(a)* for the purposes of navigation and shipping and of civil aviation; and

*(b)* for the purpose of assisting persons and authorities engaged in primary production, industry, trade and commerce, subject to the provisions of this Act and the regulations.

(3) Nothing in this Act precludes the Barbados Meteorological Services from performing any other functions to be carried out by it specified in any other enactment, insofar as the exercise of those functions will enhance safety of life and property at sea.

**Functions of BMS Director**

**303.** The Barbados Meteorological Services Director shall perform the following functions

*(a)* establishing meteorological offices and observing stations as necessary for the purpose of meteorological and ocean services;

*(b)* supervising and controlling the collection and preservation of meteorological and ocean information and records;

*(c)* arranging with any person or persons, including an organisation, institution or authority, to collect, take, record, quality control and disseminate, or safely store meteorological or ocean information;

*(d)* arranging for training of employees of the Barbados Meteorological Services or any organisation, including an institution, authority or body, to carry out any meteorological or ocean services under this Act;

*(e)* formulating policies, plans and procedures for the implementation of this Act;

*(f)* developing cost recovery measures and arrangements as necessary or appropriate for the maintenance of equipment;

*(g)* establishing appropriate quality management systems for the provision of quality-based meteorological and ocean services under this Act or any other Act;

*(h)* providing an annual work plan and budget proposal for the Barbados Meteorological Services;

*(i)* providing an annual report for the Barbados Meteorological Services;

*(j)* reporting and advising on matters of the Barbados Meteorological Services;

*(k)* effectively and efficiently administering the operations of the Barbados Meteorological Services and the performance of its functions; and

*(l)* performing such other functions as are conferred by any other Act relating to the functions and services of the Barbados Meteorological Services.

**Powers of the Director of BMS**

**304.** The Director of the Barbados Meteorological Services shall exercise the following powers in accordance with this Act

*(a)* to allocate and mobilise financial and other resources that are necessary for the Barbados Meteorological Services to respond to meteorological and ocean related events;

*(b)* to provide support, upon a request to the Barbados Meteorological Services Director, for the safety of immediate family members of staff on duty before or during the occurrence of a meteorological or ocean related event; and

*(c)* subject to the approval of the Minister, to delegate to the Director, as necessary, any functions or powers of the Barbados Meteorological Services Director under this Act.

**Maritime emergency preparation and response**

**305.**(1) The Administration shall develop, in accordance with maritime industry best practices, a maritime emergency preparation and response plan for weather-related events and shall review and update the plan periodically.

(2) Barbados vessels in any waters, and foreign vessels in Barbados waters during a time of emergency related to a weather-related event, shall operate in compliance with the International Maritime Organization's Guidelines on the Control of Ships in an Emergency.

(3) Ships shall also have a ship-specific plan in relation to weather-related emergency and disaster management.

**Recommendations regarding emergencies**

**306.**(1) The Barbados Meteorological Services Director shall, in consultation with any other authorities that the Minister considers appropriate, make

recommendations, in accordance with criteria established in international instruments, to the Minister responsible for emergency management

*(a)* that an evacuation of the public in any part of Barbados, is necessary, having regard to a meteorological or ocean-related event that threatens to endanger, or is likely to endanger, life, property and the environment; or

*(b)* that a declaration of a state of emergency is necessary, to prevent

(i) loss of human life;

(ii) illness or injury to humans;

(iii) property loss or damage; or

(iv) damage to the environment; by a meteorological or ocean related event.

(2) The Barbados Meteorological Services Director shall issue any warning without delay, including any advice for actions to be taken, in response to a meteorological or ocean-related event that threatens to endanger, or is likely to endanger life, property and the environment.

(3) The Barbados Meteorological Services Director may, in consultation with the Minister,

*(a)* appoint an officer to act on behalf of the Barbados Meteorological Services to perform any function under this Act; and

*(b)* engage consultants for the purpose of assisting the Barbados Meteorological Services to perform its functions.

**Delegation of power by the BMS Director**

**307.**(1) The Barbados Meteorological Services Director may delegate any powers conferred on him to any staff member on duty.

(2) A delegation made under subsection (1) may be made in writing or by any other means that the Barbados Meteorological Services Director considers appropriate.

(3) A power delegated by the Barbados Meteorological Services Director under subsection (1) shall not be further delegated by the person to whom the delegation was made.

(4) A person who exercises a power or does an act in relation to a function related to meteorological services under this Act shall at all times exercise that power or perform that function with due care.

**Protection and ownership of meteorological property**

**308.**(1) Subject to any intellectual or copyright laws of Barbados, the Barbados Meteorological Services shall have copyright over all meteorological and ocean-related data collected, generated and archived by it, including all works developed or published by the Barbados Meteorological Services or by a person authorised to do such works for the Barbados Meteorological Services.

(2) The Government of Barbados shall have ownership of all meteorological property of the Barbados Meteorological Services.

**National interest**

**309.** The Barbados Meteorological Services Director shall, in consultation with the Minister and any other authorities that the Minister considers appropriate, make any arrangements in the national interest that the Barbados Meteorological Services Director considers necessary, subject to laws of Barbados respecting communications,

*(a)* to enable the Barbados Meteorological Services to perform its functions and provide its services; and

*(b)* for maintaining the early warning system in Barbados, under this Act or any other Act.

**National emergency**

**310.**(1) The Barbados Meteorological Services Director shall, with the approval of the Minister, make necessary arrangements with any service provider licensed under the laws of Barbados respecting communications to provide, free of charge, a service for the purpose of disseminating warnings during the occurrence of a meteorological or ocean-related event.

(2) An arrangement made under subsection (1) shall include the supply of qualified or competent persons by the service provider to fulfil the requirements of the arrangement.

(3) Nothing in this Division shall affect any existing arrangement between the Barbados Meteorological Services or the Ministry and any service provider in respect of any other matter under any other Act.

**Regional and international obligations**

**311.**(1) Unless Cabinet decides otherwise, the Barbados Meteorological Services Director shall be a permanent representative of Barbados to the World Meteorological Organization, who shall act on technical matters relating to that organization in accordance with its regulations.

(2) The Barbados Meteorological Services Director may, in consultation with the Minister, appoint a hydrological adviser to advise the permanent representative with respect to World Meteorological Organization activities in operational hydrology and water resources, in accordance with that organization's regulations.

**Fees, charges and levies**

**312.**(1) The Minister may make regulations prescribing, or providing for the fixing of, fees payable for the following purposes

*(a)* to provide funds for the establishment, maintenance and operation of works, facilities and services pertaining to meteorology and related ocean service; and

*(b)* to recoup costs and expenses incurred by the Ministry or the Barbados Meteorological Services Director, or any of their employees, in the exercise of their powers and the performance of functions and duties in providing meteorological and ocean-related services under this Act.

(2) Regulations made under subsection (1) may

*(a)* specify a person, organisation, institution or authority by whom and to whom fees, charges or levies are payable;

*(b)* require returns to be made by a person, organisation, institution or authority by whom any fees or charges are payable and prescribe conditions relating to the making of such returns;

*(c)* provide for the refund or waiver of a fee or charge in whole or in part, in any specified case or class of cases; and

*(d)* prescribe forms to be used for the purpose of Part XVI.

**Offences and penalties-Maritime Meteorological Services**

**313.**(1) A person commits an offence who

*(a)* hinders or obstructs an employee or other person authorised under this Act in relation to meteorological and ocean-related services in the performance of their duty;

*(b)* acts, or attempts to act, in contravention of this Part XVI or the regulations made under this Part; or

*(c)* unlawfully moves, removes, interferes or tampers or damages meteorological property.

(2) A person who commits an offence under paragraph (1)*(a)* or (1)*(b)* is liable on conviction to a fine of $50 000 or to imprisonment for a term of 3 years, or both.

(3) A person who commits an offence under paragraph (1)*(c)* is liable, on conviction to a fine of $100 000 or to imprisonment for a term of 5 years, or both.

*Safe Digital Twinning*

**Safe Digital Twinning**

**314.**(1) The Barbados Port Inc. shall be responsible for ensuring that maritime-specific digital twinning activities are developed and operated in a safe and secure manner.

(2) The Barbados Port Inc shall ensure that digital twin technologies are deployed to the fullest extent practical, in the advancement of Barbados' maritime sector for the purposes of

*(a)* enhancing efficiency and promoting innovation in the maritime sector;

*(b)* improving oversight of the performance of ships, port, and other related maritime activities;

*(c)* identifying potential faults; and

*(d)* enabling better decision making.

(3) Pursuant to subsection (2), Barbados Port Inc. shall adopt or develop programs, plans, procedures or other actions to facilitate the safe and secure undertaking of maritime-specific digital twinning activities, and in this regard shall design, implement and continuously improve such activities within a framework to be known as the "Barbados Safety and Security Maritime Digital Twinning Management Program".

(4) The Barbados Safety and Security Maritime Digital Twinning Management Program shall be supported by a Maritime Digital Twinning (Safety and Security) Plan.

(5) The Maritime Digital Twinning (Safety and Security) Plan referred to in subsection (4)

*(a)* shall be developed and implemented, subject to approval by the Port Chief Executive Officer, within 3 years after the commencement of this Act;

*(b)* shall not take effect until notice of the approval of the plan is issued by the Port Chief Executive Officer or a person authorized in writing by him to issue such approval;

*(c)* shall be reviewed periodically, giving due consideration to technological changes and advances in the realm of digital twinning;

*(d)* may be withdrawn by the Port Chief Executive Officer, on advice from the Divisional Manager of the Digital Innovation and Development Division of Barbados Port Inc.;

*(e)* shall, where withdrawn under paragraph *(d)*, be replaced with a new plan, subject to approval by the Port Chief Executive Officer, and to publication of the entry into force of the new plan.

(6) In performing functions under this Part, Barbados Port Inc.

*(a)* shall adhere to international best practices, and international maritime standards and guidelines issued by the International Maritime Organization, International Organization for Standardization, or any other internationally recognized organization specializing in digital twinning technologies; and

*(b)* undertake a principles-based approach to digital twinning activities, including incorporation of the Gemini Principles for Digital Twins.

(7) For the purposes of this section

"digital twin"means a digital replica of a vessel, port, or other physical asset used in the maritime industry, including its related processes, systems and information;

"Gemini Principles for Digital Twins" mean the set of values and principles formulated by the United Kingdom as a framework for its National Digital Twin Program which are based on the premise data for the public good, and which aim to ensure ethical and sustainable digital technologies and innovations.

## PART XVII

## CONTAINER-SHIPPING SAFETY

### *General*

**Definitions**

**315.** In this Part

"container" means a container as defined in the Safe Containers Convention; and

"Safe Containers Convention" means the International Convention for Safe Containers, 1972, as amended.

### *Containers Manufactured in Barbados*

**Application**

**316.** This Part applies to

*(a)* Barbados-registered containerships; and

*(b)* foreign-registered containerships, when in Barbados.

**Regulation of containers manufactured in Barbados**

**317.**(1) The Administration may designate container safety inspectors for the purposes of this Part to examine containers manufactured in Barbados for containerized maritime transport in order to verify that the containers are in compliance with international container safety standards established under the Safe Containers Convention.

(2) The Administration shall maintain a list of container safety inspectors, which shall be publicly available.

**Container safety inspection**

**318.**(1) A container manufactured in Barbados for containerized maritime transport is subject to an inspection by an Administration-designated container safety inspector.

(2) An inspection shall be conducted before a container is used for maritime transport purposes.

**Safe containers statement of compliance**

**319.**(1) Following an inspection of a container manufactured in Barbados for containerized maritime transport, an Administration-designated container safety inspector may

*(a)* issue to the container manufacturer a safe containers statement of compliance, where the container is found to be in compliance with the international safety standards established under the Safe Containers Convention; and

*(b)* require the container to be brought into compliance with those standards, where the container is found to be non-compliant.

(2) The fee for a safe containers statement of compliance is $100, which shall be paid to the Administration.

(3) The safe containers statement of compliance shall be in the form set out in the *Seventh Schedule*.

**External container safety assessors**

**320.**(1) The Administration may issue a safe containers statement of compliance on the basis of a container safety assessment report issued by an external container safety assessor.

(2) An external container safety assessor shall be registered with a local shipping organization that has been registered or incorporated as a shipping organisation in accordance with the *Companies Act*, Cap. 308.

(3) Local shipping organizations shall submit particulars of container safety assessors registered by them to the Administration.

(4) An external container safety assessor shall not be selected from the company manufacturing the containers to be assessed.

(5) In this section, "external container safety assessor" mean a competent person, not designated by the Administration, that can carry out inspections of containers to be used in maritime transport to verify their safety against the requirements of the Safe Containers Convention.

**Issuance of a statement of compliance**

**321.** The procedure for the issuance of a safe containers statement of compliance in respect of a locally manufactured container to be used for maritime transport purposes on the basis of a container safety assessment report issued by an external container safety assessor shall be as follows:

*(a)* the local container manufacturer shall submit to the Administration a container safety assessment report obtained from an external container safety assessor in respect of the locally manufactured container to be used for maritime transport purposes; and

*(b)* the Administration shall issue to the local container manufacturer a

(i) safe containers assessment letter of approval, to indicate the Administration's approval of the external container safety assessor's report and his recommendation that the Administration issue a safe containers statement of compliance; and

(ii) a safe containers statement of compliance.

*CSC Convention Examinations*

**Container examination under the CSC Convention**

**322.** The Administration shall ensure that Barbados-registered containerships and foreign-registered containerships visiting Barbados participate in

*(a)* a periodic examination scheme; or

*(b)* an approved continuous examination program.

**Periodic examination scheme**

**323.**(1) Under a periodic examination scheme, a Barbados-registered containership or container shall be examined within 5 years after it is built, and at further intervals not exceeding 30 months.

(2) The date of the containership's next examination date shall be marked on its Safe Containers Convention safety approval plate.

**Approved continuous examination program**

**324.**(1) The Administration may

*(a)* approve a continuous examination program, in respect of a Barbados-registered ship;

*(b)* endorse a continuous examination program, in respect of a foreign-registered ship in Barbados,

if it is satisfied on evidence submitted by the shipowner, ship agent or master that the continuous examination program provides a standard of safety not inferior to the periodic examination scheme.

(2) Containers operated under an approved continuous examination program shall be properly and regularly inspected as part of their regular operation and at a minimum, within the intervals required under a periodic examination scheme.

(3) Containers operated under an approved continuous examination program scheme shall display the program number on the Safe Containers Convention safety approval plate.

**Frequency of examinations**

**325.**(1) For a container operated under a periodic examination scheme, the interval from the date of manufacture to the date of the first examination shall not exceed 5 years, and it shall be examined at further at intervals of not more than 30 months.

(2) For a container operated under an approved continuous examination program, the examination shall be carried out in connection with a major repair, refurbishment or on-hire/off-hire interchange, but in no case shall an interval without an examination exceed 30 months.

**Examiner**

**326.**(1) In this section, "examiner" means a person appointed under subsection (2).

(2) The Administration may appoint persons to carry out container examinations who have sufficient knowledge, skills and experience of containers to be capable of determining whether the container has defects that could place any person in danger.

(3) The Administration shall maintain a list of examiners appointed by it.

(4) Every container on

*(a)* a Barbados-registered ship;

*(b)* a foreign-registered ship when in Barbados,

shall be examined by an examiner.

(5) An examiner may authorize another individual to carry out part of an examination on his behalf and under his supervision.

(6) An examiner may, in respect of any Barbados-registered ship and foreign-registered ship in Barbados

*(a)* board a vessel where he believes on reasonable grounds that

(i) there is significant evidence that the condition of a container creates an obvious risk to safety; or

(ii) a provision of the Safe Containers Convention, this Act or the regulations has been contravened;

*(b)* board a vessel, for the purpose of verifying that a container carries a valid safety approval plate, as required by the Safe Containers Convention; and

*(c)* examine any record or document required to be kept in respect of containerships and make copies of it or of extracts from it.

**Conduct of examinations**

**327.**(1) Except in urgent circumstances, an examiner shall provide notice of a container inspection to the relevant person at least 3 business days prior to the inspection, specifying

*(a)* the time and place of inspection;

*(b)* the name and identity of the examiner; and

*(c)* any other relevant information.

(2) In any container examination,

*(a)* at the request of the examiner carrying out the examination, the container shall, within a reasonable time before the examination, be emptied, cleaned and prepared;

*(b)* a suitable means of lifting and supporting the container shall be made available, if required by the examiner, so that the whole of the underside is accessible to him;

*(c)* a safe means of access and egress, a safe place of work, sufficient lighting and other facilities necessary shall be provided to allow the examination to be carried out safely and effectively; and

*(d)* the examiner may require the use of any appropriate method of non-destructive testing, including the application of appropriate tests in accordance with Annex II of the Safe Containers Convention or International Organization for Standardization standard 1496.

(3) During inspections, relevant persons or their representatives are entitled to be present and nothing shall be removed from a container except with the consent of that person or representative and in the presence of that person or representative.

(4) For the purposes of subsection (3), "relevant persons" means

*(a)* the owners or agents of a Barbados-registered ship or foreign-registered containership in Barbados; and

*(b)* the owners or agents of a container on board a

(i) Barbados-registered ship;

(ii) foreign-registered ship in Barbados.

**Factors to be considered in an examination**

**328.**(1) An examiner shall carry out a detailed visual examination of the exterior and, if reasonably practicable, of the interior of a container.

(2) All load-bearing parts, including the base structure, shall be examined.

(3) If the external condition of the container warrants, the examiner may require a container to be unloaded.

(4) Where an examiner has reason to believe that it may be covering significant defects, he may order removal of any insulation that is required to uncover the suspected defect.

(5) The underside of a container shall be examined when it is resting on a skeletal trailer or, if the examiner considers it necessary, after it has been lifted onto other supports.

(6) The examiner shall consider the following factors

*(a)* corrosion;

*(b)* the condition of any welding;

*(c)* the condition of any riveting or similar method of fastening;

*(d)* the presence of mechanical damage;

*(e)* the condition of the following structural components, where fitted:

(i) corner fittings;

(ii) end frames, and fixings in the case of folding end frames;

(iii) grappler arm positions;

(iv) fork-lift pockets;

(v) door and hatch closure gear;

(vi) floor;

(vii) roof;

(viii) upper and lower side rails;

(ix) external panelling;

(x) floor bearers; and

(xi) the validity of the safety approval plate; or

*(f)* any other relevant factors.

**Duties of examiner after completing a satisfactory examination**

**329.** As soon as practicable after an examiner has carried out an examination and if he is satisfied that the container is free of any defects that could place a person in danger, he shall

*(a)* sign a statement that in his opinion the container was, at the time of its examination, in a safe condition and free from any defects that could place a person in danger and that the information notified in accordance with paragraph *(b)* is, to the best of his knowledge and ability, correct;

*(b)* make a notification to the owner of the container or to its lessee, if there is an agreement, that includes the following information:

(i) the identification number of the container as marked on line 3 of the safety approval plate;

(ii) the date on which the examination was carried out;

(iii) details of any test carried out, the method of testing and the results of such tests;

(iv) the date before which, having regard to the condition of the container, the container will be required, in the opinion of the examiner, to be next examined, determined in accordance with the criteria set out in this Part; and

(v) sufficient information to identify the examiner and the entity under whom the examiner acts; and

*(c)* ensure that

(i) the date notified is marked on or near to the safety approval plate fixed to the container to which the notification relates;

(ii) a decal that meets the conditions set out in a merchant shipping notice or otherwise specified by the Administration is fixed on or near to the safety approval plate fixed to the container to which the notification relates;

(iii) for containers under an approved continuous examination program, a decal showing the legend 'ACEP – BDOS' followed by a number to be allocated by the Administration on approval of the scheme is fixed on or near to the safety approval plate affixed to the container to which the notification relates;

(iv) for containers operated by a lessee under an agreement, the container has been re-marked;

(v) containers built with a limited stacking or racking capacity are conspicuously marked in accordance with the *Eighth Schedule*; and

*(d)* perform any other necessary post-examination functions in respect of containers examined under an approved continuous examination program.

**Criteria for determining the next examination date**

**330.** The date for next examination to be notified to the owner, or lessee under an agreement, of a container shall be

*(a)* a date not more than 30 months from the date of examination;

*(b)* any earlier date nominated by the owner or lessee for his administrative convenience; or

*(c)* any earlier date determined by the examiner having regard to the condition of the container.

**Container found to be defective**

**331.**(1) When an examiner in the course of carrying out an examination forms the opinion that a container has a defect that could place a person in danger, he shall determine whether the container is unsafe for use or whether, although unsafe for certain categories of use, it is capable of proceeding to its destination.

(2) The examiner shall immediately inform the user and, when practicable, the owner if the owner is not the user, of his decision.

**Record-keeping**

**332.**(1) The person notified under section 331 shall ensure that a record of the details notified is

*(a)* kept until receipt of a subsequent notification of examination in respect of that container;

*(b)* made available for inspection within a reasonable time of any request to inspect it; and

*(c)* while that notification is current, provided or copied to any subsequent owner or lessee of that container and made available on request to any bailee or lessee of that container.

(2) On or before the termination of a bailment, the bailee shall give the owner or lessee under an agreement a record of the details contained in any current notification made to the bailee.

**Administrative procedures**

**333.** An owner shall maintain a system for keeping examination records, which shall include the following:

*(a)* the owner's unique serial number of the container;

*(b)* the date on which the examination was carried out;

*(c)* identification of the examiner who carried out the examination;

*(d)* the name and location of the organization where the examination was carried out;

*(e)* the results of the examination; and

*(f)* in the case of a periodic examination scheme, the next examination date.

**Container safety reviews**

**334.**(1) Approved programs will remain valid if it can be demonstrated that all the required elements of the periodic examination scheme and approved continuous examination program are maintained by program owners.

(2) The Administration shall evaluate approved programs every 10 years to ensure their continued viability, in accordance with the Safe Containers Convention.

**Periodic audit**

**335.**(1) At least every 5 years, the Administration shall require approved program audits to evaluate whether the approval conditions are being complied with.

(2) Where an audit demonstrates evidence of non-compliance, the Administration may withdraw approvals.

**Powers of Administration**

**336.**(1) An officer authorized by the Administration may require the inspection of a container where the officer has reasonable grounds for believing that the condition of the container creates an obvious risk to safety.

(2) Where an inspection determines that a container is defective and poses an obvious risk to safety, the Administration may apply such restrictions it thinks fit, including an immediate out-of-service determination.

**National ACEP database**

**337.** The Director shall oversee the establishment of a national approved continuous examination program database to feed into the global approved continuous examination program database that all national maritime administrations are encouraged by the International Maritime Organization to utilize, for publication of Barbados' approved continuous examination programs, in accordance with the CSC Convention and other applicable international maritime instruments.

**Requirements for visiting foreign-registered container ships**

**338.**(1) The owner, agent or master of a foreign-registered containership shall present to the port chief executive officer, as evidence of the safety of containers under his charge or command,

*(a)* that the ship is inspected under a periodic examination scheme approved by the ship's flag administration or a recognized organization acting on behalf of the ship's flag administration; or

*(b)* that the ship is continuously examined under an approved continuous examination program approved by the ship's flag administration or a recognized organization acting on behalf of the ship's flag administration; and

*(c)* where *(a)* or *(b)* are not the case, a written declaration that during the period of stay of the ship in Barbados the ship will undergo a container safety inspection, where requested by port authorities

when such containers are in Barbados.

(2) The port chief executive officer, or his nominee, shall provide an annual status report on the safety of visiting containerships at ports under the management and authority of the Barbados Port Inc.

(3) The reports referred to in subsection (2) shall be based on the periodic examination scheme and approved continuous examination program provided to the port chief executive officer in accordance with subsection (1).

*General*

**Offence of fraudulent container surveys**

**339.**(1) No Administration-designated container safety inspector or external container safety assessor shall prepare or issue

*(a)* an untrue or inaccurate container survey;

*(b)* a report or record on the status of a container without conducting a container inspection survey;

*(c)* a report or record that falsely states that a container is safe for maritime transport; or

*(d)* a container inspection with false or inaccurate information.

(2) A person who contravenes subsection (1) commits an offence and is liable on summary conviction to a fine of $250 000.

(3) Where an Administration-designated container safety inspector contravenes subsection (1), the Administration may terminate the services of the that inspector.

(4) Where an external container safety assessor contravenes subsection (1),

*(a)* the local shipping organization may de-register that assessor from its register; and

*(b)* the Administration may refuse to accept any future container safety assessment reports and corresponding recommendations for a safe containers statement of compliance from that assessor, whether or not the assessor has been de-registered from the register of the local shipping organization.

**Safe Containers for Maritime Transport Tribunal**

**340.**(1) There is hereby established a Safe Containers for Maritime Transport Tribunal to settle disputes in respect of the outcome of a safe containers inspection.

(2) The members of the Tribunal shall be appointed by the Minister and shall consist of the following 5 members:

*(a)* an attorney-at-law of at least 10 years' standing, who shall be Chairman;

*(b)* a shipowners' representative, who may be a person from a shipowners' organization;

*(c)* a container shipping industry representative, who may be a person competent in container-shipping matters;

*(d)* a maritime safety specialist with at least 5 years' experience nominated by the Administration; and

*(e)* a maritime safety specialist with at least 5 years' experience nominated by the owner or agent of the container-ship, or of the particular container, in respect of which the dispute arose.

(3) The Tribunal shall exercise original and exclusive jurisdiction to hear and decide disciplinary action on cases that are administrative in character involving or arising out of violations of safe containers laws, rules or regulations.

(4) An owner or agent of a container-ship or of a container may submit a dispute for settlement by the Tribunal within 30 days from the date on which the dispute arose, if the parties have failed to settle the dispute between themselves.

**Application for review of Tribunal decision**

**341.**(1) A person who is aggrieved by the decision of the Safe Containers for Maritime Transport Tribunal may make an application to the High Court in accordance with the rules of the Supreme Court of Barbados.

(2) On any application under subsection (1), the High Court may quash the decision of the Tribunal, either generally or in so far as it affects the applicant's rights or interests, if it is satisfied that

*(a)* the decision of the Tribunal is not within the powers of this Act; or

*(b)* the interests of the applicant have been substantially prejudiced.

(3) Notwithstanding recourse to the Safe Containers for Maritime Transport Tribunal or High Court in Barbados, the parties to a container safety dispute may also seek recourse to other dispute settlement fora, including conciliation and mediation.

## PART XVIII

## MARITIME SEARCH AND RESCUE OPERATIONS

### Barbados maritime search and rescue plan

**342.** The Administration, in consultation with the Barbados Coast Guard, shall develop and promulgate a Barbados Maritime Search and Rescue Plan, consistent with the requirements under the International Convention on Maritime Search and Rescue, 1979, under which maritime search and rescue operations will be executed.

### Delegation of preparation of Plan

**343.** The Minister may directly delegate the responsibility for preparation of the Maritime Search and Rescue Plan to the Barbados Coast Guard.

### Plan adoption, modification, and revocation

**344.**(1) After considering any submissions in relation to a draft maritime search and rescue plan, the Barbados Coast Guard shall submit the draft plan to the Administration for approval.

(2) The Minister shall

*(a)* approve the draft maritime search and rescue plan, with or without amendment; or

*(b)* refuse to approve the draft maritime search and rescue plan and direct the Barbados Coast Guard to amend the plan.

(3) The Minister shall publish notice of the approval of a Maritime Search and Rescue Plan in the Official Gazette.

(4) The Maritime Search and Rescue Plan comes into operation on the later of

*(a)* the date on which the notice under subsection (3) is published in the *Official Gazette*; or

*(b)* any later date specified in the notice.

**Plan duration and periodic review**

**345.**(1) The Administration shall cause a review to be made of the Maritime Search and Rescue Plan no later than 5 years after the commencement of the Plan.

(2) After a review of the Maritime Search and Rescue Plan, the Minister may approve the amendment of the Plan.

**Binding effect of Plan**

**346.**(1) All persons are bound by a Maritime Search and Rescue Plan that has been adopted in accordance with this Act.

(2) All maritime search and rescue operations shall be carried out in accordance with the Maritime Search and Rescue Plan.

(3) The Maritime Search and Rescue Plan may be deviated from where it is necessary for saving life.

**Withdrawal of maritime search and rescue plan**

**347.**(1) The Minister may withdraw a Maritime Search and Rescue Plan, where he considers it appropriate to do so, if a prospective maritime search and rescue plan is prepared and implementation-ready.

(2) Where the Minister withdraws a Maritime Search and Rescue Plan, he shall publish a notice of withdrawal in the *Official Gazette*, and the plan ceases to have effect on the date of that publication.

(3) The Minister shall also take such further steps as he considers appropriate to ensure that the withdrawal of the Maritime Search and Rescue Plan concerned is brought to the attention of

*(a)* any persons appearing to the Minister to be likely to be interested in, or affected by, the withdrawal of the plan; and

*(b)* members of the general public.

**EPIRB requirements**

**348.**(1) All Barbados-registered ships are required to have at least two emergency position indicating radio beacon devices to alert search and rescue services in the event of an emergency at sea.

(2) Emergency position indicating radio beacons shall be registered in accordance with the regulations.

PART XIX

MARITIME SAFETY CODES

**International Maritime Organization safety codes to have force of law**

**349.**(1) The following International Maritime Organization safety codes shall have the force of law in Barbados:

*(a)* the International Code for the Construction and Equipment of Ships Carrying Dangerous Chemicals in Bulk;

*(b)* the Code of Practice for the Safe Loading and Unloading of Bulk Carriers;

*(c)* the Code of International Standards and Recommended Practices for a Safety Investigation into a Marine Casualty or Marine Incident;

*(d)* the Code for Existing Ships Carrying Liquefied Gases in Bulk;

*(e)* the Code of Safety for Diving Systems;

*(f)* the Code of Safety for Dynamically Supported Craft;

*(g)* the Code on Noise Levels on Board Ships;

*(h)* the Code on Alerts and Indicators;

*(i)* the Code of Safe Practice for Cargo Stowage and Securing;

*(j)* the International Code for the Application of Fire Test Procedure;

*(k)* the Code for the Construction and Equipment of Ships Carrying Liquefied Gases in Bulk;

*(l)* the International Code for Fire Safety Systems;

*(m)* the International Code of Safety for High-Speed Craft;

*(n)* the International Maritime Dangerous Goods Code;

*(o)* the International Code of Signals;

*(p)* the International Grain Code for the Safe Carriage of Grain in Bulk;

*(q)* the International Code for the Construction and Equipment of Ships Carrying Liquefied Gases in Bulk;

*(r)* the International Maritime Solid Bulk Cargoes Code;

*(s)* the International Code for the Safe Carriage of Packaged Irradiated Nuclear Fuel, Plutonium and High-Level Radioactive Wastes on Board Ships;

*(t)* the International Code on Intact Stability;

*(u)* the International Management Code for the Safe Operation of Ships and for Pollution Prevention;

*(v)* the International Life-Saving Appliance Code;

*(w)* the Code for the Construction and Equipment of Mobile Offshore Drilling Units;

*(x)* the Code of Safe Practice for the Carriage of Cargoes and Persons by Offshore Supply Vessels;

*(y)* the Code of Safe Practice for Ships Carrying Timber Deck Cargoes; and

*(z)* the International Code for Ships Operating in Polar Waters.

(2) Any reference to these Codes in this Act or the regulations shall be construed as a reference to the latest editions of the Codes.

(3) A vessel shall comply with the requirements of the Codes referred to in subsection (1), to the extent they are applicable to the vessel.

(4) A person or vessel that is found not compliant with the requirements stipulated in the maritime safety codes specified at subsection (1) shall be required to execute necessary rectifications in order to become compliant.

(5) Any intentional act resulting in breach of any of the maritime safety codes specified at subsection (1) and consequential injury, loss of life, damage,

including damage to the marine environment or to cargo is liable on conviction to

*(a)* a fine of $700 000 for any contravention of the International Code for the Construction and Equipment of Ships Carrying Dangerous Chemicals in Bulk;

*(b)* a fine of $500 000 for any contravention of the Code of Practice for the Safe Loading and Unloading of Bulk Carriers;

*(c)* a fine of $500 000 for any contravention of the Code of International Standards and Recommended Practices for a Safety Investigation into a Marine Casualty or Marine Incident;

*(d)* a fine of $700 000 for any contravention of the Code for Existing Ships Carrying Liquefied Gases in Bulk;

*(e)* a fine of $500 000 for any contravention of the Code of Safety for Diving Systems;

*(f)* a fine of $500 000 for any contravention of the Code of Safety for Dynamically Supported Craft;

*(g)* a fine of $300 000 for any contravention of the Code on Noise Levels on Board Ships;

*(h)* a fine of $300 000 for any contravention of the Code on Alerts and Indicators;

*(i)* a fine of $500 000 for any contravention of the Code of Safe Practice for Cargo Stowage and Securing;

*(j)* a fine of $500 000 for any contravention of the International Code for the Application of Fire Test Procedure;

*(k)* a fine of $700 000 for any contravention of the Code for the Construction and Equipment of Ships Carrying Liquefied Gases in Bulk;

*(l)* a fine of $700 000 for any contravention of the International Code for Fire Safety Systems;

*(m)* a fine of $500 000 for any contravention of the International Code of Safety for High-Speed Craft Code;

*(n)* a fine of $1 000 000 for any contravention of the International Maritime Dangerous Goods Code;

*(o)* a fine of $500 000 for any contravention of the International Code of Signals;

*(p)* a fine of $300 000 for any contravention of the International Grain Code;

*(q)* a fine of $750 000 for any contravention of the International Code for the Construction and Equipment of Ships Carrying Liquefied Gases in Bulk;

*(r)* a fine of $700 000 for any contravention of the International Maritime Solid Bulk Cargoes Code;

*(s)* of $1 000 000 for any contravention of the International Code for the Safe Carriage of Packaged Irradiated Nuclear Fuel, Plutonium and High-Level Radioactive Wastes on Board Ships;

*(t)* a fine of $700 000 for any contravention of the International Code on Intact Stability;

*(u)* commits an offence and is liable on summary conviction to a fine of $1 000 000 for any contravention of the International Management Code for the Safe Operation of Ships and for Pollution Prevention Code;

*(v)* a fine of $750 000 for any contravention of the International Life-Saving Appliance Code;

*(w)* a fine of $2 000 000 for any contravention of the Mobile Offshore Drilling Units Code;

*(x)* a fine of $2 000 000 for any contravention of the Code of Safe Practice for the Carriage of Cargoes and Persons by Offshore Supply Vessels;

*(y)* a fine of $750 000 for any contravention of the Code of Safe Practice for Ships Carrying Timber Deck Cargoes; and

*(z)* a fine of $750 000 for any contravention of the Polar Code.

**Code of Safety for Caribbean Cargo Ships**

**350.**(1) The Code of Safety for Caribbean Cargo Ships shall have the force of law in Barbados.

(2) A reference to the Code is to be read as a reference to the Code as modified from time to time by the Secretariat Barbados, Caribbean Memorandum of Understanding on Port State Control.

(3) Caribbean cargo ships above 150 GT, but less than 500 GT shall comply with the requirements of the Code.

(4) Barbados-registered Caribbean cargo ships above 150 GT, but less than 500 GT shall be surveyed and certified in accordance with the Code.

(5) A person who contravenes the Code of Safety for Caribbean Cargo Ships commits an offence and is liable on summary conviction to a fine of $250 000.

**Maritime safety documentation**

**351.**(1) The Administration may require the production of any documentation, including certificates, permits and licenses in relation to the maritime safety codes.

(2) A merchant shipping notice may specify additional requirements in respect of maritime safety documentation.

# PART XX

## COLLISION PREVENTION AND NAVIGATIONAL SAFETY

### Collision regulations

**352.**(1) Barbados ships in any waters and foreign ships when in Barbados waters shall comply with the International Regulations for Preventing Collisions at Sea, 1972, as incorporated into the regulations.

(2) The provisions of this Part apply *mutatis mutandis* to vessels of 150 GT and below registered under the *Shipping (Domestic Vessels) Act, 2024* (Act 2024-22).

### Barbados ships to observe collision regulations

**353.**(1) A Barbados ship shall not carry or exhibit any lights or use any fog signals other than those prescribed by the regulations.

(2) The International Regulations for Preventing Collisions at Sea, 1972, as amended, apply to the owners and pilots of seaplanes registered in Barbados while on the surface of the water in the same manner as it applies to the owners and masters of ships.

(3) The master or owner of a ship or owner or pilot of a seaplane who wilfully contravenes the regulations commits an offence and is liable on summary conviction to a fine of $50 000 or 6 months imprisonment.

### Foreign ships in Barbados waters

**354.** The regulations made under this Act shall be observed by all foreign ships and foreign seaplanes within Barbados waters, and in any case before a court in Barbados concerning a breach of those regulations occurring within Barbados waters, foreign ships and foreign seaplanes shall be treated as if they were Barbados ships and seaplanes registered in Barbados.

**Collision liability**

**355.**(1) Liability for collision damage, including damage to vessels, their cargoes, and the property of the crew, passengers or other persons on board, or of third parties, shall be apportioned according to the degree of fault of each ship involved in a collision.

(2) Where it is not possible to determine the degree of fault of each vessel, or if it appears that the faults are equal, liability shall be apportioned equally.

(3) There shall be no presumption of fault against a ship for a contravention of the regulations without proof of fault or negligence.

(4) Where a collision between ships is caused by some act beyond the control of the master or operator, or if the cause is in doubt, the damages shall be borne by those who have suffered them, notwithstanding that either vessel may have been at anchor, or was otherwise made fast, at the time of the collision.

(5) Where the collision is caused entirely by the fault of one of the vessels, liability to make good the damages shall attach to the vessel that committed the fault.

(6) In respect of damages in relation to death or personal injuries, the vessels in fault shall be jointly and severally liable to third parties, without prejudice to the right of the vessel that has paid a larger part than that which, in accordance with subsections (1) and (2), she ought ultimately to bear, to obtain a contribution from the other vessel or vessels at fault.

(7) A vessel is liable for a collision where the collision was caused by the fault of a pilot, whether or not the pilot is required to be carried by law.

(8) The right of action for the recovery of damages resulting from a collision is not conditional upon the entering of a protest or the fulfilment of any other formality.

(9) Where no collision has taken place, liability for damage to the vessels involved in the incident, or to goods or persons on board the vessels resulting

from the execution or non-execution of a manoeuvre or a contravention of the regulations shall be determined in accordance with this section.

**Inspection to enforce compliance with regulations**

**356.**(1) A surveyor or inspector may inspect a ship of any nationality in a port of Barbados to determine whether the ship is properly provided with lights, shapes and the means of making sound signals as required by the regulations.

(2) If a surveyor or inspector finds that the ship is not so provided, he shall specify in writing the action required to rectify the deficiency and shall detain the ship until the deficiency is rectified to his satisfaction.

**Duty to render assistance following collision**

**357.**(1) In the event of a collision between ships, the master of each ship shall, so far as he can do so without damage to his own ship, crew and any passengers,

*(a)* render to the other ship and its master, crew and any passengers such assistance as may be practicable and necessary to save them from any danger from the collision, and stand by the other ship until he has ascertained that the ship has no need for further assistance; and

*(b)* give the master of the other ship the name and port of registry of his ship and the names of the ports from which his ship sailed and to which his ship is bound.

(2) Subsection (1) applies to the masters of Barbados ships and to the masters of foreign ships when in Barbados waters.

(3) The failure of the master of a ship to comply with this section shall not raise any presumption of law that the collision was caused by his wrongful act, neglect or default.

**Offences**

**358.** The master of a ship who fails without reasonable cause to comply with section 357 commits an offence and is liable on summary conviction of $150 000 or to imprisonment for a term of 6 months or to both.

**Master to notify hazards to navigation**

**359.**(1) The master of a Barbados ship, upon encountering a danger to navigation specified in subsection (2), shall send information by any means at his disposal to the appropriate shore-based authorities and such information shall be repeated by the master and shore-based authorities to ships in the vicinity, as practicable.

(2) The dangers to navigation referred to in subsection (1) are

*(a)* dangerous ice;

*(b)* a dangerous derelict;

*(c)* a hurricane, typhoon, cyclone or other storm of a similar nature;

*(d)* air temperature below the freezing point associated with gale force winds causing severe ice accretion on the superstructure of ships;

*(e)* winds of force 10 or above on the Beaufort scale for which no storm warning has been received; or

*(f)* any other direct danger to navigation.

(3) A master of a ship is deemed to have encountered a storm referred to in paragraph (2)*(c)* if he has reason to believe that there is such a storm in the vicinity.

(4) A master who fails to comply with this section commits an offence and is liable on summary conviction to a fine of $20 000 or to imprisonment for 6 months.

(5) It shall be a defence for any person charged under this section to show that he took all reasonable precautions to avoid the commission of the offence.

**Master to proceed moderately in danger sea**

**360.**(1) When ice is reported on or near the course of a Barbados ship, the master shall at night either proceed at a safe speed adapted to the prevailing circumstances or change course so as to keep amply clear of the ice reported and the area of danger.

(2) The master of a ship who fails to comply with this section commits an offence and is liable on summary conviction to a fine of $20 000 or to imprisonment for a term of 6 months.

**Duty to assist ships when in distress**

**361.**(1) The master of a Barbados ship, on receiving at sea a signal that a ship or aircraft, or a survival craft of one, is in distress, shall proceed with all speed to the assistance of the persons in distress, informing them if possible that he is doing so.

(2) If in the circumstances set out in subsection (1) the master

*(a)* is unable to do so; or

*(b)* in the circumstances, considers it unreasonable or unnecessary to proceed to the assistance of the persons in distress;

he shall enter in the log book of the ship the reason for failing to proceed to their assistance.

**Right to requisition ships when in distress**

**362.**(1) The master of a ship in distress, after consultation, so far as may be possible, with the masters of the ships that answer his call for assistance, has the right to requisition one or more of those ships that he considers best able to render assistance, and it shall be the duty of the masters of the requisitioned ships to

comply with the requisition by proceeding with all speed to the assistance of persons in distress.

(2) The master of a ship shall be released from the duty imposed by section 361(1) and, if his ship has been requisitioned, from the duty imposed by subsection (1), if he is informed by the persons in distress or by the master of another ship that has reached those persons that assistance is no longer required.

**Duty to assist persons in danger at sea**

**363.** The master of a ship shall, so far as he can do so without serious danger to his own ship and persons on it, render assistance to any person in danger of being lost at sea.

**Application of duties imposed under sections 328 to 330**

**364.**(1) The duties imposed under sections 328 to 330 apply to the masters of Barbados ships and to the masters of foreign ships when in Barbados waters.

(2) A master who fails to comply with any of sections 328 to 330 commits an offence for each such failure, and upon summary conviction is liable, for each such offence, to a fine of $75 000, or to imprisonment for a term of 6 months, or both.

(3) Compliance by a master with sections 328 to 330 shall not affect his right, or the right of any other person, to salvage.

**Regulations for signals of distress**

**365.**(1) The Minister may make regulations relating to signals of distress or urgency and the signals prescribed by the regulations are deemed to be signals of distress or urgency.

(2) A master of a ship who uses or displays, or causes or permits a person under his authority to use or display,

*(a)* a signal of distress or urgency except in circumstances and for the purposes prescribed; or

*(b)* a signal that is liable to be mistaken for a signal of distress and urgency,

commits an offence and is liable on summary conviction to a fine of $20 000 or to imprisonment for a term of 6 months, and is liable to pay compensation for any labour undertaken, risk incurred or loss sustained in consequence of the signal having been supposed to be a signal of distress or urgency.

(3) Compensation payable under subsection (2) may, without prejudice to any other remedy, be recovered in the same manner in which salvage is recoverable.

(4) Where a master who contravenes subsection (2) is a certificated officer, he shall be subject to an inquiry into his conduct.

**Report of ship accident**

**366.**(1) When a ship

*(a)* has sustained or caused any accident occasioning loss of life or a serious injury to a person; or

*(b)* has sustained any material damage affecting her seaworthiness or her efficiency, either in her hull or in part of her machinery,

its owner or master shall, within 24 hours after the happening of the accident or causing of the damage or as soon as possible, whichever is the earlier, transmit to a proper officer if the ship is in a foreign port, or otherwise to the Director, a report of the accident or damage.

(2) A report of accident or damage to a ship made under subsection (1) shall be signed by the owner or master of the ship, and shall state

*(a)* the name of the ship, the port to which the ship belongs, the official number, if any, of the ship and the place where the ship is located;

*(b)* the circumstances in which the accident or damage occurred; and

*(c)* the probable cause of the accident or damage.

(3) Where the owner or managing owner of a ship or, if there is no owner or managing owner resident in Barbados, the representative or agent of the owner, has reason to believe that the ship has sustained or caused an accident or sustained damage referred to in subsection (1), he shall satisfy himself that the accident or damage has been reported to the Director by the master.

(4) If the accident or damage has not been reported, he shall, as soon as possible, send to the Director a notice in writing stating the name of the ship, its official number and its port of registry or the port to which it belongs, and stating to the best of his knowledge and belief, the nature and extent of the accident or damage, the probable cause of it and the location of the ship.

(5) A master, owner, managing owner, representative or agent who fails, without reasonable cause, to comply with this section commits an offence and is liable on summary conviction to a fine of $10 000.

(6) This section applies to all Barbados ships and to all foreign ships carrying passengers between places in Barbados waters.

**Apprehended loss of ship**

**367.**(1) Where the managing owner or agent of a Barbados ship has reason to believe, owing to the non-appearance of the ship or to other circumstance, that the ship has been lost, he shall cause a reasonable search to be made for the ship and shall, as soon as conveniently may be, send to the Director a notice in writing signed by him and stating

*(a)* the name of the ship, the port to which the ship belongs and the official number, if any, of the ship; and

*(b)* a report of the loss of the ship and the circumstances and probable cause of the loss.

(2) A managing owner or agent of a ship who fails, without reasonable cause, to comply with this section within a reasonable period from the time when he has reason to believe that the ship has been lost commits an offence and is liable on summary conviction to a fine of $30 000.

**Notices to mariners and navigational warnings**

**368.**(1) The Director shall take appropriate steps to advise the seafaring community and the public of any developing or existing situation that may adversely affect maritime safety.

(2) This information may take the form of a Notice to Mariners and navigational warnings may be issued and communicated by any means the circumstances may warrant.

(3) The Director may require the assistance of any person in the communication of such information.

**Definition**

**369.** For the purposes of this section and sections 337 to 343, " navigational aid" means a lighthouse, buoy, beacon, radio aid or any other light, signal or mark established to aid marine navigation, and includes an associated building, mooring or other work.

**Establishment and management of aids**

**370.**(1) The Administration shall establish such navigational aids as are necessary to facilitate safe navigation of ships within Barbados waters.

(2) The Administration shall establish and maintain privately owned navigational aids in accordance with this Act.

**Nautical publications, charts and other information**

**371.**(1) No navigational aid shall be established

*(a)* without the prior written consent of the Director, or another person authorized by him for the purpose; and

*(b)* unless it conforms to such specifications as may be stipulated by the Administration.

(2) No navigational aid shall be discontinued or have its lighting characteristics or any other distinguishing feature altered without the prior written consent of the Director or another person authorized by him for the purpose.

(3) The Minister shall by a Notice to Mariners cause a list of navigational aids to be published and updated as necessary.

**Functions of the Director**

**372.** The Director shall exercise supervision over all navigational aids and shall

*(a)* be responsible for the establishment and maintenance of all navigational aids established by the Administration and any other government-owned navigational aids under the control of that Administration;

*(b)* ensure that all other navigational aids are established in compliance with the stipulated conditions and are maintained in proper working order; and

*(c)* bring to the attention of the public information on changes to, or deficiencies in, any navigational aid.

**Offence**

**373.**(1) A person commits an offence who

*(a)* contravenes section 370 or 371;

*(b)* wilfully or negligently damages, destroys or allows a ship to foul an aid;

*(c)* wilfully or negligently does anything that causes the view of an aid to be obstructed in such a manner as to lessen its efficiency;

*(d)* wilfully, negligently or without lawful authority does anything that interferes with an aid so as to hinder the effective use of the aid;

*(e)* trespasses on, or without lawful excuse is found in or on,

(i) an aid; or

(ii) land upon which an aid is situated; or

*(f)* fails to notify the Director as soon as practicable after an aid is damaged, destroyed or fouled.

(2) A person who commits an offence under subsection (1) is liable on summary conviction to a fine of $20 000 and to the expenses of making good any damage caused.

**Detention of ships under this Part**

**374.** Where a ship damages, destroys or fouls an aid, the ship may be detained until the cost of repairing or replacing the aid, or rendering the aid effective again, is paid.

**Fire or lights detrimental to navigation**

**375.**(1) No person shall show a light, including light from a fire, in such a place or manner as to mislead ships navigating in the coastal areas of Barbados.

(2) A person who contravenes subsection (1) commits an offence and is liable on summary conviction to a fine of $50 000.

(3) The Director may cause to be extinguished any false or unauthorized lights, and for this purpose the Director or any person authorized by him may enter the place where the light is situated and extinguish it without causing unnecessary damage.

**Navigational aids regulations**

**376.** The Minister may make regulations

*(a)* prescribing the system of lighting and other characteristics, marks and features of navigational aids, having due regard to the International Association of Lighthouse Authorities Harmonized Buoyage “System

B", or any other international system of buoyage that may replace it; and

*(b)* prescribing the penalties for any contravention of such regulations.

**Ship navigation equipment and nautical publications**

**377.**(1) The Minister may, by regulation or a merchant shipping notice, specify such navigation equipment, nautical publications or charts, directions or information as appear to him to be necessary or expedient for the safe operation of ships.

(2) Regulations or a merchant shipping notice made under subsection (1) may require Barbados ships, or Barbados ships specified in the regulations or merchant shipping notice, as the case may be, to carry and use, either at all times or on such voyages as may be specified in the regulations or merchant shipping notice, specified navigation equipment, charts, copies of directions or information.

(3) Where a ship goes to sea or attempts to go to sea without carrying the navigation equipment, charts, copies of directions or information required under the regulations or a merchant shipping notice, the master and owner each commit offence and are liable upon summary conviction to a fine of $75 000.

## PART XXI

## SAFETY OF LIFE AT SEA

**Definitions**

**378.** In this Part,

"certificate" means a certificate issued in accordance with the International Convention for the Safety of Life at Sea;

"exemption certificate" means a certificate issued under section 393;

"International Convention for the Safety of Life at Sea" means the International Convention for the Safety of Life at Sea, 1974 and its Protocols of 1978 and 1988, together with any amendments to it or replacements for it that are in effect in respect of Barbados;

"International Convention for the Safety of Life at Sea certificate" means a certificate that is required to be issued to an International Convention for the Safety of Life at Sea ship that complies with the provisions of the Convention, and includes a safety certificate, safety construction certificate, safety equipment certificate or safety radio certificate issued under section 389, and such a certificate that is limited, modified or restricted by an exemption certificate;

"International Convention for the Safety of Life at Sea country" means a country the government of which has accepted the International Convention for the Safety of Life at Sea and that has not denounced that Convention or a territory of such a country to which the Convention extends and remains extended;

"international voyage" means a voyage between a port in one country and a port in another country where at least one of the ports is in a International Convention for the Safety of Life at Sea country;

"radio installation" means a radio installation provided on board a ship in life saving appliances that complies with the regulations;

"radio-navigational equipment" means the equipment required by the regulations;

"short international voyage" means an international voyage

*(a)* in the course of which a ship is not more than 200 nautical miles from a port or place in which the passenger and crew could be placed in safety; or

*(b)* that does not exceed 600 nautical miles in length between the last port of call and the final destination, not including any deviation by a ship from her intended voyage due solely to stress of weather or any other

circumstances that the master, owner or charterer, if any, of the ship could not reasonably have prevented or forestalled;

"surveyor" includes a person or organization, duly authorized by the Director to act as a surveyor for the purpose of surveying ships and issuing International Convention for the Safety of Life at Sea certificates; and

"tanker" means a cargo ship constructed or adapted for the carriage in bulk of liquid cargoes of a flammable nature.

**Application of the International Convention for the Safety of Life at Sea**

**379.**(1) Subject to subsection (2), the International Convention for the Safety of Life at Sea, including all its related instructions, shall, unless excepted by this Act, apply to all Barbados ships both within and outside Barbados waters and to all other ships engaged on international voyages while they are in Barbados waters.

(2) Unless expressly provided otherwise, the International Convention for the Safety of Life at Sea shall not apply to

*(a)* ships of war and troop ships;

*(b)* cargo ships of less than 500 tons;

*(c)* ships not propelled by mechanical means;

*(d)* wooden ships of primitive build;

*(e)* pleasure yachts not engaged in trade; and

*(f)* fishing vessels.

(3) This Part and the regulations made under section 381 do not apply to a ship that is not a Barbados ship while it is within a port in Barbados, if the ship would not be within the port but for the stress of weather or other circumstances that the master, owner or charterer, if any, of the ship could not have prevented or forestalled.

(4) All Barbados ships registered under this Act and to which this Part applies shall be designed, constructed and maintained in compliance with structural, mechanical and electrical requirements of a classification society that is recognized by the Administration in accordance with

*(a)* Regulation XI/1 of the International Convention for the Safety of Life at Sea, 1974; or

*(b)* applicable national standards of the Administration that provide an equivalent level of safety.

**Exemptions from safety requirements**

**380.**(1) The Director may exempt a ship or class of ship from any safety requirements imposed by or under this Act, either absolutely or subject to such conditions as he thinks fit.

(2) Without prejudice to subsection (1), where a ship not normally engaged on international voyages is required to undertake a single international voyage, the Director, if he is of the opinion that the ship complies with safety requirements imposed by or under this Act, may exempt the ship while engaged on that voyage.

(3) Without prejudice to subsection (1), the Director may exempt a ship that embodies features of a novel kind from any requirements imposed by or under this Act relating to safety construction, life-saving appliances and radio communications the application of which might seriously impede research into the development of such features and their incorporation in ships engaged in international voyages.

(4) Notwithstanding anything contained in subsection (3), ship exempted under that subsection shall comply with safety requirements that, in the opinion of the Director, are adequate for the service for which it is intended and that ensure the overall safety of the ship.

(5) Where an exemption is granted under subsection (3), the Director shall communicate to the International Maritime Organization particulars of the exemption and the reasons for it.

(6) The Director may, if he considers that the sheltered nature and conditions of the voyage render the application of any specific requirements relating to safety construction, life-saving appliances or radio communications unreasonable or unnecessary, exempt from those requirements an individual Barbados ship, or class of ships, that in the course of their voyage do not proceed more than 20 miles from the nearest land.

**Safety at sea regulations**

**381.**(1) The Minister may make regulations

*(a)* prescribing requirements for the hull, equipment and machinery of

(i) Barbados cargo ships of not less than 500 GT not engaged in international voyages;

(ii) Barbados cargo ships of such a lower tonnage and of such a description as the Minister may specify;

(iii) foreign cargo ships of less than 500 GT, while they are within Barbados waters and while they are not exempted under this Act; and

*(b)* requiring any Barbados ship to be surveyed to such an extent, in such a manner and at such intervals as may be prescribed.

(2) Regulations made under this section shall include any requirements that the Minister considers to be necessary to implement the provisions of the International Convention for the Safety of Life at Sea in relation to the hull, equipment and machinery of a ship.

**Regulations for small ships: safety requirements and surveys**

**382.** The Minister may make regulations in respect of vessels above 150 GT but less than 500 GT

*(a)* prescribing requirements for the hull, equipment and machinery of those ships;

*(b)* requiring those ships to be surveyed to such an extent, in such a manner and at such intervals as may be prescribed; and

*(c)* specifying the examinations required for boatmasters and engineers and the appointment of surveyors.

**Surveyor's duties**

**383.**(1) Surveyors shall, in accordance with this Act, carry out surveys of

*(a)* the hull and machinery of ships;

*(b)* the equipment of ships, including her tackle and appurtenances;

*(c)* the life-saving, fire-fighting and other safety equipment of ships;

*(d)* the radiotelegraphy and radiotelephony installations of ships; and

*(e)* the stowage and manner of loading of ships' cargoes and the stowage of dangerous goods.

(2) The survey and inspection of ships under this Part shall be carried out by surveyors or, subject to such conditions as the Director may impose, by a corporation or society for the survey and classification of ships authorized by the Director, after consultation with the Minister.

**Surveyor's powers of inspection**

**384.**(1) A surveyor may, at all reasonable times, inspect a ship for the purpose of ensuring that it is in compliance with the International Convention for the Safety of Life at Sea, the International Convention for the Prevention of Marine Pollution from Ships, 1973, the Load Line Convention, and the regulations.

(2) Where a surveyor finds that a convention or regulations have not been complied with, he shall give written notice to the owner or master of the ship, stating in what respect there is a deficiency and what action, in his opinion, is required to rectify the deficiency.

(3) A notice under subsection (2) shall be communicated in a manner directed by the Director to the customs officer of any port at which the ship may seek a

clearance, on receipt of which clearance shall not be granted and the ship may be detained.

(4) Where the surveyor considers that a ship is unsafe, that a passenger ship is unfit to carry passengers, or the machinery or that equipment on a ship is defective in any way so as to expose persons on board to serious danger, he shall detain that ship.

(5) A surveyor may detain a ship in respect of which any of the provisions of this Act have not been complied with, if in his opinion detention is warranted in the circumstances.

(6) Where a surveyor visits a ship, he may ask the owner or his agent, the master, chief engineer or any other person on board and in charge or appearing to be in charge of the ship any questions concerning the ship as he thinks fit and that person shall fully and truthfully answer every such question.

(7) A surveyor may reasonably require of the owner or his agent, the master, chief engineer or any other person on board or in charge or appearing to be in charge of the ship that the machinery of the ship be activated or dismantled so that he may satisfy himself as to its condition and a person to whom such a request is made shall, if capable of doing so, comply with the requirement.

(8) A person who contravenes subsection (6) or (7) commits an offence and is liable on summary conviction to a fine of $25 000.

**Surveyor to report to Director**

**385.** A surveyor shall, if satisfied on an inspection that he can properly do so, forward a report to the Director indicating

*(a)* that the hull and machinery are sufficient for the service intended and in good condition;

*(b)* that the hull and machinery are constructed, arranged and fitted in accordance with any regulations made under this Part;

*(c)* that the safety equipment and radio installations required under this Part are on board and in good condition;

*(d)* that the master, mates and engineers are duly certificated as required under this Act and that the crew is sufficient and efficient;

*(e)* the class of voyage on which the ship is fit to ply and the time, if less than one year, for which the hull, equipment and machinery will be sufficient;

*(f)* if the ship is a passenger ship, the number of passengers that she may carry; and

*(g)* the steam pressure that may be carried on the boilers.

**Record of inspections and certificates**

**386.** A surveyor shall keep a record of the inspections he makes and certificates he issues in such form and with such particulars respecting them as the Director may direct, and shall furnish copies of them and any other information pertaining to the duties of his office that the Director may require.

**Owner and master responsibilities**

**387.**(1) The owner and master of every Barbados ship or other ship that has been surveyed under this Part shall ensure that

*(a)* the condition of the ship, including its structure, machinery and equipment, is maintained in compliance with this Part;

*(b)* after a survey of the ship required by this Part has been completed, no material change is made to the structure, machinery and equipment of the ship without the approval of a surveyor, except by direct replacement;

*(c)* whenever an accident occurs to a ship, or a defect is uncovered, affecting the safety of the ship or the efficiency or completeness of the ship, including its structure, machinery and equipment

(i) it is reported at the earliest opportunity to a surveyor or proper officer; and

(ii) if the ship is a Barbados ship in a port outside Barbados, it is also reported to the appropriate authorities of the country in which the port is situated.

(2) Whenever an accident or defect is reported to a surveyor or to a proper officer under subparagraph (1)*(c)*(i), the surveyor or proper officer, as the case may be, shall cause an investigation to be initiated to determine whether a survey is necessary and, if so, require such a survey to be carried out.

(3) All Barbados ships, all other ships while in Barbados waters and all companies in relation to ships referred to in this section shall comply with the International Management Code for the Safe Operation of Ships and for Pollution Prevention.

(4) For the purposes of subsection (3), "company" has the same meaning as in the International Management Code for the Safe Operation of Ships and for Pollution Prevention.

**Procedure when ship deficient**

**388.**(1) Where a surveyor determines that the condition of a Barbados ship or other ship that has been surveyed under this Part, including her structure, machinery and equipment, does not correspond substantially with the particulars on a certificate referred to in this Part or is such that the ship is not fit to proceed to sea without danger to the ship or persons on board, the surveyor shall advise the owner or master, and notify the Director, of the corrective action that in his opinion is required.

(2) Where the required corrective action is not taken within a reasonable period specified by the surveyor, the surveyor shall, at the end of that period, immediately notify the Director.

(3) On receipt of a notification under subsection (2), the Director may suspend the validity of a certificate issued to the ship to which the required corrective action relates and give notice of the suspension to the owner and to the surveyor.

(4) On receipt of a suspension notice under subsection (3), the owner shall notify the ship's master.

**Certificates for Barbados ships engaged on international voyages**

**389.**(1) When a survey to meet the requirements of this Part and any regulations on safety at sea are satisfactorily completed, the Director, or a person authorized by him, shall issue

*(a)* to a passenger ship engaged on international voyages, a passenger ship safety certificate or, to a passenger ship engaged only on short international voyages, a short international voyage passenger ship safety certificate;

*(b)* to a cargo ship of 300 GT or over engaged on international voyages, a cargo ship safety radio certificate;

*(c)* to a cargo ship of 500 GT or over engaged on international voyages, a cargo ship safety equipment certificate; or

*(d)* to a cargo ship of 500 GT or over engaged on international voyages, a cargo ship safety construction certificate.

(2) A cargo ship safety certificate may be issued as an alternative to the certificates referred to in paragraphs (1)*(b), (c)* and *(d)*.

(3) A reference in this Part to a cargo ship safety construction certificate, cargo ship safety equipment certificate or cargo ship safety radio certificate shall apply to a cargo ship safety certificate issued as an alternative to that certificate.

**Issuance of certificates to Barbados ships operating in the Caribbean**

**390.** When a survey to meet the requirements of this Part or of the regulations is satisfactorily completed, the Director shall issue

*(a)* to a Barbados passenger ship not engaged on international voyages, a passenger certificate appropriate to its class;

*(b)* to a Barbados cargo ship of 500 GT or over not engaged on international voyages, a Barbados cargo ship safety certificate; or

*(c)* subject to regulations made under section 382 and the Code of Safety for Caribbean Cargo Ships, to a Barbados cargo ship above 150 GT but less than 500 GT, a Caribbean cargo ship safety certificate.

**Form of certificate**

**391.**(1) A passenger ship safety certificate, cargo ship safety certificate, cargo ship safety radio certificate, cargo ship safety equipment certificate, cargo ship safety construction certificate or exemption certificate shall be in the form prescribed by

*(a)* the International Convention for the Safety of Life at Sea; or

*(b)* the Code of Safety for Caribbean Cargo Ships, as applicable.

(2) A passenger certificate, Barbados cargo ship safety certificate or Caribbean cargo ship safety certificate shall be in the form prescribed by the Minister.

(3) A passenger certificate shall indicate compliance with the provisions of this Act and state

*(a)* the limits, if any, beyond which the ship is not fit to ply;

*(b)* the number of passengers that the ship is fit to carry; and

*(c)* any condition with which the ship is to comply.

**Duration and validity of certificates**

**392.**(1) The duration of certificates issued under section 389 shall be as follows:

*(a)* a passenger ship safety certificate and a short international voyage passenger ship safety certificate shall be issued for a period of validity not exceeding 12 months; and

*(b)* a cargo ship safety radio certificate, cargo ship safety equipment certificate, cargo ship safety construction certificate or a cargo ship safety certificate shall be issued for a period of validity not exceeding 5 years.

(2) The duration of certificates issued under section 390 shall be as follows:

*(a)* a passenger certificate shall be issued for a period of validity not exceeding 12 months; and

*(b)* a Barbados cargo ship safety certificate and a Caribbean cargo ship safety certificate shall be issued for a period of validity not exceeding 5 years.

(3) A certificate shall cease to be valid if

*(a)* its period of validity has been exceeded and the certificate has not been extended under section 394;

*(b)* annual, intermediate or periodical surveys have not been carried out in accordance with this Part and the certificate has not been endorsed; or

*(c)* the ship has been transferred to the flag of another state.

**Issuance and duration of exemption certificates**

**393.**(1) When an exemption is granted to a ship under this Act, an exemption certificate shall be issued in addition to any certificate issued under section 389.

(2) An exemption certificate shall be issued for a period of validity that is not longer than the period of validity of the certificate to which it refers.

(3) An exemption certificate is subject to the same extension criteria and other provisions of this Act as the certificate to which it refers.

(4) Where an exemption certificate has been issued, a statement to this effect shall be included on the certificate to which it refers.

**Extensions**

**394.**(1) Where a Barbados ship is not in a port in Barbados or the port in which she is to be surveyed at the time when a certificate issued under section 389(1) or (2) expires, the Director may extend the period of validity of the certificate for a period of up to 3 months to allow the ship to complete its voyage to a port in Barbados or a port in which it is to be surveyed.

(2) A ship to which an extension is granted is not, on its arrival in a port in Barbados or the port in which it is to be surveyed, entitled by virtue of the extension to leave that port or to leave Barbados without having obtained a new certificate.

(3) The Director may extend a certificate issued under 389(1) or (2) that has not been extended under subsection (1) for a period of up to one month from the date of expiry stated on it.

(4) If the number of persons on board a Barbados ship in respect of which a passenger ship safety certificate or a short international voyage passenger ship safety certificate is in force for a voyage is less than the number for which the ship's life-saving appliances provide, the Director may, at the request of the master of the ship, issue a memorandum that states the total number of persons on board for that voyage and the modifications that may be made with respects to life-saving appliances stated on the certificate.

(5) A memorandum referred to in subsection (3) shall be attached to the certificate during the voyage and shall be returned to the Director at the completion of the voyage.

(6) If a ship has transferred from the registry of the government of another country to a Barbados registry, the Director may, subject to any survey requirements prescribed by regulation or required by the Director, issue a certificate referred to in section 389 or 390 for a period determined by the Director, but for not longer than the period of validity of the certificate issued by or on behalf of the government of that other country, if he is satisfied that

*(a)* the ship has already been subjected to satisfactory initial, periodical, intermediate, annual and additional surveys;

*(b)* the certificate issued by or on behalf of the Government of that country would have remained valid had the registry of the ship not been changed;

*(c)* the condition of the ship, including its structure, machinery and equipment, has been maintained so as to comply with the regulations applicable to the ship; and

*(d)* after any of the surveys referred to in paragraph *(a)* have been completed, no material change has been made to the ship, including to its structure, machinery and equipment subject to those surveys, without the approval of the administration of that other state or the Director, except by direct replacement.

**Issuance and endorsement of certificates by other governments**

**395.**(1) The Director, after consultation with the Minister, may request the government of a country to which the International Convention for the Safety of Life at Sea applies to survey a ship and, if he is satisfied that the requirements of the Convention are complied with, to issue to the ship the certificates referred to in section 394.

(2) A certificate issued in accordance with such a request shall contain a statement that it has been so issued and shall have the same effect as if it was issued by the Director.

**Surveys of ships not registered in Barbados**

**396.**(1) The Director may, at the request of the government of a country to which the International Convention for the Safety of Life at Sea applies, survey a ship registered in that country and, if satisfied that the requirements of the Convention are complied with and that a survey has been satisfactorily completed in accordance with this Part, issue to the ship one or more of the certificates referred to in section 389, endorsed in accordance with the requirements of the Convention.

(2) A certificate issued in accordance with such a request shall contain a statement that it has been so issued and shall have the same effect as if it was issued by that government and not by the Director.

(3) Where a memorandum issued by or under the authority of a government is attached to a valid passenger ship safety certificate or a valid short international voyage passenger ship safety certificate in respect of a ship to which the International Convention for the Safety of Life at Sea applies and modifies the certificate in respect of the persons that may be carried for a particular voyage, the certificate shall have effect for the purpose of the voyage as if it were modified in accordance with the memorandum.

(4) A surveyor may go on board a ship to which the International Convention for the Safety of Life at Sea applies for the purpose of verifying that

*(a)* there are in force certificates required by this Part;

*(b)* the hull, machinery and equipment correspond substantially with the particulars shown on the certificates; and

*(c)* there is compliance with section 400.

**Survey of foreign registered ships**

**397.**(1) When a survey of ship that is not a Barbados ship is completed in accordance with the requirements of this Part, the Director shall issue

*(a)* to a passenger ship not engaged on international voyages, a passenger certificate appropriate to its class; or

*(b)* to a cargo ship of 500 GT or over not engaged on international voyages, a cargo ship safety certificate.

(2) A certificate issued under subsection (1) is, subject to the requirements of this Part, deemed to be issued under section 390.

**Cancellation of a certificate**

**398.**(1) The Director may cancel a certificate issued to a Barbados ship where he has reason to believe that

*(a)* the certificate was fraudulently issued;

*(b)* the certificate was altered without permission;

*(c)* the certificate was issued on false or erroneous information; or

*(d)* since any survey that was required by this Part, the structure, equipment or machinery has sustained damage or is otherwise deficient.

(2) The Director may give directions for the surrender of a certificate issued to a Barbados ship where that certificate has expired or has been cancelled.

**Availability of certificates**

**399.** The owner and master of a ship issued with a certificate under this Part shall ensure that it is readily available on board for examination at all times.

**Prohibition on proceeding to sea without appropriate documentation**

**400.**(1) No Barbados ship shall proceed to sea unless she has been surveyed and there is in force

*(a)* in the case of a passenger ship engaged on international voyages, a passenger ship safety certificate or, if the ship is engaged only on short international voyages, a short international voyage passenger ship safety certificate;

*(b)* in the case of a cargo ship of 300 GT or over engaged on international voyages, a cargo ship safety radio certificate;

*(c)* in the case of a cargo ship of 500 GT or over engaged on international voyages, a cargo ship safety equipment certificate and a cargo ship safety construction certificate; or

*(d)* in the case of a cargo ship of 500 GT or over engaged on international voyages, a cargo ship safety certificate.

(2) No ship registered in a country to which the International Convention for the Safety of Life at Sea applies shall proceed to a sea from a port in Barbados unless there is in force the Convention certificates that would be required if the ship was a Barbados ship.

(3) The extension provided for in section 394 applies to such certificates as if the ship were a Barbados ship and the government of the country in which the ship is registered were substituted for the Director.

(4) No cargo ship of 500 GT and over that is not engaged on international voyages shall proceed to sea from a port in Barbados unless she has been surveyed and there is in force a Barbados cargo ship safety certificate or a cargo ship safety certificate referred to in this Part.

(5) Subject to regulations made under section 382, no cargo ship of less than 500 tons shall proceed to sea from a port in Barbados unless she has been surveyed and there is in force a Caribbean cargo ship safety certificate.

(6) No ship registered in a country to which the International Convention for the Safety of Life at Sea does not apply shall proceed to sea from a port in Barbados unless the ship is in possession of documentation that shows that the ship has been surveyed for compliance with the regulations applicable to the ship as though it were a Barbados ship or unless it has been surveyed and is in compliance with the regulations applicable to the ship.

(7) Where a certificate is issued subject to conditions, or specifies sea areas in which the ship is certified to operate, the owner and master shall ensure that all conditions are complied with or that the ship only operates in the specified sea areas, as the case may be.

(8) The master of a ship shall produce to an officer of customs from whom a clearance for the ship is demanded for an international voyage the certificates or documentation referred to in this section, and a clearance shall not be granted and the ship may be detained until those certificates are produced.

**Prohibition on proceeding on a voyage excursion without the appropriate certificate**

**401.**(1) Subject to regulations made under section 382, a passenger ship engaged on voyages that are not international voyages shall not proceed on a voyage or excursion unless it has been surveyed and there is in force a passenger certificate applicable to that voyage or excursion.

(2) Where a certificate is issued subject to conditions, such a ship shall not proceed on a voyage or excursion unless all the conditions are complied with.

**Limit on the number of passengers**

**402.** The owner and master of a passenger ship shall ensure that there is not on board a greater number of passengers than that stated on the ship’s passenger ship safety certificate or passenger certificate.

**Offences**

**403.**(1) Where a ship to which this Part applies proceeds or attempts to proceed to sea or on a voyage or excursion without complying with this Act or the regulations, the owner and master of the ship each commit an offence and are liable on summary conviction to a fine of $50 000.

(2) An owner or master who contravenes regulations relating to safety at sea, sections 400(1) to (6) or section 401 each commit an offence and are liable on summary conviction to a fine of $15 000.

(3) Where a ship proceeds to sea without complying with section 399, the owner and master each commit an offence and are liable on summary conviction to a fine of $15 000.

(4) The owner and master of a ship that contravenes section 402 each commit an offence and are liable on summary conviction to a fine of $60 000, or on conviction on indictment to a fine of $75 000 or imprisonment for a term of 2 years, or both.

(5) A master who contravenes section 400(7) commits an offence and is liable on summary conviction to a fine of $15 000.

(6) In any proceedings for an offence under this Part, it shall be a defence for the person charged to prove that he took all reasonable steps to ensure compliance with this Part.

**Power to detain**

**404.** Where the owner of a ship fails to comply with the requirements of this Part, the ship shall be liable to be detained.

**Arbitration**

**405.**(1) If an owner or any other person making an application for a survey required by this Act is dissatisfied with the outcome of the survey because the issuance of a certificate has been refused or for any other reason, the owner or

that person may serve notice, within 21 days of the completion of the survey, on the person responsible for issuing the certificate under section 389 or 390, requiring that the dispute be referred to, and be settled by,

*(a)* a single arbitrator appointed by agreement between the parties; or

*(b)* if there is no agreement, an arbitrator appointed by the Minister.

(2) A person is not qualified for appointment as an arbitrator under this section unless he is

*(a)* a person holding a certificate of competency as a master without limitation or as a chief engineer without limitation, or a certificate equivalent to such a certificate;

*(b)* a naval architect;

*(c)* an attorney at law with at least 10 years' experience in shipping law; or

*(d)* a person with special experience of the shipping industry.

(3) In an arbitration under this section, an arbitrator shall have the powers of inspection conferred by the *Merchant Shipping (Liability and Compensation) Act, 2024* (Act 2024- ).

*Miscellaneous*

**Penalties for non-compliance with conditions of exemption certificate**

**406.** Where an exemption certificate, issued in respect of a Barbados ship, specifies conditions on which the certificate is issued and any of those conditions is not complied with, the owner and the master of the ship each commit an offence and are liable on summary conviction to a fine of $20 000.

**Inspection of ships holding Convention certificates**

**407.**(1) A valid International Convention for the Safety of Life at Sea certificate produced in respect of a foreign ship subject to that Convention shall

be accepted and the ship shall be exempted from surveys or inspection under this Part, unless there are clear grounds for believing after survey that

*(a)* the condition of the ship or of her equipment does not correspond substantially with the particulars of the certificate; or

*(b)* the ship and her equipment are not in compliance with regulations made under this Act respecting the maintenance of conditions of ships and their equipment.

(2) Where a certificate is not accepted under the circumstances referred to in subsection (1), or if a certificate has expired or ceased to be valid, the ship shall not be granted clearance and shall be detained until she can proceed to sea or to the appropriate repair yard without causing danger to the ship or persons on board, and the following persons shall be notified in writing of the circumstances:

*(a)* the local consular officer of the ship's flag state or, in his absence, the nearest diplomatic representative of the ship's flag state; and

*(b)* the surveyor or recognized organization responsible for the issuance of the certificate.

(3) Where a ship referred to in subsection (2) is unduly detained or delayed, it shall be entitled to compensation for any loss or damage suffered as a direct result of the undue detention or delay.

**Ships to carry stability information**

**408.**(1) Every Barbados passenger ship, regardless of size, and every Barbados cargo ship having a length of 24m or more, shall carry on board such information about the ship's stability as may be prescribed, and shall send a copy of the information to the Principal Registrar within 6 months after the ship is registered.

(2) The information shall be based on the determination of the ship's stability by means of an inclining test of the ship, but the Director may allow the information to be based on a similar determination of the stability of a sister ship.

(3) Where a ship proceeds or attempts to proceed to sea without having on board the information required by subsections (1) and (2), the owner and master each commit an offence and are liable on summary conviction to a fine of $15 000.

**Regulations for safety certificates**

**409.**(1) The Minister may make regulations prescribing safety requirements and providing for the issuance of local certificates in respect of

*(a)* fishing vessels;

*(b)* pleasure yachts; and

*(c)* such other classes or classes of vessels as may be specified by the Administration in a merchant shipping notice.

(2) In making regulations respecting fishing vessels, the Minister shall have regard to the Torremolinos International Convention for the Safety of Fishing Vessels 1977.

*Safety of Submersibles*

**Definitions**

**410.** In this Part, except where the context otherwise requires

"apparatus" includes a vessel, hovercraft or other vehicle, structure, diving plant or equipment and any other form of equipment;

"diving bell" means a compression chamber

*(a)* that is capable of being manned and is used or designed for use under the surface of the water to support human life; and

*(b)* in which an occupant is or may be exposed to a pressure of more than 300 millibars above atmospheric pressure during normal operation;

"submersible craft" means a manned mobile submersible apparatus, other than a diving bell, that is designed to maintain some or all of its occupants at or near atmospheric pressure, and includes a free, self-propelled, tethered, towed or bottom contact propelled apparatus and an atmospheric diving suit; and

"supporting apparatus" means an apparatus used, or designed for use, in connection with the operation of a submersible craft.

**Regulations for submersible craft**

**411.** The Minister may make regulations

*(a)* regarding the operation of submersible craft;

*(b)* providing for registration of submersible craft;

*(c)* providing for the requirements for the registration of submersible craft;

*(d)* providing for inquiries, investigation, offences and legal proceedings in relation to submersible craft, including the detention of submersible craft;

*(e)* specifying construction requirements for submersible craft and any supporting apparatus to which this Part applies;

*(f)* specifying requirements for the carriage of equipment and stores by submersible craft and any supporting apparatus to which this Part applies;

*(g)* requiring a submersible craft and supporting apparatus to which this Part applies to be surveyed and providing for the making of declarations of survey;

*(h)* specifying the criteria to be satisfied prior to the issuance of safety certificates;

*(i)* imposing penalties on summary conviction in respect of a contravention of any provisions of the regulations not exceeding, in respect of any one contravention, $100 000;

*(j)* prescribing obligations required of a person concerned in the operation of a submersible craft or supporting apparatus to which this Part applies;

*(k)* prescribing the qualifications required to be held by any person concerned in the operation of a submersible craft or supporting apparatus to which this Part applies; and

*(l)* for detaining any submersible craft or supporting apparatus in respect of which a contravention of the regulations has or is suspected to have occurred and for applying sections 1193 and 1194 to that submersible craft or supporting apparatus, subject to such modifications as may be prescribed in the regulations.

**Servicing of life-saving appliances**

**412.**(1) Life-saving appliances on board a Barbados vessel shall undergo servicing every 5 years to ensure proper maintenance of the appliances.

(2) Servicing of life-saving appliances shall be carried out by

*(a)* the manufacturer of the appliances, where practicable; or

*(b)* a service provider authorized by the Administration.

(3) Service providers shall operate in accordance with

*(a)* International Maritime Organization Resolution MSC.402(96), adopted on 19th May, 2016 or a later version thereto: Requirements for Maintenance, Thorough Examination, Operational Testing, Overhaul and Repair of Lifeboats and Rescue Boats, Launching Appliances and Release Gear; and

*(b)* any additional requirements specified in a merchant shipping notice.

(4) A person applying for authorization to be a service provider shall pay the fees specified in the regulations.

## PART XXII

## LOAD LINES

**Definitions**

**413.**(1) In this Part, unless the context requires otherwise,

"alteration" includes deterioration;

"appropriate certificate" means

*(a)* in the case of a pre-1966 Convention ship of not less than 150 GT or a post-1966 Convention ship of not less than 24m in length, an International Load Line Certificate; and

*(b)* in the case of any other ship, a Barbados load line certificate;

"Barbados ship" means a Barbados ship referred to in section 414;

"clearance" includes transire;

"contracting government" means the government of a country that has accepted or acceded to the Load Lines Convention and has not denounced that Convention;

"Convention country" means

*(a)* a country the government of which has accepted or acceded to the Load Lines Convention and has not denounced that Convention; or

*(b)* a territory to which the Load Lines Convention extends that is not a territory to which that Convention has ceased to extend;

"foreign registered ship" means a ship referred to in section 414;

"international voyage" means a voyage between

*(a)* a port in Barbados and a port outside Barbados; or

*(b)* a port in a Convention country other than Barbados and a port in any other county or territory, whether or not a Convention country, that is outside Barbados.

"Load Lines Convention" means the International Convention on Load Lines, 1966, and its Protocol of 1988;

"material date" means

*(a)* in relation to a ship that is registered in, or flies the flag of, a Convention country other than Barbados, the date from which it is declared under section 440 that the government of that country has accepted or acceded to the Load Lines Convention or that it is a territory to which that Convention extends; and

*(b)* in relation to any other ship, 21st July, 1968;

"post-1966 Convention ship" means a ship whose keel was laid, or that was at a similar stage of construction, on or after the material date;

"pre-1966 Convention ship" means a ship that is not a post-1966 Convention ship; and

"valid Convention certificate" means a certificate that

*(a)* has been issued under section 424(2) and is in force; or

*(b)* having been issued under section 424(3), is produced in circumstances that regulations made under section 441 require it to be recognized for the purposes of this Part.

(2) In determining an international voyage

*(a)* no account shall be taken of any deviation made by a ship from her intended voyage, where the deviation is due solely to stress of weather

or any other circumstances that the master, owner or charterer, if any, of the ship could not have prevented or forestalled; and

*(b)* any territory for whose international relations a government is separately responsible shall be taken to be a separate territory.

(3) For the purposes of this Part, the length of a ship shall be ascertained in accordance with regulations made by the Minister under section 441.

(4) A reference in this Part to a provision of the Load Lines Convention shall, in relation to any time after that provision has been amended under Article 29 of that Convention, be construed as a reference to that provision as amended.

**Application**

**414.** This Part applies to all ships other than

*(a)* ships of war;

*(b)* ships solely engaged in fishing;

*(c)* pleasure yachts; and

*(d)* vessels to which the *Shipping (Domestic Vessels) Act, 2024* (Act 2024-22) applies.

**Compliance with Merchant Shipping (Load Lines) Regulations**

**415.**(1) Subject to any exemption conferred under this Part, no Barbados ship shall proceed or attempt to proceed to sea unless

*(a)* the ship has been surveyed in accordance with the regulations;

*(b)* the ship is marked with a deck-line and with load lines in accordance with the regulations;

*(c)* the ship complies with the conditions of assignment; and

*(d)* the information required by the regulations to be provided is provided for the guidance of the master of the ship in the manner determined in accordance with the regulations.

(2) The owner and master of a ship that proceeds or attempts to proceed to sea in contravention of subsection (1) each commit an offence and are liable on summary conviction to a fine of $20 000.

(3) Any ship that attempts to proceed to sea without being surveyed and marked as required by paragraphs (1)*(a)* and *(b)* may be detained until it has been so surveyed and marked.

(4) Any ship referred to in section 414 that does not comply with the conditions of assignment shall be deemed to be unsafe for the purposes of Part XXIV.

**Submersion of load lines of Barbados ships**

**416.**(1) Where a Barbados ship is marked with load lines, the ship shall not be so loaded that

*(a)* if the ship is in salt water and has no list, the appropriate load line on each side of the ship is submerged; or

*(b)* in any other case, the appropriate load line on each side of the ship would be submerged if the ship were in salt water and had no list.

(2) The owner and master of a ship loaded in contravention of subsection (1) each commit an offence and are liable on summary conviction to a fine of $20 000 and to any additional fine, calculated in accordance with subsection (3), that the Court thinks fit to impose, having regard to the extent to which the earning capacity of the ship was increased by reason of the contravention.

(3) An additional fine imposed under subsection (2) shall not exceed $300 000 for each complete centimetre by which

*(a)* in a case falling within paragraph (1)*(a)*, the appropriate load line on each side of the ship was submerged; or

*(b)* in a case falling within paragraph (l)*(b)*, the appropriate load line on each side of the ship would have been submerged.

(4) The master of a ship that takes to sea a ship loaded in contravention of subsection (1), or any other person who, having reason to believe that the ship is so loaded, sends or is party to the sending of the ship to sea commits an offence and is liable on summary conviction to a fine of $50 000, in addition to any fine that may be imposed under subsection (2) or (3).

(5) Where a person is charged with an offence under subsection (2), it shall be a defence to prove that the contravention was due solely to a deviation or delay caused solely by stress of weather or other circumstances that the master, owner or charterer, if any, could not have prevented or forestalled.

(6) Without prejudice to any proceedings under subsections (1) to (5), a ship that is loaded in contravention of subsection (1) may be detained until it ceases to be so loaded.

(7) For the purposes of the application of this section to a ship in any circumstances prescribed by regulations made under section 441, "the appropriate load line" means the load line that, in accordance with those regulations, indicates the maximum depth to which the ship may be loaded in salt water in those circumstances.

**Miscellaneous offences in relation to marks**

**417.** Where a Barbados ship to which this part applies is marked in accordance with the requirements imposed under this Part,

*(a)* the owner or master of the ship who fails without reasonable excuse to keep the ship so marked; or

*(b)* a person who conceals, removes, alters, defaces or obliterates, or causes or permits a person under his control to conceal, remove, alter, deface or obliterate, any mark with which the ship is so marked, other than under the authority of a person empowered under the load lines regulations to authorize him for that purpose,

commits an offence and is liable on summary conviction to a fine of $15 000.

**Issuance of load line certificates**

**418.**(1) Where a Barbados ship has been surveyed and marked in accordance with regulations made under section 441, the appropriate certificate shall be issued to the owner of the ship on his application.

(2) Subject to subsection (3), any certificate required by subsection (1) to be issued

*(a)* shall be issued by the Director or by a person authorized for that purpose by the Director; and

*(b)* shall be in a form, and issued in a manner, prescribed by regulations made under section 441.

(3) The Director may request a contracting government to issue an International Load Line Certificate in respect of a Barbados ship referred to in paragraph (2)*(a)* of the definition "appropriate certificate" in section 413, containing a statement that it has been issued at the request of the Government of Barbados.

(4) This Part applies to a certificate issued under subsection (4) in the same manner as an International Load Line Certificate issued by the Director.

**Effect of load line certificates**

**419.** Where a certificate issued under section 418 that is in force is produced in respect of the ship to which the certificate relates

*(a)* the ship is deemed to have been surveyed in accordance with the regulations made under section 441; and

*(b)* if lines are marked on the ship corresponding in number and description to the deck-line and load lines as required by those regulations, and the positions of those lines so marked correspond to the positions of the deck-line and load lines specified in the certificate, the ship is deemed to be marked as required by those regulations.

**Duration, endorsement and cancellation of load line certificates**

**420.**(1) Regulations made under section 441 shall provide for determining the period during which a certificate issued under section 418 is to remain in force, including

*(a)* enabling the period for which the certificate is originally issued to be extended within such limits and in such circumstances as may be prescribed by the regulations; and

*(b)* cancelling the certificate in such circumstances as may be prescribed.

(2) While any such certificate is in force in respect of a ship, there shall be endorsed on the certificate information relating to

*(a)* periodical inspections of the ship in accordance with regulations made under section 441; and

*(b)* any extension of the period for which the certificate was issued, as prescribed by the regulations.

**Ships not to proceed to sea without load line certificate**

**421.**(1) Subject to any exemption conferred under this Part, no Barbados ship shall proceed or attempt to proceed to sea unless the appropriate certificate is in force in respect of the ship.

(2) Before a Barbados ship proceeds to sea, the master of the ship shall produce the appropriate certificate to the officer of customs from whom a clearance for the ship is demanded and a clearance shall not be granted, and the ship may be detained, until the appropriate certificate is produced.

(3) The master of a ship that proceeds or attempts to proceed to sea in contravention of this section commits an offence and is liable on summary conviction to a fine of $50 000.

**Publication of load line certificate and entry in official log book**

**422.**(1) Where a certificate is issued in respect of a ship under section 418, the owner of the ship shall forthwith on receipt of the certificate frame it and post it in a conspicuous place on board the ship, and keep it framed, posted and legible so long as the certificate remains in force and the ship is in use.

(2) Before a Barbados ship leaves a dock, wharf, harbour or other place for the purpose of proceeding to sea, the master of the ship shall post a notice in a conspicuous place on board the ship, in such form and containing such particulars relating to the depth to which the ship is for the time being loaded, as specified in regulations made under section 441.

(3) Where a notice required by subsection (2) has been posted, the master of the ship shall keep it posted and legible until the ship arrives at another dock, wharf, harbour or place.

(4) The owner or master of a ship who fails to comply with a requirement of this section commits an offence and is liable on summary conviction to a fine of $10 000.

**Inspection of ships**

**423.** A surveyor may inspect a Barbados ship for the purpose of verifying that the requirements of this Part have been complied with in respect of the ship.

**Valid convention certificates**

**424.**(1) This section applies to any foreign registered ship that

*(a)* is registered in a Convention country or that flies the flag of a Convention country; and

*(b)* is a pre-1966 Convention ship of not less than 150 GT or a post-1966 Convention ship of not less than 24m in length.

(2) The Director may, at the request of the government of a Convention country, issue in respect of a ship referred to in subsection (1) a certificate in a

form prescribed by regulations made under section 408, if the Director is satisfied that he could properly issue a certificate in respect of the ship under section 428(1) if the ship were a Barbados ship.

(3) Regulations made under section 408 shall ensure that certificates that are issued as International Load Line Certificates in respect of ships to which this section applies, and are so issued by governments other than the Government of Barbados, shall be recognized for the purposes of this Part in such circumstances as may be prescribed by the regulations.

(4) Certificates referred to in subsection (2) or (3) shall be considered to be International Load Line Certificates.

**Compliance with regulations**

**425.**(1) Subject to subsection (2) and to any exemption conferred under this Part, no Barbados ship shall proceed, or attempt to proceed, to sea from a port in Barbados unless

*(a)* the ship has been surveyed in accordance with regulations made under section 441;

*(b)* the ship is marked with a deck-line and with load lines in accordance with those regulations;

*(c)* the ship complies with the conditions of assignment; and

*(d)* the information required by those regulations relating to the stability of a ship to which freeboards are assigned and information relating to the loading and ballasting of a ship is provided for the guidance of the master of the ship in the manner determined in accordance regulations.

(2) Subsection (1) does not apply to a ship in respect of which a valid Convention certificate is produced.

(3) The owner and master of a ship that contravenes subsection (1) each commit an offence and are liable on summary conviction to a fine of $50 000.

(4) Any ship that attempts to proceed to sea in contravention of subsection (1) without being surveyed and marked in accordance with paragraphs (1)*(a)* and *(b)* may be detained until it has been so surveyed and marked.

(5) Any ship referred to in subsection (1) in respect of which a valid Convention certificate is not produced that does not comply with the conditions of assignment is deemed to be unsafe for the purposes of Part XXIV.

**Submersion of load lines on foreign registered ships**

**426.**(1) A foreign registered ship within a port in Barbados that is marked with load lines shall not be so loaded that

*(a)* if the ship is in salt water and has no list, the appropriate load line on each side of the ship is submerged; or

*(b)* in any other case, the appropriate load line on each side of the ship would be submerged if the ship were in salt water and had no list.

(2) Subject to subsection (3), sections 416(2), (3), (5) and (6) apply for the purposes of this section as if any references in those subsections to subsection 416(1) or to paragraphs 416(1)*(a)* or *(b)*, were a reference to subsection (1), or paragraph (1)*(a)* or *(b)*.

(3) In the case of a ship to which section 424 applies, the ship shall not be detained and no proceedings shall be brought by virtue of subsection (2), unless the ship has been inspected by a ship surveyor or engineer surveyor in accordance with section 429.

(4) In this section, “appropriate load line” means,

*(a)* in relation to a ship in respect of which a valid Convention certificate is produced and in any circumstances for which a particular load line is specified in the certificate, the load line that, in accordance with the certificate, indicates the maximum depth to which the ship may be loaded in salt water in those circumstances; and

*(b)* in relation to a ship in respect of which a valid Convention certificate is not produced and in any circumstances prescribed by regulations made under section 441, the load line that, in accordance with those regulations, indicates the maximum depth to which the ship may be loaded in salt water in those circumstances; and "load line", in relation to a ship in respect of which a valid Convention certificate is produced, means a line marked on the ship in the position of a load line specified in that certificate.

**Barbados load line certificates**

**427.**(1) Where a foreign registered ship has been surveyed and marked in accordance with regulations made under section 441, on the application of the owner of the ship, a Barbados load line certificate shall be issued to him by the Director or by a person authorized for the purpose by the Director.

(2) Subject to subsection (3), sections 419 and 420 apply in relation to a certificate issued under subsection (1) in the same manner as a certificate issued under section 319.

(3) A certificate issued under subsection (1) in respect of a ship to which section 424 applies is valid only so long as the ship is not plying on international voyages, and shall be cancelled by the Director if he has reason to believe that the ship is plying on international voyages.

**Production of certificate to customs and excise officer**

**428.**(1) Subject to any exemption conferred under this Part, before a foreign registered ship proceeds to sea from a port in Barbados, the master of the ship shall produce the appropriate certificate to the officer of customs from whom a clearance for the ship is demanded, and a clearance shall not be granted, and the ship may be detained, until the appropriate certificate is produced.

(2) For the purposes of this section an appropriate certificate

*(a)* in the case of a ship to which section 424 applies,

(i) where a clearance for the ship is demanded in respect of an international voyage, is a valid Convention certificate; and

(ii) where a clearance for the ship is demanded in respect of any other voyage, is either a valid Convention certificate or a Barbados load line certificate in force in respect of the ship; and

*(b)* in any other case, is a Barbados load line certificate in force in respect of the ship.

**Inspection**

**429.**(1) Subject to subsections (2) to (5), a surveyor may inspect any foreign registered ship while the ship is within a port in Barbados.

(2) A surveyor may go on board a ship to which section 424 applies, while the ship is within a port in Barbados, for the purpose of demanding production of an International Load Line Certificate or Barbados load line certificate in force in respect of the ship.

(3) Where a valid Convention certificate is produced to the surveyor in respect of the ship, the powers of the surveyor under subsection (1) shall be limited to ensuring

*(a)* that the ship is not loaded beyond the limits allowed by the certificate;

*(b)* that lines are marked on the ship in the positions of the load lines specified in the certificate;

*(c)* that no material alterations have taken place in the hull or superstructures of the ship that affect the position in which any of those lines ought to be marked; and

*(d)* that the fittings and appliances for the protection of openings, the guard rails, the free ports and the means of access to the crew's quarters have

been maintained on the ship in as effective a condition as they were in when the certificate was issued.

(4) Where on an inspection of a ship under this section the ship is found to have been so materially altered in respect of the matters referred to in paragraphs (3)*(c)* or *(d)* that the ship is manifestly unfit to proceed to sea without danger to human life, it shall be deemed to be unsafe for the purposes of Part XXIV.

(5) Where a ship is detained in the circumstances referred to in subsection (4), the Director shall order the ship to be released as soon as he is satisfied that the ship is fit to proceed to sea without danger to human life.

**Power to make exemptions**

**430.**(1) Where in the opinion of the Director the sheltered nature and conditions of international voyages

*(a)* between near neighbouring ports in Barbados and those in another Convention country; or

*(b)* between near neighbouring ports in any two or more countries outside Barbados; make it unreasonable or impracticable to apply this Part to ships plying on such voyages, and the Director is satisfied that the government of the other country or of each of the other countries, as the case may be, concurs in that opinion, the Director may by an order direct that ships plying on international voyages between those ports, or any class of such ships specified in the order, shall be exempt from the requirements of this Part.

(2) The Director may by order direct that a ship engaged solely in the coasting trade, or any class of such ships specified in the order, shall be exempt from this Part while not carrying cargo or shall be exempt from this Part whether carrying cargo or not.

(3) An order under this section may be made subject to such conditions as the Director thinks fit and, where any such order is made subject to conditions,

the exemption conferred by that order shall not have effect in relation to a ship unless the ship complies with those conditions.

**Further powers to exempt ships**

**431.**(1) In the circumstances set out in subsections (2) to (5), the Director may exempt a ship

*(a)* from all the provisions of this Part and of the regulations made under section 441; or

*(b)* from those provisions specified in the instrument.

(2) On the application of the owner of a Barbados ship that is a pre-1966 Convention ship of not less than 150 GT or a post-1966 Convention ship of not less than 24m in length, the Director may exempt the ship if in his opinion the ship embodies features of a novel kind such that, if the ship had to comply with all the requirements of this Part and of the regulations made under section 441, the development of those features and their incorporation in ships engaged on international voyages might be seriously impeded.

(3) On the application of the owner of a Barbados ship that is

*(a)* a pre-1966 Convention ship of less than 150 GT or a post-1966 Convention ship of less than 24m in length; or

*(b)* any other ship that does not ply on international voyages,

the Director may exempt the ship.

(4) Where a Barbados ship that is a pre-1966 Convention ship of not less than 150 GT or a post-1966 Convention ship of not less than 24m in length, does not normally ply on international voyages but is required to undertake a single international voyage, the Director, on the application of the owner of the ship specifying the international voyage, may exempt the ship while engaged on that voyage.

(5) Any exemption conferred under this section may be conferred subject to such conditions as the Director thinks fit.

**Issuance of exemption certificates**

**432.**(1) Where the Director exempts a ship under section 431, the Director shall issue to the owner of the ship

*(a)* an international load line exemption certificate where the exemption is conferred under section 431(2) or (4); or

*(b)* a Barbados load line exemption certificate where the certificate is conferred under section 431(3).

(2) Any certificate issued under this section shall be in the form, and shall be issued in the manner, prescribed by regulations made under section 441.

**Duration, endorsement and termination of certificates**

**433.** While a certificate is in force in respect of a ship, there shall be endorsed on the certificate information relating to

*(a)* periodical inspections of the ship, in accordance with the regulations made under section 441; and

*(b)* any extension of the period for which the certificate was issued, as may be prescribed by the regulations.

**International load line exemption certificates**

**434.** Exemption certificates that, in accordance with the Load Lines Convention, are issued in respect of ships to which section 423 applies by governments other than the Government of Barbados shall, in the circumstances prescribed by regulations made under section 441, have the same effect for the purposes of this Part as if they were valid Convention certificates.

**Subdivision load lines deck and cargo**

**435.**(1) Where in accordance with regulations made under section 441 a Barbados passenger ship is marked with subdivision load lines, and the lowest of those lines is lower than the line that would be the appropriate load line for

the purposes of section 416, that section shall have effect as if that subdivision load line were the appropriate load line for the purposes of that section.

(2) Where in accordance with regulations made under section 441 a foreign-registered passenger ship is marked with subdivision load lines, and the lowest of those load lines is lower than the line that would be the appropriate load line for the purposes of section 426, that section shall have effect as if that subdivision load line were the appropriate load line for the purposes of that section.

**Deck cargo**

**436.**(1) Where any regulations in respect of deck cargo are contravened

*(a)* in the case of a Barbados ship; or

*(b)* in the case of any other ship while the ship is within a port in Barbados,

the master of the ship commits an offence and is liable on summary conviction to a fine of $15 000.

(2) Where a person is charged with an offence under subsection (5), it shall be a defence to prove that the contravention was due solely to a deviation or delay that was caused solely by stress of weather or other circumstances that the master, the owner or the charterer, if any, could not have prevented or forestalled.

(3) For the purpose of securing compliance with the regulations respecting deck cargo, a person authorized for the purpose by the Director may inspect any ship to which this Part applies that is carrying cargo in an uncovered space on its deck.

**Notice to consular officer of proceedings against foreign ships**

**437.**(1) Where a foreign registered ship is detained under this Part and where proceedings are taken under this Part against the master or owner of the ship, notice shall without delay be served by an authorized official on the consular officer for the country to which the ship belongs at or nearest to the port where the ship is detained.

(2) A notice under this section shall specify the grounds on which the ship has been detained or the proceedings have been taken.

**Surrender of certificates**

**438.**(1) The Director may require any certificate issued under this Part that has expired or been cancelled to be surrendered as he directs.

(2) An owner or master of a ship who fails without reasonable excuse to comply with such a direction commits an offence and is liable on summary conviction to a fine of $10 000.

**Penalty for false statements**

**439.** A person who intentionally makes, assists in making or procures to be made, a false or fraudulent certificate that can be issued under this Part, commits an offence and is liable on summary conviction to a fine of $50 000.

**Admissibility of certificates in evidence in Convention countries**

**440.** A certificate issued under this Part shall be admissible in evidence in a Convention country.

**Orders and regulations**

**441.**(1) The Minister may make regulations for the purposes of this Part, including regulations for

*(a)* determining the period during which an exemption conferred under section 431, or a certificate issued under section 433, is to remain in force;

*(b)* enabling the period for which an exemption or certificate is originally conferred or issued to be extended and the limits and circumstances in which such an extension may be permitted;

*(c)* terminating any such exemption, and for cancelling any such certificate, in such circumstances as may be prescribed;

*(d)* prescribing requirements to be complied with where cargo is carried in an uncovered space on the deck of a ship; and

*(e)* assigning, generally or in particular cases or classes of cases, special freeboards to ships where a cargo of timber is carried, and prescribing special requirements to be complied with in those circumstances, having regard to Chapter IV of the Load Lines Convention.

(2) Regulations referred to in paragraph (1)*(d)* may prescribe different requirements in relation to different ships, different cargo, different voyages or classes of voyages, different seasons of the year or any other different circumstances.

(3) An order or regulations made under this Part may contain such transitional or other incidental and supplementary provisions as may appear to the Minister to be appropriate.

## PART XXIII

## CARRIAGE OF BULK CARGOES AND DANGEROUS CARGOES

### Application

**442.**(1) Unless expressly provided otherwise, this Part applies to all ships to which the International Convention for the Safety of Life at Sea applies and to cargo ships of less than 500 GT.

(2) The provisions of this Part respecting carriage of dangerous goods in packaged form or in solid form in bulk do not apply to ships' stores and equipment, including ships' distress signals.

(3) This Part and any regulations made under section 446 respecting dangerous goods apply to all Barbados ships and to all foreign ships while loading or discharging cargo or fuel, or embarking or disembarking passengers, at any place in Barbados in the same manner as they apply to Barbados ships.

**Definition**

**443.** In this Part, "grain" includes wheat, maize, corn, oats, rye, barely, rice pulses, seeds and processed forms of them whose behaviour is similar to that of grain in its natural state.

**Carriage of grain**

**444.**(1) Where grain is loaded on board a Barbados ship, or is loaded within a port in Barbados on board any ship, all necessary and reasonable precautions shall be taken to prevent the grain from shifting.

(2) For the purpose of ensuring compliance with this section, a surveyor may go on board a Barbados ship, or a foreign ship that is in a port of Barbados, and inspect any grain loaded in the ship and the manner in which it is stowed.

(3) If the precautions referred to in subsection (1) are not taken,

*(a)* the owner or the master of the ship, or any agent of the owner who was charged with the loading or with sending the ship to sea laden with the grain, commits an offence and is liable on summary conviction to a fine of $15 000; and

*(b)* the ship is deemed for the purposes of Part XXII to be unsafe by reason of improper loading.

(4) Where a ship that was loaded with grain outside Barbados without taking all necessary and reasonable precautions to prevent the grain from shifting enters a port in Barbados so laden,

*(a)* the owner and master of the ship each commit an offence and are liable on summary conviction to a fine of $25 000; and

*(b)* the ship is deemed for the purposes of Part XXII to be unsafe by reason of improper loading.

(5) No offence is committed under subsection (4) where the ship would not have entered the port but for stress of weather or any other circumstance that the master, owner or charterer, if any, could not have prevented or forestalled.

**Delivery of notice and offence**

**445.**(1) On the arrival at a port in Barbados from a port outside Barbados of a ship carrying a cargo of grain, the master shall deliver to the Director a notice stating

*(a)* the draught of water and freeboard of the ship after the loading of her cargo was completed at the final port of loading; and

*(b)* the following particulars of the grain carried:

(i) the kind of grain and the quantity of grain, stated in cubic feet, quarters, bushels or tons weight;

(ii) the mode in which the grain is stowed; and

(iii) the precautions taken to prevent the grain from shifting.

(2) A master who fails to deliver a notice required by subsection (1), or who makes a statement that he knows to be false in a material particular in such a statement or recklessly makes a statement that is false in a material particular commits an offence and is liable on summary conviction to a fine of $50 000.

**Carriage and marking of dangerous goods**

**446.**(1) No person shall send by or carry dangerous goods in a Barbados ship, except in accordance with this Part and regulations made under section 451.

(2) No person shall send by or carry in a Barbados ship dangerous goods without first distinctly marking their nature on the outside of the outermost package containing the goods in accordance with regulations made under section 451 and without first giving written notice of the nature of the goods and of the name and address of the sender of them to the master or owner of the ship.

**Offences related to dangerous goods**

**447.**(1) A person who contravenes a provision of this Part with respect to dangerous goods, or of regulations made under section 451, commits an offence and is liable on summary conviction to a fine of $75 000.

(2) Where a contravention involves the marking, packing, stowing or quantity of dangerous goods within a ship, that ship is deemed, for the purposes of Part XXII, to be unsafe by reason of improper loading.

**Rejection and disposal of dangerous goods**

**448.**(1) The master or owner of a ship may refuse to take on board any package or parcel that he suspects might contain dangerous goods and may require such a package to be opened to ascertain its nature.

(2) When dangerous goods, or any goods that, in the opinion of the master or owner of the ship, are dangerous goods, have been sent on board a ship without the marking or written notice required under section 446, the master or owner of the ship may cause the goods, together with any package or container in which they are carried, to be thrown overboard.

(3) Neither the master nor the owner of a ship is subject to civil or criminal liability in any court in respect of action taken under subsection (2).

**Forfeiture of dangerous goods**

**449.**(1) Where dangerous goods have been sent by or carried in a ship in a manner that would constitute an offence under this Part, a court may order the goods, and any packaging or container in which they are carried, to be forfeited.

(2) A court may exercise the powers under subsection (1) notwithstanding that

*(a)* the owner of the goods has not committed an offence in respect of the goods, is not before the court, or has had no notice of the proceedings; or

*(b)* there is no evidence to show to whom the goods belong,

but the court may require such notice as it may direct to be given to the owner or shipper of the goods before they are forfeited.

**Bulk cargo regulations**

**450.** The Minister may make regulations relating to the safe carriage and stowage of bulk cargoes having regard to

*(a)* the International Maritime Solid Bulk Cargoes Code issued by the Administration, as amended or replaced; and

*(b)* provisions on the safe carriage and stowage of grain in the International Convention for the Safety of Life at Sea.

**Dangerous goods regulations**

**451.**(1) The Minister may make regulations prescribing which goods, articles or materials to be carried in a ship are dangerous goods in accordance with the International Convention for the Safety of Life at Sea in relation to the carriage of dangerous goods, incorporating by reference the International Maritime Dangerous Goods Code of the Organization or replaced.

(2) Without restricting the generality of subsection (1), the Minister may by regulation prescribe

*(a)* the method of packing and stowing dangerous goods;

*(b)* the quantity of such goods that may be carried in a ship;

*(c)* the place or places within a ship in which they may be carried;

*(d)* the marking that is to be placed on a package or container in which dangerous goods may be placed for shipment; and

*(e)* the precautions to be taken with respect to the carriage of such goods and the powers of inspection to determine compliance with the regulations.

# PART XXIV

# UNSAFE SHIPS

**Unsafe ship**

**452.**(1) For the purpose of sections 453 to 456, a ship is unsafe if, having regard to the nature of the service for which she is intended, the ship is unfit to go to sea without serious danger to human life by reason of

*(a)* the condition, or the unsuitability for its purpose, of

(i) the ship or her machinery or equipment; or

(ii) any part of the ship or its machinery or equipment;

*(b)* undermanning;

*(c)* overloading or unsafe or improper loading; or

*(d)* any other matter relevant to the safety of the ship.

(2) For the purposes of sections 453 to 456, a ship at sea is unsafe if, having regard to the nature of the service for which she is being used or is intended, the ship is, by reason of the matters referred to in paragraphs (1)*(a)* to *(d)*,

*(a)* unfit to remain at sea without serious danger to human life; or

*(b)* unfit to go on a voyage without serious danger to human life.

(3) In sections 420 to 423, a reference to "going to sea" shall, in a case where the service for which the ship is intended consists of going on voyages or excursions that do not involve going to sea, be construed as a reference to going on such a voyage or excursion.

**Power to detain unsafe ship**

**453.**(1) Where a ship in a port in Barbados or at sea in Barbados waters appears to an inspector to be an unsafe ship, the ship may be detained.

(2) Subject to subsection (3), the power of detention conferred by subsection (1) is exercisable in relation to foreign ships as well as Barbados ships.

(3) The power of detention of a ship at sea in Barbados waters is not exercisable in relation to a foreign-registered ship while the ship is exercising the right of innocent passage.

(4) The officer detaining a ship shall serve on the master of the ship a detention notice that

*(a)* states that the inspector is of the opinion that the ship is an unsafe ship;

*(b)* specifies the matters that, in the inspector's opinion, make the ship an unsafe ship; and

*(c)* requires the ship to comply with the terms of the notice until it is released by an officer referred to in section 1220(1).

(5) An officer detaining a ship that is not a Barbados ship shall send a copy of the detention notice as soon as practicable to the nearest consular officer for the country to which the ship belongs.

(6) In this section, " inspector" means a person referred to in section 1056(1).

**Referral of detention notice to arbitration**

**454.**(1) Within 21 days from the service of a detention notice under section 453(4)*(b)*, the master or owner of a ship may, by a notice given to the inspector, refer any question as to whether an opinion formed by an inspector on a matter specified in the detention notice had a valid basis to a single arbitrator appointed by agreement between the parties to the arbitration agreement.

(2) The giving of a notice in accordance with subsection (1) shall not suspend the operation of the detention notice unless, on the application of the person making the referral, the arbitrator so directs.

(3) The arbitrator shall have regard, in coming to his decision, to any other matters not specified in the detention notice that appear to him to be relevant to whether the ship was an unsafe ship.

(4) Where on a reference under this section the arbitrator decides, as respects any matter to which the reference relates,

*(a)* that the matter did not constitute a valid basis for the inspector's opinion, he shall cancel the detention notice or affirm it with such modifications as he may think fit; and

*(b)* that the matter constituted a valid basis for the opinion, he shall affirm the notice in its original form.

(5) The arbitrator shall include in his decision a finding whether there was a valid basis for the detention of the ship as an unsafe ship.

(6) A person is not qualified for appointment as an arbitrator under this section unless he is

*(a)* a person holding a certificate of competency as a master mariner or as a marine engineer officer class 1, or an equivalent certificate;

*(b)* a naval architect;

*(c)* a barrister or solicitor of 10 years standing entitled to practice in Barbados or in a Commonwealth jurisdiction; or

*(d)* a person with special experience of shipping matters, or of activities carried on in ports.

(7) An arbitrator appointed under this section shall have the powers conferred on an inspector by section 1057.

(8) In this section "inspector" means a person referred to in section 1056(1).

**Compensation for invalid detention of ship**

**455.**(1) If on a reference under section 454 relating to a detention notice in relation to a ship

*(a)* the arbitrator decides that a matter did not constitute a valid basis for the inspector's opinion; and

*(b)* it appears to him that there were no reasonable grounds for the inspector to form that opinion,

the arbitrator may award the owner of the ship such compensation in respect of any loss suffered by him in consequence of the detention of the ship as the arbitrator thinks fit.

(2) Any compensation awarded under this section shall be payable by the Minister.

**Owner and master liable in respect of unsafe ship**

**456.**(1) If a ship that

*(a)* is in a port in Barbados; or

*(b)* is a Barbados ship and is in any other port,

is unsafe, the master and the owner of the ship each commit an offence.

(2) Where, at the time when a ship is unsafe, any responsibilities of the owner with respect to the matters relevant to its safety have been assumed in whole or in part by a person other than the owner

*(a)* directly, under the terms of a charter-party or management agreement made with the owner; or

*(b)* indirectly, under the terms of a series of charter-parties or management agreements,

the reference to the owner in subsection (1) shall be construed as a reference to that other person.

(3) A person guilty of an offence under this section is liable

*(a)* on summary conviction, to a fine of $100 000; or

*(b)* on conviction on indictment, to a fine of $200 000 or to imprisonment for a term of 2 years, or both.

(4) It shall be a defence in proceedings for an offence under this section to prove that, at the time of the alleged offence

*(a)* arrangements had been made that were appropriate to ensure that before the ship went to sea it was made fit to do so without any serious danger to human life by reason of the matters relevant to its safety specified in the charge; or

*(b)* it was reasonable for such arrangements not to have been made.

(5) It shall also be a defence in proceedings for an offence under this section to prove that

*(a)* under the terms of a charter-party or management agreement entered into by the accused,

(i) where the accused is the owner, his responsibilities with respect to the matters relevant to the ship's safety; or

(ii) where the accused is liable to proceedings under this section by virtue of subsection (2), the responsibilities assumed by him,

had at the time of the alleged offence been wholly assumed by some other person or persons who were party to the agreement; and

*(b)* in the circumstances of the case, the accused had taken reasonable steps and exercised reasonable diligence to secure the proper discharge of the relevant responsibilities during the period during which they had been assumed by the person referred to in paragraph *(a)*.

(6) In determining whether a defence is available to an accused under subsection (5), regard shall be had to

*(a)* whether prior to the time of the alleged offence the accused was, or in all the circumstances ought reasonably to have been, aware of any deficiency in the discharge of the responsibilities referred to in subsection (5); and

*(b)* the extent to which the accused was or was notable, under the terms of a charter-party or management agreement referred to in paragraph (5) *(a)*,

(i) to terminate it; or

(ii) to intervene in the management of the ship,

in the event of any such deficiency, and whether it was reasonable for the accused to place himself in that position.

(7) No proceedings for an offence under this section shall be instituted except by, or with the consent of, the Minister or the Director of Public Prosecutions.

(8) In this section, "management agreement", in relation to a ship, means an agreement, other than a charter-party agreement or contract of employment, under which the ship is managed, in whole or in part, by a person other than the owner, whether on behalf of the owner or on behalf of some other person.

(9) References in this section to responsibilities being assumed by a person under the terms of a charter-party or management agreement are references to their being so assumed by him whether or not he has entered into a further charter-party or management agreement providing for them to be assumed by some other person.

**Use of unsafe vessels**

**457.**(1) Where a person uses or causes or permits to be used in navigation a lighter, barge or like vessel when, because of

*(a)* the defective condition of her hull or equipment;

*(b)* overloading or improper loading; or

*(c)* under manning,

it is so unsafe that human life is endangered by it, he commits an offence and is liable on summary conviction to a fine of $60 000.

(2) This section does not affect the liability of the owners of a lighter, barge or like vessel in respect of loss of life or personal injury caused to a person carried in the vessel.

**Owner liable for unsafe operation of ship**

**458.**(1) The owners of the following ships shall take all reasonable steps as it is reasonable for him to take in the circumstances of the case to ensure that the ship is operated in a safe manner:

*(a)* a Barbados ship; and

*(b)* a ship that

(i) is registered under the law of, or flies the flag of, a country other than Barbados, and

(ii) is within Barbados waters while proceeding to or from a port in Barbados, unless the ship would not be so proceeding but for weather conditions or any other unavoidable circumstances.

(2) The owner of a ship who contravenes subsection (1) commits an offence and is liable on summary conviction to a fine of $75 000 or imprisonment for a term of 6 months, or both.

(3) Where a ship is chartered by demise, or is managed, in whole or in part, by a person other than the owner under the terms of a management agreement within the meaning of section 456, a reference to the owner of the ship in subsection (1) or (2) shall be construed as including a reference

*(a)* to the charterer under the charter by demise;

*(b)* to the manager or person named in the management agreement; or

*(c)* if the ship is both chartered and managed, to both the charterer and the manager or person named in the management agreement.

**Medical safety requirements for ships**

**459.** In order to be considered a safe ship, a ship shall carry on board medical supplies and medical equipment, and other relevant medical items as specified in

*(a)* the World Health Organization International Medical Guide for Ships; and

*(b)* the regulations.

## PART XXV

## PROTECTION OF THE MARINE ENVIRONMENT FROM SHIPPING

### *Division 1*

### *General*

**Definitions**

**460.**(1) In this Part,

"Antarctic Area" has the meaning assigned to it in the International Convention for Prevention of Pollution from Ships;

"Arctic Area" has the meaning assigned to it in the International Convention for Prevention of Pollution from Ships;

"heavy grade oil" means

*(a)* crude oil having a density at 15°C higher than 900 kg/$m^3$;

*(b)* oil, other than crude oil, having a density at 15°C higher than 900 kg/$m^3$ or a kinematic viscosity at 50°C higher than 180 $mm^2$/s; or

*(c)* bitumen, tar and their emulsions;

"Polar Code" means the International Code for Ships Operating in Polar Waters adopted by the Maritime Safety Committee of the International Maritime Organization on 21st November 2014 and the Marine Environment Protection Committee of the International Maritime Organization on 15th May 2015;

"prescribed officer" in relation to the 5 annexes of the International Convention for the Prevention of Marine Pollution from Ships, 1973, means

*(a)* the Minister or a person authorized by the Minister;

*(b)* the Director;

*(c)* the harbour master of a port;

*(d)* designated port state control officers;

*(e)* any other authorized officer of a port with the responsibility for marine operations; or

*(f)* an environmental protection officer, including an officer of the Environmental Protection Department and the Coastal Zone Management Unit; and

"special area" means an area of the ocean designated in accordance with the International Convention for Prevention of Pollution from Ships where vessels are subject to stricter controls, and includes any sea area where for recognized technical reasons in relation to its oceanographical and ecological conditions and to the particular character of vessel traffic, the adoption of special mandatory methods for prevention of marine pollution by oil or oil wastes, noxious liquid substances, sewage or garbage is required.

(2) Unless a contrary intention appears, an expression that is used in this Part and in Annex I to the International Convention for the Prevention of Marine Pollution from Ships, 1973 has the same meaning as in that Annex, whether or not a particular meaning is assigned to it by that Annex.

**Incorporation of international marine pollution prevention conventions**

**461.** The following International Maritime Organization conventions on marine pollution prevention from ships shall have the force of law in Barbados:

*(a)* the International Convention for the Prevention of Pollution from Ships, 1973, as modified by the Protocol of 1978 and by the Protocol of 1997;

*(b)* the Convention on the Prevention of Marine Pollution by Dumping of Wastes and other Matter, 1972;

*(c)* the Protocol to the Convention on the Prevention of Marine Pollution by Dumping of Wastes and other Matter, 1972;

*(d)* the International Convention on the Control of Harmful Anti-fouling Systems on Ships, 2001;

*(e)* the International Convention for the Control and Management of Ships' Ballast Water and Sediments, 2004;

*(f)* the International Convention Relating to Intervention on the High Seas in Cases of Oil Pollution Casualties, 1969;

*(g)* the Protocol Relating to Intervention on the High Seas in Cases of Pollution by Substances Other than Oil, 1973;

*(h)* the International Convention on Oil Pollution Preparedness, Response and Co-operation, 1990; and

*(i)* the Protocol on Preparedness, Response and Co-operation to Pollution Incidents by Hazardous and Noxious Substances, 2000.

**Marine environmental protection documentation**

**462.**(1) The Administration may require production of any documentation, including certificates, permits and licenses in relation to the marine environmental protection instruments incorporated under this Part.

(2) Additional requirements in respect of marine environmental protection documentation may be specified in a merchant shipping notice.

**Duty to protect the marine environment**

**463.**(1) Barbados ships in any place, and foreign registered ships when in Barbados' waters, shall protect and preserve the marine environment from the negative impacts of shipping.

(2) Except where expressly provided otherwise, this Part applies to

*(a)* Barbados ships engaged on international voyages; and

*(b)* foreign ships when in Barbados' waters.

**Coral Reef Damage**

**464.**(1) Subject to any other enactment, the owner of a ship that damages a coral reef in Barbados waters commits an offence and is liable on conviction to a fine of $3 000 000.

(2) The High Court may also order that the offender

*(a)* participate in national coral reef restoration efforts;

*(b)* promote public awareness and education on the importance of coral reefs; and

*(c)* engage in any other form of community service relating to coral reefs or marine environmental protection.

*Division 2*

*International Convention for the Prevention of Marine Pollution from Ships, 1973*

**State-owned ships**

**465.** Warships, naval auxiliary or other ships owned or operated by Barbados or another state and used on government non-commercial service are exempt from the provisions of this Act, but shall observe the obligation under the International Convention for the Prevention of Marine Pollution from Ships, 1973 to act in a manner consistent with the Convention, so far as practicable.

**Material safety data sheets**

**466.** Bunker suppliers shall provide the master or chief engineer with material safety data sheets.

**Discharge of oil or oily mixtures**

**467.**(1) Barbados ships operating in the Antarctic, Arctic and other polar regions shall comply with the requirements specified in the International Maritime Organization's International Code for Ships Operating in Polar Waters, and with the national marine pollution prevention laws of the territories of those polar regions.

(2) Barbados ships operating in special areas other than the Antarctic and Arctic shall comply with the requirements of the International Convention for the Prevention of Marine Pollution from Ships, 1973 for ships operating in special areas and with the national marine pollution prevention laws of the territories of those special areas.

(3) Subject to subsections (4) and (6), if oil or an oily mixture is discharged from a ship into the sea and

*(a)* the discharge occurred into the territorial sea of Barbados;

*(b)* the discharge occurred into the territorial sea of Barbados while ship was trying to escape;

*(c)* the discharge occurred into the sea in the exclusive economic zone of Barbados; or

*(d)* the discharge occurred into the sea beyond the exclusive economic zone of Barbados and the ship is a Barbados ship,

the master, charterer and owner of the ship each commit an offence and are liable on conviction to a fine of $700 000.

(4) An offence under subsection (3) is a strict liability offence.

(5) Subsection (3) does not apply to the discharge of oil or of an oily mixture from a ship

*(a)* for the purpose of securing the safety of a ship or saving life at sea;

*(b)* if the oil or oily mixture escaped from the ship as a consequence of unintentional damage to the ship or her equipment and all reasonable precautions were taken after the occurrence of the damage or the discovery of the discharge to prevent or minimize the escape of oil or oily mixture;

*(c)* if the discharge of an oily mixture was for the purpose of combating specific pollution incidents in order to minimize the damage from pollution and was approved by a prescribed officer; or

*(d)* where the discharge occurred in the jurisdiction of the government of a country other than Barbados and was approved by that government.

(6) Subsection (3) does not apply to

*(a)* the discharge of oil or an oily mixture from a ship that is not within a special area and not in Arctic waters, if

(i) the ship has a gross tonnage of equal to or greater than 400 GT;

(ii) the ship is proceeding en route;

(iii) the oily mixture is processed using oil filtering equipment that meets the requirements under pollution certificates prescribed by regulation or a merchant shipping notice, including certificates relating to

(A) vessel construction or equipment;

(B) carriage of noxious liquid or oil;

(C) carriage of harmful substances in packaged form;

(D) sewage or garbage;

(E) air pollution or ozone depleting substances; or

(F) energy efficiency;

(iv) the oil content of the effluent without dilution does not exceed 15 parts in 1,000,000 parts; or

(v) the ship is an oil tanker, the oily mixture does not originate from the cargo pump room bilges of the ship and is not mixed with oil cargo residues;

*(b)* the discharge of oil or an oily mixture from a ship within a special area other than the Antarctic Area, if

(i) the ship has a gross tonnage of equal to or greater than 400;

(ii) the ship is proceeding en route;

(iii) the oily mixture is processed using oil filtering equipment meeting the requirements specified in subparagraph (4)*(a)*(iii);

(iv) the oil content of the effluent without dilution does not exceed 15 parts per 1,000,000 parts;

(v) if the ship is an oil tanker, the oily mixture does not originate from the cargo pump room bilges of the ship and is not mixed with oil cargo residues;

*(c)* the discharge of an oil or oily mixture from a ship within an area other than the Antarctic Area or Arctic waters, if

(i) the ship has a gross tonnage of less than 400 GT;

(ii) the ship is proceeding en route;

(iii) the ship has in operation equipment, of a kind that ensures that the oil content of the effluent without dilution does not exceed 15 parts in 1,000,000 parts; or

(iv) if the ship is an oil tanker, the oily mixture does not originate from the cargo pump room bilges of the ship and is not mixed with oil cargo residues;

*(d)* the discharge of oil or an oily mixture, other than washings contaminated with oil, from the cargo area of an oil tanker that is not within a special area and not in Arctic waters, if

(i) the tanker has a gross tonnage of 150 GT or more;

(ii) the tanker is more than 50 nautical miles from the nearest land;

(iii) the tanker is proceeding en route;

(iv) the instantaneous rate of discharge of oil content does not exceed 30 litres per nautical mile;

(v) the tanker is delivered on or before 31st December, 1979 and the total quantity of oil discharged into the sea does not exceed one part in 15,000 parts of the total quantity of the cargo of oil of which oil discharged formed a part;

(vi) the tanker is delivered after 31st December 1979 and the total quantity of oil discharged into the sea does not exceed one part in 30,000 of parts of the total quantity of the cargo of oil of which oil discharged formed a part; or

(vii) the tanker has in operation an oil discharge monitoring and control system and a slop tank arrangement;

*(e)* the discharge of washings contaminated with oil from an oil tanker that is not within a special area and not in Arctic waters, if

(i) the tanker is more than 50 nautical miles from the nearest land;

(ii) the tanker is proceeding en route;

(iii) the instantaneous rate of discharge of oil content does not exceed 30 litres per nautical mile;

(iv) the tanker is delivered on or before 31st December, 1979 and the total quantity of oil discharged into the sea does not exceed one part in 15,000 parts of the total quantity of the cargo of oil of which oil discharged formed a part;

(v) the tanker is delivered after 31st December, 1979 and the total quantity of oil discharged into the sea does not exceed one part in 30,000 parts of the total quantity of the cargo of oil of which oil discharged formed a part; or

(vi) the tanker has in operation an oil discharge monitoring and control system and a slop tank arrangement; or

*(f)* the discharge of oil or an oily mixture from the cargo area of an oil tanker, if the discharge is of clean or segregated ballast.

(7) For the purposes of subsection (5), damage to a ship or to her equipment

*(a)* is not unintentional damage if it arose in circumstances where the master, charterer or owner of the ship

(i) acted with intent to cause the damage; or

(ii) acted recklessly and with knowledge that the damage would probably result; and

*(b)* is not unintentional damage if it arose as a result of the negligence of the master, charterer or owner of the ship.

(8) A reference to an oily mixture in subsection (6) does not include an oily mixture that contains

*(a)* chemicals or other substances in quantities or concentrations that are hazardous to the marine environment; or

*(b)* chemicals or other substances that have been introduced for the purpose of attempting to prevent the application of subsection (3) to the discharge of an oily mixture from a ship.

(9) The master, charterer and owner of a ship that contravenes subsection (8) each commit an offence and are liable on summary conviction to a fine of $700 000.

**Discharge of oil residues into the sea**

**468.**(1) If

*(a)* an oil residue is discharged from a Barbados ship into the sea; and

*(b)* the discharge constitutes an offence under this Act or an offence under a law of a state or territory,

the master, charterer and owner of the ship each commit an offence and are liable on conviction to a fine of $700 000.

(2) An offence under subsection (1) is a strict liability offence.

**Carriage or use of heavy grade oil on Barbados ships in the Antarctic Area**

**469.**(1) The master or owner of a Barbados ship commits an offence if he

*(a)* carries heavy grade oil as cargo in bulk on the ship in the Antarctic Area;

*(b)* uses, or carries for use, heavy grade oil as fuel in the Antarctic Area; or

*(c)* uses heavy grade oil as ballast in the Antarctic Area.

(2) Subsection (1) does not apply to heavy grade oil that is carried or used as fuel, or used as ballast, on a Barbados ship for the purpose of securing the safety of a ship or saving life at sea.

(3) If a Barbados ship enters the Antarctic Area carrying heavy grade oil or using it as fuel or ballast, subsection (1) does not apply to any residue of the oil that is not cleaned or flushed from a tank or pipeline of the ship.

(4) An offence under subsection (1) is a strict liability offence.

(5) A person who commits an offence under subsection (1) is liable on summary conviction to a fine of $700 000.

**Carriage or use of heavy grade oil on Barbados ships in the Arctic**

**470.**(1) The master or owner of a Barbados ship commits an offence if, on or after 1st July, 2024 on the ship in the Arctic Area, the person

*(a)* carries heavy grade oil as cargo in bulk;

*(b)* uses, or carries for use, heavy grade oil as fuel; or

*(c)* uses heavy grade oil as ballast;

(2) Subsection (1) does not apply to heavy grade oil that is carried or used as fuel, or used as ballast, on a Barbados ship for the purpose of securing the safety of a ship or saving life at sea.

(3) If a Barbados ship enters the Arctic Area is carrying heavy grade oil or using it as fuel or ballast on the ship, subsection (1) does not apply to any residue of the oil that is not cleaned or flushed from a tank or pipeline of the ship.

(4) An offence under subsection (1) is a strict liability offence.

(5) A person who commits an offence under subsection (1) is liable on summary conviction to a fine of $700 000.

**Incidents involving oil or oily mixture**

**471.**(1) Where an incident involving oil or oily mixture occurs in relation to a ship, the master of the ship shall, without delay,

*(a)* notify the government of the territory in which the incident occurs, where the incident occurs in a foreign territory; and

*(b)* where the incident occurs in Barbados, notify

(i) the harbour master;

(ii) the port authority; or

(iii) any other prescribed officer.

(2) Subsection (1) does not apply in relation to a ship where the master was unable to comply.

(3) A person notified of an incident that occurs in Barbados shall report the incident by the quickest possible means to the Director, the Director for Environmental Protection Department and the Minister responsible for Health or his representative.

(4) The master of a ship who contravenes subsection (1) commits an offence and is liable on summary conviction to a fine of $150 000.

(5) Where an incident involving oil or oily mixture occurs and

*(a)* the master of the ship fails to comply with subsection (1), whether or not compliance was possible; or

*(b)* the incident occurs in circumstances in which the ship is abandoned,

the owner, charterer, manager or operator of the ship, or an agent of the owner, charterer, manager or operator shall, without delay, notify the entities referred to in subsection (1) of the incident.

(6) Subsection (5) does not apply to a person in relation to an incident involving oil or oily mixture if

*(a)* the person was not aware of the incident; or

*(b)* where the master of the ship failed to comply with subsection (1), the person did not know or suspect that the master of the ship had not complied that subsection.

(7) If the owner, charterer, manager or operator of the ship does not provide a notice required under subsection (5), each of those persons commits an offence and is liable on summary conviction to a fine of $150 000.

(8) An offence under subsection (5) is a strict liability offence.

(9) Subsection (8) shall not be construed to limit by implication any defence that would, but for that subsection, be available to a person charged with an offence under subsection (5).

(10) An entity to whom a notice is given under subsection (1) may require the master of the ship to provide, within the prescribed time, a report on the incident.

(11) A master who fails to provide a report required under subsection (10) is subject to the payment of an administrative penalty imposed under section 1485.

(12) A person who makes a statement that is false or misleading in any material particular in a report required under subsection (10) commits an offence and is liable on summary conviction to a fine of $200 000.

**Shipboard oil pollution emergency plan**

**472.**(1) This section applies to

*(a)* a Barbados ship, whether or not it is an oil tanker, that is 400 GT or above; and

*(b)* a Barbados ship that is an oil tanker that is less than 400 GT but not less than 150 GT.

(2) The master and the owner of a ship referred to in subsection (1) shall ensure that a shipboard oil pollution emergency plan, written in the working language of the master and the officers on board the ship, is kept on board the ship.

(3) A shipboard oil pollution emergency plan shall be in the prescribed form and include

*(a)* the procedure to be followed by the master of the ship, or any other person having charge of it, in notifying an incident involving oil and oily mixtures in relation to the ship;

*(b)* a list of the authorities or persons who are to be notified if an incident involving oil and oily mixtures occurs in relation to the ship;

*(c)* a detailed description of the action to be taken, immediately after an incident involving oil and oily mixtures, by persons on board the ship to reduce or control any discharge from the ship resulting from the incident; and

*(d)* the procedures to be followed for co-ordinating with the authorities or persons who have been contacted, any action taken in combating the pollution caused by the incident and, in particular, the person on board the ship through whom all communications are to be made.

(4) If a ship to which this section applies does not have on board a shipboard oil pollution emergency plan, the master of the ship and the owner of the ship each commit an offence and are liable on summary conviction to a fine of $10 000.

(5) An offence under subsection (4) is an offence of strict liability.

**Transfer of oil cargo between oil tankers**

**473.** A transfer of oil cargo between oil tankers shall be done in accordance with a ship’s ship-to-ship operations plan approved by the Administration or a recognized organization.

**Content of plan**

**474.**(1) A ship-to-ship operations plan shall contain

*(a)* information about

(i) the vessel;

(ii) conditions that apply to the vessel;

(iii) methods of communication;

(iv) equipment to be used;

(v) procedures for safety and emergencies;

(vi) operational preparations before manoeuvring;

(vii) performance of cargo transfer operations;

(viii) manoeuvring and unmooring;

(ix) reporting procedures; and

*(b)* the following documents:

(i) the vessel interest contact list;

(ii) checklists;

(iii) a general arrangement plan;

(iv) a cargo tank arrangement plan and capacities;

(v) a cargo handling system plan;

(vi) an anchor handling and mooring arrangement plan; and

(vii) a record of ship-to-ship operations.

(2) For the purposes of this section, a ship-to-ship operations plan for an oil tanker shall be

*(a)* if the oil tanker is a Barbados ship,

(i) in the prescribed form; and

(ii) written in the working language of the master of, and the officers on board, the oil tanker; or

*(b)* in any other case, a plan referred to in paragraph 1 of Regulation 41 of Annex I to the International Convention for the Prevention of Marine Pollution from Ships, 1973.

(3) The master of an oil tanker with a gross tonnage of 150 GT or more that is engaged in the transfer of oil cargo with another oil tanker with a gross tonnage of 150 GT or more commits an offence if the transfer is not in accordance with the oil tanker's ship-to-ship operations plan and

*(a)* the transfer occurs while the oil tanker is in the territorial sea of Barbados;

*(b)* the transfer occurs while the oil tanker is in the exclusive economic zone of Barbados; or

*(c)* the transfer occurs while the oil tanker is beyond the exclusive economic zone of Barbados and the oil tanker is a Barbados ship.

(4) Subsection (3) does not apply if the transfer is one described in paragraph 2, 3, 4 or 5 of Regulation 40 of Annex I to the International Convention for the Prevention of Marine Pollution from Ships, 1973.

(5) A master who commits an offence under subsection (3) is liable on summary conviction to a fine of $75 000.

**Transfer of oil cargo between oil tankers in Barbados waters**

**475.**(1) A person appropriately qualified to perform the task shall be in control when a transfer of oil cargo between oil tankers in Barbados waters is taking place.

(2) Subsection (1) does not apply if the transfer is one described in paragraph 2, 3, 4 or 5 of Regulation 40 of Annex I to the International Convention for the Prevention of Marine Pollution from Ships, 1973.

(3) An offence under subsection (1) is a strict liability offence.

(4) A person who has overall advisory control of the transfer from an oil tanker with a gross tonnage of 150 GT or more to another oil tanker that has a gross tonnage of 150 GT or more in the territorial sea of Barbados or in the exclusive economic zone of Barbados shall be

*(a)* the master of either oil tanker; or

*(b)* a person who satisfies the qualification requirements prescribed by the regulations.

(5) A person who contravenes subsection (1) or (4) commits an offence and is liable on summary conviction to a fine of $75 000.

**Transfer of oil cargo involving a Barbados ship**

**476.**(1) A Barbados ship engaged in the transfer of oil cargo shall carry a ship-to-ship operations plan on board if

*(a)* the ship has a gross tonnage of 150 GT or more; and

*(b)* the ship is engaged in the transfer of oil cargo with another vessel that has a gross tonnage of 150 GT or more.

(2) The master and owner of a ship that contravenes subsection (1) each commit an offence and are liable on summary conviction to a fine of $75 000.

(3) For the purposes of this section, a ship-to-ship operations plan for an oil tanker is a plan

*(a)* that is in accordance with the prescribed form; and

*(b)* that is written in the working language of the master of, and the officers on board, the ship.

(4) Subsection (1) does not apply to a transfer described in paragraph 2, 3, 4 or 5 of Regulation 40 of Annex I to the International Convention for the Prevention of Marine Pollution from Ships, 1973.

**Record of transfer of oil cargo**

**477.**(1) The master of a Barbados ship referred to in section 476(1) shall make a record of the transfer as soon as is practicable in the circumstances and retain it.

(2) A person who does not make a record of the transfer under subsection (1) is subject to the payment of an administrative penalty imposed under section 476.

(3) The master and the owner of a Barbados ship referred to in section 476(1) each commit an offence if

*(a)* a ship-to-ship record of the transfer is not retained on board the ship for 3 years after the day the record is made; or

*(b)* a ship-to-ship record of the transfer is not readily available for inspection by an authorized officer at all reasonable times during that period.

(4) A person who commits an offence under subsection (3) is liable on summary conviction to a fine of $10 000.

(5) An offence under subsection (3) is a strict liability offence.

(6) Subsections (1) and (3) do not apply to a transfer described in paragraph 2, 3, 4 or 5 of Regulation 40 of Annex I to the International Convention for the Prevention of Marine Pollution from Ships, 1973.

**Notification of transfer of oil cargo in Barbados Waters**

**478.**(1) The master of a Barbados oil tanker with a gross tonnage of 150 GT or more who proposes to engage in the transfer of oil cargo with another oil tanker that has a gross tonnage of 150 GT or more shall notify a prescribed officer if

*(a)* the transfer is to occur while the oil tanker is in the territorial sea of Barbados; or

*(b)* the transfer is to occur while the oil tanker is in the exclusive economic zone of Barbados.

(2) The master of a Barbados oil tanker referred to in subsection (1) shall notify a prescribed officer of the ship-to-ship transfer information at least 48 hours before the transfer is to begin, if the information is available at that time.

(3) If the ship-to-ship transfer information was not available to the person at least 48 hours before the transfer is to begin, the master shall notify a prescribed officer of the transfer at least 48 hours before the transfer is to begin.

(4) A master who fails to provide a notice in accordance with subsections (1) to (3) commits and offence and is liable on summary conviction to a fine of $7 000.

(5) Where the master of an oil tanker referred to in subsection (1) has notified a prescribed officer of a transfer and provided the ship-to-ship transfer information in accordance with subsection (2) and the estimated time of arrival of the oil tanker at the location for the transfer changes by more than 6 hours, the master shall notify the prescribed officer of the new estimated time of arrival within 2 hours of becoming aware of the new estimated time of arrival.

(6) A master who contravenes subsection (5) commits an offence and is subject to the payment of an administrative penalty imposed under section 1485.

(7) An offence under subsection (5) is a strict liability offence.

(8) This section does not apply to a transfer described in paragraph 2, 3, 4 or 5 of Regulation 40 of Annex I to the International Convention for the Prevention of Marine Pollution from Ships, 1973.

**Transfer of oil cargo outside Barbados waters**

**479.**(1) The master of a Barbados oil tanker with a gross tonnage of 150 GT or more who proposes to engage in the transfer of oil cargo with another oil tanker that has a gross tonnage of 150 GT or more shall, if the transfer is to occur while the oil tanker is in the territorial sea of a foreign country that is a party to the International Convention for the Prevention of Marine Pollution from Ships, 1973, or in the exclusive economic zone of a foreign country that is a party to that Convention, notify the government of that foreign country.

(2) The master of a Barbados oil tanker referred to in subsection (1) shall notify the government of the foreign country of the ship-to-ship transfer information at least 48 hours before the transfer is to begin, if the information is available at that time.

(3) If the ship-to-ship transfer information was not available to the person at least 48 hours before the transfer is to begin, the master shall notify the government of the foreign country of the transfer at least 48 hours before the transfer is to begin.

(4) A master who fails to provide a notice in accordance with subsections (1) to (3) commits an offence and is subject to the payment of an administrative penalty imposed under section 1485.

(5) Where the master of an oil tanker referred to in subsection (1) has notified the government of the foreign country of a transfer and provided the ship-to-ship transfer information in accordance with subsection (2) and the estimated time of arrival of the oil tanker at the location for the transfer changes by more than 6 hours, the master shall notify the government of the foreign country of the new estimated time of arrival within 2 hours of becoming aware of the new estimated time of arrival.

(6) A master who contravenes subsection (5) commits an offence and is liable on summary conviction to a fine of $10 000.

(7) This section does not apply to a transfer described in paragraph 2, 3, 4 or 5 of Regulation 40 of Annex I to the International Convention for the Prevention of Marine Pollution from Ships, 1973.

**Restriction on transfer of oil at night**

**480.**(1) No oil shall be transferred between sunset and sunrise to or from a vessel in any port unless notice has been given in accordance with this section or the transfer is for the purposes of a fire brigade.

(2) Notice may be given to the harbour master of a port that transfers of oil between sunset and sunrise will be frequently carried out at a place in the port within a period ending not later than 12 months after the date on which the notice is given.

(3) Where a port has no harbour master, a notice under subsection (2) may be given to the port authority.

(4) A notice for the purposes of this section shall be given not less than 3 hours nor more than 96 hours before the transfer of oil is to begin.

(5) Where any oil is transferred to or from a vessel in contravention of this section, the master of the vessel and, if the oil is transferred from or to a place on land, the occupier of that place, commit an offence and are liable on summary conviction to a fine of $50 000.

**Oil record book**

**481.**(1) Every Barbados ship that is an oil tanker and every Barbados ship with a gross tonnage of 400 GT and above shall carry an oil record book on the ship.

(2) An oil record book shall be in the prescribed form.

(3) Where a ship referred to in subsection (1) does not carry an oil record book, the master and the owner of the ship each commit an offence and are liable on summary conviction to a fine of $10 000.

(4) An offence under subsection (3) is a strict liability offence.

(5) Whenever a prescribed operation or an occurrence involving oil and oily mixtures is carried out or occurs in, or in relation to, a ship referred to in subsection (1), the master of the ship shall make appropriate entries without delay in the ship's oil record book

*(a)* in the English language; and

*(b)* signed by the officer in charge of the prescribed operation or occurrence.

(6) Where a page of a ship's oil record book is completed, the master of the ship shall, without delay, sign the page.

(7) The master of a ship who contravenes subsections (5) or (6) commits an offence and is subject to the payment of an administrative penalty imposed under section 1485.

**False entries in oil record book**

**482.**(1) A person shall not make an entry that is false or misleading in a material particular in an oil record book of a ship to which section 481 applies.

(2) A person who contravenes subsection (1) commits an offence and is liable on summary conviction to a fine of $200 000.

**Oil record book to be retained**

**483.**(1) An oil record book of a ship referred to in section 481 shall be retained in the ship for a period of one year after the day on which the last entry was made in the book and shall be made available for inspection at all reasonable times.

(2) Where an oil record book is not retained in a ship in accordance with subsection (1), the master and the owner of the ship each commit an offence and

are subject to the payment of an administrative penalty imposed under section 1485.

(3) An offence under subsection (2) is a strict liability offence.

(4) The owner of a ship referred to in section 481 shall retain each of the ship's oil record books

*(a)* in the ship; or

*(b)* at the registered office of the owner,

for a period of 2 years following the expiration of the period during which the book is required to be retained in the ship by virtue of subsection (1) and shall make it available for inspection at all reasonable times.

(5) An owner who contravenes subsection (4) commits an offence and is subject to the payment of an administrative penalty imposed under section 1485.

(6) If the owner of a ship referred to in section 481 who resides in Barbados, or has an office or agent in Barbados, provides a notice in writing to a prescribed officer setting out the address of

*(a)* the place at which he resides;

*(b)* his office in Barbados or, if he has more than one office in Barbados, his principal office in Barbados; or

*(c)* the office or place of residence of his agent or, if his agent has more than one office in Barbados, the principal office in Barbados of his agent,

that place or office is to be considered as the registered office of the owner of the ship for the purposes of subsection (4).

(7) Where the owner of a ship referred to in section 481 does not reside in Barbados and does not have an office or agent in Barbados, the owner may deposit an oil record book of the ship with a prescribed officer and, while the book is so deposited, the book shall, for the purposes of subsection (4), be deemed to be retained at the registered office of the owner.

**Power to require discharge of oil or oily mixture**

**484.**(1) A prescribed officer may require the owner or master of a ship, by written notice, to discharge, within a specified period, a specified quantity of oil or of an oily mixture from the ship to a specified facility that is suitable to receive the oil or oily mixture, if the officer has reason to believe that retention of the oil or oily mixture would create a risk of discharge from the ship into the sea.

(2) The owner or master of a ship to whom a notice is given under subsection (1) shall comply with the notice.

(3) Foreign ships calling at national seaports shall comply with this Act and any of its statutory instruments in relation to discharges of oil and oily mixtures.

*Division 3*

*International Convention for the Prevention of Marine Pollution from Ships, 1973, Annex II*

**Prevention of pollution from ships: noxious liquid substances in bulk**

**485.** Annex II of the International Convention for the Prevention of Marine Pollution from Ships, 1973, entitled Noxious Liquid Substances in Bulk of the International Convention for the Prevention of Pollution from Ships (73/78), shall have the force of law in Barbados.

**Definitions**

**486.**(1) In sections 453 to 464,

"Annex II" means Annex II to the International Convention for the Prevention of Marine Pollution from Ships, 1973;

"mixture" includes ballast water, tank washings and other residues;

"oil" means crude oil, fuel oil, diesel oil or lubricating oil;

"Procedures and Arrangements Manual" means a manual in the prescribed form that contains the matters set out in appendix 4 of Annex II.

(2) Except in so far as the contrary intention appears, an expression that is used in this Part and in Annex II, whether or not a particular meaning is assigned to it by that Annex, has the same meaning in this Part as in that Annex.

**Application**

**487.** Where a mixture contains oil and a liquid substance or oil and liquid substances, sections 427 to 464 apply in relation to the mixture.

**Carriage of substances that are un-categorized or not provisionally assessed**

**488.**(1) A person who engages in negligent conduct that results in a liquid substance, or a mixture containing a liquid substance, being carried as cargo or part cargo in bulk on a Barbados ship in any waters commits an offence if

*(a)* the substance has not been categorized in accordance with regulation 6.1 of Annex II; and

*(b)* the substance has not been provisionally assessed in accordance with regulation 6.3 of Annex II.

(2) The master and the owner of a Barbados ship that carries a liquid substance, or a mixture containing a liquid substance, as cargo or part cargo in bulk on the ship in any waters each commit an offence if

*(a)* the substance has not been categorized in accordance with regulation 6.1 of Annex II; and

*(b)* the substance has not been provisionally assessed in accordance with regulation 6.3 of Annex II.

(3) An offence under subsection (1) or (2) is a strict liability offence.

(4) A person who commits an offence under subsection (1) or (2) is liable on summary conviction to a fine of $75 000.

**Discharge of substances into the sea**

**489.**(1) A person who recklessly or negligently engages in conduct that causes a discharge of a liquid substance, or of a mixture containing a liquid substance, carried as cargo or part cargo in bulk from a ship into the sea in any waters commits an offence and is liable on summary conviction to a fine of $550 000.

(2) An offence under subsection (1) is a strict liability offence.

(3) Subject to subsections (5) and (8) to (19), if a liquid substance, or a mixture containing a liquid substance, carried as cargo or part cargo in bulk was discharged from a ship in any waters, the master and the owner of the ship each commit an offence and are liable on summary conviction to a fine of $700 000.

(4) An offence under subsection (3) is a strict liability offence.

(5) Subsection (3) does not apply to the discharge of a liquid substance or mixture from a ship

*(a)* for the purpose of securing the safety of the ship or saving life at sea;

*(b)* if the substance or the mixture escaped from the ship as a result of non-intentional damage to the ship or her equipment and all reasonable precautions were taken after the occurrence of the damage or the discovery of the discharge to prevent or minimize the escape of the substance or the mixture; or

*(c)* if the discharge was for the purpose of combating a specific pollution incident in order to minimize the damage from pollution and was approved by a prescribed officer and, where the discharge occurred in the jurisdiction of the government of a country other than Barbados, by that government.

(6) For the purposes of subsection (5), damage to a ship or to her equipment is not non-intentional damage if the damage

*(a)* arose in circumstances where the master or owner of the ship

(i) acted with intent to cause the damage; or

(ii) acted recklessly and with knowledge that the damage would probably result; or

*(b)* arose as a result of the negligence of the master or owner of the ship.

(7) In subsections (8) to (11), "Category X", in relation to a substance, means a noxious liquid substance that, if discharged into the sea from tank cleaning or deballasting operations, would present a major hazard to marine resources or human health.

(8) Subject to subsection (19), subsection (3) does not apply to the discharge from a ship of the water containing residue if

*(a)* the tank of a ship that held a substance in Category X or a mixture containing a substance in Category X has been

(i) emptied to the maximum extent in accordance with procedures in the Procedures and Arrangements Manual; and

(ii) washed in accordance with Annex II;

*(b)* the resulting residues in the tank have been discharged to a reception facility until the concentration of that substance in the effluent to that facility is, in the opinion of an authorized officer, at or below the residual concentration prescribed for that substance in regulation 13.6.1 of Annex II and until the tank is empty;

*(c)* the residue then remaining in the tank has been subsequently diluted with water;

*(d)* the discharge is made when the ship is proceeding en route at a speed of

(i) at least 7 knots, if the ship is self-propelled; or

(ii) at least 4 knots, if the ship is not self-propelled;

*(e)* the discharge is made below the ship's waterline through the ship's underwater discharge outlets at a rate not exceeding the maximum rate for which each underwater discharge outlet is designed; and

*(f)* the discharge is made when the ship is at least 12 nautical miles from the nearest land and is in water at least 25m deep.

(9) In subsections (10) and (11), "Category Y", in relation to a substance, means a noxious liquid substance that, if discharged into the sea from tank cleaning or deballasting operations, would present a hazard to either marine resources or human health or cause harm to amenities or other legitimate uses of the sea.

(10) Subject to subsection (19), subsection (3) does not apply to the discharge into the sea of the water containing residue from the tank of a ship that held a high-viscosity or solidifying substance in Category Y or a mixture containing a high-viscosity or solidifying substance in Category Y, other than a mixture containing a substance in Category X if

*(a)* the tank has been emptied to the maximum extent in accordance with procedures in the Procedures and Arrangements Manual;

*(b)* the tank has been washed in accordance with Annex II;

*(c)* the resulting residues in the tank have been discharged to a reception facility until the tank is empty;

*(d)* the residue then remaining in the tank has been subsequently diluted with water;

*(e)* the discharge is made when the ship is proceeding en route at a speed of

(i) at least 7 knots, if the ship is self-propelled; or

(ii) at least 4 knots, if the ship is not self-propelled;

*(f)* the discharge is made below the ship's waterline through the ship's underwater discharge outlets at a rate not exceeding the maximum rate for which each underwater discharge outlet is designed; and

*(g)* the discharge is made when the ship is at least 12 nautical miles from the nearest land and is in water at least 25m deep.

(11) Subject to subsection (19), subsection (3) does not apply to the discharge into the sea of any residue of a substance or mixture from a tank of a ship that held a substance in Category Y other than a substance referred to in subsection (10) or a mixture containing a substance in Category Y other than a substance referred to in subsection (10) or a mixture containing a substance in Category X if

*(a)* the tank has been emptied to the maximum extent in accordance with the procedures in the Procedures and Arrangements Manual;

*(b)* the discharge is made when the ship is proceeding en route at a speed of

(i) at least 7 knots, if the ship is self-propelled; or

(ii) at least 4 knots, if the ship is not self-propelled;

*(c)* the discharge is made below the ship's waterline through the ship's underwater discharge outlets at a rate not exceeding the maximum rate for which each underwater discharge outlet is designed; and

*(d)* the discharge is made when the ship is at least 12 nautical miles from the nearest land and is in water at least 25m deep.

(12) In sections (13) to (15), "Category Z", in relation to a substance, means a noxious liquid substance that, if discharged into the marine environment from

tank cleaning or deballasting operations, would present a minor hazard to marine resources or human health.

(13) Subject to subsection (19), subsection (3) does not apply to the discharge into the sea of any residue of a substance or mixture from a ship constructed before 1st January 2007 if

*(a)* the ship's tank held a substance in Category Z or a mixture containing a substance in Category Z;

*(b)* the tank has been emptied to the maximum extent in accordance with the procedures in the Procedures and Arrangements Manual;

*(c)* the discharge is made when the ship is proceeding en route at a speed of

(i) at least 7 knots, if the ship is self-propelled; or

(ii) at least 4 knots, if the ship is not self-propelled; and

*(d)* the discharge is made when the ship is at least 12 nautical miles from the nearest land and is in water at least 25m deep.

(14) Subject to subsection (19), subsection (3) does not apply to the discharge into the sea of any residue of a substance or mixture from a ship constructed on or after 1st January 2007 if

*(a)* the ship's tank held a substance in Category Z or a mixture containing a substance in Category Z;

*(b)* the tank has been emptied to the maximum extent in accordance with the procedures in the Procedures and Arrangements Manual;

*(c)* the discharge is made when the ship is proceeding en route at a speed of

(i) at least 7 knots, if the ship is self-propelled; or

(ii) at least 4 knots, if the ship is not self-propelled;

*(d)* the discharge is made below the ship's waterline through the ship's underwater discharge outlets at a rate not exceeding the maximum rate for which each underwater discharge outlet is designed;

*(e)* the discharge is made when the ship is at least 12 nautical miles from the nearest land; and

*(f)* the discharge is made when the ship is in water at least 25m deep.

(15) On an application to the Administration in the prescribed form, the Administration may waive the condition in paragraph (14)*(e)*.

(16) The Authority shall give written notice to the applicant of a waiver granted under subsection (15), specifying the ship, the substance in Category Z and the voyage for which the condition is waived.

(17) Subsection (3) does not apply to the discharge from a ship of bilge water, or of a mixture resulting from tank cleaning or de-ballasting operations, that contains one or more liquid substances referred to in regulation 6.1.4 of Annex II but does not contain any other liquid substance.

(18) Subsection (3) does not apply to the discharge from a ship of clean ballast or segregated ballast.

(19) Subsections (8) to (15) do not apply in relation to a mixture that contains a liquid substance that is not a noxious liquid substance or a liquid substance referred to in regulation 6.1.4 of Annex II.

(20) Subsections (8) to (15) do not apply to the discharge from a ship of a noxious liquid substance, or a mixture containing a noxious liquid substance, in the Antarctic Area or Arctic waters.

(21) Barbados ships carrying noxious liquid substances in bulk that are operating in the Antarctic Area or Arctic Waters shall comply with the International Code for Ships Operating in Polar Waters.

**Procedures and Arrangements Manual**

**490.**(1) The master and the owner of a Barbados ship in respect of which a chemical tanker construction certificate is in force each commit an offence if the ship does not have on board a copy of the Procedures and Arrangements Manual written in English.

(2) The master and the owner of a foreign ship in respect of which a chemical tanker construction certificate is in force each commit an offence if the ship does not have on board

*(a)* a copy of the Procedures and Arrangements Manual written in an official language of the country whose flag the ship is entitled to fly; and

*(b)* if that language is not English, Spanish or French, a translation of the Procedures and Arrangements Manual into one of those languages.

(3) A person who commits an offence under subsection (1) or (2) is subject to the payment of an administrative penalty imposed under section 1485.

(4) An offence under subsection (1) or (2) is a strict liability offence.

**Duty to report incidents**

**491.**(1) Where an incident involving noxious liquid substances occurs in relation to a ship, the master of the ship shall, without delay,

*(a)* where the incident occurs in a foreign territory, notify the government of the territory of the incident; and

*(b)* where the incident occurs in Barbados, notify the harbour master, port authority. or other prescribed officer.

(2) Subsection (1) does not apply if the master of the ship was unable to comply with the subsection.

(3) A person or authority to whom an incident is reported under subsection (1) shall report the incident by the quickest possible means to the Director, the

Director for Environmental Protection Department and the Minister responsible for Health or his representative.

(4) A person who contravenes subsection (1) commits an offence and is liable on summary conviction to a fine of $150 000.

(5) Where an incident involving noxious liquid substances occurs in relation to a ship, the owner, charterer, manager or operator of the ship or an agent of the owner, charterer, manager or operator of the ship shall, without delay, provide a notice of the incident under subsection (2) if

*(a)* the master of the ship fails or is unable to comply with subsection (1); or

*(b)* the incident occurs in circumstances in which the ship is abandoned.

(6) A notice under subsection (5) shall be provided

*(a)* where Barbados is the nearest coastal state to the place where the incident occurred, to a prescribed officer; or

*(b)* where a foreign country is the nearest coastal state to that place, to the government of that foreign country.

(7) If a prescribed officer or a government, as the case may be, is not notified under subsection (5), each of the persons referred to in that subsection commits an offence and is liable on summary conviction to a fine of $150 000.

(8) Subsection (7) does not apply to a person in relation to an incident involving noxious liquid substances in bulk if

*(a)* the person was not aware of the incident; or

*(b)* in the case of an incident to which paragraph (1)*(a)* applies, the person neither knew nor suspected that the master of the ship had not complied with subsection (1) in relation to the incident.

(9) Subsection (8) shall not be taken to limit by implication any defence that would, but for that subsection, be available to a person charged with an offence under subsection (7).

(10) An offence under subsection (7) is a strict liability offence.

(11) A person who has notified a prescribed officer or a government of the occurrence of an incident under subsection (1) or (5) in relation to an incident involving noxious liquid substance in bulk shall, if so requested by the prescribed officer or that government, provide, within the prescribed time, a report in the prescribed form to the prescribed officer or that government in relation to the incident.

(12) A person who fails to provide a report requested under subsection (11) commits an offence and is subject to the payment of an administrative penalty imposed under section 1485.

(13) A person who, in a notice given to a prescribed officer or a government under subsection (1) or in a report furnished to a prescribed officer or a government under subsection (5), makes a statement that is false or misleading in a material particular commits an offence and is liable on summary conviction to a fine of $200 000.

**Shipboard marine pollution emergency plan for noxious liquid substances**

**492.**(1) On every Barbados ship that is 300 GT and above in respect of which there is in force a chemical tanker construction certificate there shall be kept on board a shipboard marine pollution emergency plan for noxious liquid substances, written in the working language of the master and the officers on board the ship.

(2) A shipboard marine pollution emergency plan for noxious liquid substances shall be in the prescribed form and include the following particulars:

*(a)* the procedures to be followed by the master of the ship, or by any other person having charge of the ship, in notifying of an incident involving noxious liquid substances in bulk in relation to the ship;

*(b)* a list of the authorities or persons that are to be notified by persons on the ship if an incident occurs in relation to the ship;

*(c)* a detailed description of the action to be taken, immediately after a prescribed incident, by persons on board the ship to reduce or control any discharge from the ship resulting from the incident;

*(d)* the procedures to be followed for coordinating with the authorities or persons who have been contacted in Barbados or in a country near to the place where the incident occurred;

*(e)* actions to be taken in combating the pollution caused by the incident; and

*(f)* the person on board the ship through whom all communications are to be made.

(3) If a ship does not have on board a shipboard marine pollution emergency plan for noxious liquid substances, the master of the ship and the owner of the ship each commit an offence and are liable on summary conviction to a fine of $10 000.

(4) An offence under subsection (3) is a strict liability offence.

**Cargo record book**

**493.**(1) A cargo record book shall be carried in every Barbados ship that carries liquid substances in bulk.

(2) A cargo record book shall be in the prescribed form.

(3) The master and the owner of a ship that does not comply with subsection (1) each commit an offence and are liable on summary conviction to a fine of $10 000.

(4) An offence under subsection (3) is a strict liability offence.

(5) Whenever a prescribed operation or occurrence involving noxious liquid substances in bulk is carried out or occurs in, or in relation to, a Barbados ship that carries liquid substances in bulk, the master of the ship shall make, without delay, appropriate entries in the ship’s cargo record book in accordance with subsection (7).

(6) Where an authorized officer or a person authorized by the government of a country other than Barbados that is a party to the International Convention for the Prevention of Marine Pollution from Ships, 1973 to supervise any operations under Annex II, has inspected a Barbados ship that carries liquid substances in bulk, he shall make, without delay, appropriate entries in the ship's cargo record book in the English language.

(7) An entry made in relation to a prescribed operation shall be signed by the officer or other person in charge of the operation.

(8) Where a page of a ship's cargo record book is completed, the master of the ship shall, without delay, sign the page.

(9) A person who contravenes subsection (5), (6), (7) or (8) commits an offence and is subject to the payment of an administrative penalty imposed under section 1485.

(10) A person who makes an entry that is false or misleading in a material particular in a cargo record book under this section commits an offence and is liable on summary conviction to a fine of $200 000.

**Cargo record book to be retained**

**494.**(1) A cargo record book of a Barbados ship that carries liquid substances in bulk shall be retained in the ship for a period of one year after the day on which the last entry was made in the book and shall be readily available for inspection at all reasonable times.

(2) Where a cargo record book is not retained in a ship in accordance with subsection (1), the master and the owner of the ship each commit an offence and are subject to the payment of an administrative penalty imposed under section 1485.

(3) An offence under subsection (2) is a strict liability offence.

(4) The owner of a Barbados ship that carries liquid substances in bulk shall retain each of the ship's cargo record books in the ship or at the registered office of the owner for a period of 2 years following the expiration of the period during

which the book is required to be retained in the ship under subsection (1) and make it readily available for inspection at all reasonable times.

(5) An owner who contravenes subsection (4) commits an offence and is subject to the payment of an administrative penalty imposed under section 1485.

(6) If the owner of a Barbados ship that carries liquid substances in bulk who resides in Barbados, or has an office or agent in Barbados, provides to a prescribed officer notice in writing of the address of

*(a)* the place at which he resides;

*(b)* his office in Barbados or, if he has more than one office in Barbados, his principal office in Barbados; or

*(c)* the office or place of residence of his agent or, if his agent has more than one office in Barbados, the principal office in Barbados of his agent,

that place or office is to be considered as the registered office of the owner of the ship for the purposes of subsection (4).

(7) Where the owner of a Barbados ship that carries liquid substances in bulk does not reside in Barbados and does not have an office or agent in Barbados, the owner may deposit a cargo record book of the ship with a prescribed officer and, while the book is so deposited, the book shall, for the purposes of subsection (4), be deemed to be retained at the registered office of the owner.

**Cleaning of ships' tanks**

**495.** Ships' tanks shall be cleaned in accordance with regulations 13 and 16 of the International Convention for the Prevention of Marine Pollution from Ships, 1973, Annex II.

**Power to require discharge of liquid substance or mixture**

**496.**(1) If a prescribed officer has reason to believe that retention of the liquid substance or mixture containing a liquid substance would create a risk of

discharge from the ship into the sea, the officer may, by a notice in writing, require the owner or master of a ship to discharge a specified quantity of the liquid substance or mixture from the ship within a specified period to a specified facility that is suitable to receive that quantity of the substance or mixture.

(2) The owner or master of a ship to whom a notice is given under subsection (1) shall comply with the notice.

(3) Foreign ships calling at national seaports shall comply with this Act and any of its statutory instruments in relation to discharges of noxious liquid substances.

**Compliance with IBC and BCH Codes**

**497.**(1) A Barbados ship constructed on or after 1st July, 1986 that is carrying noxious liquid substances in bulk shall comply with the requirements specified in the International Bulk Chemical Code.

(2) A Barbados ship constructed before 1st July, 1986 that is carrying noxious liquid substances in bulk shall comply with the requirements specified in the Code of Construction and Equipment of Ships Carrying Dangerous Chemicals in Bulk.

*Division 4*

*International Convention for the Prevention of Marine Pollution from Ships, 1973, Annex III*

**Prevention of pollution from ships by harmful substances in packaged form**

**498.** Annex III of the International Convention for the Prevention of Marine Pollution from Ships, 1973, entitled Harmful Substances in Packaged Form of the International Convention for the Prevention of Pollution from Ships (73/78), shall have the force of law in Barbados.

**Definitions**

**499.**(1) In this Division,

"harmful substance" means a substance that

*(a)* is identified as a marine pollutant in the International Maritime Dangerous Goods Code; or

*(b)* meets the criteria in the Appendix of Annex III to the International Convention for the Prevention of Marine Pollution from Ships, 1973; and

"packaged form" means a form of containment specified for harmful substances in the International Maritime Dangerous Goods Code.

(2) Except in so far as the contrary intention appears, an expression that is used in this Division has the same meaning as in Annex III to the International Convention for the Prevention of Marine Pollution from Ships, 1973, whether or not a particular meaning is assigned to it by that Annex.

**Discharge or jettisoning of harmful substances**

**500.**(1) A person who recklessly or negligently causes a harmful substance carried as cargo in packaged form to be jettisoned

*(a)* from a ship into the territorial sea of Barbados;

*(b)* from a ship into the territorial sea of Barbados and the ship is thereafter such jettisoning, in the contiguous zone of Barbados;

*(c)* from a ship into the sea in the exclusive economic zone of Barbados; or

*(d)* from a Barbados ship into the sea beyond the exclusive economic zone of Barbados,

commits an offence and is liable on summary conviction to fine of $250 000.

(2) Where a harmful substance referred to in subsection (1) is discharged from a ship into the sea because of a leakage of the substance, the substance shall, for the purposes of this section, be taken to have been jettisoned, unless

*(a)* the substance was washed overboard from the ship in accordance with regulations or orders made pursuant to regulations; or

*(b)* the substance was washed overboard from the ship in circumstances where compliance with such regulations or orders would have impaired the safety of the ship or of persons on board the ship.

(3) Subsection (1) does not apply to the jettisoning of a harmful substance from a ship for the purpose of securing the safety of the ship or saving life at sea.

(4) The master and owner of a ship in respect of which an offence is committed under subsection (1) each commit an offence and are liable on summary conviction to a fine of $500 000.

(5) An offence of subsection (4) is a strict liability offence.

**Duty to report incidents involving harmful substances**

**501.**(1) Where a prescribed incident occurs in relation to a ship, the master of the ship shall, without delay,

*(a)* where the incident occurs in a foreign territory, notify the government of the territory of the incident; and

*(b)* where the incident occurs in Barbados, notify the harbour master, port authority or other prescribed officer.

(2) Subsection (1) does not apply in respect of an incident involving harmful substances in packaged form if the master of the ship was unable to comply with the subsection.

(3) A person or authority who is notified of an incident under subsection (1) shall report the incident by the quickest possible means to the Director, the Director for Environmental Protection Department and the Minister responsible for Health or his representative.

(4) A person who contravenes subsection (1) commits an offence and is liable on summary conviction to a fine of $150 000.

(5) Where an incident involving harmful packaged substances occurs in relation to a ship, the owner, charterer, manager or operator of the ship, or an agent of the owner, charterer, manager or operator, shall, without delay, provide a notice of the incident under subsection (2) if

*(a)* the master of the ship fails or is unable to comply with subsection (1); or

*(b)* the incident occurs in circumstances in which the ship is abandoned.

(6) A notice under subsection (5) shall be provided

*(a)* where Barbados is the nearest coastal state to the place where the incident occurred, to a prescribed officer; or

*(b)* where a foreign country is the nearest coastal state to that place, to the government of that country.

(7) If a prescribed officer or a government, as the case may be, is not notified under subsection (5), each of those persons commits an offence and is liable on summary conviction to a fine of $150 000.

(8) Subsection (7) does not apply to a person in relation to an incident involving harmful substances if

*(a)* the person was not aware of the incident; or

*(b)* in the case of an incident to which subsection (5) applies, the person neither knew nor suspected that the master of the ship had not complied with subsection (1) in relation to the incident.

(9) An offence of subsection (7) is a strict liability offence.

(10) Subsection (9) shall not be taken to limit by implication any defence that would, but for that subsection, be available to a person charged with an offence under subsection (7).

(11) A person who has notified a prescribed officer or a government of the occurrence of an incident under subsection (1) or (5) shall, if so requested by the prescribed officer or that government, provide, within the prescribed time, a report to a prescribed officer or that government in relation to the incident in accordance with the prescribed form.

(12) A person who fails to provide a report requested under subsection (11) commits an offence and is subject to the payment of an administrative penalty imposed under section 1485.

(13) A person who, in a notice given to a prescribed officer or a government under subsection (1) or (5) or in a report furnished to a prescribed officer or a government under subsection (11), makes a statement that is false or misleading in a material particular commits an offence and is liable on summary conviction to a fine of $200 000.

**Harmful substances in packaged form on Barbados ships**

**502.**(1) Barbados ships carrying harmful substances in packaged form shall comply with the requirements in the International Maritime Dangerous Goods Code.

(2) Where the packaging in which harmful substances are contained breaks and the contents are spilled, they shall be treated as garbage under the International Convention for the Prevention of Marine Pollution from Ships, 1973, Annex V.

*Division 5*

*International Convention for the Prevention of Marine Pollution from Ships, 1973, Annex IV*

**Prevention of sewage pollution from ships**

**503.**(1) Annex IV of the International Convention for the Prevention of Marine Pollution from Ships, 1973, entitled Sewage of the International

Convention for the Prevention of Pollution from Ships (73/78), shall have the force of law in Barbados.

(2) Except in so far as the contrary intention appears, an expression that is used in this Division has the same meaning as in that Annex, whether or not a particular meaning is assigned to it by that Annex.

**Discharge of untreated sewage into the Antarctic area or Arctic waters**

**504.**(1) Barbados ships operating in the Antarctic Area or Arctic waters shall comply with the International Code for Ships Operating in Polar Waters.

(2) Subject to subsections (4) and (5), the master and the owner of a Barbados ship that discharges untreated sewage into the sea in the Antarctic Area or Arctic waters each commit an offence and are liable on summary conviction to a fine of $700 000.

(3) Subsection (2) does not apply to a ship certified to carry not more than 10 persons or if the untreated sewage was discharged for the purpose of

*(a)* securing the safety of the ship and persons on board the ship; or

*(b)* saving life at sea.

(4) Subsection (2) does not apply to the discharge of untreated sewage from a ship if

*(a)* the untreated sewage was stored in a holding tank;

*(b)* the untreated sewage is not discharged instantaneously but is discharged from the holding tank at a prescribed rate when the ship is proceeding en route at a speed of not less than 4 knots; and

*(c)* the discharge is made when the ship is at a distance of not less than 12 nautical miles from the nearest land or from an ice-shelf as defined in the International Code for Ships Operating in Polar Waters.

(5) An offence under subsection (2) is a strict liability offence.

**Discharge of sewage into the sea**

**505.**(1) A person who recklessly or negligently causes a discharge of sewage

*(a)* from a ship into the territorial sea of Barbados;

*(b)* from a ship into a special area designated under the International Convention for the Prevention of Marine Pollution from Ships, 1973;

*(c)* from a ship into the sea in the exclusive economic zone of Barbados; or

*(d)* from a Barbados ship into the sea beyond the exclusive economic zone of Barbados,

commits an offence and is liable on summary conviction to a fine of $550 000.

(2) The master and owner of a ship in respect of which an offence is committed under subsection (1) each commit an offence and are liable on summary conviction to fine of $700 000.

(3) An offence of subsection (2) is a strict liability offence.

(4) Subsection (2) does not apply to the discharge of sewage from a ship

*(a)* for the purpose of securing the safety of the ship and persons on board the ship or of saving life at sea; or

*(b)* where the sewage escaped from the ship as a result of damage to the ship or her equipment and all reasonable precautions were taken before and after the occurrence of the damage to prevent or minimize the escape of the sewage.

(5) Subsection (2) does not apply to the discharge of sewage from a ship if

*(a)* the sewage has been comminuted and disinfected using a system approved in accordance with the regulations, or orders made under the regulations, to give effect to paragraph 1.2 of Regulation 9 of Annex IV to the International Convention for the Prevention of Marine

Pollution from Ships, 1973 and the discharge is made when the ship is at a distance of not less than 3 nautical miles from the nearest land;

*(b)* the discharge of any other sewage is made when the ship is at a distance of not less than 12 nautical miles from the nearest land;

*(c)* the sewage has been stored in holding tanks, or originates from spaces containing living animals, and the sewage is not discharged instantaneously but is discharged at a prescribed rate when the ship is proceeding en route at a speed of not less than 4 knots;

*(d)* if the ship is a prescribed passenger ship, the discharge occurs when the ship is within a special area and the discharge occurs before a prescribed day;

*(e)* the sewage has been treated in a sewage treatment plant on the ship that an authorized officer has certified to meet the requirements of the regulations giving effect to paragraph 1.1 of Regulation 9 of Annex IV to the International Convention for the Prevention of Marine Pollution from Ships, 1973;

*(f)* the effluent does not produce visible floating solids in the waters of the sea and does not cause discolouration of the waters of the sea; or

*(g)* the discharge is made into the territorial waters of a foreign country in accordance with the law of that country.

**Power to require discharge of sewage at a reception facility**

**506.**(1) If a prescribed officer has reason to believe that retention of the sewage would create a risk of discharge from the ship into the sea, the officer may, by a notice in writing, require the owner or master of a ship to discharge a specified quantity of sewage from the ship within a specified period to a specified facility that is suitable to receive that quantity of sewage.

(2) The owner or master of a ship to whom a notice is given under subsection (1) shall comply with the notice.

*Division 6*

*International Convention for the Prevention of Marine Pollution from Ships, 1973, Annex V*

**Prevention of garbage pollution from ships**

**507.**(1) Annex V of the International Convention for the Prevention of Marine Pollution from Ships, 1973, entitled Garbage of the International Convention for the Prevention of Pollution from Ships (73/78), shall have the force of law in Barbados.

(2) Except in so far as the contrary intention appears, an expression that is used in this Division has the same meaning as in that Annex, whether or not a particular meaning is assigned to it by that Annex.

**Discharge of garbage into the sea**

**508.**(1) A person who recklessly or negligently causes a discharge of garbage

*(a)* from a ship in a special area designated in accordance with the International Convention for the Prevention of Marine Pollution from Ships, 1973;

*(b)* from a ship into the territorial sea of Barbados;

*(c)* from a ship into the sea in the exclusive economic zone of Barbados; or

*(d)* from a Barbados ship into the sea beyond the exclusive economic zone of Barbados,

commits an offence and is liable on summary conviction to a fine of $550 000.

(2) Subject to subsections (4) to (12), the master and owner of a ship in respect of which an offence is committed under subsection (1) each commit an offence and are liable on summary conviction to a fine of $700 000.

(3) An offence under subsection (2) is a strict liability offence.

(4) Subsection (2) does not apply to the discharge of garbage from a ship for the purpose of securing the safety of the ship and the persons on board the ship or of saving life at sea.

(5) Subsection (2) does not apply to the discharge of fishing gear from a ship, if the discharge is for the protection of the marine environment or of the safety of the ship and crew on board.

(6) Subsection (2) does not apply to the discharge of food wastes from a ship if the retention of those wastes on board the ship presents an imminent health risks to persons on board the ship.

(7) Subsection (2) does not apply to the discharge of food wastes from a ship if

*(a)* the discharge occurs where the ship is not within a special area designated in accordance with the International Convention for the Prevention of Marine Pollution from Ships, 1973 or in Arctic waters;

*(b)* the discharge occurs when the ship is proceeding en route and is as far as practicable from the nearest land;

*(c)* in the case of food wastes that have been passed through a comminuter or grinder so that the wastes are capable of passing through a screen with no opening greater than 25 millimetres, the discharge occurs when the ship is not alongside, or within 500m of, a fixed or floating platform and the discharge occurs when the ship is at a distance of not less than 12 nautical miles from the nearest land; and

*(d)* in the case of all other food wastes,

(i) the discharge occurs when the ship is at a distance of not less than 12 nautical miles from the nearest land; and

(ii) the discharge occurs when the ship is not alongside, or within 500m of, a fixed or floating platform.

(8) Subsection (2) does not apply to the discharge of animal carcasses from a ship if

*(a)* the discharge occurs when the ship is not within a special area designated in accordance with the International Convention for the Prevention of Marine Pollution from Ships, 1973 or in Arctic waters;

*(b)* the discharge occurs when the ship is proceeding en route and is as far as practicable, and not less than 12 nautical miles, from the nearest land;

*(c)* the carcasses are cargo residues that cannot be recovered using commonly available methods for unloading and that do not contain any prescribed substances;

*(d)* the discharge occurs when the ship is not alongside, or within 500m of, a fixed or floating platform;

*(e)* the prescribed requirements are satisfied;

*(f)* both the port of departure and the next port of destination are within the special area referred to in paragraph *(a)* or in Arctic waters;

*(g)* the ship's voyage plan in force immediately before the start of the ship's voyage does not show the ship transiting outside the special area or Arctic waters, as the case may be, between the port of departure and the next port of destination;

*(h)* if both the port of departure and the next port of destination are within the special area, there are no reception facilities at those ports that comply with guidelines in force developed by the International Maritime Organization for the purposes of sub-paragraph 1.2.3 of Regulation 6 of Annex V to the International Convention for the Prevention of Marine Pollution from Ships, 1973;

*(i)* if both the port of departure and the next port of destination are in Arctic waters, there are no reception facilities at those ports that comply with guidelines in force developed by the International Maritime

Organization for the purposes of subparagraph 5.2.1.5.3 of Chapter 5 of Part II-A of the International Code for Ships Operating in Polar Waters;

*(j)* if the discharge occurs when the ship is within a special area other than the Antarctic Area, the discharge occurs when the ship is as far as practicable from, and is at a distance of not less than 12 nautical miles from, the nearest land or nearest ice-shelf; and

*(k)* if the discharge occurs when the ship is in the Antarctic Area or Arctic waters, the discharge occurs when the ship is

(i) as far as practicable from the nearest land or areas of ice concentration exceeding 1/10; and

(ii) at a distance of not less than 12 nautical miles from the nearest land, nearest ice-shelf or nearest fast ice, within the meaning of the International Code for Ships Operating in Polar Waters.

(9) Subsection (2) does not apply to the discharge of garbage from a ship that is accidentally lost into the sea because of damage to the ship or her equipment, if all reasonable precautions were taken before and after the occurrence of the damage to prevent or minimize the loss.

(10) Subsection (2) does not apply to the discharge of fishing gear from a ship that is accidentally lost into the sea, if all reasonable precautions were taken to prevent the loss.

(11) If garbage is mixed with, or contaminated by, matter of which the discharge or disposal from a ship into the sea is prohibited under another Part unless conditions that are more stringent than the conditions referred to in subsections (7) to (10) are complied with, the discharge must meet the more stringent conditions to be exempt from subsection (2).

**Garbage record book**

**509.**(1) A Barbados ship that is 400 GT or more and certified to carry 15 or more persons shall carry a garbage record book.

(2) A garbage record book shall be in the prescribed form.

(3) If a ship referred to in subsection (1) does not carry a garbage record book, the master and the owner of the ship each commit an offence and are liable on summary conviction to a fine of $10 000.

(4) An offence under subsection (3) is a strict liability offence.

(5) If a prescribed operation or prescribed occurrence is carried out or occurs in or in relation to a ship, the master of the ship shall make, without delay, appropriate entries in the ship's garbage record book.

(6) When a page of a ship's garbage record book is completed, the master of the ship shall sign the page as soon as is practicable in the circumstances.

(7) An entry in a ship's garbage record book

*(a)* shall be made in the English language; and

*(b)* if the entry is made in relation to a prescribed operation, shall be signed by the officer or other person in charge of the operation.

**Garbage record book to be retained**

**510.**(1) A garbage record book of a ship referred to in section 509 shall be retained in the ship for one year after the day on which the last entry was made in the book and shall be readily accessible for inspection at all reasonable times.

(2) If a garbage record book is not retained in a ship or readily accessible in accordance with subsection (1), the master and the owner of the ship each commit an offence and are subject to the payment of an administrative penalty imposed under section 1485.

(3) An offence under subsection (2) is a strict liability offence.

(4) The owner of a ship referred to in section 509 shall retain the ship's garbage record book in the ship or at the owner's registered office for one year after the end of the period during which the book is required to be retained in the

ship under subsection (1) and shall make it be readily accessible for inspection at all reasonable times.

(5) An owner who contravenes subsection (4) commits an offence and is subject to the payment of an administrative penalty imposed under section 1485.

(6) If the owner of a ship referred to in section 509 who resides in Barbados, or has an office or agent in Barbados, gives to a prescribed officer notice in writing of the address of

*(a)* the place at which the owner so resides;

*(b)* the owner's office in Barbados or, if the owner has more than one office in Barbados, the owner's principal office in Barbados; or

*(c)* the office or place of residence of the owner's agent or, if the owner's agent has more than one office in Barbados, the principal office in Barbados of the owner's agent,

that place or office is deemed to be the registered office of the owner of the ship for the purposes of subsection (4).

(7) If the owner of a ship referred to in section 509 does not reside in Barbados and does not have an office or agent in Barbados, the owner may deposit a garbage record book of the ship with a prescribed officer and, while the book is so deposited, the book is to be considered for the purposes of subsection (4) to be retained at the registered office of the owner.

**Garbage management plan**

**511.**(1) A Barbados ship that is above 150 GT or that is certified to carry 15 persons or more shall have on board a garbage management plan written in the working language of the crew of the ship.

(2) A garbage management plan shall be in the prescribed form and include

*(a)* procedures for minimising, collecting, storing, processing and discharging garbage, including the use of the equipment on board the ship for carrying out those procedures; and

*(b)* a designation of the person or persons in charge of carrying out the plan.

(3) If a ship referred to in subsection (1) does not have on board a garbage management plan, the master and the owner of the ship each commit an offence and are liable on summary conviction to a fine of $10 000.

(4) An offence under subsection (3) is a strict liability offence.

**Placards relating to requirements for garbage discharge**

**512.**(1) There shall be displayed, on board a ship of 12m or more in length, one or more placards notifying the crew and passengers of the kinds of garbage that may, or may not, be discharged from the ship, and the conditions to which any such discharge is subject under section 509.

(2) Each placard on a Barbados ship shall be written in the working language of the crew of the ship.

(3) If the ship is a foreign ship that is engaged on a voyage to a Barbados port or to a Barbados offshore terminal

*(a)* each placard shall be written in the working language of the crew of the ship; and

*(b)* if the working language of the crew of the ship is not English, French or Spanish, each placard shall also be written in English, French or Spanish.

(4) If a placard required under this section to be displayed on a ship is not so displayed, the master and the owner of the ship each commit an offence and are liable on summary conviction to a fine of $50 000.

(5) An offence under subsection (4) is a strict liability offence.

**Power to require discharge of garbage at a reception facility**

**513.**(1) If a prescribed officer has reason to believe that retention of the garbage would create a risk of discharge from the ship into the sea, the officer

may, by a notice in writing, require the owner or master of the ship to discharge a specified quantity of garbage from the ship within a specified period to a specified facility that is suitable to receive that quantity of garbage.

(2) The owner or master of a ship to whom a notice is given under subsection (1) shall comply with the notice.

(3) Foreign ships calling at national seaports shall comply with this Act and any of its statutory instruments in relation to discharges of garbage.

**Standard for shipboard garbage management**

**514.** Shipboard garbage shall be managed in accordance with the International Organization for Standardization 21070 standards on Management and Handling of Shipboard Garbage.

**Compliance with garbage pollution prevention regulations**

**515.** All ships to which this Division applies shall comply with the garbage requirements in the regulations.

*Division 7*

*Dumping At Sea*

**Administration**

**516.** This Part shall be administered by the Environmental Protection Department, in consultation with the Coastal Zone Management Unit.

**Definitions**

**517.** In this Division,

"1996 London Protocol" means the 1996 Protocol to the Convention on the Prevention of Marine Pollution by Dumping of Wastes and Other Matter, 1972, done at London on 7th July 1996;

"artificial reef" means a structure or formation placed on the seabed

*(a)* to increase or concentrate populations of marine plants and animals; or

*(b)* to be used in human recreational activities,

and includes anything prescribed by the regulations to be an artificial reef but does not include anything prescribed by the regulations not to be an artificial reef;

"artificial reef placement" means the placement of controlled material into the sea for the purpose of creating an artificial reef in conformity with the aims of the 1996 London Protocol;

"dumping" means the deliberate disposal at sea of wastes or other matter from a vessel, aircraft, platform or other man-made structure, or the deliberate disposal of such a vessel, aircraft or platform;

"Minister" means the Environment Minister;

"offending craft" in relation to an offence under section 525, means

*(a)* if the primary offence referred to in that section is an offence under section 519, any vessel, aircraft or platform from which, or on which, controlled material was dumped;

*(b)* if the primary offence referred to in that section is an offence under section 520, the vessel or platform on which controlled material was incinerated;

*(c)* if the primary offence referred to in that section is an offence under section 521, the vessel, aircraft or platform on which controlled material was loaded;

*(d)* if the primary offence referred to in that section is an offence under section 522, any vessel, aircraft or platform used to export controlled material; or

*(e)* if the primary offence referred to in that section is an offence under section 523, any vessel, aircraft or platform from which the artificial reef placement occurred;

"offending material" means

*(a)* in relation to an offence under section 519, the controlled material that was dumped;

*(b)* in relation to an offence under section 520, the controlled material that was incinerated;

*(c)* in relation to an offence under section 521, the controlled material that was loaded;

*(d)* in relation to an offence under section 522, the controlled material that was exported;

*(e)* in relation to an offence under section 523, the controlled material that was placed for the purpose of creating an artificial reef; or

*(f)* in relation to an offence under section 525, the offending material in relation to the primary offence referred to in that section;

"owner" in relation to a vessel, aircraft or platform, includes

*(a)* every person who is a co-owner of the vessel, aircraft or platform or of any part of, or any share in, the vessel, aircraft or platform; and

*(b)* every person who has the use or control, whether alone or jointly with another person, of the vessel, aircraft or platform;

"permit" means a permit granted under section 529 by the Environmental Protection Department;

"person in charge" means

*(a)* in relation to a vessel, the master or other person in charge of the vessel;

*(b)* in relation to an aircraft, the person in charge of the aircraft; or

*(c)* in relation to a platform, the person in charge of the operations conducted on or from the platform;

"platform" means a man-made structure at sea, whether floating or fixed to the seabed, but does not include a vessel;

"primary offence" means an offence committed under any of sections 486 to 490;

"radioactive material" means material with an activity of more than 35 becquerels per gram; and

"seriously harmful material" means

*(a)* radioactive material; or

*(b)* any other material prescribed by the regulations.

**Exemption**

**518.** This Division does not apply to the disposal or storage of controlled material other than a vessel, aircraft or platform that directly arises from, or is related to, the exploration, exploitation or associated offshore processing of seabed mineral resources.

**Dumping of controlled material**

**519.**(1) A person commits an offence if, otherwise than in accordance with a permit, the person

*(a)* dumps controlled material into Barbados waters from a vessel, aircraft or platform;

*(b)* dumps controlled material into any part of the sea from a Barbados vessel or Barbados aircraft;

*(c)* dumps a vessel, aircraft or platform into Barbados waters; or

*(d)* dumps a Barbados vessel or Barbados aircraft into any part of the sea.

(2) A person who commits an offence under subsection (1) is liable on conviction on indictment to

*(a)* if it is proved that any of the offending material is seriously harmful material, imprisonment for a term of 10 years or a fine of $700 000, or both;

*(b)* if it is proved that any of the offending material is not within Annex 1 to the 1996 London Protocol, imprisonment for a term of 10 years or a fine of $700 000, or both; and

*(c)* in any other case, imprisonment for a term of 7 years or a fine of $550 000, or both.

**Incineration of controlled material**

**520.**(1) A person commits an offence if, otherwise than in accordance with a permit, the person incinerates controlled material at sea

*(a)* on a vessel or platform in Barbados waters; or

*(b)* on a Barbados vessel in any part of the sea.

(2) A person who commits an offence under subsection (1) is liable on conviction on indictment to

*(a)* if it is proved that any of the offending material is seriously harmful material, imprisonment for a term of 10 years or a fine of $700 000, or both;

*(b)* if it is proved that any of the offending material is not within Annex I to the 1996 London Protocol, imprisonment for a term of 10 years or a fine of $700 000, or both; and

*(c)* in any other case, imprisonment for at term of 7 years or a fine of $500 000, or both.

**Loading for the purpose of dumping or incineration**

**521.**(1) A person commits an offence if, otherwise than in accordance with a permit, the person

*(a)* loads controlled material on a vessel, aircraft or platform in Barbados or Barbados waters

(i) knowing that it will be dumped into the sea or incinerated at sea; or

(ii) reckless as to whether it will be dumped into the sea or incinerated at sea; or

*(b)* loads controlled material on a Barbados vessel or Barbados aircraft

(i) knowing that it will be dumped into the sea or incinerated at sea; or

(ii) reckless as to whether it will be dumped into the sea or incinerated at sea.

(2) A person who commits an offence under subsection (1) is liable on conviction on indictment to

*(a)* if it is proved that any of the offending material is seriously harmful material, imprisonment for a term of 10 years or a fine of $700 000, or both;

*(b)* if it is proved that any of the offending material is not within Annex 1 to the Protocol, imprisonment for a term of 10 years or a fine of $700 000, or both; and

*(c)* in any other case, imprisonment for a term of 7 years or a fine of $500 000, or both.

**Export for the purpose of dumping or incineration**

**522.**(1) A person commits an offence if the person exports controlled material from Barbados to another country

*(a)* knowing that it will be dumped into the sea or incinerated at sea; or

*(b)* reckless as to whether it will be dumped into the sea or incinerated at sea.

(2) A person who commits an offence under subsection (1) is liable on conviction on indictment to

*(a)* if it is proved that any of the offending material is seriously harmful material, imprisonment for a term of 10 years or a fine of $700 000, or both;

*(b)* if it is proved that any of the offending material is not within Annex 1 to the 1996 London Protocol, imprisonment for a term of 10 years or a fine of $700 000, or both; and

*(c)* in any other case, imprisonment for a term of 7 years or a fine of 500 000, or both.

**Placement of artificial reef**

**523.**(1) A person commits an offence if, otherwise than in accordance with a permit, the person carries out an artificial reef placement.

(2) A person who commits an offence under subsection (1) is liable on conviction on indictment to

*(a)* if it is proved that any of the offending material is seriously harmful material, imprisonment for a term of 10 years or a fine of $700 000, or both;

*(b)* if it is proved that any of the offending material is not within Annex 1 to the 1996 London Protocol, imprisonment for a term of 2 years or a fine of $700 000, or both; and

*(c)* in any other case, imprisonment for a term of 7 years or a fine of $500 000 or both.

**Guidelines for placement of artificial reefs**

**524.** No person shall place an artificial reef other than in accordance with the Convention on the Prevention of Marine Pollution by Dumping of Wastes and Other Matter, 1972, the 1996 London Protocol and the United Nations Environment Program Guidelines for the Placement of Artificial Reefs.

**Person responsible for offending craft or material**

**525.**(1) If a primary offence is committed under any of sections 486 to 490, then each person who is a responsible person in relation to the offending craft or offending material commits an offence if the person

*(a)* knew that the offending craft or offending material would be used in committing the primary offence, or was reckless as to whether it would be used in committing the primary offence; and

*(b)* did not take reasonable steps to prevent the use of the offending craft or offending material in committing the primary offence.

(2) Subsection (1) applies whether or not any person has been charged with, or convicted of, the primary offence.

(3) A person who commits an offence under subsection (1) is liable on conviction on indictment to

*(a)* if it is proved that any of the offending material is seriously harmful material, imprisonment for a term of 10 years or a fine of $550 000, or both;

*(b)* if it is proved that any of the offending material is not within Annex 1 to the 1996 London Protocol, imprisonment for a term of 10 years or a fine of $700 000, or both; and

*(c)* in any other case, imprisonment for a term of 7 years or a fine of $3.5 million, or both.

(4) For the purposes of this section

*(a)* the owner of an offending craft and the person in charge of an offending craft are responsible persons in relation to the offending craft; and

*(b)* the owner of offending material is a responsible person in relation to the offending material.

**Exceptions**

**526.**(1) Sections 486 and 487 do not apply in relation to

*(a)* dumping into waters that are not Barbados waters; or

*(b)* incineration at sea in waters that are not Barbados waters,

if the dumping or incineration is in accordance with a permit granted under the 1996 London Protocol by a party to the Protocol other than Barbados.

(2) Section 521 does not apply in relation to loading for the purpose of

*(a)* dumping into waters that are not Barbados waters; or

*(b)* incineration at sea in waters that are not Barbados waters,

if the loading is in accordance with a permit granted under the 1996 London Protocol by a party to the Protocol other than Barbados.

(3) Sections 486, 487, 488, 490 and 508 do not apply if

*(a)* either

(i) the conduct in question was necessary to secure the safety of human life or of a vessel, aircraft or platform in a case of *force majeure* caused by stress of weather; or

(ii) the conduct appeared to be the only way of averting a threat to human life, or to the safety of a vessel, aircraft or platform, and it

was probable that the damage caused by the conduct would be less than would otherwise occur;

*(b)* the conduct was carried out so as to minimise the likelihood of damage to human or marine life; and

*(c)* a report of the conduct, setting out the prescribed information, was given to the Minister as soon as practicable after the conduct occurred.

(4) In proceedings for an offence, the defendant bears the evidential burden of proving an exception under this section.

**Environmental restoration**

**527.**(1) In this section, "regulated occurrence" means

*(a)* the dumping of controlled material into Barbados waters;

*(b)* the incineration at sea in Barbados waters of controlled material;

*(c)* the placement of an artificial reef in Barbados waters; or

*(d)* a contravention of a condition of a permit.

(2) If the Minister considers that a regulated occurrence is likely to

*(a)* cause an obstruction, or constitute a danger, to vessels;

*(b)* result in harm to human or marine life; or

*(c)* result in an interference with the exercise of the sovereign rights of Barbados as a coastal state

(i) to explore the seabed and subsoil beneath Barbados waters; or

(ii) to exploit the natural resources of the seabed and subsoil beneath Barbados waters,

the Minister may cause to be taken such steps as the Minister considers proper to repair or remedy any condition, or to mitigate any damage, arising from the occurrence.

**Application for permit**

**528.**(1) A person may apply to the Environment Minister for a permit required for the purposes of this Division.

(2) An application for a permit shall be made in accordance with a form prescribed by the Environment Minister.

(3) Where an application for a permit is made and the Minister requires further information for the purpose of enabling him to deal with the application, he may, by a notice in writing given to the applicant not later than 60 days after the application is made, require the applicant to provide that information in writing to the Minister.

(4) If a notice is given under subsection (3), the application shall be deemed, for the purposes of section 529, not to have been made until the statement is furnished.

(5) Where, in his preliminary consideration of an application for a permit for dumping or artificial reef placement, the Minister forms the view that, in order to enable him to decide whether a permit should be granted or to formulate conditions that should be imposed in respect of a permit if a permit is granted, it will be necessary for research or analysis to be undertaken to determine the effect that the proposed dumping or artificial reef placement may have on the marine environment, the Minister may, before giving further consideration to the application, require the applicant to enter into an agreement with Barbados that includes

*(a)* a requirement that the applicant will, at his own expense, undertake such research or analysis relating to the effect that the proposed dumping or artificial reef placement might have on the marine environment as is specified in the agreement;

*(b)* a requirement for the applicant to reimburse Barbados the amount, as ascertained by the Minister, of any expense incurred by Barbados in

undertaking research or analysis of a kind referred to in paragraph *(a)*;

*(c)* a requirement for the applicant to reimburse Barbados the amount, as ascertained by the Minister, of any expense incurred by Barbados in supervising any research or analysis undertaken by the applicant in accordance with the agreement;

*(d)* a provision that, if the applicant fails or neglects to carry out any research or analysis as required by the agreement

(i) Barbados may undertake the necessary research or analysis; and

(ii) in that event, the applicant will reimburse Barbados the amount, as ascertained by the Minister, of the expense incurred by Barbados in connection with that research or analysis;

*(e)* a requirement for the applicant to give a security to Barbados for the payment of any amount that he may become liable to pay to Barbados under the agreement; and

*(f)* a requirement for the applicant to report to the Minister the results of any research or analysis undertaken by him in accordance with the agreement.

(6) Where an applicant is required under subsection (5) to enter into an agreement with Barbados regarding the undertaking of research or analysis, his application shall be deemed, for the purposes of section 529, not to have been made until the research or analysis has been completed to the satisfaction of the Minister.

**Grant of permit**

**529.**(1) Subject to this section, the Environment Minister may grant a permit to a person who has made an application in accordance with section 528.

(2) The Environment Minister shall either grant or refuse to grant a permit within 90 days after the application for it is made.

(3) Subject to subsection (5), a permit for dumping or loading for dumping

*(a)* maybe granted only for controlled material that is within Annex 1 to the 1996 London Protocol; and

*(b)* maybe granted only in accordance with Annex 2 to the 1996 London Protocol.

(4) Subject to subsection (5), a permit shall not be granted for incineration at sea or loading for incineration at sea.

(5) The Environment Minister may grant a permit for dumping, incineration at sea or loading for dumping or incineration at sea, of any controlled material if, in the Minister's opinion, there is an emergency that

*(a)* poses an unacceptable risk to human health, safety, or the marine environment; and

*(b)* admits of no other feasible solution.

(6) A permit shall not be granted for an artificial reef placement of seriously harmful material.

(7) In considering an application for a permit, the Minister shall have regard to the following:

*(a)* the 1996 London Protocol; and

*(b)* any other treaty or convention to which Barbados is a party that relates to dumping at sea.

(8) Before granting a permit for dumping or artificial reef placement, the Environment Minister may require the applicant to enter into an agreement with Barbados that includes

*(a)* in the case of a permit for dumping or artificial reef placement, a requirement for the applicant to, at his own expense, undertake such research and monitoring relating to the consequences of the release into the marine environment through the proposed dumping operation or

artificial reef placement of any contaminants as is specified in the agreement;

*(b)* in the case of a permit for dumping, a requirement for the applicant to investigate the possibility of avoiding or reducing the need for further dumping by him;

*(c)* a requirement for the applicant to reimburse Barbados the amount, as ascertained by the Minister, of any expense incurred by Barbados in undertaking research, monitoring or investigation of a kind referred to in paragraph *(a)* or *(b)*;

*(d)* a requirement for the applicant to reimburse Barbados the amount, as ascertained by the Minister, of any expense incurred by Barbados in supervising any research, monitoring or investigation undertaken by the applicant in accordance with the agreement;

*(e)* a provision that, if the applicant fails, or neglects, to carry out any research, monitoring or investigation as required by the agreement

(i) Barbados may undertake the necessary research, monitoring or investigation; and

(ii) in that event, the applicant will reimburse Barbados the amount, as ascertained by the Minister, of the expense incurred by Barbados in connection with the research, monitoring or investigation;

*(f)* a requirement for the applicant to give a security to Barbados for the payment of any amount that he may become liable to pay to Barbados under the agreement; and

*(g)* a requirement for the applicant to report to the Minister the results of any research, monitoring or investigation undertaken by him in accordance with the agreement.

**Suspension and revocation of permits**

**530.**(1) The Environment Minister may, at any time, by a notice in writing served on the holder of a permit, vary, suspend or revoke the permit if he is satisfied that

*(a)* a provision of this Division relating to the permit or a condition imposed in respect of the permit has been contravened; or

*(b)* it is necessary or expedient to do so in order properly to regulate the activities governed by this Division.

(2) A suspension of a permit may be of indefinite duration or for a period specified in the notice.

(3) Where proceedings for an offence in relation to a permit are commenced during a period of suspension of the permit, the suspension may be continued until the proceedings, including any appeal, are completed.

(4) During the period of suspension of a permit, the permit has no force or effect, but the period of currency of the permit continues to run.

(5) The suspension of a permit does not prevent its revocation.

(6) The revocation or suspension of a permit takes effect when notice of the revocation or suspension is served on the holder of the permit, or on any later date specified in the notice.

**Conditions in respect of permits**

**531.**(1) The Environment Minister may, when granting a permit or at any time while a permit is in force, impose conditions in respect of the permit and may, at any time, revoke, suspend or vary, or cancel the suspension of, a condition so imposed.

(2) A condition imposed in respect of a permit, or a revocation, suspension or variation, or a cancellation of a suspension, of such a condition, takes effect

when notice of the condition, revocation, suspension, variation or cancellation is served on the holder of the permit or on any later date specified in the notice.

**Application to minister to vary operation of permits**

**532.**(1) The holder of a permit may apply to the Environment Minister for

*(a)* a variation of the permit; or

*(b)* the revocation, suspension or variation of a condition of the permit.

(2) The holder of a permit that is suspended may apply to the Minister for the cancellation of that suspension.

(3) The Environment Minister shall, within 60 days after the receipt of an application under subsection (1) or (2),

*(a)* if he is satisfied that the application should be granted

(i) in relation to an application under subsection (1), revoke, suspend or vary the permit or the condition in accordance with the application; or

(ii) in relation to an application under subsection (2), cancel the suspension of the permit; or

*(b)* refuse to grant the application.

**Applications for review**

**533.** An application may be made to an appeals tribunal established for the purposes of this Division for a review of a decision by the Minister under section 529, 530, 531 or 532.

**Authorized officers**

**534.** An authorized officer for the purposes of this Division is

*(a)* a member of the Barbados Police Service Marine Police Unit;

*(b)* a member of the Barbados Coast Guard;

*(c)* an officer of Customs;

*(d)* an environmental protection officer; or

*(e)* an environmental health and safety officer.

**Boarding of vessels by authorized officers**

**535.**(1) This section applies to the following:

*(a)* a Barbados vessel or Barbados aircraft;

*(b)* a vessel, aircraft or platform that is in Barbados;

*(c)* a vessel or platform that is in Barbados waters; and

*(d)* an aircraft that is capable of landing on water and is in Barbados waters.

(2) An authorized officer may, with such assistance as he thinks necessary, board a vessel, aircraft or platform referred to in subsection (1) for the purpose of exercising the functions of an authorized officer in accordance with section 538, if he believes on reasonable grounds that there is in, or on, that vessel, aircraft or platform

*(a)* any controlled material that is to be dumped into the sea or incinerated at sea;

*(b)* any controlled material that is to be placed as part of an artificial reef placement; or

*(c)* any matter or thing that may afford evidence as to the commission of an offence under this Act,

and may stop and detain a vessel or aircraft for that purpose.

(3) An authorized officer may require any person on board a vessel, aircraft or platform referred to in subsection (1) whom he finds committing, or whom he suspects on reasonable grounds of having committed, an offence under this Act to state his full name and usual place of residence.

(4) Where an authorized officer believes on reasonable grounds that a vessel referred to in subsection (1) that is in Barbados waters has been used or was otherwise involved in the commission of an offence under this Act, he may bring, or require the person in charge of the vessel to bring, the vessel to the nearest port in Barbados to which it is safe and practicable to bring the vessel.

(5) An authorized officer may, for the purposes of this Act, require the person in charge of a vessel, aircraft or platform referred to in subsection (1) to give information concerning the vessel, aircraft or platform and her crew and any other person on board the vessel, aircraft or platform.

(6) Where an authorized officer, other than a uniformed member of the police service or officer of Customs, boards a vessel, aircraft or platform referred to in subsection (1), he shall

*(a)* in the case of a member of the police service, produce, for inspection by the person in charge of the vessel, aircraft or platform, written evidence that he is a member of the police service;

*(b)* in the case of an officer of Customs, produce, for inspection by that person, written evidence that the officer is an officer of Customs; and

*(c)* in any other case, produce his identity card for inspection by that person.

(7) An authorized officer who fails to comply with subsection (6) is not authorized to remain, or to require any person assisting him to remain, on board the vessel, aircraft or platform or to detain the vessel or aircraft.

(8) Where an authorized officer, other than a uniformed member of a police service or officer of Customs, makes a requirement of a person under this section, he shall

*(a)* in the case of a member of the police service, produce, for inspection by that person, written evidence that he is a member of the police service;

*(b)* in the case of an officer of Customs, produce, for inspection by that person, written evidence that the officer is an officer of Customs; and

*(c)* in any other case, produce his identity card for inspection by that person.

(9) If an authorized officer fails to comply with subsection (6), the person is not obliged to comply with the requirement.

(10) A person who, without reasonable excuse, fails to comply with a requirement made of him by an authorized officer under this section commits an offence and is liable on summary conviction to a fine of $5 000.

**Access to premises**

**536.**(1) An authorized officer may, with the consent of the occupier of any premises, enter the premises for the purpose of exercising the functions of an authorized officer in accordance with section 534.

(2) Where an authorized officer has reason to believe that there is on premises

*(a)* controlled material that is to be dumped into the sea or incinerated at sea;

*(b)* controlled material that is to be placed as part of an artificial reef placement; or

*(c)* any matter or thing that may afford evidence as to the commission of an offence under this Act,

the authorized officer may apply to a magistrate for a warrant authorizing him to enter the premises for the purpose of exercising the functions of an authorized officer in accordance with section 538.

(3) If, on an application under subsection (2), the magistrate is satisfied, by information on oath or affirmation,

*(a)* that there are reasonable grounds for believing that there is on the premises to which the application relates

(i) controlled material that is to be dumped into the sea or incinerated at sea;

(ii) controlled material that is to be placed as part of an artificial reef placement; or

(iii) any matter or thing that may afford evidence as to the commission of an offence under this Act; and

*(b)* that the issuance of the warrant is reasonably required for the purposes of this Act,

the magistrate may grant a warrant authorizing the authorized officer, with such assistance as he thinks necessary, to enter the premises, during such hours of the day or night as the warrant specifies or, if the warrant so specifies, at any time, and if necessary by force, for the purpose of exercising the functions of an authorized officer under section 538.

(4) Where an authorized officer has entered any premises under subsection (1) or pursuant to a warrant granted under subsection (3), he may exercise the functions of an authorized officer in accordance with section 538.

**Warrants by telephone or other electronic means**

**537.**(1) An application to a magistrate for a warrant under section 536 may be made by telephone, fax or other electronic means

*(a)* in an urgent case; or

*(b)* if the delay that would occur if an application were made in person would frustrate the effective execution of the warrant.

(2) The magistrate may require voice communication to the extent that it is practicable in the circumstances.

(3) An application under this section shall include all information required to be provided in an application for a warrant under section 536, but the application may, if necessary, be made before the information is sworn or affirmed.

(4) The magistrate may complete and sign the same form of warrant as would be issued under section 536, if the magistrate is satisfied that there are reasonable grounds for issuing the warrant

*(a)* after having considered the information referred to in subsection (3); and

*(b)* after having received any further information that the magistrate requires about the grounds on which the issuance of the warrant is being sought.

(5) If the magistrate signs a warrant under subsection (4)

*(a)* the magistrate shall notify the authorized officer, by telephone, fax or other electronic means, of the terms of the warrant and the date on which and the time at which it was signed, and write on it the reasons for granting it; and

*(b)* the authorized officer shall complete a form of warrant in the terms conveyed to the authorized officer by the magistrate and write on it the name of the magistrate and the date on which and the time at which it was signed.

(6) If an authorized officer completes a form of warrant under subsection (5), the authorized officer shall, not later than the day after the day on which the warrant ceases to be in force or is executed, whichever is the earlier, give or send to the magistrate the form of warrant completed by the authorized officer and, if the information referred to in subsection (3) was not sworn or affirmed, that information duly sworn or affirmed.

(7) The magistrate shall attach to the documents provided under subsection (6) the warrant signed by the magistrate.

(8) A form of warrant that has been duly completed by an authorized officer under subsection (5) and that is in accordance with the terms of the warrant signed by the magistrate has the same authority as a warrant signed by the magistrate.

(9) If

*(a)* it is material, in any proceedings, for a court to be satisfied that an exercise of power was authorized under this section; and

*(b)* a warrant signed by a magistrate under this section authorizing the exercise of power is not produced in evidence,

the court shall assume that the exercise of power was not authorized by such a warrant.

**Functions of authorized officer**

**538.**(1) The functions of an authorized officer who boards a vessel, aircraft or platform under section 535 or enters premises under section 536 are as follows:

*(a)* to search for, and take possession of, any matter or thing that may afford evidence as to the commission of an offence under this Act;

*(b)* to search for, inspect, takes extracts from and make copies of any document that relates to

(i) the loading, dumping or incineration at sea of any controlled material;

(ii) the export of any controlled material that is to be dumped into the sea or incinerated at sea; or

(iii) any controlled material that is to be placed as part of an artificial reef placement;

*(c)* to inspect, and take samples of

(i) any controlled material; or

(ii) any controlled material that is to be placed as part of an artificial reef placement; and

*(d)* to observe

(i) the loading on a vessel, aircraft or platform of any controlled material that is to be dumped into the sea or incinerated at sea;

(ii) the dumping into the sea, or the incineration at sea, of any controlled material; or

(iii) the placement of an artificial reef.

(2) For the purposes of carrying out his functions under subsection (1), an authorized officer may break open any hold, compartment, container or other receptacle on a vessel, aircraft or platform or on any premises.

**Powers of arrest of authorized officers**

**539.**(1) An authorized officer may, without a warrant, arrest a person, if the authorized officer believes on reasonable grounds that

*(a)* the person is committing, or has committed, an offence under this Act; and

*(b)* proceedings against the person by a summons would not be effective.

(2) Where an authorized officer, other than a uniformed member of the police service or Coast Guard or officer of Customs, arrests a person under subsection (1), the authorized officer shall

*(a)* in the case of a member of a police service, produce, for inspection by that person, written evidence that he is a member of the Police Service;

*(b)* in the case of an officer of Customs, produce, for inspection by that person, written evidence that the officer is an officer of Customs; or

*(c)* in any other case, produce his identity card for inspection by that person.

(3) Where a person is arrested under subsection (1), an authorized officer shall without delay bring the person before a magistrate or other proper authority to be dealt with in accordance with law.

(4) Nothing in this section prevents the arrest of a person in accordance with any other law.

**False statements**

**540.**(1) A person who, in or in connection with an application for a permit, knowingly

*(a)* makes a statement that is false or misleading in a material particular; or

*(b)* provides to an officer or other person doing duty in relation to this Act a document that contains information that is false or misleading in a material particular,

commits an offence and is liable on conviction on indictment to a fine of $30 000.

(2) A person who knowingly

*(a)* makes a statement to an authorized officer performing a function under this Act that is false or misleading in a material particular; or

*(b)* provides a document to an authorized officer performing a function under this Act that contains information that is false or misleading in a material particular,

commits an offence and is liable on conviction on indictment to a fine of $50 000.

**Compliance with permit conditions**

**541.**(1) The holder of a permit who

*(a)* does an act that constitutes a contravention of a condition imposed in respect of the permit; and

*(b)* at the time of that act, knows of the existence of that condition, or is reckless as to the existence of that condition,

commits an offence and is liable on conviction on indictment to imprisonment for a term of one year or a fine of $250 000, or both.

(2) In this section, "act" includes an omission.

**Indictable offences**

**542.** A court of summary jurisdiction may hear and determine proceedings for such an indictable offence under section 519, 520, 521, 522, 523 or 525, 540(1) or (2) or 541(1) if

*(a)* the court is satisfied that it is proper to do so; and

*(b)* the defendant and the prosecutor consent.

**No time limit for prosecution**

**543.** A prosecution for an offence under this Division may be brought at any time.

**Evidence**

**544.**(1) In any proceedings for an offence under this Division,

*(a)* any record kept in accordance with the regulations is admissible as *prima facie* evidence of the facts stated in the record;

*(b)* a copy of an entry in such a record that is certified to be a true copy of the entry by the person by whom the record is required to be kept is admissible as *prima facie* evidence of the facts stated in the entry; and

*(c)* a document purporting to be a record kept in accordance with the regulations, or purporting to be a certified copy referred to in paragraph *(b)*, is presumed to be such a record or certified copy, as the case may be.

(2) In any proceedings for an offence under this Division, evidence of a distance or position determined by means of an electronic, optical or other device ordinarily used for determining such a distance or position is *prima facie* evidence of the distance or position.

(3) In any proceedings for an offence under this Division, evidence by an authorized officer that he believes that a place or area is within Barbados waters is *prima facie* evidence that the place or area is within Barbados waters.

(4) A certificate provided by the Minister stating any of the following is *prima facie* evidence of the matters stated in it:

*(a)* that a permit was granted to a specified person on a specified day;

*(b)* that a specified permit contained specified terms;

*(c)* that a specified permit was revoked, suspended or varied on a specified day;

*(d)* that the suspension of a specified permit was cancelled on a specified day;

*(e)* that specified conditions were imposed in respect of a specified permit;

*(f)* that a specified condition imposed in respect of a specified permit was revoked, suspended or varied on a specified day;

*(g)* that the suspension of a specified condition imposed in respect of a specified permit was cancelled on a specified day; or

*(h)* that a specified notice containing specified terms was served on the holder of a specified permit on a specified day.

**Fees**

**545.**(1) The regulations may prescribe the fees to be paid in respect of an application for a permit or of any other application under this Act.

(2) A fee prescribed in respect of an application under this Act shall be paid when the application is made or at such other time as is prescribed and, if the fee is not so paid, the application is deemed not to have been made.

(3) The Minister may waive or remit the payment of any fee payable in respect of an application and, if he does so, subsection (2) does not apply in relation to that application.

(4) The Minister may waive or remit the payment of part of any fee payable in respect of an application, in which case the fee prescribed in respect of the application shall, for the purposes of subsection (2), be taken to be reduced by the amount waived or remitted.

*Division 8*

*Control of Harmful Anti-Fouling Systems on Ships*

**Definitions**

**546.**(1) In this Division,

"AFS Convention" means the International Convention on the Control of Harmful Anti-fouling Systems on Ships, signed in London on 5th October 2001;

"anti-fouling certificate" means a certificate issued under section 550(1);

"anti-fouling declaration" means a declaration relating to compliance with the anti-fouling requirements in the prescribed form;

"anti-fouling requirements" means the requirements set out in section 547;

"designated external surface" means any part of the hull or external parts or surfaces of a ship;

"exempt platform" means

*(a)* a fixed or floating platform;

*(b)* a floating storage unit; or

*(c)* a floating production, storage and off-loading unit;

"harmful anti-fouling compound" means an organotin compound that acts as a biocide in an anti-fouling system;

"owner" in relation to a ship that is operated by a person other than the owner, includes the operator;

"pre-2003 exempt platform" means an exempt platform that was constructed before 1st January 2003 and that has not been in dry dock on or after that date;

"ship" has the same meaning in Article 2 of the AFS Convention, but does not include a ship that is being used for non-commercial purposes by Barbados or the government of a foreign country;

"shipping facility" means

*(a)* a port;

*(b)* a shipyard; or

*(c)* an offshore terminal; and

"survey authority" means a marine surveyor or recognized organization.

(2) Unless a contrary intention appears, a word or expression that is used in this Division and in the AFS Convention has the same meaning as in that Convention, whether or not a particular meaning is assigned to it by that Convention.

**Compliance with anti-fouling requirements**

**547.**(1) All ships to which Article 3 of the International Convention on the Control of Harmful Anti-fouling Systems on Ships 2001, as amended, applies, shall comply with the anti-fouling requirements in this Division and any statutory instruments relating to this Division.

(2) A ship complies with the anti-fouling requirements if

*(a)* it has no harmful anti-fouling compound applied on a designated external surface; or

*(b)* each harmful anti-fouling compound that is applied on a designated external surface has a coating that forms a barrier to the harmful anti-fouling compound leaching into the water.

**Application or use of harmful anti-fouling compound**

**548.**(1) A person who recklessly or negligently causes a harmful anti-fouling compound to be applied on a designated external surface of

*(a)* a Barbados ship; or

*(b)* a foreign ship in a Barbados shipping facility,

commits an offence and is liable on summary conviction to a fine of $300 000.

(2) An owner or master of a ship who causes a harmful anti-fouling compound to be applied on a designated external surface of

*(a)* a Barbados ship; or

*(b)* a foreign ship in a Barbadian shipping facility,

commits an offence and is liable on summary conviction to a fine of $250 000.

(3) An offence under subsection (1) or (2) is a strict liability offence.

**Non-complying ships**

**549.**(1) The master or owner of a ship that enters a shipping facility commits an offence if

*(a)* the ship is not a pre-2003 exempt platform; and

*(b)* the ship does not comply with the anti-fouling requirements.

(2) A person who commits an offence under subsection (1) is liable on summary conviction to fine of $250 000.

(3) The master or owner of a ship referred to in subsection (1) who allows the ship to remain in a shipping facility commits an offence for each day on which the ship remains in the facility and is liable on summary conviction to fine of $1 000 for each day that the ship remains there.

(4) An offence under subsection (3) is a strict liability offence.

**Issuance or endorsement of anti-fouling certificate**

**550.**(1) If

*(a)* a survey authority surveys a Barbados ship with a gross tonnage of 400 GT or more for the purpose of determining whether the ship complies with the anti-fouling requirements;

*(b)* the ship does not have a current anti-fouling certificate; and

*(c)* on the basis of the survey, the survey authority is satisfied that the ship complies with the anti-fouling requirements,

then the marine surveyor or a recognized organization shall issue an anti-fouling certificate in respect of the ship in the prescribed form.

(2) If

*(a)* a surveyor or recognized organization surveys a Barbados ship with a gross tonnage of 400 GT or more, for the purpose of determining whether the ship complies with the anti-fouling requirements;

*(b)* the ship has a current anti-fouling certificate, but needs an endorsement in order for the certificate to continue in effect; and

*(c)* on the basis of the survey, the survey authority is satisfied that the ship complies with the anti-fouling requirements,

the marine surveyor or a recognized organization shall endorse the anti-fouling certificate.

**Lapsing of anti-fouling certificate**

**551.** An anti-fouling certificate ceases to be in force if

*(a)* the ship ceases to be a Barbados ship; or

*(b)* since the certificate was issued or last endorsed

(i) a coating or treatment is applied to a designated external surface of the ship; and

(ii) the ship is taken to sea without the certificate having been endorsed in respect of the coating or treatment.

**Cancellation of anti-fouling certificate**

**552.**(1) The Administration may cancel an anti-fouling certificate that is in force in respect of a Barbados ship if the Administration has reason to believe that

*(a)* the ship does not comply with the anti-fouling requirements; or

*(b)* the anti-fouling certificate was issued or endorsed upon false or erroneous information.

(2) The Administration may cancel an anti-fouling certificate under subsection (1) whether or not the certificate was issued by the Administration.

(3) The cancellation of a certificate takes effect when the Administration gives notice in writing of the cancellation

*(a)* addressed to the master, owner or agent of the ship; and

*(b)* served in a manner prescribed by the Minister or by regulations.

(4) If an anti-fouling certificate in respect of a Barbados ship is cancelled under this section, the Administration may

*(a)* require the certificate to be given to a specified person; and

*(b)* detain the ship until the requirement is complied with.

(5) A requirement under paragraph (4)*(a)* shall be

*(a)* made by notice in writing;

*(b)* addressed to the owner, agent or master of the ship; and

*(c)* served in a manner prescribed by the Minister or by regulation.

**Obligation to carry anti-fouling certificate**

**553.**(1) The master or owner of a ship with a gross tonnage of 400 GT or more that is not an exempt platform commits an offence if

*(a)* the ship enters or leaves a shipping facility on an international voyage; and

*(b)* the ship does not have on board a current anti-fouling certificate for the ship.

(2) A person who commits an offence under subsection (1) is liable on summary conviction to a fine of $10 000.

(3) An offence under subsection (1) is a strict liability offence.

**Obligation to report damage to ship**

**554.**(1) If an occurrence to a Barbados ship with a current anti-fouling certificate affects, or might affect, its compliance with the anti-fouling requirements, the master of the ship shall notify the Administration of the occurrence within 7 days after the occurrence.

(2) For each day after the period set out in subsection (1) that an occurrence is not reported, the master and owner of the ship each commit an offence and are liable on summary conviction to fine of $1 500 for each such day.

(3) An offence under subsection (1) is a strict liability offence.

**Obligation to carry anti-fouling declaration**

**555.**(1) The master or owner of a ship at least 24m in length that has a gross tonnage of less than 400 GT and that is not an exempt platform commits an offence if

*(a)* the ship enters or leaves a shipping facility on an international voyage; and

*(b)* the ship does not have on board an anti-fouling declaration for the ship.

(2) A person who commits an offence under subsection (1) is liable on summary conviction to a fine of $8 000.

(3) An offence under subsection (1) is a strict liability offence.

**Prohibited anti-fouling paints**

**556.**(1) The Administration shall maintain a list of prohibited anti-fouling paints in respect of Barbados vessels, and publish the list in a merchant shipping notice or by any other appropriate means.

(2) The list of prohibited anti-fouling paints may be updated as necessary by the Director, in consultation with the Minister.

**Compliance with anti-fouling regulations**

**557.** All ships to which this Division applies shall comply with the anti-fouling requirements specified in this Act and any of its statutory instruments.

*Division 9*

*Ships' Ballast Water and Sediments*

**Definitions**

**558.** In this Division,

"Ballast water discharge report" means a report that is required to be given under this Division;

"biosecurity risks" means

*(a)* the risk of spread of harmful aquatic organisms;

*(b)* the unintentional transport of invasive species and pathogens in ships' ballast water from Barbados waters; or

*(c)* any consequential marine ecosystem damage that results;

"BWM Convention" means the 2004 International Convention for the Control and Management of Ships' Ballast Water and Sediment, signed in London on 13th February, 2004;

"exclusive economic zone-sourced water" means ballast water least 95% of which was taken up within the outer limits of the exclusive economic zone of Barbados;

"high seas" means seas that are more than 200 nautical miles from the nearest land; and

"regulation B-3" means regulation B-3 of the Annex to the BWM Convention.

**Administration of this Division**

**559.** This Division and any statutory instruments relating to this Division shall be administered in respect of ships to which Article 3 of the International Convention for the Control and Management of Ships' Ballast Water and Sediments 2004, as amended, applies.

**Ballast water discharge report**

**560.** A ballast water discharge report in relation to a discharge or intended discharge of ballast water from a vessel in Barbados' waters shall include the following information:

*(a)* information identifying the vessel;

*(b)* contact details for the person on board the vessel who is responsible for managing the vessel's ballast water;

*(c)* information identifying and describing the tanks and pumps used to manage the vessel's ballast water;

*(d)* details of the voyage during which the discharge is intended to occur or occurred;

*(e)* if a ballast water management certificate has been issued for the vessel

(i) the date the certificate was issued;

(ii) the name of the authority that issued the certificate;

(iii) the place where the certificate was issued; and

(iv) the expiry date of the certificate;

*(f)* if there is a ballast water management plan for the vessel

(i) whether the plan has been approved and is on board the vessel; and

(ii) whether the vessel's ballast water and sediment have been managed in accordance with the vessel's ballast water management plan;

*(g)* whether the vessel has ballast water records on board the vessel;

*(h)* whether the vessel intends to dispose of, or has disposed of, sediment in Barbados waters;

*(i)* if the discharge or intended discharge is covered by an exception under Regulation A-3 of the International Convention for the Control and Management of Ships' Ballast Water and Sediment, 2004, details about the exception and information about how the conditions relating to the exception are to be, or have been, complied with;

*(j)* the port or other location where the discharge is intended to occur or occurred;

*(k)* the date and time when the discharge is intended to occur or occurred; and

*(l)* the estimated volume, in cubic metres, of ballast water discharged or intended to be discharged.

**Reporting ballast water discharge**

**561.**(1) The operator of a vessel shall give a report to the Director of Coastal Zone Management Unit if it is intended that the vessel is to discharge, or the vessel has discharged, ballast water in Barbados' waters.

(2) The report shall

*(a)* include the information in relation to the vessel that is prescribed under section 569;

*(b)* be in writing, on paper or given electronically, in the manner prescribed under that section;

*(c)* be given, either before or after the vessel enters Barbados' waters

(i) at least 12 hours before the discharge to which the report relates is intended to occur; or

(ii) if it is not possible to comply with subparagraph (i), at the time specified by a coastal protection official; and

*(d)* be in a form approved by the Director of Coastal Zone Management Unit.

(3) A person who contravenes subsection (1) commits an offence and is liable on summary conviction to a fine of $50 000.

(4) Subsection (1) applies whether or not the person is in Barbados' waters when the person is required to give the report.

**Additional or corrected information**

**562.**(1) If a person in charge or the operator of the vessel becomes aware that the information included in report given under section 561 was incomplete or incorrect, the operator shall give the additional or corrected information to a coastal protection officer as soon as practicable.

(2) A person who contravenes subsection (1) commits an offence and is liable on summary conviction to a fine of $50 000.

(3) Subsection (1) applies whether or not the person is in Barbados' waters when the person is required to give the information.

**Exceptions to requirement for ballast water discharge report**

**563.** For the purposes of section 561, the operator of a vessel is not required to give a ballast water discharge report in relation to a discharge or intended discharge of ballast water from a vessel in Barbados' waters if

*(a)* biosecurity risks associated with discharges of ballast water from the vessel are managed in accordance with an approved arrangement covering the operator;

*(b)* the operator is satisfied that

(i) immediately before the discharge or intended discharge, at least 95 per cent the relevant ballast water on the vessel will have been or was taken up within the outer limits of the exclusive economic zone of Barbados; and

(ii) the vessel has not left the waters within the outer limits of the exclusive economic zone of Barbados since the ballast water was taken up;

*(c)* the operator

(i) has previously given a report in relation to a discharge or intended discharge of ballast water from the vessel in Barbados waters;

(ii) is satisfied that, immediately before giving the report, at least 95% of the ballast water on the vessel will have been or was taken up in the territorial seas of a foreign country or the high seas; and

(iii) since the discharge to which the report related, the vessel has not left the waters within the outer limits of the exclusive economic zone of Barbados; or

*(d)* an agreement that relates to the vessel is in force under section 576(1) *(a)* exempting the operator from having to give a ballast water discharge report.

**Application for approval of ballast water management method**

**564.**(1) An application may be made, in the manner prescribed under section 567, to the Director of Coastal Zone Management Unit to approve a method of ballast water management.

(2) An application for approval of a method of ballast water management shall

*(a)* be in writing;

*(b)* be in a form approved by the Director of Coastal Zone Management Unit;

*(c)* if the application is for approval of a ballast water management system, be consistent with, and include the information required by, the Code for Approval of Ballast Water Management Systems adopted by the Marine Environment Protection Committee of the International Maritime Organization at London on 13th April 2018 by resolution MEPC.300(72) or a later version thereto;

*(d)* if the application is for approval of a prototype ballast water treatment technology, be consistent with, and include the information required by, the International Maritime Organization guidelines for approval of prototype ballast water treatment technologies; and

*(e)* if the application is for approval of any other method of ballast water management, be consistent with, and include the information required by, the International Maritime Organization guidelines for approving other methods of ballast water management.

(3) The Director of Coastal Zone Management Unit shall make a decision on an application under subsection (1) in accordance with section 567.

(4) The Director of Coastal Zone Management Unit shall make a decision on an application under subsection (1), and give notice of the decision to the applicant, within 28 days after the application was made.

(5) If the Director of Coastal Zone Management Unit does not give a notice within the 28-day period referred to in subsection (4), the Director is taken to have denied the approval at the end of that period.

(6) A copy of a notice granting an approval shall be published on the website of the Ministry responsible for Shipping.

(7) The Director of Coastal Zone Management Unit may, by written notice, require a person who has made an application under subsection (1) to give the Director further information about the application.

(8) If a notice is given under subsection (7), the running of the 28-day period referred to in subsection (4)

*(a)* stops on the day the notice is given; and

*(b)* begins again on the day after the information is given to the Director.

**Ballast water management method approval by foreign country**

**565.** A method of ballast water management is approved if the method is included in Table 3: List of ballast water management systems in resolutions MEPC.175(58) and MEPC.228(65) or later versions thereto of the International Maritime Organization, or any other applicable international maritime instrument which received type approval certification by the shipowners' respective administrations.

**Management by ballast water exchange**

**566.**(1) For the purpose of paragraph (2)*(a)*, the proportion, by volume, of ballast water in a vessel's tank taken up in an acceptable ballast water exchange conducted by the vessel is 95%.

(2) Ballast water discharged from a tank on a vessel is considered to have been managed for discharge if

*(a)* at least the proportion, by volume, prescribed under section 567 of the ballast water in the tank immediately before the discharge was taken up in an acceptable ballast water exchange;

*(b)* at the time the ballast water is discharged, the vessel has ballast water records that comply with this Act; and

*(c)* the vessel is not prescribed under section 567 to be excluded from the operation of this section.

(3) A ballast water exchange is an acceptable ballast water exchange if it is conducted

*(a)* in an area prescribed, or an area meeting requirements prescribed, under section 567 to be an acceptable location for ballast water exchange; and

*(b)* in accordance with any requirements prescribed under that section.

**Prescribing power**

**567.**(1) The Director of Coastal Zone Management Unit may, by statutory instrument, prescribe

*(a)* matters required or permitted by this Division to be prescribed;

*(b)* matters necessary or convenient to prescribe for carrying out or giving effect to this Division;

*(c)* exceptions to the requirement to give a report under section 561;

*(d)* a method for working out whether, for the purposes of section 566(2), the prescribed proportion of the ballast water in the tank of a vessel has been taken up;

*(e)* a method for working out whether, for the purposes of section 569(1), the prescribed proportion of the ballast water in the tank of a vessel has been taken up;

*(f)* conditions for the discharge of ballast water from a vessel for the purposes that are consistent with the objects the International Convention for the Control and Management of Ships' Ballast Water and Sediment, 2004;

*(g)* exemptions to vessels from the requirements of section 582; and

*(h)* a scheme for the Director of Coastal Zone Management Unit, a surveyor, or a recognized organization to approve a vessel's ballast water management plan or an amendment to it, or to cancel such a plan.

(2) An instrument made under subsection (1) may provide for the Director of Coastal Zone Management Unit to enter into agreements, make decisions or determine matters by notifiable instrument.

(3) For the avoidance of doubt, an instrument made under subsection (1) shall not

*(a)* create an offence or civil penalty;

*(b)* provide powers of

(i) arrest or detention; or

(ii) entry, search or seizure;

*(c)* impose a tax;

*(d)* set an amount to be appropriated from the Consolidated Revenue Fund under an appropriation in this Act; or

*(e)* amend the text of this Division.

(4) An instrument made under subsection (1) that is inconsistent with this Division or the regulations has no effect to the extent of the inconsistency, but the instrument shall be taken to be consistent with this Division or the regulations to the extent that the instrument is capable of operating concurrently with the Division or regulations.

**Excluded vessels**

**568.**(1) Section 566 does not apply to a vessel if

*(a)* under regulation B-3 of the Annex to the International Convention for the Control and Management of Ships' Ballast Water and Sediment, 2004, the vessel would not be permitted to manage ballast water for discharge using ballast water exchange; and

*(b)* a determination under subsection (3) is not in force in relation to the vessel.

(2) An application may be made by the owner of a vessel for the Director of Coastal Zone Management Unit to determine that the vessel is not excluded from the operation of section 566.

(3) The Director of Coastal Zone Management Unit may, by written notice given to the applicant, determine that the vessel is not excluded from the operation of section 566, if the Director is satisfied that

*(a)* the vessel operates predominantly in Barbadian seas or the high seas;

*(b)* the vessel operates predominantly within the outer limits of the exclusive economic zone of a foreign country or on the high seas; or

*(c)* the vessel is of a kind described in regulation A-5 of the Annex to the International Convention for the Control and Management of Ships' Ballast Water and Sediment, 2004.

(4) If the Director of Coastal Zone Management Unit makes a determination under subsection (3), the Director shall determine the period during which the determination is in force.

(5) The Director of Coastal Zone Management Unit may revoke a determination made under subsection (3).

(6) Each of the following decisions is a reviewable decision:

*(a)* a refusal to make a determination under subsection (3);

*(b)* a decision under subsection (4) to determine a period during which a determination is in force; and

*(c)* a decision under subsection (5) to revoke a determination.

**Acceptable locations for ballast water exchange**

**569.**(1) Ballast water discharged from a tank on a vessel is considered to have been managed for discharge if

*(a)* at least the proportion, by volume, prescribed under section 567, of the ballast water in the tank immediately before the discharge was taken up in an acceptable ballast water exchange;

*(b)* at the time the ballast water is discharged, the vessel has ballast water records that comply with the requirements of this Act; and

*(c)* the vessel is not prescribed to be excluded from the operation of this section.

(2) A ballast water exchange is considered to be an acceptable ballast water exchange if it is conducted

*(a)* in an area prescribed under section 567 to be an acceptable location for ballast water exchange;

*(b)* in an area specified in a Merchant Shipping Notice; and

*(c)* in accordance with any requirements prescribed under section 567.

(3) This section does not apply in relation to a vessel if at least 95% of the total of the ballast water on the vessel consists of ballast water taken up in the high seas.

(4) The area for discharge or exchange for a vessel whose ballast water is not exclusive economic zone-sourced water or a Barbados vessel that is not in Barbados waters shall be

*(a)* at least 200 nautical miles from the nearest land;

*(b)* if the vessel is unable to conduct a ballast water exchange in an area described in paragraph *(a)*, at least 50 nautical miles from the nearest land; or

*(c)* if the vessel is unable to conduct a ballast water exchange in an area described in paragraph *(a)* or *(b)*, at least 12 nautical miles from the nearest land, or a lesser distance determined under section 571.

(5) The area for discharge or exchange for a vessel whose ballast water is exclusive economic zone-sourced water, other than a Barbados vessel that is not in Barbados waters, shall be at least 12 nautical miles from the nearest land or a lesser distance determined under section 571.

**Requirements for ballast water exchange**

**570.** For the purposes of section 566(3)*(b)*, the requirements for a ballast water exchange that is conducted by a vessel in an acceptable location prescribed under section 358 are as follows:

*(a)* the ballast water exchange shall be conducted in water that is at least

(i) in a location described in section 569(4)*(a)* or *(b)*, 200m deep; and

(ii) in a location described in section 569(4)*(c)*, 50m deep or a shallower depth determined under section 571;

*(b)* at least a 95% volumetric exchange of ballast water in the relevant tank shall occur during the exchange;

*(c)* the exchange shall occur using an acceptable method referred to in the International Maritime Organization guidelines for ballast water exchange; and

*(d)* after the exchange occurs, no more ballast water shall be

(i) taken up into the tank from an area other than a location set out in section 569; or

(ii) transferred to the tank from a tank containing ballast water that has not been managed for discharge.

**Determining locations and depths for ballast water exchange**

**571.**(1) An application may be made by the owner of a vessel to the Director of Coastal Zone Management Unit to determine

*(a)* a lesser distance for the purposes of section 569(4)*(c)* or 569(5); or

*(b)* a shallower depth for the purposes of section 570*(a)*(ii).

(2) The Director of Coastal Zone Management Unit may, by written notice to the applicant, make a determination under subsection (1) subject to any conditions that the Director considers appropriate.

**Approval of discharge to ballast water reception facility**

**572.**(1) An application may be made, in the manner prescribed under section 567, to the Director of Coastal Zone Management Unit to approve

*(a)* one or more discharges of ballast water to a ballast water reception facility in Barbadian territory; and

*(b)* the manner in which the ballast water is to be treated or disposed of at the facility.

(2) The application shall

*(a)* be in writing; and

*(b)* be in a form approved by the Director of Coastal Zone Management Unit.

(3) Subject to subsection (4), the Director of Coastal Zone Management Unit may approve the discharge of ballast water to a ballast water reception facility in

Barbadian territory, if the Director is satisfied that the ballast water reception facility complies with the requirements set out in the International Maritime Organization guidelines for ballast water reception facilities.

(4) The Director of Coastal Zone Management Unit

*(a)* shall make a decision under subsection (3) in accordance with section 567; and

*(b)* shall not approve a manner of treating or disposing of the ballast water that would contravene this Act or the regulations.

(5) The Director of Coastal Zone Management Unit shall make a decision and give notice of the decision to the applicant in writing within 28 days after the application was made.

(6) If the Director of Coastal Zone Management Unit does not give notice under subsection (5) within the 28-day period referred to in subsection (4), the Director is taken to have refused to grant the approval at the end of that period.

(7) The Director of Coastal Zone Management Unit may, by a written notice, require an applicant to give the Director further information about the application.

(8) If a notice is given under subsection (7), the running of the 28-day period referred to in subsection (5)

*(a)* stops on the day the notice is given; and

*(b)* begins again on the day after the information is given to the Director.

**Discharge of ballast water into ports**

**573.**(1) A port authority may appoint a place within its jurisdiction where the ballast water of vessels in which a cargo of petroleum-spirit has been carried may be discharged into the waters of the port, at such times, and subject to such conditions, as the authority may determine.

(2) Where a place is appointed, the discharge of ballast water from a vessel shall not constitute an offence under this Division if the ballast water is discharged

at that place, and at a time and in accordance with any conditions that are specified, if the ballast water contains no oil other than petroleum spirit.

(3) Treated ballast water may be discharged in port where the ship has a Ballast Water Treatment System installed which complies with either D-1 or D-2 Standard of the BWM Convention.

**Potable water**

**574.** Ballast water may be discharged from the vessel if

*(a)* at least 95% of the relevant ballast water on the vessel, immediately before the discharge, consists of potable water;

*(b)* the ballast water was sourced from a municipal water supply or produced on board the vessel;

*(c)* there is documentary evidence on board the vessel

(i) for ballast water sourced from a municipal water supply, stating the place where, and the time when, the water was sourced; or

(ii) for ballast water produced on board the vessel, confirming that the ballast water was produced on board the vessel and that the equipment generating the ballast water was operated appropriately; and

*(d)* the discharge complies with any conditions prescribed under section 567.

**Water taken up in the high seas**

**575.**(1) Ballast water may be discharged from a vessel if, immediately before the discharge, at least 95% of the total of relevant ballast water on the vessel consists of ballast water taken up in the high seas.

(2) Subsection (1) does not apply in relation to a vessel that is excluded from the application of section 566 by section 568.

**Ballast water discharged in accordance with agreements**

**576.**(1) Ballast water may be discharged from a vessel if

*(a)* an agreement, between the owner of the vessel and the Director of Coastal Zone Management Unit, that relates to the vessel is in force when the discharge occurs;

*(b)* the discharge occurs in accordance with the agreement;

*(c)* all conditions specified in the agreement have been complied with; and

*(d)* all conditions prescribed under section 567 have been complied with.

(2) The Director of Coastal Zone Management Unit may

*(a)* enter into an agreement for the purposes of subsection (1);

*(b)* impose conditions in the agreement;

*(c)* exempt, in the agreement, the operator of a vessel from the requirement to give a ballast water discharge report under section 560; and

*(d)* revoke or vary an agreement

(i) on request of the owner of the vessel; or

(ii) if the Director of Coastal Zone Management Unit is satisfied that a condition specified in the agreement has not been complied with or that the risks relating to a discharge of ballast water from the vessel have increased.

(3) A decision under subsection (2)*(d)*(ii) to revoke or vary an agreement relating to a vessel is a reviewable decision.

**Ballast water discharge in same risk area**

**577.**(1) A vessel may discharge ballast water in accordance with the conditions prescribed under section 567 if

*(a)* at least 95% of the relevant ballast water on the vessel, immediately before the discharge, was taken up in an area specified in the notifiable instrument made under subsection (2);

*(b)* the discharge also occurs in that area; and

*(c)* at the time of the discharge, the vessel is not excluded from the operation of section 566 by section 568.

(2) The Director of Coastal Zone Management Unit may, by notifiable instrument, specify areas for the purposes of paragraph (1)*(a)*.

**Barbados vessels complying with foreign laws**

**578.** A Barbados vessel may discharge ballast water in accordance with the conditions prescribed under section 567 if

*(a)* the vessel is not in Barbados waters;

*(b)* the vessel is in the territorial seas of a state that is a party to the International Convention for the Control and Management of Ships' Ballast Water and Sediment, 2004; and

*(c)* the discharge complies with all the laws of the state relating to discharges of ballast water.

**Exception for discharge covered by exemption**

**579.** Sections 577 and 578 do not apply to a discharge of ballast water from a vessel if

*(a)* the discharge is covered by an exemption granted under section 581; and

*(b)* any conditions of the exemption have been complied with.

**Grant of exemption for discharge**

**580.** The Director of the Coastal Zone Management Unit may grant an exemption under section 581(2) for one or more discharges of ballast water from a vessel if

*(a)* a risk assessment in relation to the discharge or discharges has been conducted, indicating that the level of biosecurity risk associated with the discharge or discharges is acceptable, and the Director has taken into account the International Maritime Organization guidelines for risk assessment; or

*(b)* biosecurity risks associated with discharges of ballast water from the vessel are managed in accordance with an approved arrangement covering the operator of the vessel.

**Application for exemption**

**581.**(1) An application may be made, in a manner acceptable to the Director of the Coastal Zone Management Unit, for an exemption for one or more discharges of ballast water from a vessel that

*(a)* are to be connected with the vessel's voyages between specified ports, offshore terminals or other locations;

*(b)* are to be of ballast water taken up in one or more of those ports, offshore terminals or other locations; and

*(c)* are to occur within a specified period of not more than 5 years.

(2) The Director may, by written notice to the applicant,

*(a)* grant the exemption in accordance with the conditions prescribed under section 566 in whole or in part and subject to any conditions specified in the notice; or

*(b)* refuse to grant the exemption.

(3) The Director shall make a decision and give notice under subsection (2) within 28 days after the application was made.

(4) If the Director does not give notice under subsection (2) within the 28-days period referred to in subsection (3), the Director is taken to have refused to grant the exemption at the end of that period.

**Ballast water management plan and certificate**

**582.** A Barbados vessel, whether in or outside Barbados waters, and a foreign vessel in Barbados waters shall, subject to subsection (2) and section 583, have

*(a)* a ballast water management plan; and

*(b)* a ballast water management certificate that is in force.

**Exceptions**

**583.** Section 582 does not apply to

*(a)* a vessel used only for recreational use that is of less than 400 GT; or

*(b)* a vessel exempted from the requirements of that section by a legislative instrument made under section 567.

**Exemption**

**584.**(1) An application may be made by the owner of a vessel to the Director of the Coastal Zone Management Unit to grant an exemption to the vessel from the requirement in section 582.

(2) The Director of the Coastal Zone Management Unit may, by written notice to the applicant

*(a)* grant the exemption;

*(b)* grant the exemption subject to conditions; or

*(c)* refuse to grant the exemption.

**Ballast water management plan**

**585.** A ballast water management plan for a vessel shall

*(a)* deal with ballast water management for the vessel and the disposal of sediments from the vessel;

*(b)* include mandatory provisions in accordance with the International Maritime Organization guidelines for ballast water management and development of ballast water management plans;

*(c)* be in the form set out in the Appendix to those guidelines;

*(d)* meet the requirements prescribed under section 567; and

*(e)* have an approval under section 586

(i) by, or on behalf of, the vessel's Administration that is in force; or

(ii) by the Director of the Coastal Zone Management Unit, a surveyor, or recognized organization under section 375 that is in force.

**Approval of Ballast Water Management Plans for Vessels**

**586.**(1) The Director of the Coastal Zone Management Unit, a surveyor, or a recognized organization may, in accordance with procedures prescribed under section 567 to take any of the following actions in relation to a vessel

*(a)* approve a ballast water management plan for the vessel;

*(b)* approve an amendment of the vessel's ballast water management plan;

*(c)* cancel the approval of the vessel's ballast water management plan.

(2) An action referred to in subsection (1) may be taken in relation to a foreign vessel only at the request of the vessel's administration.

(3) The Director, a surveyor or a recognized organization may approve a ballast water management plan for a vessel if

*(a)* the plan includes mandatory provisions in accordance with the International Maritime Organization guidelines for ballast water management and development of ballast water management plans;

*(b)* the plan is in the form set out in the Appendix to those guidelines; and

*(c)* if the Director is approving the plan, the plan has been endorsed by a surveyor or recognized organization.

(4) The Director, a surveyor, or recognized organization may approve an amendment of a ballast water management plan for a vessel if the Director, surveyor or recognized organization is satisfied that the plan, will meet the requirements of subsection (3).

(5) The Director, a surveyor or a recognized organization may cancel the approval of a ballast water management plan for a vessel if the plan no longer meets the requirements of subsection (3).

**Ballast water management certificate**

**587.**(1) A ballast water management certificate for a vessel shall

*(a)* certify that the vessel has a ballast water management plan for which an approval by, or on behalf of, the vessel's administration, including an approval under section 586, is in force;

*(b)* be issued or endorsed

(i) by the Director of the Coastal Zone Management Unit, a surveyor or a recognized organization; or

(ii) by, or on behalf of, the vessel's administration; and

*(c)* certify that the vessel meets any other requirements prescribed under section 567.

(2) For a Barbados vessel or a foreign vessel whose administration is a party to the International Convention for the Control and Management of Ships' Ballast Water and Sediment, 2004, a ballast water management certificate shall be in the form set out in Appendix I to that Convention.

(3) For a foreign vessel whose administration is not a party to the International Convention for the Control and Management of Ships' Ballast Water and Sediment, 2004, a ballast water management certificate shall be a survey report from a survey authority or the vessel's administration that includes

*(a)* the information set out in Appendix I to that Convention; and

*(b)* records of surveys referred to in regulation E-1 of the Annex to that Convention that have been carried out in relation to the vessel.

**Survey of vessel and issuance of ballast water management certificate**

**588.**(1) The Director of the Coastal Zone Management Unit, a surveyor or a recognized organization may, in accordance with this section, on behalf of Barbados

*(a)* survey a vessel to determine whether a ballast water management certificate should be issued or endorsed for the vessel;

*(b)* issue a ballast water management certificate for a vessel;

*(c)* endorse a ballast water management certificate for a vessel;

*(d)* withdraw a ballast water management certificate for a vessel;

*(e)* extend the period during which a ballast water management certificate for a vessel is in force; or

*(f)* amend the expiry date on a ballast water management certificate for a vessel.

(2) The Director of the Coastal Zone Management Unit, a surveyor or a recognized organization shall carry out a survey of a vessel referred to in

regulation E-1 of the Annex to the International Convention for the Control and Management of Ships' Ballast Water and Sediment, 2004, before

*(a)* issuing, endorsing or withdrawing a ballast water management certificate for the vessel;

*(b)* extending the period during which a ballast water management certificate is in force for the vessel; or

*(c)* amending the expiry date on a ballast water management certificate for the vessel.

(3) If, after carrying out a survey of a vessel under subsection (2), the Director of the Coastal Zone Management Unit, a surveyor or a recognized organization is satisfied that the requirements in regulation E-1 of the Annex to the International Convention for the Control and Management of Ships' Ballast Water and Sediment, 2004 are met in relation to the vessel, the Director, surveyor or recognized organization shall

*(a)* issue or endorse a ballast water management certificate for the vessel;

*(b)* extend the period during which a ballast water management certificate is in force for the vessel; or

*(c)* amend the expiry date on a ballast water management certificate for the vessel.

(4) The Director of the Coastal Zone Management Unit, a surveyor or a recognized organization shall withdraw a ballast water management certificate if

*(a)* the ballast water management certificate is in force for a vessel; and

*(b)* the Director, surveyor or recognized organization is satisfied, after conducting a survey referred to in regulation E-1 of the Annex to the International Convention for the Control and Management of Ships' Ballast Water and Sediment, 2004, that the requirements of that Convention are no longer being met.

(5) A ballast water management certificate issued under this section shall be in the form set out in Appendix I to the International Convention for the Control and Management of Ships' Ballast Water and Sediment, 2004.

**Ballast water record system**

**589.**(1) A Barbados vessel, whether in or outside Barbados waters, and a foreign vessel in Barbados waters, that is capable of carrying ballast water shall have on board a ballast water record system as specified in Regulation B-2 of the Annex to the International Convention for the Control and Management of Ships' Ballast Water and Sediment, 2004 that complies with any requirements prescribed under section 567.

(2) A person in charge of a vessel referred to in subsection (1) that does not have a ballast water record system required by that subsection commits an offence and is liable on summary conviction to a fine of $50 000.

(3) An offence under subsection (2) is a strict liability offence.

**Recording of ballast water operation and disposal of sediment**

**590.**(1) A person in charge of a Barbados vessel, whether in or outside Barbados waters, shall make a record of

*(a)* any ballast water operation conducted; and

*(b)* any disposal of sediment.

(2) A person in charge of a foreign vessel shall make a record of

*(a)* any ballast water operation conducted in Barbados waters; and

*(b)* any disposal of sediment in Barbados' maritime territory.

(3) A record required under subsection (1) or (2) shall

*(a)* be made using the vessel's ballast water record system;

*(b)* be made as soon as practicable after the ballast water operation is conducted or the sediment is disposed of; and

*(c)* comply with any requirements prescribed under section 567.

(4) A person who fails to make a record required under subsection (1) or (2) commits an offence and is liable on summary conviction to a fine of $10 000.

(5) An offence under subsection (4) is a strict liability offence.

(6) A person who makes a record using a vessel's ballast water record system that is false or misleading in a material particular commits an offence and is liable on summary conviction to a fine of $200 000.

**Records of ballast water operations and sediment disposals**

**591.**(1) A record of a ballast water operation conducted by a Barbados vessel or a foreign vessel

*(a)* shall comply with regulation B-2 of the Annex to the International Convention for the Control and Management of Ships' Ballast Water and Sediment, 2004; and

*(b)* if the discharge is covered by an exemption under section 581, shall describe the circumstances of, and the reasons for, any discharge in relation to which the condition in that section is met.

(2) A record of a disposal of sediment from a Barbados vessel or a foreign vessel, shall

*(a)* include the following information

(i) the date and time, and the location of the vessel, when the disposal occurred;

(ii) information identifying the tanks from which the sediment was disposed;

(iii) the estimated volume, in cubic metres, of sediment disposed of; and

(iv) any residual sediment remaining in the tanks at the end of the disposal;

*(b)* be made in, or translated into, English, French or Spanish; and

*(c)* be signed, in ink or electronic form, by the person in charge of the disposal.

(3) Each completed page of the record shall be signed, in ink or electronic form, by the person in charge of the vessel.

**Retention of ballast water records**

**592.**(1) Each record made for the purposes of section 590(1) or (2) using a vessel's ballast water record system shall be retained on board the vessel for 2 years after the record is made.

(2) Each record made, for the purposes of section 590(1) or (2) using a vessel's ballast water record system shall be retained for a further 3 years after the period referred to in subsection (1)

*(a)* on board the vessel; or

*(b)* in the control of the owner of the vessel.

(3) Subsections (1) and (2) do not apply in relation to a record that was lost or destroyed if

*(a)* the loss or destruction of the record was beyond the control of the present owner of the vessel; and

*(b)* the present owner was not the owner when the record was lost or destroyed.

(4) For the purposes of subsections (1) and (2), if a vessel is being towed by another vessel and has no crew on board, a record that is on board the other vessel is taken to be on board the towed vessel.

(5) The owner of a vessel that fails to comply with subsection (1) or (2) commits an offence and is subject to the payment of an administrative penalty imposed under section 1485.

(6) An offence under subsection (5) is a strict liability offence.

**Appropriate ballast water records**

**593.**(1) A vessel has appropriate ballast water records if

*(a)* the vessel has on board records, made in accordance with section 380, that are sufficient to allow any biosecurity risk associated with the vessel's ballast water or sediment to be identified and assessed; and

*(b)* the vessel does not have on board any records, made using the vessel's ballast water record system, that are false or misleading in a material particular.

(2) For the purposes of subsection (1), if a vessel is being towed by another vessel and has no crew on board, a record that is on board the other vessel is taken to be on board the towed vessel.

**Offence of sediment disposal**

**594.**(1) A person in charge, or the operator, of a Barbados vessel shall not dispose of sediment, whether in or outside Barbados waters, other than to a sediment reception facility.

(2) A person in charge, or the operator, of a foreign vessel in Barbados waters shall not dispose of sediment other than to a sediment reception facility.

(3) A person who contravenes subsection (1) or (2) commits an offence and is liable on summary conviction to a fine of $700 000.

**Exceptions**

**595.**(1) Section 594 does not apply to the disposal of sediment from a vessel if

*(a)* the disposal is necessary to ensure the safety of the vessel in an emergency or save life at sea; or

*(b)* the disposal is for the purpose of avoiding or minimizing pollution from the vessel.

(2) Section 594 does not apply to the disposal of sediment from a vessel if

*(a)* the disposal is accidental and results from damage to the vessel or her equipment;

*(b)* all reasonable precautions to prevent or minimise the disposal were taken

(i) before and after the occurrence of the damage;

(ii) before and after the discovery of the damage; or

(iii) before and after the discovery of the disposal; and

*(c)* none of the following intentionally caused the damage, or was reckless as to the occurrence of the damage:

(i) the person in charge of the vessel;

(ii) the owner of the vessel; or

(iii) the operator of the vessel.

**Report of sediment disposal relating to safety, accident or pollution**

**596.**(1) The person in charge or the operator of a vessel shall make a report to the Director of the Coastal Zone Management Unit if

*(a)* the vessel disposes of sediment in Barbados waters; and

*(b)* the disposal is

(i) to ensure the safety of the vessel in an emergency or save life at sea;

(ii) accidental; or

(iii) to avoid or minimise pollution from the vessel.

(2) The report shall

*(a)* set out the reason for the disposal of the sediment; and

*(b)* be made within 24 hours or as soon thereafter as is practicable, after a member of the vessel's crew becomes aware of the disposal.

(3) A person who contravenes subsection (1) commits an offence and is liable on summary conviction to a fine of $150 000.

(4) An offence under subsection (3) is a strict liability offence.

**An offence under subsection (3) is a strict liability offence.**

**597.** The Code of Approval for Ballast Water Management Systems shall have the force of law in Barbados.

**Compliance with Ballast Water and Sediment Management Regulations**

**598.**(1) All ships to which this Division applies shall comply with the ballast water and sediment management requirements specified in the regulations or in a Merchant Shipping Notice.

(2) Notwithstanding the general application of this Division to vessels over 150 GT, the Minister may make regulations, or the Coastal Zone Management Unit, in consultation with the Administration, may by Merchant Shipping Notice, specify ballast water and sediment pollution control requirements for small vessels.

*Division 10*

*High Seas Intervention: Pollution Casualties*

**Definitions**

**599.** In this Division,

"controller" in relation to of a tangible asset, means

*(a)* in the case of land, the seabed or premises, the occupier of the land, seabed or premises;

*(b)* in the case of a facility, structure or installation, the person in charge of the facility, structure or installation; and

*(c)* in the case of goods, the person in control or possession of the goods;

"high seas" means all parts of the sea to which Part VII of the United Nations Convention on the Law of the Sea, 1982 applies;

"Intervention Convention" means International Convention Relating to Intervention on the High Seas in Cases of Oil Pollution Casualties, adopted by the International Maritime Organization on 29th November, 1969;

"Protocol" means the Protocol Relating to Intervention on the High Seas in Cases of Pollution by Substances other than Oil, 1973, as affected by the following resolutions of the Marine Environment Protection Committee of the International Maritime Organization revising the list of substances to be annexed to the Protocol:

*(a)* the resolution adopted on 4th July 1991; and

*(b)* the resolution adopted on 10th July 1996; and

"tangible asset" means

*(a)* land or the seabed;

*(b)* premises;

*(c)* a facility;

*(d)* a structure;

*(e)* an installation; or

*(f)* goods, including

(i) a vessel;

(ii) an aircraft;

(iii) a vehicle;

(iv) an item of equipment or machinery; and

(v) a tool.

**Application**

**600.** This Division applies to any vessel on the high seas, irrespective of the flag she flies.

**Measures to prevent oil pollution after maritime casualty**

**601.**(1) Where the Administration is satisfied that, after a maritime casualty on the high seas or acts related to such a casualty, there is grave and imminent danger to the coastline of Barbados or to the interests of Barbados from pollution or a threat of pollution of the sea by oil that may reasonably be expected to result in major harmful consequences, the Administration may take such measures, whether on the high seas or elsewhere, as it considers necessary to prevent, mitigate or eliminate the danger.

(2) The measures that the Administration may take under this section in relation to a ship involved in the maritime casualty include

*(a)* the taking of action in relation to the ship

(i) to move the ship or part of the ship to another place;

(ii) to remove cargo from the ship;

(iii) to salvage the ship, part of the ship or any of the ship's cargo;

(iv) to sink or destroy the ship or part of the ship;

(v) to sink, destroy or discharge into the sea any of the ship's cargo; or

(vi) to take over control of the ship or part of the ship; and

*(b)* the issuing of directions of the kind authorized by section 604 to

(i) the owner of the ship;

(ii) the master of the ship;

(iii) a salvor in possession of the ship;

(iv) the owner of another ship;

(v) the master of another ship;

(vi) the owner of a tangible asset;

(vii) the controller of a tangible asset;

(viii) the supplier of goods;

(ix) a person to whom goods are being, or are proposed to be, supplied;

(x) the supplier of a service;

(xi) a person to whom a service is being, or is proposed to be, supplied; or

(xii) any other person.

(3) The Administration shall not exercise its powers under subparagraph (2) *(a)*(iv) without the approval of the Minister.

(4) The Administration shall not issue a direction under paragraph (2)*(b)* to the owner or master of another ship unless the other ship is

*(a)* in territorial waters;

*(b)* in Barbados' contiguous zone;

*(c)* in the exclusive economic zone of Barbados; or

*(d)* a Barbados ship.

(5) This section does not authorize the taking of measures against a warship or other ship owned or operated by a foreign state that is being used for only government non-commercial service.

(6) The Minister and the Administration shall, in relation to the exercise of powers under this section, act in accordance with Articles III and V of the

Intervention Convention and, for this purpose, those Articles are taken to extend to the taking of measures under this section elsewhere than on the high seas.

(7) This section shall not be construed as limiting or otherwise affecting any right or power that Barbados may have, whether under international law, under this Act or otherwise.

(8) An expression, other than "high seas", that is used in this section, other than paragraph (2)*(d)*(vi) to (xi) or subsection (4), and in the Convention has the same meaning as in the Convention, whether or not a particular meaning is assigned to it by the Convention.

(9) A direction under this Part is taken to relate to a ship involved in a maritime casualty referred to in subsection (1).

**Measures to prevent pollution by substances other than oil**

**602.**(1) Where the Administration is satisfied that, after a maritime casualty on the high seas or acts related to such a casualty, there is grave and imminent danger to the coastline of Barbados, or to the interests of Barbados, from pollution, or a threat of pollution, of the sea by substances other than oil that may reasonably be expected to result in major harmful consequences, the Administration may take such measures as it considers necessary to prevent, mitigate or eliminate the danger.

(2) The measures that the Administration may take under this section in relation to a ship involved in a maritime casualty include

*(a)* the taking of action

(i) to move the ship or part of the ship to another place;

(ii) to remove cargo from the ship;

(iii) to salvage the ship, part of the ship or any of the ship's cargo;

(iv) to sink or destroy the ship or part of the ship;

(v) to sink, destroy or discharge into the sea any of the ship's cargo; or

(vi) to take over control of the ship or part of the ship; and

*(b)* the issuing of directions of the kind authorized by section 604 to

(i) the owner of the ship;

(ii) the master of the ship;

(iii) any salvor in possession of the ship;

(iv) the owner of any other ship;

(v) the master of any other ship;

(vi) the owner of a tangible asset;

(vii) the controller of a tangible asset;

(viii) the supplier of goods;

(ix) a person to whom goods are being, or are proposed to be, supplied;

(x) the supplier of a service;

(xi) a person to whom a service is being, or is proposed to be, supplied; or

(xii) any other person.

(3) The Administration shall not exercise its powers under subparagraph (2) *(a)*(iv) without the Minister's approval.

(4) The Administration shall not issue a direction under subparagraph (2)*(b)* (iv) to the owner or master of another ship, unless the other ship is

*(a)* in territorial waters;

*(b)* in Barbados' contiguous zone;

*(c)* in the exclusive economic zone of Barbados; or

*(d)* a Barbados ship.

(5) This section does not authorize the taking of measures against a warship or other ship owned or operated by a foreign state that is being used only on government non-commercial service.

(6) The Minister and the Administration shall, in the exercise of powers under this section, act in accordance with Articles III and V of the Intervention Convention as applying by virtue of Article II of the Protocol and, for this purpose, those Articles are taken to extend to the taking of measures under this section elsewhere than on the high seas.

(7) This section shall not be construed as limiting or otherwise affecting any right or power that Barbados may have, whether under international law, under this Act or otherwise.

(8) Where an expression, other than "high seas", is used in this section, other than in subparagraph (2)*(b)*(vi) to (xi) or subsection (3),

*(a)* if the expression is also used in the Protocol, the expression has, in this section, the same meaning as in the Protocol, whether or not a particular meaning is assigned to it by the Protocol; and

*(b)* subject to paragraph *(a)*, if the expression is also used in the provisions of the Intervention Convention referred to in paragraph 1 of Article II of the Protocol, the expression has, in this section, the same meaning as in the Convention, whether or not a particular meaning is assigned to it by the Protocol.

(9) A direction under this Act is taken to relate to a ship involved in a maritime casualty referred to in subsection (1) even if the direction is issued under subparagraph (2)*(b)*(iv).

**General Powers**

**603.**(1) This section applies in relation to

*(a)* a ship in territorial waters in relation to which Barbados has international rights or obligations, whether arising under an international convention, treaty or otherwise, where

(i) the ship is engaged in trade or commerce, or in operations incidental to trade or commerce, between Barbados and a place outside Barbados;

(ii) the ship is owned, operated, managed or controlled by a corporation;

(iii) the ship is demised to, or in the exclusive possession of, a corporation; or

(iv) a beneficial interest in the ship is vested in a corporation;

*(b)* a ship in Barbados waters;

*(c)* a ship in the exclusive economic zone of Barbados; and

*(d)* a Barbados ship on the high seas.

(2) Where oil or a noxious substance is escaping, or has escaped, from a ship referred to in subsection (1), or the Administration is satisfied that oil or a noxious substance is likely to escape from such a ship, the Administration may, subject to subsection (4), take such measures as it considers necessary

*(a)* to prevent, or reduce the extent of, the pollution or likely pollution, by the oil or noxious substance, of Barbadian waters, a part of the Barbadian coast or a Barbadian reef;

*(b)* to prevent damage, or reduce the extent or likely extent of damage, to any of the interests of Barbados by reason of the pollution, or likely pollution, of the sea by the oil or noxious substance;

*(c)* to protect Barbadian waters, a part of the Barbadian coast or a Barbadian reef from pollution or likely pollution by the oil or noxious substance;

*(d)* to protect any other interests of Barbados from damage by reason of the pollution, or likely pollution, of the sea by the oil or noxious substance; or

*(e)* where the oil or noxious substance has escaped, to remove or reduce the effects, or likely effects, of pollution or likely pollution by the oil or noxious substance on Barbadian waters, a part of the Barbadian coast, a Barbadian reef or an interest of Barbados.

(3) The measures that the Administration may take under subsection (2) in relation to the ship include

*(a)* the taking of action to

(i) move the ship or part of the ship to another place;

(ii) remove cargo from the ship;

(iii) salvage the ship, part of the ship or any of the ship's cargo;

(iv) sink or destroy the ship or part of the ship;

(v) sink, destroy or discharge into the sea any of the ship's cargo; or

(vi) take over control of the ship or part of the ship; and

*(b)* the issuance of directions of the kind authorized by section 604 to

(i) the owner of the ship;

(ii) the master of the ship;

(iii) any salvor in possession of the ship;

(iv) the owner of any other ship;

(v) the master of any other ship;

(vi) the owner of a tangible asset;

(vii) the controller of a tangible asset;

(viii) the supplier of goods;

(ix) a person to whom goods are being, or are proposed to be, supplied;

(x) the supplier of a service;

(xi) a person to whom a service is being, or is proposed to be, supplied; or

(xii) any other person.

(4) The Administration shall not exercise its powers under subparagraph (3) *(a)*(iv) without the approval of the Minister.

(5) The Administration shall not issue a direction under subparagraph (3)*(b)* (iv) to the owner or master of another ship unless the other ship is

*(a)* in territorial waters;

*(b)* in Barbados' contiguous zone;

*(c)* in the exclusive economic zone of Barbados; or

*(d)* a Barbados ship.

(6) The Minister and the Administration shall, in the exercise of powers under this section, act in accordance with the following principles

*(a)* measures taken under this section shall be in proportion to the damage, whether actual or threatened, in relation to which the measures are taken;

*(b)* in determining whether measures are in proportion to the damage in relation to which the measures are taken, regard shall be had to

(i) the extent and probability of imminent damage if the measures are not taken;

(ii) the likelihood of those measures being effective; and

(iii) the extent of the damage which may be caused by the measures;

*(c)* measures taken under this section shall not exceed those reasonably necessary to achieve the end sought to be achieved by the measures and shall cease as soon as that end has been achieved;

*(d)* measures taken under this section shall not unnecessarily interfere with the rights and interests of other countries, and of any persons, likely to be affected by the measures; and

*(e)* in taking measures under this section, any risk to human life shall, as far as possible, be avoided.

(7) Where oil or a noxious substance is being, has been or is likely to be, discharged, intentionally or otherwise, from a ship, the discharge or likely discharge of the oil or noxious substance from the ship shall, for the purposes of this section, be deemed to be an escape or likely escape of the oil or noxious substance from the ship.

(8) A direction under this Act is taken to relate to a ship referred to in subsection (2) even if the direction was issued under subparagraph (3)*(b)*(xii).

(9) In this section,

"Barbadian reef" means a reef in Barbados waters or a reef outside Barbadian waters but forming part of the continental shelf of Barbados;

"oil" means crude oil, fuel oil, diesel oil or lubricating oil;

"interests of Barbados" in relation to an escape or likely escape of oil or a noxious substance from a ship, means the interests of Barbados directly affected or threatened by the escape or likely escape and includes the following interests of Barbados:

*(a)* maritime coastal, port or estuarine activities, including fisheries activities, in or connected with Barbados, that constitute an essential means of livelihood of persons;

*(b)* the tourist attractions of any part of Barbados; and

*(c)* the health of the coastal population of Barbados, and the well-being of any area of Barbados, including the conservation of living marine resources and of wildlife in or connected with any area of Barbados.

**Directions**

**604.**(1) The Administration may issue a direction in writing in relation to a ship involved in a maritime casualty referred to in section 601(1) or 602(1) or a ship referred to in section 603(2) requiring or prohibiting the doing of any act or thing with respect to the ship or the ship's cargo, including

*(a)* requiring or prohibiting the movement of the ship or part of the ship, its movement to a place or area or its removal from a place or area;

*(b)* requiring or prohibiting the removal of cargo from the ship;

*(c)* requiring or prohibiting the taking of salvage measures in relation to the ship, part of the ship or any of the ship's cargo;

*(d)* requiring or prohibiting the sinking or destruction of the ship or part of the ship;

*(e)* requiring or prohibiting the sinking, destruction or discharging into the sea of any of the ship's cargo;

*(f)* requiring or prohibiting the handing over of control of the ship or part of the ship;

*(g)* requiring another ship to be made available for purposes in connection with unloading, receiving, treating, storing or disposing of any of the ship's cargo;

*(h)* requiring another ship to be made available for purposes in connection with repairing, piloting, towing, berthing or securing the ship;

*(i)* to facilitate unloading, receiving, treating, storing or disposing of any of the ship's cargo, requiring

(i) the movement of another ship or tangible asset; or

(ii) the removal of another ship or tangible asset from a place or area;

*(j)* to facilitate repairing, piloting, towing, berthing or securing the ship, require

(i) the movement of another ship or tangible asset; or

(ii) the removal of another ship or tangible asset from a place or area;

*(k)* to avoid impeding or interfering with unloading, receiving, treating, storing or disposing of any of the ship's cargo, prohibit

(i) the movement of another ship or tangible asset; or

(ii) the removal of another ship or tangible asset from a place or area;

*(l)* to avoid impeding or interfering with repairing, piloting, towing, berthing or securing the ship, prohibit

(i) the movement of another ship or tangible asset; or

(ii) the removal of another ship or tangible asset from a place or area;

*(m)* requiring a tangible asset, other than a ship, to be made available for purposes in connection with unloading, receiving, treating, storing or disposing of any of the ship's cargo;

*(n)* requiring a tangible asset, other than a ship, to be made available for purposes in connection with repairing, piloting, towing, berthing or securing the ship;

*(o)* requiring a specified place to be treated as a place of refuge for the ship;

*(p)* requiring the supply of services by way of, or in connection with,

(i) unloading, receiving, treating, storing or disposing of any of the ship's cargo; or

(ii) repairing, piloting, towing, berthing or securing the ship; or

*(q)* requiring the temporary release of contractual obligations, where the fulfilment of those obligations is likely to impede or interfere with the

carrying out of any other direction under this Act that relates to the ship.

(2) The Administration shall not issue a direction under paragraph (1)*(d)* without the approval of the Minister.

(3) Without limiting the generality of subsection (1), a direction under that subsection may

*(a)* require that an act or thing be done in accordance with the direction or instructions, or with the approval, of a specified person; or

*(b)* prohibit the doing of an act or thing except in accordance with the direction or instructions, or with the approval, of a specified person.

**Addressing of directions**

**605.** A direction under this Division may be addressed

*(a)* in the case of a direction to the owner of a ship, to the owner of the ship without specifying the name of the owner or of any of the owners of the ship;

*(b)* in the case of a direction to the master of a ship, to the master of the ship without specifying him by name;

*(c)* in the case of a direction to the salvor in possession of a ship, to the salvor in possession of the ship without specifying him by name;

*(d)* in the case of a direction to the owner of a tangible asset other than a ship, to the owner of the tangible asset without specifying the name of the owner, or any of the owners, of the tangible asset; or

*(e)* in the case of a direction to the controller of a tangible asset other than a ship, to the controller of the tangible asset without specifying the name of the controller, or any of the controllers, of the tangible asset.

**Issuance of more than one direction**

**606.** Nothing in this Division shall be taken to prevent the issuance, whether to the same person or to different persons, of more than one direction under this Act in relation to a ship.

**Direction to ship or tangible asset with more than one owner**

**607.**(1) Where there is more than one owner of a ship or tangible asset or more than one salvor in possession of a ship, a direction under this Division issued to one owner of the ship or tangible asset, or to one salvor in possession of the ship, has effect, for the purposes of this Division, as a direction issued to each of the owners of the ship or each salvor in possession of the ship, as the case may be.

(2) If there is more than one controller of a tangible asset other than a ship, a direction under this Division issued to one controller of the tangible asset has effect, for the purposes of this Division, as a direction issued to each of the controllers of the tangible asset.

**Revocation and variation of directions**

**608.**(1) Where the Administration has issued a direction under this Division to a person, the Administration may, by a further direction issued to that person, revoke or vary the earlier direction.

(2) Where a direction has been varied by a further direction issued under subsection (1), a reference in this section to the direction shall be construed as a reference to the direction as varied by that further direction.

**Service of directions**

**609.**(1) A direction under this Division to the owner or master of a ship, or to a salvor in possession of a ship, is to be served in accordance with subsections (2) to (7) and, for the purposes of section 613, is taken to have been issued to the person at the time when it is served on the person in accordance with those subsections.

(2) A direction under this Division on the owner of a ship may be served

*(a)* by serving it personally on the owner or, where there is more than one owner, on all or any of the owners of the ship or, if an owner is a body corporate, on a director, secretary or other officer of the body corporate;

*(b)* by serving it personally on any agent of the ship or, if an agent is a body corporate, on a director, secretary or other officer of the body corporate; or

*(c)* by serving it on the master of the ship.

(3) Where there is more than one owner of a ship, a direction under this Division that is served on any of the owners of the ship is deemed, for the purposes of this Act, to be served on all those owners.

(4) A direction under this Division may be served on the master of a ship by serving it personally on the master of the ship or, if for any reason, including the absence of the master from the ship, it is not practicable to serve the notice on the master, by delivering it to any person on board the ship who appears to be an officer of the ship.

(5) A direction under this Division on a salvor in possession of a ship may be served by serving it personally on the person who appears to be in charge of salvage operations.

(6) Where it is not reasonably practicable to serve a direction under this Division in accordance with subsection (2) to (5), the direction shall be deemed to have been served on the person to whom it is issued if the contents are transmitted to the ship concerned by any means and receipt of the transmission is acknowledged by a person on board the ship.

(7) A person authorized in writing by the Administration for the purposes of this section may go on board a ship for the purpose of serving a direction under this Division on a person on board the ship.

(8) A direction under this Division to be served on a person other than the owner or master of a ship or a salvor in possession of a ship may be served

*(a)* where the person is an individual or a body corporate

(i) in accordance with section 25 of the *Interpretation Act*, Cap. 1; or

(ii) by sending the contents of the direction to the person by means of an electronic communication; and

*(b)* where the person is a body politic,

(i) by leaving it at, or sending it by pre-paid post to, an office of a department or agency of the body politic; or

(ii) by sending the contents of the direction to the person, or to a representative of the person, by means of an electronic communication.

(9) A direction served in accordance with subsection (8) is, for the purposes of section 613, deemed to have been issued to the person

*(a)* in the case of a direction served under subparagraph (8)*(a)*(i) or *(b)*(i), at the time provided in section 25 of the *Interpretation Act*, Cap. 1; and

*(b)* in the case of a direction served under subparagraph (8)*(a)*(ii) or *(b)* (ii), at the time of receipt of the electronic communication.

**Liability for acts and omissions**

**610.**(1) Criminal or civil proceedings do not lie against the Minister or a delegate of the Minister for an act done or omitted to be done in the exercise of any power conferred on the Minister by or under this Division.

(2) Criminal or civil proceedings do not lie against

*(a)* the Administration;

*(b)* a member of the Administration;

*(c)* a member of the staff of the Administration; or

*(d)* a delegate of the Administration,

for an act done or omitted to be done in the exercise of a power conferred on the Administration by or under this Division.

(3) Criminal or civil proceedings do not lie against a person specified in a direction under this Division for an act done or omitted to be done in the exercise of a power conferred on the person by or under the direction.

(4) Criminal or civil proceedings do not lie against a person to whom a direction under this Division was issued for an act done or omitted to be done in compliance with the direction.

(5) Subsection (4) does not apply to a proceeding under the *Merchant Shipping (Liability and Compensation) Act, 2024* (Act 2024- ) in respect of civil liability for oil pollution damage or bunker oil pollution damage.

(6) This section does not apply to a proceeding under section 616.

**Expenses of compliance with directions**

**611.**(1) If a person who is not an owner of a ship is or was subject to a direction under this Division that relates to a ship involved in a maritime casualty referred to in section 601(1) or 602(1) or to a ship referred to in section 603(2) and

*(a)* the person incurs a reasonable expense in complying with the direction or the direction requires the supply of a service to the owner of the ship; and

*(b)* apart from this section, the owner of the ship is not liable to pay the amount of the expense to the person,

the amount of the expense is a debt due to the person by the owner of the ship or, if there are 2 or more owners, by those owners jointly and severally.

(2) A debt due under subsection (1) may be recovered in

*(a)* the High Court of Barbados; or

*(b)* any other court of competent jurisdiction.

(3) Subsection (1) does not apply to the extent to which it is inconsistent with any international agreement to which Barbados is a party.

**Change in ownership or master**

**612.**(1) Where a direction under this Division issued to the owner of a ship is served in accordance with sections 609(2) to (7) and a change in the ownership of the ship subsequently occurs while the direction is in force, the person who was the owner at the time the notice was served shall without delay

*(a)* notify the new owner of the ship of the existence and contents of the direction; and

*(b)* notify the Administration of the change in the ownership of the ship and give the Administration such particulars of the change as are prescribed for the purposes of this subsection.

(2) Where a direction under this Division issued to the master of a ship is served in accordance with sections 609(2) to (7) and that person subsequently ceases to be the master of the ship while the direction is in force, the person shall without delay

*(a)* notify the new master, if any, of the existence and contents of the direction; and

*(b)* notify the Administration of his ceasing to be the master of the ship and give the Administration such particulars as are prescribed for the purposes of this subsection.

(3) If a direction under this Division issued to the owner of a tangible asset other than a ship is served in accordance with section 609(9) and a change in the ownership of the tangible asset subsequently occurs while the direction is in force, the person who was the owner at the time the notice was served shall without delay

*(a)* notify any new owner of the tangible asset of the existence and contents of the direction; and

*(b)* notify the Administration of the change in the ownership of the tangible asset and give the Administration such particulars of the change as are prescribed for the purposes of this subsection.

(4) A person who contravenes subsection (1), (2) or (3) commits an offence and is liable on summary conviction to a fine of $75 000.

**Contravention of direction**

**613.**(1) A person who fails to comply with a direction given under this Division commits an offence and is liable on summary conviction to a fine of $75 000.

(2) It is a defence to a prosecution for an offence under subsection (1) if it is proved

*(a)* that the breach of the direction resulted from the need to save life at sea;

*(b)* that compliance with the direction was not possible; or

*(c)* if the direction requires an act or thing to be done before a particular time, that compliance with the direction was not possible before that time and the direction was complied with as soon as possible after that time.

**No time limit for prosecution**

**614.** A prosecution for an offence under this Division may be brought at any time.

**Evidence**

**615.** Where in proceedings for an offence under this Division it is established that

*(a)* a direction under this Division has been served on the owner of a ship by serving it on a person or body corporate as the agent of the ship; and

*(b)* the person or body corporate had, at any time before the direction was so served, acted as an agent of the ship,

the person or body corporate is presumed to have been an agent of the ship at the time when the direction was served.

**Compensation for property acquisition**

**616.**(1) If the operation of this Division would result in an acquisition of property from a person otherwise than on just terms, Barbados is liable to pay a reasonable amount of compensation to the person.

(2) If Barbados and the person do not agree on the amount of the compensation, the person may institute proceedings in

*(a)* the High Court of Barbados; or

*(b)* any other court of competent jurisdiction,

for the recovery from Barbados of such compensation as the court determines.

*Division 11*

*Oil Pollution Preparedness, Response And Co-operation*

**Implementation of Convention on Oil Pollution Preparedness, Response and Co-operation, 1990**

**617.** The Minister may make regulations in respect of the following:

*(a)* oil pollution emergency plans;

*(b)* oil pollution reporting procedures;

*(c)* action on receiving an oil pollution report;

*(d)* national and regional coordination mechanisms, in which Barbados is participating, for oil pollution preparedness and response;

*(e)* international co-operation by Barbados in pollution response;

*(f)* reimbursements of cost of assistance; and

*(g)* any other related matters.

**Oil Pollution Guidelines**

**618.** The Administration may, in consultation with the Environmental Protection Department, issue guidelines on oil pollution preparedness, response and co-operation.

**Oil pollution emergency plans**

**619.**(1) Every Barbados ship shall carry on board an oil pollution emergency plan.

(2) Every foreign-registered ship in Barbados shall have on board an oil pollution emergency plan.

(3) An oil pollution emergency plan shall be in accordance with Regulation 37 of the International Convention for the Prevention of Marine Pollution from Ships, 1973, as amended.

(4) The owner of a ship that contravenes subsection (1) or (2) commits an offence and is liable on summary conviction to a fine of $10 000.

(5) The owner of a ship who fails to report an oil pollution incident in accordance with the Convention on Oil Pollution Preparedness, Response and Co-operation, 1990 commits an offence and is liable on summary conviction to a fine of $150 000.

(6) The owner of a ship who fails to take action on receiving an oil pollution report in accordance with Article 5 of the Convention on Oil Pollution Preparedness, Response and Co-operation, 1990, as amended, commits an offence and is liable on summary conviction to a fine of $50 000.

**Competent Authority**

**620.** The Environmental Protection Department shall be the competent authority in Barbados for handling oil spills, and oils spills planning, preparedness and response.

**Promotion**

**621.** The Minister shall promote, in accordance with the Convention on Oil Pollution Preparedness, Response and Co-operation, 1990

*(a)* research and development;

*(b)* technical cooperation; and

*(c)* promotion of bilateral and multi-lateral co-operation in oil pollution preparedness and response.

*Division 12*

*Hazardous and Noxious Substances*

**Implementation of Protocol on Preparedness, Response and Co-operation to Pollution Incidents by Hazardous and Noxious Substances, 2000**

**622.**(1) Every Barbados ship shall carry on board a hazardous and noxious substances pollution emergency plan.

(2) Every foreign-registered ship in Barbados shall have on board a hazardous and noxious substances pollution emergency plan.

(3) The Administration may, in consultation with the Environmental Protection Department, issue guidelines on hazardous and noxious substances pollution preparedness, response and co-operation.

(4) The Environmental Protection Department shall be the competent authority in Barbados for handling spills of hazardous and noxious substances

into the marine environment, planning, preparedness and response in relation to hazardous and noxious substances.

(5) The Minister may make regulations in respect of

*(a)* hazardous and noxious substances emergency plans;

*(b)* hazardous and noxious substances reporting procedures;

*(c)* action on receiving a hazardous and noxious substances pollution report;

*(d)* national and regional coordination mechanisms, in which Barbados is participating, for hazardous and noxious substances preparedness and response;

*(e)* international co-operation by Barbados in hazardous and noxious substances pollution response activities;

*(f)* reimbursement of cost of assistance; and

*(g)* any other related matters.

(6) The Minister shall promote, in accordance with the Protocol on Preparedness, Response and Co-operation to Pollution Incidents by Hazardous and Noxious Substances, 2000, as amended

*(a)* research and development;

*(b)* technical cooperation; and

*(c)* promotion of bilateral and multi-lateral co-operation in preparedness and response related to hazardous and noxious substances.

*Division 13*

*Underwater Noise Reduction From Commercial Shipping*

**Application**

**623.**(1) This Division applies to commercial ships of 400 GT and above that fly the Barbados flag.

(2) Notwithstanding the general application of this Division to commercial ships, the Minister may make regulations, or the Administration may by Merchant Shipping Notice, specify underwater noise reduction requirements for pleasure vessels.

**Ship-specific underwater noise reduction strategy**

**624.**(1) Every ship operating for commercial purposes shall adopt a ship-specific underwater noise reduction strategy, which shall include technical, operational and cost-effective measures to reduce ship-generated noise and its impacts on the marine environment and marine life.

(2) The strategy shall be approved by the Administration, following a survey and verification by a surveyor that the strategy is appropriate based on the findings of the underwater noise reduction survey.

**Underwater noise mitigation – ship design phase**

**625.** At the design and construction phase of a commercial ship that is intended to be a Barbados ship, and in retrofitting an existing Barbados ship, technologies and measures aimed at mitigating and reducing the noise-generating capacity of the ship shall be taken into account.

**Underwater noise reduction – operational phase**

**626.**(1) A commercial ship shall be operated in accordance with the underwater noise reduction strategy specific to that ship, and the ship master and crew shall be informed of the strategy.

(2) A ship-specific underwater noise reduction strategy shall be amended

*(a)* where any component of the ship that is prone to noise-generation is modified, following an underwater noise mitigation survey; and

*(b)* in any case, where the strategy no longer achieves the objective of noise reduction.

**Underwater Noise Reduction (Voluntary) Ship Survey and Certification Scheme**

**627.**(1) There is established a Scheme to be known as the Barbados Underwater Noise Reduction (Voluntary) Ship Survey and Certification Scheme, for the purpose of enhancing the regulation of underwater noise emitted from ships.

(2) Vessels registered under the Barbados flag may voluntarily participate in the Scheme.

(3) Barbados-registered vessels participating in the Scheme shall comply with the survey and certification requirements in relation to ship-generated underwater noise, as specified in clauses 625 to 634 and the applicable provisions under any relevant regulations.

(4) Ships participating in the Scheme may be eligible for incentives, as specified in an order made by the Minister.

**Non-participating Ships**

**628.**(1) Ships not participating in the Scheme shall

*(a)* have a ship-specific underwater noise reduction strategy; and

*(b)* comply with

(i) International Maritime Organization Marine Environment Protection Committee Guidelines for the Reduction of Underwater Noise from Commercial Shipping; and

(ii) any other requirements as may be specified in a statutory instrument.

(2) Ships not participating in the Scheme, but that at least having a ship-specific underwater noise reduction strategy, may be eligible for incentives, as specified in an order made by the Minister.

**Varying the Barbados Underwater Noise Reduction Certificate**

**629.**(1) The Barbados Underwater Noise Reduction Certificate may be varied to align with an international certificate specific to noise pollution prevention, specified by the International Maritime Organization, in the event that such an international certificate enters into force.

(2) Where a variation occurs in the case of subsection (1), details concerning the variation shall be published in a Merchant Shipping Notice given by the Minister.

**Underwater noise reduction – surveys**

**630.** Underwater noise reduction surveys shall be conducted in respect of commercial ships in accordance with the requirements of this Division and the regulations.

**Initial Barbados underwater noise reduction certificate**

**631.**(1) A surveyor or recognized organization shall issue Barbados underwater noise reduction certificate in respect of a Barbados ship with a gross tonnage of 400 GT or more, in the prescribed form, on completion of a survey if

*(a)* it is satisfied that the ship complies with the underwater noise reduction requirements of

(i) ISO/PAS 17208-1- Acoustics-Quantities standards;

(ii) ISO/DIS 16554 – Ship and Marine Technology underwater sound standards;

(iii) the International Maritime Organization Marine Environment Protection Committee Guidelines for the Reduction of Underwater Noise from Commercial Shipping; and

(iv) the underwater noise reduction requirements specified in the regulations or in a merchant shipping notice; and

*(b)* the ship does not have a current Barbados underwater noise reduction certificate.

(2) An underwater noise reduction certificate is valid for a period of 5 years.

**Endorsement of existing certificate**

**632.** If a ship referred to in section 631 meets the requirements of that section and has a current Barbados underwater noise reduction certificate, but needs an endorsement in order for the certificate to continue in effect, the surveyor or recognized organization shall endorse the Barbados underwater noise reduction certificate.

**Renewal of certificate**

**633.** If, 5-years after the issuance of an initial Barbados underwater noise reduction certificate to a Barbados ship with a gross tonnage of 400 GT or more, a survey authority is satisfied that the ship remains in compliance with the underwater noise reduction requirements of section 631, a surveyor or recognized organization shall renew the Barbados underwater noise reduction certificate in respect of the ship.

**Lapsing of certificate**

**634.** A Barbados underwater noise reduction certificate ceases to be in force if

*(a)* the ship ceases to be a Barbados ship; or

*(b)* since the certificate was issued or last endorsed

(i) any changes are made to primary sources of ship-generated noise, including propellers, hull-form, onboard machinery, ship operational aspects; and

(ii) the ship is taken to sea without the certificate having been endorsed in respect of the primary sources of ship-generated noise.

**Cancellation of certificate**

**635.**(1) The Administration may cancel a Barbados underwater noise reduction certificate that is in force in respect of a Barbados ship, whether or not the certificate was issued by the Administration, if the Administration has reason to believe that

*(a)* the ship does not comply with the underwater noise reduction requirements; or

*(b)* the certificate was issued or endorsed upon false or erroneous information.

(2) A cancellation takes effect when the Administration gives notice in writing of the cancellation

*(a)* addressed to the master, owner or agent of the ship; and

*(b)* served in a manner prescribed by the Minister or by the regulations.

(3) If a Barbados underwater noise reduction certificate in respect of a Barbados ship is cancelled under this section, the Administration may, by notice in writing to the owner, agent or master of the ship served in a manner prescribed by the Minister or by the regulations

*(a)* require the certificate to be given to a specified person; and

*(b)* detain the ship until the requirement is complied with.

**Obligation to carry certificate**

**636.**(1) A ship to which this Division applies shall carry on board a valid Barbados underwater noise reduction certificate.

(2) The owner of a ship that contravenes subsection (1) commits an offence and is is subject to the payment of an administrative penalty imposed under section 1485.

(3) An offence under subsection (1) is a strict liability offence.

**Obligation to report damage to ship**

**637.**(1) If an event occurs to a Barbados ship with a current Barbados underwater noise reduction certificate that affects, or might affect, its compliance with the underwater noise reduction requirements, the master or owner of the ship shall give notice of the occurrence to the Administration within 7 days after it occurs.

(2) If the master or owner fails to comply with subsection (1), each of them commits an offence for each subsequent day that passes without the notice having been given, and is liable on summary conviction to a fine of $1 500 for each day that the happening goes unreported.

(3) An offence under subsection (1) is a strict liability offence.

**Transitional**

**638.**(1) This Division and any regulations made pursuant to this Division in relation to underwater noise reduction shall enter into force 18 months after commencement of this Act.

(2) After the entry into force of Division 13 of Part XXV, shipowners may request a further extension in order to comply with the underwater noise reduction requirements, if at that time their ships do not have the requisite systems or arrangements to reduce underwater noise.

**Designated Underwater Noise Reduction Zones**

**639.**(1) The Minister, in consultation with the Coastal Zone Management Unit, and other relevant stakeholders, may by Order designate underwater noise reduction zones in Barbados waters for the purpose of enhanced protection of certain areas in the marine environment and marine life from underwater noise pollution.

(2) In designating underwater noise reduction zones, due regard shall be given maritime safety considerations.

*Division 14*

*Artificial Light Pollution*

**Duty to protect and preserve marine life from artificial light pollution**

**640.**(1) The Administration shall adopt measures to protect and preserve marine life from ship-source artificial light pollution.

(2) Notwithstanding the general application of this Division to vessels over 150 GT, the Minister may make regulations, or the Coastal Zone Management Unit, in consultation with the Administration, may by Merchant Shipping Notice, specify artificial light pollution control requirements for small vessels.

**Ship-specific Artificial Light Pollution Management Plan**

**641.**(1) The Administration shall establish in respect of Barbados-registered ships a ship-specific artificial light pollution management plan to

*(a)* ensure light radiated from ships do not overwhelm natural light cycles of the sun, moon, stars and other natural light sources upon which marine life rely to regulate their critical physiological and behavioural processes;

*(b)* manage the duration and intensity of artificial light penetrating the marine environment, particularly in areas designated as special marine areas;

*(c)* ensure the continuous taking of a precautionary approach to ship-source artificial light pollution, in effort to reduce the negative impacts on marine ecosystems;

*(d)* to reduce harm to marine life and marine life mortality rates, consequential to artificial light pollution;

*(e)* promote a marine environmental safety culture in the realm artificial light pollution;

*(f)* continually enhance efforts to prevent, reduce and control pollution of the marine environment by ship-source artificial light; and

*(g)* ensure provision for appropriate restoration and recovery actions for marine environmental and ecosystem damage by artificial light.

(2) The artificial light pollution management plan shall also contain a maritime safety regime, to ensure that maritime safety is not compromised in the undertaking of activities to manage ship-source artificial light pollution.

(3) The artificial light pollution management plan shall be consistent with international standards and best practices in the realm of artificial light pollution control.

(4) The artificial light pollution management plan shall be submitted to the Administration upon request for review and is subject to any further directions specified by the Administration in relation to the plan.

**Requirements for Foreign-registered Ships**

**642.** Foreign-registered ships when in Barbados waters shall comply with

*(a)* guidelines or rules adopted or developed by the Administration for the prevention, reduction and control of artificial light pollution by ships;

*(b)* a ship-specific artificial light pollution management plan or other requirements specified in relation to the ship by its flag administration;

*(c)* any applicable international standards and best practices.

**Designated Marine (Artificial Light) Reduction Zones**

**643.**(1) The Minister, in consultation with the Coastal Zone Management Unit,and other relevant stakeholders, may by order designate marine (artificial light) reduction zones in Barbados waters for the purpose of enhanced protection of certain areas in the marine environment and marine life from artificial light pollution.

(2) In designating marine (artificial light) reduction zones, due regard shall be given to maritime safety considerations.

(3) All ships when in Barbados waters shall comply with the requirements specified in an order in respect of a marine (artificial light) reduction zone.

**Incentives – Artificial Light Reduction Efforts**

**644.** The Minister responsible for Finance, may after consultation with the Director, may by Order specify one or more incentives in relation to ships in which effort is evidenced to made to control artificial light pollution.

PART XXVI

SHIPPING CASUALTIES AND THE MARINE ENVIRONMENT

**Definitions**

**645.**(1) In this section, unless the context otherwise requires,

"accident" includes the loss, stranding, abandonment of or damage to a ship; and

"specified" in relation to a direction under this section, means specified by the direction.

(2) The powers conferred by this section may be exercised where

*(a)* an accident has occurred to or on a ship;

*(b)* in the opinion of the Environmental Protection Department, pollutants from the ship will or may cause pollution on a large scale in the territorial sea of Barbados; and

*(c)* in the opinion of the Environmental Protection Department, the use of the powers conferred by this section is urgently needed.

(3) For the purpose of preventing or reducing marine pollution or the risk of marine pollution, the Environmental Protection Department may give directions respecting the ship or its cargo

*(a)* to the owner of the ship;

*(b)* to the master of the ship;

*(c)* to a salvor in possession of the ship or to a person who is the servant or agent of a salvor in possession of the ship and who is in charge of the salvage operation; or

*(d)* to any other person in possession of the ship.

(4) A direction under subsection (3) may require the person to whom it is given to take, or refrain from taking, any action, and may require that

*(a)* the ship is to be moved, or is not to be moved, or is to be moved to a specified place or from a specified area;

*(b)* the ship is not to be moved to a specified place or area, or over a specified route;

*(c)* any oil, chemicals, or other cargo is to be, or is not to be, unloaded or discharged; or

*(d)* specified salvage measures are to be taken, or are not to be taken.

(5) If, in the opinion of the Environmental Protection Department,, a direction issued under subsection (3) is, or has proved to be, inadequate for the purpose,

the Environmental Protection Department may, for the purpose of preventing or reducing oil pollution or the risk of oil pollution, take any action as respects the ship or its cargo, including

*(a)* taking any action that may be subject to a direction under this section;

*(b)* undertaking operations for the sinking or destruction of the ship, or any part of it, of a kind that is not within the means of a person referred to in that subsection; and

*(c)* the taking over or control of the ship.

(6) The powers of the Environmental Protection Department under subsection (5) may also be exercised by Coastal Zone Management Unit, singly or in association with, the Environmental Protection Department.

(7) In complying with a direction given or action taken under this section, persons shall use their best efforts to avoid any risk to human life.

(8) This section and section 649 are without prejudice to any right or powers of the Government exercisable under international law or otherwise.

(9) An action taken in respect of a ship that is under arrest, or respecting the cargo of such a ship, that is taken pursuant to a direction given under this section or taken under subsection (5) or (6)

*(a)* does not constitute contempt of court; and

*(b)* does not make a person who arrested the ship, or who has it in charge after arrest, liable in any civil proceedings.

**Right to recover in respect of unreasonable loss or damage**

**646.**(1) Where an action taken by a person pursuant to a direction given under section 645 or taken under section 645(5) or (6)

*(a)* was not reasonably necessary to prevent or reduce marine pollution; or

*(b)* was such that the good it did or was likely to do was disproportionately less than the expenses incurred, or damage suffered, as a result of the action,

a person incurring expenses or suffering damage as a result of, or by taking, the action shall be entitled to recover compensation from the Government.

(2) In considering whether subsection (1) applies, account shall be taken of

*(a)* the extent and risk of marine pollution if the action had not been taken;

*(b)* the likelihood of the action being effective; and

*(c)* the extent of the damage caused by the action.

(3) A reference in this section to the taking of an action includes a reference to compliance with a direction to not take a specified action.

(4) The Admiralty jurisdiction of the Supreme Court may hear and determine any claim arising under this section.

**Offences**

**647.**(1) A person to whom a direction is given under section 645 who fails to comply with the direction commits an offence.

(2) A person commits an offence who wilfully obstructs another person who is

*(a)* acting on behalf of the Environmental Protection Department in connection with the giving or service of a direction under section 645;

*(b)* acting in compliance with a direction under section 645; or

*(c)* acting under section 645(5) or (6).

(3) In proceedings for an offence under subsection (1), it shall be a defence for the accused to prove that he has used all due diligence to ensure compliance with the direction, or that he had reasonable cause for believing that compliance with the direction would have involved a serious risk to human life.

(4) A person who commits an offence under this section is liable on summary conviction to a fine of $350 000.

**Service of directions**

**648.**(1) Where the Environmental Protection Department is satisfied that a company or other body is not subject to a law relating to the service of notices on it, he may give a direction under section 645

*(a)* to that company or body as the owner of, or the person in possession of, a ship, by serving the direction on the master of the ship; or

*(b)* to that company or body as a salvor, by serving the direction on the person in charge of the salvage operations.

(2) For the purpose of giving or serving a direction under section 645 to or on any person on a ship, a person acting on behalf of the Environmental Protection Department may go on board the ship.

**Application to foreign and other ships**

**649.**(1) The Administration, after consultation with the Environmental Protection Department, may recommend to the Minister to publish in the *Official Gazette*, that sections 645 to 648, and any other provisions of this Act, shall apply to a ship

*(a)* that is not a Barbadian ship; and

*(b)* that is at that time outside the territorial sea of Barbados,

in such cases and circumstances as may be specified in an order, and subject to any specified exceptions, adaptations and modifications.

(2) An order under subsection (1) may contain such transitional and other consequential provisions as appear to the Minister to be expedient.

(3) Except as provided by an order under subsection (1), no direction under section 645 shall apply to a ship that is not a Barbadian ship and that is outside

the territorial sea of Barbados and no action shall be taken under section 645(5) or (6) as respects any such ship.

(4) No direction under section 607 shall apply to a Government ship, and no action shall be taken under section 607(5) or (6) as respects any such ship.

## PART XXVII

## MARITIME SECURITY

### *Division 1*

### *Incorporation of the International Maritime Security Instruments*

**Definitions**

**650.** In this Part,

"approved international ship security certificate equivalent" means a certification approved in writing by the Director under section 735(3) as an alternative to an international ship security certificate;

"baggage" means

*(a)* the possessions of passenger, crew member or visitor

(i) that are carried, or intended to be carried, on board a ship; and

(ii) to which the person will have general access while on board the ship; or

*(b)* the possessions of a crew member or visitor

(i) that are carried, or intended to be carried, on an offshore facility; and

(ii) to which the person will have general access while on the offshore facility;

"cargo ship" includes a tanker;

"clearance" in relation to a vessel, means clearance under section 798;

"control direction" means a direction given under section 743;

"critical installation" means an installation interference with which, or damage to which, could put the operation of a port or a ship at risk;

"damage" in relation to data, includes damage by erasure of the data or addition of other data;

"declaration of security" means

*(a)* an agreement reached between a ship and another a ship or person; or

*(b)* an agreement reached between an offshore facility operator and a ship or person,

that identifies the security activities or measures that each party will undertake or implement in specified circumstances;

"duly authorized officer" means

*(a)* a customs officer;

*(b)* an immigration officer;

*(c)* an officer of the port responsible for port security matters;

*(d)* a maritime law enforcement officer;

*(e)* a maritime security inspector; or

*(f)* any other person so designated in writing by the National Security Minister;

"employee" in relation to a maritime industry player, means an individual

*(a)* employed by the maritime industry player; or

*(b)* engaged under a contract for services between the individual and the maritime industry player;

"enforcement action" includes

*(a)* action by a maritime law enforcement officer, a duly authorized officer, or a screening officer under Division XII;

*(b)* issuing an infringement notice under regulations made under section 862;

*(c)* making an enforcement order under Division XV; and

*(d)* granting an injunction under Division XV;

"foreign ship regulated as an offshore facility" means a floating product, storage and offtake or floating storage unit that is

*(a)* a foreign ship; and

*(b)* a security-regulated offshore facility or part of a security-regulated offshore facility;

"floating product, storage and offtake" means a ship that is

*(a)* constructed or modified to accept petroleum, directly or indirectly, from a sub-sea well or pipeline;

*(b)* capable of storing the petroleum and delivering it to another ship or pipeline;

*(c)* capable of modifying the petroleum while in storage on the ship to suit it for transport or to fit it for the commercial requirements of consignees; and

*(d)* designed to be disconnected from its mooring during bad weather, operational emergencies, or for the purposes of maintenance or survey,

but does not include a facility that is designed to remain permanently moored for the production life of the related petroleum field;

"floating storage unit" means a ship that is

*(a)* constructed or modified to accept petroleum, directly or indirectly, from a sub-sea well or pipeline;

*(b)* capable of storing the petroleum and delivering it to another ship or pipeline, but not capable of modifying the petroleum while in storage on the ship; and

*(c)* designed to be disconnected from its mooring during bad weather, operational emergencies, or for the purposes of maintenance or survey,

but does not include a facility that is designed to remain permanently moored for the production life of the related petroleum field;

"interim international ship security certificate" means

*(a)* in relation to a security-regulated ship, an interim international ship security certificate given under section 387.8; and

*(b)* in relation to a ship regulated as an offshore facility, an interim international ship security certificate given under section 457;

"International Ship and Port Facility Security Code" means the International Ship and Port Facility Security Code from time to time, mentioned in Chapter XI-2 of the International Convention for the Safety of Life at Sea;

"ISPS level 1 measure" means the measures that should, under the International Ship and Port Facility Security Code, be implemented when maritime security level 1 is in force;

"ISPS level 2 measure" means the measures that should, under the International Ship and Port Facility Security Code, be implemented when maritime security level 2 is in force;

"ISPS level 3 measure" means the measures that should, under the International Ship and Port Facility Security Code, be implemented when maritime security level 3 is in force;

"international ship security certificate" means the international ship security certificate within the meaning of the International Ship and Port Facility Security Code;

"ISSC-verified" means

*(a)* in relation to a security-regulated ship, the meaning given by sections 688(1) and (3); and

*(b)* in relation to a ship regulated as an offshore facility, the meaning given by sections 726(1) and (3);

"maritime industry player" means

*(a)* a port operator;

*(b)* a port facility operator;

*(c)* the ship's operator for a regulated Barbadian ship;

*(d)* the ship's operator for a regulated foreign ship;

*(e)* an offshore industry player;

*(f)* a contractor who provides services to a person referred to in paragraphs *(a)* to *(d)*; or

*(g)* a person who conducts a maritime-related enterprise;

"maritime law enforcement officer" means

*(a)* an officer of the Marine Police Unit of the Barbados Police Service; or

*(b)* an officer or soldier of the Barbados Defence Force serving as a member of the Coast Guard;

"maritime security level" means

*(a)* maritime security level 1;

*(b)* maritime security level 2; or

*(c)* maritime security level 3;

"maritime security level 1" means the maritime security level in force under section 664;

"maritime security level 2" means the maritime security level declared as a maritime security level 2 under section 666;

"maritime security level 3" means the maritime security level declared as a maritime security level 3 under section 666;

"maritime security outcomes" means

*(a)* protection against the unlawful interference with maritime transport or offshore facilities, through establishing a regulatory framework focused on the development of security plans for ships, other maritime transport operations and offshore facilities;

*(b)* fulfilment Barbados' obligations under Chapter XI-2 of the International Convention for the Safety of Life at Sea, 1974 and the International Ship and Port Facility Security Code;

*(c)* reduction of the risk that maritime transport or offshore facilities are used to facilitate terrorist or other unlawful activities;

*(d)* ensuring that security information is communicated effectively among maritime industry players and government agencies with security responsibilities for maritime transport and facilities;

"maritime security plan" means a plan that meets the requirements of section 692;

"maritime security zone" means

*(a)* a port security zone;

*(b)* a ship security zone;

*(c)* an on-board security zone;

*(d)* an offshore security zone; or

*(e)* a Barbados coast guard ship;

"Minister" means Minister responsible for National Security;

"mobile offshore drilling unit" means a vessel capable of engaging in drilling operations for the purposes of exploring or exploiting resources beneath the seabed;

"offshore area" means an area in

*(a)* Barbadian waters;

*(b)* the exclusive economic zone of Barbados; or

*(c)* the sea over the continental shelf of Barbados;

"offshore facility" means a facility, located in an offshore area, that is used in the extraction of petroleum from the seabed or its subsoil with equipment on, or forming part of, the facility, and includes

*(a)* a structure, located in the offshore area, used in operations or activities associated with, or incidental to, such activities, other than

(i) a pipeline that is beneath the low water mark; or

(ii) a mobile offshore drilling unit;

*(b)* a vessel, located in the offshore area, used in operations or activities associated with, or incidental to, such activities, other than

(i) an offtake tanker;

(ii) a tug or an anchor handler; or

(iii) a ship used to supply an offshore facility, or otherwise travel between an offshore facility and the shore;

*(c)* a floating product, storage and offtake located in an offshore area; and

*(d)* a floating storage unit located in an offshore area;

"offshore facility operator" means a person designated under section 659;

"offshore industry player" means

*(a)* an offshore facility operator;

*(b)* a contractor who provides services to an offshore facility operator; or

*(c)* a person who conducts an enterprise connected with a security-regulated offshore facility;

"offshore security plan" means a plan that meets the requirements of section 749;

"offshore security zone" means a zone established under section 791;

"on-board security zone" means a zone established under section 787;

"operational area" in relation to a security-regulated ship or a security-regulated offshore facility, means an area that is not a private living area;

"person with incident reporting responsibilities" means

*(a)* a duly authorized officer;

*(b)* a maritime security inspector;

*(c)* a maritime security guard appointed under this Act;

*(d)* a screening officer;

*(e)* a maritime industry player other than a player who is

(i) a port operator;

(ii) a port facility operator;

(iii) a ship operator;

(iv) an offshore facility operator; or

(v) an employee of a maritime industry player;

"port facility" means an area of land or water, or land and water, within a security-regulated port used either wholly or partly in connection with the loading or unloading of security-regulated ships, and includes any buildings, installations or equipment in or on the area;

"port operator" means a person designated under section 655;

"port security zone" means a port security zone established under section 779;

"pre-arrival information" means information given under section 736;

"private living area" means,

*(a)* in relation to a security-regulated ship, an area

(i) used for the purposes of providing accommodation for passengers or crew of the ship; and

(ii) to which neither all passengers nor all crew have general access;

*(b)* in relation to a security-regulated offshore facility, an area

(i) used for the purposes of providing accommodation for crew of, or visitors to, the facility; and

(ii) to which neither all crew nor visitors have general access;

"prohibited item" means an item that could be used for unlawful interference with maritime transport or offshore facilities;

"recognized security organization" means an organization recognized under section 732(2);

"regulated Barbadian ship" means a Barbadian ship that is

*(a)* a passenger ship that is used for international voyages;

*(b)* a cargo ship of 500 GT or more that is used for international voyages;

*(c)* a mobile offshore drilling unit that is on an international voyage, other than a unit that is attached to the seabed;

*(d)* all or part of a security-regulated offshore facility;

*(e)* a floating product, storage and offtake or floating storage unit; or

*(f)* a ship of a kind prescribed by regulations,

but does not include a Barbadian ship regulated as an offshore facility or a ship of a kind prescribed by regulations;

"regulated foreign ship" means a foreign ship in Barbadian waters that is in, or is intending to proceed to, a port in Barbados, and that is

*(a)* a passenger ship;

*(b)* a cargo ship of 500 GT or more;

*(c)* a mobile offshore drilling unit, other than a unit that is attached to the seabed;

*(d)* all or part of a security-regulated offshore facility;

*(e)* a floating product, storage and offtake or floating storage unit; or

*(f)* a ship of a kind prescribed by regulations,

but does not include a foreign ship regulated as an offshore facility or a ship of a kind prescribed by regulations;

"screened" means

*(a)* in relation to a person, screening in accordance with section 795(1);

*(b)* in relation to goods, screening in accordance with section 796(1);

*(c)* in relation to a vehicle, screening in accordance with section 797(1); and

*(d)* in relation to a vessel, screening in accordance with section 798(1);

"screening officer" means a person authorized or required to conduct screening under section 839;

"screening point" means a place where screening occurs;

"security direction" means a direction given under section 678;

"security officer" means a person designated by a maritime industry player to implement and maintain

*(a)* the player's maritime security plan;

*(b)* the ship security plan for a ship operated by the player; or

*(c)* the player's offshore security plan;

"security-regulated offshore facility" means a facility subject to a declaration under section 658;

"security-regulated port" means a port subject to a declaration under section 654;

"security-regulated ship" means

*(a)* a regulated Barbadian ship; or

*(b)* a regulated foreign ship;

"ship operator" means

*(a)* the owner of a security-regulated ship; or

*(b)* another person who has agreed to be the ship operator of a security-regulated ship for the purposes of this Act under an agreement with the owner of the ship;

"ship security plan" means a plan prepared for the purposes of Division V;

"ship security record" in relation to a security-regulated ship or ship regulated as an offshore facility, means a document or information relating to maritime security prescribed by regulation as a document or information to be kept on, by or for a ship of that ship;

"ship security zone" means a zone declared under section 783;

"stores" mean

*(a)* items that are to be carried on board a ship for use, sale or consumption on the ship; or

*(b)* items that are to be carried on an offshore facility for use, sale or consumption on the facility;

"terrorist act" means an act that

*(a)* is done, or threatened, with the intention of advancing a political, religious or ideological cause, or with the intention of coercing, or

influencing by intimidation, the government of Barbados, a foreign country or part of a state, territory or foreign country or intimidating the public or a section of the public;

*(b)* does, or in the case of a threat, would

(i) cause serious physical harm to a person;

(ii) cause serious damage to property;

(iii) cause a person's death;

(iv) endanger a person's life, other than the life of the person doing the act; or

(v) create a serious risk to public health or safety, or serious risk to health or safety to a section of the public; or

*(c)* does, or in the case of a threat, would seriously interfere with, seriously disrupt or destroy an electronic system, including

(i) an information system;

(ii) a telecommunications system;

(iii) a financial system;

(iv) a system used for the delivery of essential government services;

(v) a system used for, or by, an essential public utility; and

(vi) a system used for, or by, a transport system;

"unlawful interference" in relation to maritime transport or offshore facilities, means

*(a)* committing an act, or causing interference or damage, that puts the safe operation of a port, or the safety of any person or property at the port, at risk;

*(b)* committing an act, or causing interference or damage, that puts the safe operation of an offshore facility, or the safety of any person or property at the offshore facility, at risk;

*(c)* taking control of a ship or offshore facility by force, threat of force or any other form of intimidation;

*(d)* destroying a ship that is being used for maritime transport;

*(e)* destroying an offshore facility;

*(f)* causing damage to, or committing an act on board, a ship that is being used for maritime transport that puts the safety of the ship, or any person or property on board or off the ship, at risk;

*(g)* placing on board a ship that is being used for maritime transport anything that puts the safety of the ship, or any person or property on board or off the ship, at risk;

*(h)* putting the safety of ships at risk by interfering with, damaging or destroying navigational aids, communication systems or security systems; or

*(i)* putting the safety of ships at risk by communicating false information; and

"weapon" means

*(a)* a firearm;

*(b)* a thing prescribed by the regulations to be a weapon;

*(c)* a device that, except for the absence of, or a defect in, a part of the device, would be a firearm or thing prescribed by the regulations to be a weapon; or

*(d)* a device that is reasonably capable of being converted into firearm or thing prescribed by the regulations to be a weapon.

**Incorporation of instruments**

**651.** The following International Maritime Organization instruments shall have the force of law in Barbados:

*(a)* the Convention for the Suppression of Unlawful Acts against the Safety of Maritime Navigation, 2005;

*(b)* the Protocol for the Suppression of Unlawful Acts against the Safety of Fixed Platforms located on the Continental Shelf, 2005; and

*(c)* the International Ship and Port Facility Security Code.

**Application of Part XXVII**

**652.** Notwithstanding the general application of this Act to vessels above 150 GT, maritime security levels apply to small vessels of 150 GT and below, the provisions in this Part on maritime security levels 1 to 3 apply *mutatis mutandis* to such small vessels.

*Division 2*

*Security of Maritime Transport and Offshore Facilities*

**Administration**

**653.**(1) Except where expressly provided otherwise, this Division shall be administered by the Ministry responsible for National Security, in collaboration with the Ministry responsible for Shipping, the Headquarters of the Barbados Defence Force, Barbados Port Inc., and other relevant agencies.

(2) Barbados Port Inc. and any other port, facility, area or premises under the management and control of the Barbados Port Inc. shall have the sole responsibility for maritime security activities, including those specified in the International Ship and Port Facility Security Code, in relation to port security zones and ships within the port or a port security zone.

(3) The Headquarters of the Barbados Defence Force shall have the sole responsibility for maritime security activities, including those specified in the International Ship and Port Facility Security Code, in relation to Barbados waters and waters within a port, where the port lacks an enforcement arm in relation to such waters.

**Security-regulated ports**

**654.**(1) The chief executive officer of a port may, by a notice published in the *Official Gazette*, declare that areas of a port intended for use wholly or partly in connection with the movement, loading, unloading, maintenance or provisioning of security-regulated ships constitute a security-regulated port.

(2) The notice shall include a map of the port that shows the boundaries of the security-regulated port.

(3) An area controlled exclusively by the Barbados Defence Force shall not be included as part of a security-regulated port.

**Port operators**

**655.**(1) The chief executive officer of a port may, by a notice published in the *Official Gazette*, designate a person to be the port operator for a security-regulated port.

(2) The chief executive officer of Barbados Port Inc., after consultation with the National Security and Ministers responsible for Shipping, may designate a person as the port operator for a security-regulated port under the management and authority of Barbados Port Inc.

(3) In designating a person as a port operator, the Minister or chief executive officer shall take into account

*(a)* the ability of the person to undertake the functions of a port operator;

*(b)* the physical and operational features of the port; and

*(c)* the views of the persons responsible for managing the operations of the port.

**Prescribing security-regulated ships**

**656.** The National Security Minister, in consultation with the Minister responsible for Shipping may by regulations or a directive prescribe different categories of security-regulated ships.

**Declaration as regulated offshore facility**

**657.**(1) The National Security Minister may declare that a Barbadian ship that is a floating product, storage and offtake or floating storage unit and that is all or part of a security-regulated offshore facility is to be regulated as an offshore facility.

(2) The National Security Minister may declare that a foreign ship that is a floating product, storage and offtake or floating storage unit and that is all or part of a security-regulated offshore facility is to be regulated as an offshore facility.

**Security-regulated offshore facilities**

**658.**(1) The National Security Minister may, by notice published in the *Official Gazette*, declare that any of the following is a security-regulated offshore facility:

*(a)* an offshore facility;

*(b)* a part of an offshore facility;

*(c)* a group of offshore facilities; or

*(d)* a part of a group of offshore facilities.

(2) The notice shall include information on the location and boundaries of the security-regulated offshore facility of the kind and in the form prescribed by regulation.

**Offshore facility operators**

**659.**(1) The National Security Minister may, in writing, designate a person as the offshore facility operator for a security-regulated offshore facility.

(2) In designating a person as an offshore facility operator, the National Security Minister shall take into account

*(a)* the ability of the person to undertake the functions of an offshore facility operator;

*(b)* the physical and operational features of the facility; and

*(c)* the views of the person, or persons, responsible for managing the operations of the facility.

**Persons travelling on non-regulated foreign ships**

**660.**(1) This section applies to a person travelling, whether as a passenger or crew, on a foreign ship that is not a regulated foreign ship or a foreign ship regulated as an offshore facility.

(2) No offence is committed by the person under this Act unless, at the time of the alleged offence

*(a)* the person is involved in some activity in relation to a security-regulated offshore facility; or

*(b)* the ship is involved in some activity in relation to a security-regulated offshore facility, or is in Barbadian waters.

(3) No enforcement action may be taken against the person unless, at the time of the alleged incident giving rise to the enforcement action

*(a)* the person is involved in some activity in relation to a security-regulated offshore facility; or

*(b)* the ship is involved in some activity in relation to a security-regulated offshore facility, or is in Barbadian waters.

**Enforcement action against non-regulated ships**

**661.**(1) This section applies to a foreign ship that is not a regulated foreign ship or a foreign ship regulated as an offshore facility.

(2) No enforcement action may be taken against the ship unless, at the time of the alleged incident giving rise to the enforcement action, the ship is involved in some activity in relation to a security-regulated offshore facility, or is in Barbadian waters.

**General defences**

**662.**(1) A person does not commit an offence under this Part if

*(a)* a physical element of the offence exists, whether directly or indirectly, because the master of a ship engaged in conduct in the operation or control of the ship;

*(b)* without the existence of that physical element the person would not commit the offence;

*(c)* the master engaged in the conduct to protect the safety or security of

(i) the ship;

(ii) the ship's cargo;

(iii) a person, whether on board the ship or not;

(iv) another ship;

(v) a port, or a port facility or other installation within a port; or

(vi) an offshore facility; and

*(d)* the conduct was reasonable in the circumstances.

(2) If

*(a)* a person is required to comply with a security direction or control direction; and

*(b)* compliance with the direction would mean that the person commits an offence under, or otherwise contravenes a requirement of, this Part

the person, in complying with the security direction, is deemed not to have committed the offence or contravened the requirement.

**Communicating with ship operators**

**663.** For the purposes of this Part, a person may give a notice or direction to, or otherwise communicate with, a ship operator for a ship by giving the notice or direction to, or communicating with, the shipping agent for the ship.

*Division 3*

*Maritime Security Levels and Security Directions*

**Default security level – maritime security level 1**

**664.** Unless a declaration under section 665(1) provides otherwise, maritime security level 1 is in force for each

*(a)* security-regulated port;

*(b)* regulated Barbadian ship;

*(c)* security-regulated offshore facility;

*(d)* area within a security-regulated port; and

*(e)* maritime industry player.

**Maritime security level 2 or 3**

**665.**(1) The Headquarters of the Barbados Defence Force may, on the written instruction of the National Security Minister, declare that maritime security level 2 or security level 3 is in force for one or more of the following as specified in the declaration

*(a)* a security-regulated port;

*(b)* a regulated Barbadian ship;

*(c)* a security-regulated offshore facility;

*(d)* an area within a security-regulated port;

*(e)* a maritime industry player; or

*(f)* operations conducted by a maritime industry player within, or in connection with, a security-regulated port or a security-regulated offshore facility.

(2) The Headquarters of the Barbados Defence Force may also, in writing, declare that maritime security level 2 or maritime security level 3 is in force for a regulated foreign ship.

(3) However, the Headquarters of the Barbados Defence Force shall not make a declaration under subsection (1) or (2) unless it is appropriate for a higher level of security to be put into place for the port, ship, facility, area or player concerned because a heightened risk to maritime transport or offshore facilities has been identified.

(4) If a foreign ship that is regulated as an offshore facility that is registered in another country is directed by that country to implement a higher level of security than would otherwise apply under this Division,

*(a)* that higher security level is taken to have been declared by the Director under subsection (1) to be in force for the ship;

*(b)* the declaration is taken to have been made on the day on which the direction is given;

*(c)* that higher security level is in force for the ship until it ceases to be in force under the law of that country; and

*(d)* if the ship is part of a security-regulated offshore facility, the security level of the remainder of the facility is not affected.

(5) A declaration under subsection (1) that a maritime security level is in force for a regulated Barbadian ship may specify that the level is in force for the ship only while it is in specified waters.

**When a maritime security level is in force**

**666.**(1) If a declaration is made under section 665(1) or (2), the maritime security level declared in the declaration is in force for the port, facility, area, player, operation or regulated foreign ship covered by the declaration until

*(a)* any period specified in the declaration expires; or

*(b)* the declaration is revoked, in writing, by the Headquarters of the Barbados Defence Force.

(2) If a declaration made under section 665(1) for a regulated Barbadian ship does not limit the waters in which the security level is in force under section 665(5), the maritime security level declared in the declaration is in force for the ship until

*(a)* any the period specified in the declaration expires; or

*(b)* the declaration is revoked, in writing, by the Headquarters of the Barbados Defence Force.

(3) If a declaration made under section 665(1) for a regulated Barbadian ship limits the waters in which the security level is in force in reliance on section 665(5), the maritime security level declared in the declaration is in force for the ship while it is in those waters, unless

*(a)* any period specified in the declaration expires; or

*(b)* the declaration is revoked, in writing, by the Headquarters of the Barbados Defence Force.

**Maritime security level declaration for a port**

**667.** If the Headquarters of the Barbados Defence Force declares that a maritime security level is in force for a security-regulated port, that maritime security level is in force for

*(a)* every area within the boundaries of the port;

*(b)* every security-regulated ship within the boundaries of the port;

*(c)* every ship regulated as an offshore facility within the boundaries of the port;

*(d)* every security-regulated offshore facility within the boundaries of the port; and

*(e)* any operations conducted by a maritime industry player within the boundaries of the port.

**Maritime security level declaration for an offshore facility**

**668.** If the Headquarters of the Barbados Defence Force declares that a maritime security level is in force for a security-regulated offshore facility, that maritime security level is in force for

*(a)* every security-regulated ship

(i) in the vicinity of the facility that is engaged in any activity in relation to the facility; and

(ii) for which, but for this section, a lower maritime security level is in force; and

*(b)* any operations conducted by a maritime industry player within the boundaries of the facility.

**Security levels and compliance with plans**

**669.**(1) For the purposes of section 689, if

*(a)* a maritime industry player is required to comply with a maritime security plan;

*(b)* the Headquarters of the Barbados Defence Force makes a declaration under section 665(1); and

*(c)* the effect of the declaration is that maritime security level 2 or 3 is in force for

(i) the player; or

(ii) an area controlled by the player; or

(iii) particular operations of the player,

the player does not comply with the plan unless the player implements the measures set out in the plan for the player, area or operations, as required, for that maritime security level.

(2) For the purposes of section 708, if

*(a)* a ship security plan is in force for a regulated Barbadian ship;

*(b)* the Headquarters of the Barbados Defence Force makes a declaration under section 665(1); and

*(c)* the effect of the declaration is that maritime security level 2 or 3 is in force for the ship,

the ship security plan for the ship is not complied with unless the measures set out in the plan for that maritime security level are implemented.

(3) For the purposes of section (1), if

*(a)* an offshore industry player is required to comply with an offshore security plan;

*(b)* the Headquarters of the Barbados Defence Force makes a declaration under section 665(1) or is taken to have made such a declaration because of section 665(4); and

*(c)* the effect of the declaration is that maritime security level 2 or 3 is in force for

(i) the player; or

(ii) particular operations of the player,

the player does not comply with the plan unless the player implements the measures set out in the plan for the player or operations, as required, for that maritime security level.

**Maritime security level with security directions**

**670.** For the avoidance of doubt, if maritime security level 1, 2 or 3 is in force for

*(a)* a security-regulated port;

*(b)* a regulated Barbadian ship;

*(c)* a ship regulated as an offshore facility;

*(d)* a security-regulated offshore facility;

*(e)* an area within a security-regulated port;

*(f)* a maritime industry player; or

*(g)* the operations of a maritime industry player,

and a security direction is given to, or in relation to, the port, ship, facility, area, player or operation, the existing security level continues in force.

**Notification of declarations for security-regulated ports**

**671.**(1) If the Headquarters of the Barbados Defence Force declares that a maritime security level is in force for a security-regulated port, the Headquarters of the Barbados Defence Force shall, as soon as practicable, notify

*(a)* the port operator;

*(b)* each maritime industry player who is required to have a maritime security plan and who

(i) controls an area within the boundaries of the security-regulated port; or

(ii) operates within the boundaries of the security-regulated port; and

*(c)* each offshore industry player who is required to have an offshore security plan and who operates within the boundaries of the security-regulated port.

(2) If the Headquarters of the Barbados Defence Force gives a port operator notice of a declaration under subsection (1), the port operator shall, as soon as practicable, give notice of the declaration to

*(a)* every maritime industry player who is covered by the port operator's maritime security plan and who

(i) controls an area within the boundaries of the security-regulated port; or

(ii) operates within the boundaries of the security-regulated port; and

*(b)* the master of every security-regulated ship that is within the port or about to enter the port.

(3) A port operator who fails to give a notice in accordance with subsection (2) commits an offence and is liable on summary conviction to a fine of $50 000.

(4) Subsection (3) does not apply if the port operator has a reasonable excuse.

**Notification of declarations for security-regulated ships**

**672.** If the Headquarters of the Barbados Defence Force declares that

*(a)* a maritime security level is in force for a regulated Barbadian ship;

*(b)* a maritime security level is in force for a regulated Barbadian ship while she is in specified waters; or

*(c)* a maritime security level is in force for a regulated foreign ship,

the Headquarters of the Barbados Defence Force shall, as soon as practicable, notify the operator for the ship or the master of the ship.

**Notification of declarations for security-regulated offshore facilities**

**673.**(1) If the Headquarters of the Barbados Defence Force declares that a maritime security level is in force for a security-regulated offshore facility, other than a declaration taken to have been made under section 665(4), the Headquarters of the Barbados Defence Force shall, as soon as practicable, notify

*(a)* the offshore facility operator; and

*(b)* each offshore industry player who is required to have an offshore security plan and who operates within the boundaries of the security-regulated offshore facility.

(2) If the Headquarters of the Barbados Defence Force gives an offshore facility operator notice of a declaration under subsection (1), the operator shall, as soon as practicable, give notice of the declaration to

*(a)* every offshore industry player who is covered by the operator's offshore security plan and who operates within the boundaries of the facility;

*(b)* the ship operator or master of every security-regulated ship located in the vicinity of the facility that is engaged in any activity in relation to the facility; and

*(c)* where the security-regulated offshore facility, or part of the facility, is a ship regulated as an offshore facility, the master of the ship.

(3) An offshore facility operator who fails to give a notice in accordance with subsection (2) commits an offence and is liable on summary conviction to a fine of $50 000.

(4) Subsection (3) does not apply if the offshore facility operator has a reasonable excuse.

**Notification of declarations for areas within security-regulated ports**

**674.** If the Headquarters of the Barbados Defence Force declares that a maritime security level is in force for an area within a security-regulated port, the Headquarters of the Barbados Defence Force shall, as soon as practicable, notify

*(a)* the maritime industry player who controls the area; and

*(b)* if the maritime industry player is not the port operator, the port operator.

**Notification of declarations for maritime industry players**

**675.** If the Headquarters of the Barbados Defence Force declares that a maritime security level is in force for a maritime industry player or for particular operations of an industry player, the Headquarters of the Barbados Defence Force shall, as soon as practicable, notify

*(a)* the maritime industry player;

*(b)* if the maritime industry player conducts operations covered by the declaration within a security-regulated port and is not the port operator, the port operator; and

*(c)* if the maritime industry player conducts operations covered by the declaration within a security-regulated offshore facility and is not the offshore facility operator, the offshore facility operator.

**Notification of revocations**

**676.**(1) If the Headquarters of the Barbados Defence Force has notified a person under any of sections 632 to 636 that a maritime security level is in force and subsequently revokes the declaration concerned, the Headquarters of the Barbados Defence Force shall, as soon as practicable, notify the person of the revocation.

(2) If

*(a)* a port operator has notified a person under section 671(2) that a maritime security level is in force; and

*(b)* the Headquarters of the Barbados Defence Force revokes the declaration concerned,

the port operator shall, as soon as practicable, notify the person of the revocation.

(3) A port operator who contravenes subsection (2) commits an offence and is liable on summary conviction to a fine of $50 000.

(4) Subsection (3) does not apply if the port operator has a reasonable excuse.

(5) An offence under subsection (3) is a strict liability offence.

(6) If

*(a)* an offshore facility operator has notified a person under section 673(2) that a maritime security level is in force; and

*(b)* the Headquarters of the Barbados Defence Force revokes the declaration concerned,

the offshore facility operator shall, as soon as practicable, notify the person of the revocation.

(7) An offshore facility operator who contravenes subsection (6) commits an offence and is liable on summary conviction to a fine of $50 000.

(8) Subsection (7) does not apply if the offshore facility operator has a reasonable excuse.

(9) An offence under subsection (7) is a strict liability offence.

**Requirements for giving notice**

**677.** The National Security Minister may by regulation or a directive prescribe requirements in relation to notifying declarations, and revocations of declarations, under this Part.

**Security directions by Barbados Defence Force**

**678.**(1) The Headquarters of the Barbados Defence Force may direct, in writing, that additional security measures be implemented or complied with.

(2) A direction under subsection (1) is a security direction.

(3) The Headquarters of the Barbados Defence Force shall not give a security direction unless an unlawful interference with maritime transport or offshore facilities is probable or imminent.

(4) The National Security Minister may by regulation or a directive prescribe requirements in relation to the giving of security directions.

**Confidentiality requirements**

**679.** A security direction may include confidentiality requirements restricting the disclosure of the direction.

**Persons to whom security directions may be given**

**680.**(1) A security direction may be given by the Headquarters of the Barbados Defence Force to

*(a)* a maritime industry player or an employee of a maritime industry player;

*(b)* passengers; or

*(c)* other persons who are within the boundaries of a security-regulated port or within the boundaries of a security-regulated offshore facility.

(2) For the purpose of giving a security direction to persons referred to in paragraph (1)*(b)* or *(c)*, the Headquarters of the Barbados Defence Force is taken to have given a direction to the persons if the direction is clearly displayed at a place where the direction is to be complied with by those persons.

(3) The Headquarters of the Barbados Defence Force may, in a security direction given to the port operator for a security-regulated port, require the port operator to communicate all or a part of the direction to specified maritime industry players who operate within the port.

(4) If the Headquarters of the Barbados Defence Force gives a port operator a direction under subsection (1), the port operator shall, as soon as practicable, communicate the direction, or the part of the direction, to the specified maritime industry players.

(5) A port operator who contravenes subsection (4) commits an offence and is liable on summary conviction to a fine of $50 000.

(6) Subsection (5) does not apply if the port operator has a reasonable excuse.

(7) An offence under subsection (5) is a strict liability offence.

(8) A direction given to a maritime industry player by a port operator under subsection (3) is deemed to have been given to the player by the Headquarters of the Barbados Defence Force.

(9) The Headquarters of the Barbados Defence Force may, in a security direction given to the offshore facility operator for a security-regulated offshore facility, require the operator to communicate all or a part of the direction to specified maritime industry players

*(a)* who are on board a security-regulated ship that is in the vicinity of the facility and that is engaged in any activity in relation to the facility; or

*(b)* who operate within the facility.

(10) If the Headquarters of the Barbados Defence Force gives an offshore facility operator a direction under subsection (8) that requires the operator to communicate all or a part of the direction to specified maritime industry players, the operator shall, as soon as practicable, communicate the direction, or the part of the direction, to the specified maritime industry players.

(11) An offshore facility operator who contravenes subsection (4) commits an offence and is liable on summary conviction to a fine of $50 000.

(12) An offence under subsection (11) is a strict liability offence.

(13) Subsection (10) does not apply if the offshore facility operator has a reasonable excuse.

(14) A direction given to a maritime industry player by an offshore facility operator referred to in subsection (10) is deemed to have been given to the player by the Headquarters of the Barbados Defence Force.

**Security directions to security-regulated ships**

**681.**(1) The Headquarters of the Barbados Defence Force may give a security direction to a security-regulated ship by giving the direction to

*(a)* the ship operator for the ship; or

*(b)* the master of the ship.

(2) If the Headquarters of the Barbados Defence Force gives a ship operator a direction under subsection (1), the ship operator shall, as soon as practicable, communicate the direction to the master of the ship.

(3) A ship operator who contravenes subsection (2) commits an offence and is liable on summary conviction to a fine of $50 000.

(4) Subsection (2) does not apply if the ship operator has a reasonable excuse.

(5) An offence under subsection (3) is a strict liability offence.

(6) A direction given to a master by a ship operator under subsection (2) is deemed to have been given to the master by the Headquarters of the Barbados Defence Force.

**Security directions to ships regulated as offshore facilities**

**682.**(1) The Headquarters of the Barbados Defence Force may give a security direction to a ship regulated as an offshore facility by giving the direction to

*(a)* the offshore facility operator for the ship; or

*(b)* the master of the ship.

(2) If the Headquarters of the Barbados Defence Force gives an offshore facility operator a direction under subsection (1), the offshore facility operator shall, as soon as practicable, communicate the direction to the master of the ship.

(3) An offshore facility operator who contravenes subsection (2) commits an offence and is liable on summary conviction to a fine of $50 000.

(4) Subsection (3) does not apply if the offshore facility operator has a reasonable excuse.

(5) An offence under subsection (3) is a strict liability offence.

(6) A direction given to a master by an offshore facility operator under subsection (2) is deemed to have been given to the master by the Headquarters of the Barbados Defence Force.

**When a security direction is in force**

**683.**(1) Subject to subsections (2) and (3), a security direction comes into force at the time specified in the direction.

(2) If there is no time specified in a security direction or the specified time is a time before the direction was given, the direction comes into force 24 hours after it is given.

(3) If the time specified in a direction is later than the beginning of the seventh day after the direction is given, the direction comes into force at the start of that day.

(4) A security direction remains in force until the direction is revoked in writing by the Headquarters of the Barbados Defence Force or the direction has been in force for a continuous period of 3 months, whichever is the earlier.

**Revocation of security direction**

**684.**(1) If the National Security Minister considers that the unlawful interference with maritime transport or offshore facilities in relation to which a direction was given is no longer probable or imminent, he may, in writing, instruct the Headquarters of the Barbados Defence Force to revoke the security direction and the Headquarters revoke the security direction accordingly.

(2) If

*(a)* the Headquarters of the Barbados Defence Force gives a security direction to a person, including a direction given under section 681 to the ship operator for, or the master of, a security-regulated ship, or a direction given under section 682 to the offshore facility operator for, or the master of, a ship regulated as an offshore facility;

*(b)* the Headquarters of the Barbados Defence Force revokes the direction; and

*(c)* the direction has not been displayed under section 680(2),

the Headquarters of the Barbados Defence Force shall notify the person of the revocation.

(3) If the Headquarters of the Barbados Defence Force has displayed a security direction under section 680(2) and the Headquarters of the Barbados Defence Force revokes the direction, the Headquarters of the Barbados Defence Force shall remove the displayed direction.

**Failure to comply with security direction**

**685.**(1) A person, including a person to whom a security direction to a ship is given under section 681 or 682, who fails to comply with a security direction given or communicated to the person commits an offence if

*(a)* the direction is in force; and

*(b)* the failure is not a failure to comply with confidentiality requirements.

(2) A port operator, ship operator, port facility operator or offshore facility operator who commits an offence under subsection (1) is liable on summary conviction to a fine of $50 000.

(3) Any other maritime industry player who commits an offence under subsection (1) is liable on summary conviction to a fine of $40 000.

(4) Any other person who commits an offence under subsection (1) is liable on summary conviction to a fine of $35 000.

(5) Subsection (1) does not apply if the person has a reasonable excuse.

(6) An offence under subsection (1) is a strict liability offence.

**Failure to comply with confidentiality requirements**

**686.**(1) A person, including a person to whom a security direction to a ship is given under section 681 or 682, who fails to comply with confidentiality requirements in a security direction given or communicated to the person commits an offence if the failure is not due to a disclosure made to a court or a tribunal, or to an authority or person who has the power to require the production of documents or the answering of questions.

(2) A person who commits an offence under subsection (1) is liable on summary conviction to a fine of $50 000.

(3) An offence under subsection (1) is a strict liability offence.

*Division 4*

*Maritime Security Plans*

**Who shall have maritime security plans**

**687.**(1) The following maritime industry players shall have a maritime security plan

*(a)* a port operator;

*(b)* a port facility operator;

*(c)* a player of a kind prescribed in regulations; and

*(d)* a particular player prescribed in regulations.

(2) The Headquarters of the Barbados Defence Force may, by written notice given to a maritime industry player, permit the player to have more than one maritime security plan.

(3) The notice shall specify all of the plans and the operations or locations to be covered by each plan.

**Operating without a maritime security plan**

**688.**(1) A maritime industry player referred to in section 687 commits an offence if the player operates as such a player and does not have a maritime security plan in force for the player.

(2) A port operator or port facility operator who commits an offence under subsection (1) is subject to the payment of an administrative penalty imposed under section 1485.

(3) Any other maritime industry player who commits an offence under subsection (1) is liable on summary conviction to a fine of $5 000.

(4) Subsection (1) does not apply if the player has a reasonable excuse.

(5) An offence under subsection (1) is a strict liability offence.

**Failure to comply with maritime security plan**

**689.**(1) A maritime industry player referred to in section 687 who has a maritime security plan in force commits an offence if the player fails to comply with the plan.

(2) A port operator or port facility operator who commits an offence under subsection (1) is liable on summary conviction to a fine of $15 000.

(3) Any other maritime industry player who commits an offence under subsection (1) is liable on summary conviction to a fine of $10 000.

(4) Subsection (1) does not apply if the player has a reasonable excuse.

(5) An offence under subsection (1) is a strict liability offence.

**Compliance with other plans**

**690.**(1) A maritime industry player shall not engage in conduct that hinders or obstructs compliance with the maritime security plan of another maritime industry player.

(2) If

*(a)* a maritime security plan for a maritime industry player covers the activities of another maritime industry player who is not required to have a maritime security plan; and

*(b)* the other player has been given the relevant parts of the maritime security plan;

the other maritime industry player shall take all reasonable steps to comply with the plan.

(3) If

*(a)* a maritime security plan for a maritime industry player covers the activities of another maritime industry player who is also required to have a maritime security plan; and

*(b)* the other player

(i) has been given the relevant parts of the first player's plan; and

(ii) has agreed in writing to those activities being covered by the first player's plan;

the other maritime industry player shall take all reasonable steps to comply with the first player's plan.

(4) A maritime industry player who contravenes subsection (1), (2) or (3) does not commit an offence but may be subject to an enforcement order.

**Hindrance or obstruction with maritime security plans**

**691.**(1) The operations of a regulated Barbadian ship shall not hinder or obstruct compliance with a maritime security plan.

(2) If the operations of a regulated Barbadian ship hinder or obstruct compliance with a maritime security plan, the ship operator for the ship or the master of the ship may be subject to a ship enforcement order.

**Content of maritime security plans**

**692.**(1) A maritime security plan for a maritime industry player shall

*(a)* include a security assessment for

(i) the player's operation; or

(ii) if the player has more than one maritime security plan, the operations or locations covered by the plan;

*(b)* set out the security activities or measures to be undertaken or implemented by the player under the plan for maritime security levels 1, 2 and 3;

*(c)* designate, by name or by reference to a position, all security officers responsible for implementing and maintaining the plan;

*(d)* make provision for the use of declarations of security; and

*(e)* demonstrate that the implementation of the plan will make an appropriate contribution towards the achievement of the maritime security outcomes.

(2) A security assessment under paragraph (1)*(a)* shall

*(a)* take into account any documents required in writing by the Headquarters of the Barbados Defence Force to be taken into account; and

*(b)* address any matters prescribed in the regulations or a directive.

**Prescribed content for maritime security plans**

**693.** The National Security Minister may by regulation or a directive prescribe specific matters that are to be dealt with in

*(a)* a maritime security plan;

*(b)* a maritime security plan for a specified kind of maritime industry player; and

*(c)* a maritime security plan for a particular class of a specified kind of maritime industry player.

**Form of maritime security plan**

**694.**(1) A maritime security plan shall be

*(a)* in writing; and

*(b)* prepared in accordance with any requirements set out in the regulations or a directive made under section 693.

(2) A maritime security plan shall include

*(a)* if the chief executive officer of the port has not established any port security zones under section 779(1) within the area covered by the plan, and the maritime industry player proposes that the chief executive

officer should establish such a zone or zones within that area, a map that shows each proposed zone; and

*(b)* if the chief executive officer has established a port security zone or zones under section 779(1) within the area covered by the plan,

(i) a map that shows each such zone;

(ii) if the player proposes that such a zone be changed, a map that shows the proposed change; and

(iii) if the player proposes that the chief executive officer should establish an additional port security zone within that area or revoke the establishment of an existing port security zone within that area, a map that shows the zones that would be established within that area if the proposal were accepted.

(3) The maritime security plan for a port operator for a security-regulated port shall include a map of the whole security-regulated port.

**Providing maritime security plans for approval**

**695.**(1) A maritime industry player may, by written notice given to the Headquarters of the Barbados Defence Force, request the Headquarters of the Barbados Defence Force to approve a maritime security plan for the player.

(2) The notice shall be accompanied by a copy of the plan.

**Approval of maritime security plans**

**696.**(1) If the Headquarters of the Barbados Defence Force is satisfied that a maritime security plan submitted under section 695 adequately addresses the relevant requirements under sections 692 to 695, the Headquarters of the Barbados Defence Force shall

*(a)* approve the plan; and

*(b)* give the player written notice of the approval.

(2) If the Headquarters of the Barbados Defence Force is not satisfied that the plan adequately addresses the relevant requirements under sections 692 to 695, the Headquarters of the Barbados Defence Force shall

*(a)* refuse to approve the plan; and

*(b)* give the player written notice of the refusal including reasons for the refusal.

(3) In determining whether a plan adequately addresses the relevant requirements under sections 692 to 695, the Headquarters of the Barbados Defence Force may take account of existing circumstances as they relate to maritime transport, and offshore facility, security.

(4) If the Headquarters of the Barbados Defence Force does not approve, or refuse to approve, a maritime security plan within the consideration period set out in subsection (8), it is taken to have refused to approve the plan.

(5) The Headquarters of the Barbados Defence Force may, by written notice given to the player within the consideration period, request the player to provide specified information relevant to the approval of the plan.

(6) A notice under subsection (5) shall specify a period of not more than 45 days within which the information is to be given.

(7) If more than one notice is given under subsection (5), the total of the periods specified in the notices shall not exceed 45 days.

(8) For the purposes of this section, the consideration period is the period of 60 days commencing on the day on which the Headquarters of the Barbados Defence Force received the plan, extended, in relation to each notice given under subsection (5), by a number of days equal to the number of days within the period

*(a)* commencing on the day on which the notice under subsection (5) was given; and

*(b)* ending on

(i) the day on which the information requested in the notice was received by the Headquarters of the Barbados Defence Force; or

(ii) if the information is not given within the period specified in that notice, the last day of that period.

**When a maritime security plan is in force**

**697.**(1) Subject to subsection (2), if the Headquarters of the Barbados Defence Force approves the maritime security plan, the plan comes into force at the time specified in the notice of approval.

(2) If the time specified in the notice is earlier than the time at which the notice was given or no time is specified in the notice as the time when the plan comes into force, the plan comes into force when the notice is given.

(3) A maritime security plan remains in force for a period of 5 years, or any lesser period of at least 12 months specified in the notice of approval, unless before the end of that period

*(a)* the plan is replaced under section 700(4) or 701(4); or

*(b)* the approval of the plan is cancelled under this Division.

**Variations to maritime security plans**

**698.**(1) If a maritime security plan for a maritime industry player is in force, the player may, by written notice given to the Headquarters of the Barbados Defence Force, request the Headquarters of the Barbados Defence Force to vary the plan.

(2) The player shall set out the proposed variation in the notice.

(3) The notice shall include

*(a)* if the port chief executive officer has established a port security zone or zones under section 779(1) within the area covered by the plan, and

the player proposes that such a zone be changed, a map that shows the proposed change; and

*(b)* if

(i) the port chief executive officer has established a port security zone or zones under section 779(1) within the area covered by the plan; and

(ii) the player proposes that the port chief executive officer should establish an additional port security zone within that area or revoke the establishment of an existing port security zone within that area,

a map that shows the zones that would be established within that area if the proposal were accepted.

(4) The National Security Minister may by regulation or directive set out further requirements for the notice required under subsection (1).

(5) If the Headquarters of the Barbados Defence Force is satisfied that the plan, as varied, would continue to adequately address the relevant requirements under sections 692 to 695, the Headquarters of the Barbados Defence Force shall

*(a)* approve the variation; and

*(b)* give the player written notice of the approval.

(6) If the Headquarters of the Barbados Defence Force is not satisfied that the plan, as varied, would continue to adequately address the relevant requirements under sections 692 to 695, the Headquarters of the Barbados Defence Force shall

*(a)* refuse to approve the variation; and

*(b)* give the player written notice of the refusal including reasons for the refusal.

(7) In determining whether the plan, as varied, would continue to adequately address the relevant requirements under sections 692 to 695, the Headquarters of

the Barbados Defence Force may take account of existing circumstances as they relate to maritime transport, and offshore facility, security.

(8) If the Headquarters of the Barbados Defence Force does not approve, or refuse to approve, a variation of a maritime security plan within the consideration period set out in subsection (12), the Headquarters of the Barbados Defence Force is taken to have refused to approve the variation.

(9) The Headquarters of the Barbados Defence Force may, by written notice given to the player within the consideration period, request the player to provide specified information relevant to the approval of the variation.

(10) A notice under subsection (9) shall specify a period of not more than 45 days within which the information shall be given.

(11) If more than one notice is given to the player under subsection (9), the total of the periods specified in the notices shall not exceed 45 days.

(12) For the purposes of this section, the consideration period is the period of 60 days commencing on the day on which the notice under subsection (1) requesting the variation was received by the Headquarters of the Barbados Defence Force, extended, in relation to each notice given under subsection (9), by a number of days equal to the number of days falling within the period

*(a)* commencing on the day on which the notice under subsection (9) was given; and

*(b)* ending on

(i) the day on which the information requested in that notice was received by the Headquarters of the Barbados Defence Force; or

(ii) if the information is not given within the period specified in that notice, the last day of that period.

**Directed variations of maritime security plans**

**699.**(1) If the Headquarters of the Barbados Defence Force is no longer satisfied that a maritime security plan for a maritime industry player that is in

force adequately addresses the requirements under sections 692 to 695, it may, by a written notice, direct the player to vary the plan in a manner that would adequately address those requirements.

(2) A notice under subsection (1) shall

*(a)* set out the variation; and

*(b)* specify the period within which the player shall give the Headquarters of the Barbados Defence Force the plan as varied.

(3) If the player does not give the Headquarters of the Barbados Defence Force the plan

*(a)* varied in accordance with the direction; and

*(b)* within the specified period, or within any further period allowed by the Headquarters of the Barbados Defence Force,

the Headquarters of the Barbados Defence Force shall, by a written notice to the player, cancel the approval of the plan.

**Revision of maritime security plans**

**700.**(1) If a maritime security plan for a maritime industry player is in force, a player may, by a written notice to the Headquarters of the Barbados Defence Force, request it to approve a revised maritime security plan in its place.

(2) The notice shall be accompanied by a copy of the revised plan.

(3) Sections 696 and 697 apply to a request if made, under this section.

(4) If the revised plan is approved, it replaces the existing plan.

**Direction to revise maritime security plan**

**701.**(1) If the Headquarters of the Barbados Defence Force is no longer satisfied that a maritime security plan for a maritime industry player that is in force adequately addresses the requirements under sections 692 to 695

*(a)* because there is a change in the circumstances that relate to maritime transport, or offshore facility, security;

*(b)* because there is a change in circumstances that could impact on maritime transport, or offshore facility, security; or

*(c)* for any other reason,

it may, by a written notice, direct the player to give the Headquarters of the Barbados Defence Force a revised maritime security plan.

(2) The notice shall specify the period within which the revised plan shall be given.

(3) If the player gives the Headquarters of the Barbados Defence Force the revised plan within the specified period, or within any further period allowed by the Director, sections 696 and 697 apply in relation to the revised plan.

(4) If the player does not give the Headquarters of the Barbados Defence Force the revised plan within the specified period, or within any further period allowed by the Headquarters of the Barbados Defence Force, the Headquarters of the Barbados Defence Force shall, by a written notice to the player, cancel the approval of the existing plan.

(5) If the revised plan is approved, it replaces the existing plan.

**Cancellation of inadequate maritime security plan**

**702.** If the Headquarters of the Barbados Defence Force is no longer satisfied that a maritime security plan for a maritime industry player that is in force adequately addresses the requirements under sections 692 to 695 and the

Headquarters of the Barbados Defence Force is satisfied that it is not appropriate to direct the player to

*(a)* vary the plan under section 699; or

*(b)* revise the plan under section 701,

the Headquarters of the Barbados Defence Force shall, by a written notice to the player, cancel the approval of the plan.

**Cancellation for failure to comply with maritime security plan**

**703.**(1) If

*(a)* a maritime security plan for a maritime industry player is in force; and

*(b)* the player has accumulated the number of demerit points prescribed by regulations or a directive made under section 693,

the Headquarters of the Barbados Defence Force may, by a written notice to the player, cancel the approval of the plan.

(2) Before cancelling the approval of a plan under subsection (1), the Headquarters of the Barbados Defence Force may, by a written notice to the player, request the player to show cause why the approval of the plan should not be cancelled.

**Cancellation of maritime security plan on request**

**704.** If a maritime industry player makes a written request to the Headquarters of the Barbados Defence Force for the approval of a maritime security plan that is in force to be cancelled, the Headquarters of the Barbados Defence Force shall, by a written notice to the player, cancel the approval of the plan.

*Division 5*

*Ship Security Plans and International Ship Security Certificates for Regulated Barbadian Ships*

**Ships requiring ship security plans**

**705.** A regulated Barbadian ship shall have a ship security plan.

**Exemptions**

**706.**(1) The ship operator for a regulated Barbadian ship may apply to the Director for the ship to be exempt from the operation of sections 707 and 708.

(2) The application shall be in a form specified in a Marine Notice.

(3) The Director shall grant an exemption pursuant to this section only after consultation with the Headquarters of the Barbados Defence Force.

(4) On an application made to the Director, the Director may exempt the ship from the operation of sections 707 and 708 in the circumstances specified in the exemption.

(5) If the Director grants an exemption, the Director shall give the ship operator a copy of the exemption.

(6) An exemption under this section has effect according to its terms.

(7) If the Director refuses to grant an exemption, the Director shall give the ship operator written notice of the refusal and include the reasons for the refusal.

**Offence – operating without a ship security plan**

**707.**(1) A ship operator for a regulated Barbadian ship commits an offence and is liable on summary conviction to a fine of $75 000 if

*(a)* the ship is being used for maritime transport; and

*(b)* there is no ship security plan in force for the ship.

(2) Subsection (1) does not apply if the operator has a reasonable excuse.

(3) An offence under subsection (1) is a strict liability offence.

**Offence – failing to comply with ship security plan**

**708.**(1) A ship operator for a regulated Barbadian ship commits an offence if

*(a)* the ship is being used for maritime transport;

*(b)* there is a ship security plan for the ship in force; and

*(c)* the ship is not operated in accordance with the plan.

(2) A person who commits an offence under subsection (1) is liable on summary conviction to a fine of $75 000.

(3) Subsection (1) does not apply if the operator has a reasonable excuse.

(4) An offence under subsection (1) is a strict liability offence.

**Compliance with ship security plans of other ships**

**709.**(1) The operations of a regulated Barbadian ship shall not hinder or obstruct compliance with the ship security plan of another ship.

(2) If the operations of a regulated Barbadian ship hinder or obstruct compliance with the ship security plan of another ship, the ship operator or master of the regulated ship may be subject to a ship enforcement order.

**Hindering or obstructing compliance with ship security plans**

**710.**(1) A maritime industry player shall not engage in conduct that hinders or obstructs compliance with the ship security plan of a ship.

(2) A maritime industry player who contravenes subsection (1) does not commit an offence but may be subject to an enforcement order.

**Content of ship security plans**

**711.**(1) A ship security plan for a regulated Barbadian ship shall

*(a)* include a security assessment for the ship;

*(b)* set out the security activities or measures to be undertaken or implemented on, or in connection with, the ship for maritime security levels 1, 2 and 3;

*(c)* set out the marine environmental security activities or measures for acts aimed at damage to the marine environment;

*(d)* designate, by name or by reference to a position, all security officers responsible for implementing and maintaining the plan;

*(e)* make provision for the use of declarations of security; and

*(f)* demonstrate that the implementation of the plan will make an appropriate contribution towards the achievement of the maritime security outcomes.

(2) A ship security plan shall also include, in accordance with the International Ship and Port Facility Security Code

*(a)* measures designed to prevent weapons, dangerous substances and devices intended for use against persons, ships or ports from being taken on board;

*(b)* a delineation of restricted areas and access control measures;

*(c)* measures and equipment to prevent unauthorized access to the ship while in port or at sea;

*(d)* responses to security threats or breaches of security;

*(e)* minimum operational and physical security measures for all security levels;

*(f)* an evacuation plan in case of security threats or breaches of security;

*(g)* security-related duties of shipboard personnel;

*(h)* procedures for auditing, training, drills, and exercises of the ship security plan;

*(i)* procedures for interfacing with port facilities and ships;

*(j)* circumstances and procedures for admitting first responders and military or law enforcement boarding team on board the ship;

*(k)* reporting procedures and communications protocols, including 24-hour contact details for the ship security officer and company security officer, and guidance on ship security alert system usage; and

*(l)* security-related equipment maintenance procedures.

(3) A ship security plan is confidential and shall be kept by the master or ship security officer in a secure place on the vessel.

(4) The company security officer shall keep a copy of the ship security plan.

(5) Company and ship security officers shall hold certification recognized under STCW A-VI/5 of the International Convention on Standards of Training, Certification and Watchkeeping for Seafarers.

(6) A security assessment under paragraph (1)*(a)* shall

*(a)* take into account any documents required in writing by the Director to be taken into account; and

*(b)* address any matters prescribed in the regulations.

(7) In this section,

"company security officer" has the meaning given to it in the International Convention on Standards of Training, Certification and Watchkeeping for Seafarers; and

"ship security officer" has the meaning given to it in the International Convention on Standards of Training, Certification and Watchkeeping for Seafarers.

**Prescribed content for ship security plans**

**712.** The regulations may prescribe specific matters that are to be dealt with in

*(a)* a ship security plan;

*(b)* a ship security plan for a particular kind of ship; and

*(c)* a ship security plan for a particular class of a particular kind of ship.

**Form of ship security plans**

**713.** A ship security plan shall be

*(a)* in writing; and

*(b)* prepared in accordance with any requirements set out in the regulations or a directive made under section 693.

**Request for approval of ship security plan**

**714.**(1) A ship operator for a regulated Barbadian ship may, by a written notice to the Director, request the Director to approve a ship security plan for the ship.

(2) The notice shall be accompanied by a copy of the plan.

(3) If the Director is satisfied that the plan adequately addresses the requirements under sections 711 to 713, the Director shall

*(a)* approve the plan; and

*(b)* give the ship operator written notice of the approval.

(4) If the Director is not satisfied that the plan adequately addresses the requirements under sections 711 to 713, the Director shall

*(a)* refuse to approve the plan; and

*(b)* give the ship operator written notice of the refusal and include reasons for the refusal.

(5) In determining whether the plan adequately addresses the requirements under sections 711 to 713, the Director shall consult with the Headquarters of the Barbados Defence Force.

(6) If the Director does not approve, or refuse to approve, the plan within the consideration period, the Director is taken to have refused to approve the plan.

(7) The Director may, by written notice given to the ship operator within the consideration period, request the ship operator to give the Director specified information relevant to the approval of the plan.

(8) A notice under subsection (7) shall specify a period of not more than 45 days within which the information shall be given.

(9) If more than one notice is given to the ship operator under subsection (7), the total of the periods specified in the notices shall not exceed 45 days.

(10) For the purposes of this section, the consideration period is the period of 60 days commencing on the day on which the Director received the plan, extended, in relation to each notice given under subsection (7), by a number of days equal to the number of days falling within the period

*(a)* commencing on the day on which the notice was given; and

*(b)* ending on

(i) the day on which the information requested in that notice was received by the Director; or

(ii) if the information is not given within the period specified in that notice, the last day of that period.

**When a ship security plan is in force**

**715.**(1) If the Director approves a ship security plan, the plan comes into force at the time specified in the notice of approval.

(2) If the time specified in the notice is earlier than the time at which the notice was given, or no time is specified in the notice, the plan comes into force when the notice is given.

(3) The plan remains in force for a period of 5 years or a lesser period of not less than 12 months specified in the notice of approval, unless before the end of that period

*(a)* the plan is replaced under section 718(4) or 719(4); or

*(b)* the approval of the plan is cancelled under this Division.

**Variations to ship security plans**

**716.**(1) The ship operator for a regulated Barbadian ship may, by written notice given to the Director, request the Director to vary a ship security plan that is in force.

(2) The ship operator shall set out the proposed variation in the notice.

(3) The notice shall be prepared in accordance with any requirements set out in the regulations or a directive made under section 693.

(4) If the Director is satisfied that the plan, as varied, would continue to adequately address the requirements under sections 713 to 715, the Director shall

*(a)* approve the variation; and

*(b)* give the ship operator written notice of the approval.

(5) If the Director is not satisfied that the plan, as varied, would continue to adequately address the requirements under sections 713 to 715, the Director shall

*(a)* refuse to approve the variation; and

*(b)* give the ship operator written notice of the refusal and include reasons for the refusal.

(6) In determining whether the plan, as varied, would continue to adequately address the requirements under sections 713 to 715, the Director may take

account of existing circumstances as they relate to maritime transport security and offshore facility security.

(7) If the Director does not approve, or refuse to approve, the variation within the consideration period, the Director is taken to have refused to approve the variation.

(8) The Director may, by a written notice to the ship operator within the consideration period, request the ship operator to give the Director specified information relevant to the approval of the variation.

(9) The notice shall specify a period of not more than 45 days within which the information shall be given.

(10) If more than one notice is given to the ship operator under subsection (8), the total of the periods specified in the notices shall not exceed 45 days.

(11) For the purposes of this section, the consideration period is the period of 60 days commencing on the day on which the notice under subsection (1) requesting the variation was received by the Director, extended, in relation to each notice already given under subsection (8), by a number of days equal to the number of days falling within the period

*(a)* commencing on the day on which the notice was given; and

*(b)* ending on

(i) the day on which the information requested in that notice was received by the Director; or

(ii) if the information is not given within the period specified in that notice, the last day of that period.

**Directed variations of ship security plans**

**717.**(1) If the Director is no longer satisfied that a ship security plan for a regulated Barbadian ship that is in force adequately addresses the requirements under section 713 to 715, the Director may, by a written notice to the ship operator for the ship, direct the ship operator to vary the plan.

(2) The Director shall not give a direction under subsection (1) unless the Director is satisfied that the plan, as varied, would adequately address the requirements under section 713 to 715.

(3) In the notice, the Director shall

*(a)* set out the variation; and

*(b)* specify the period within which the ship operator is to give the Director the plan as varied.

(4) If the ship operator does not, within the specified period, or within any further period allowed by the Director, give the Director the plan varied in accordance with the direction, the Director shall, by a written notice to the ship operator, cancel the approval of the plan.

**Ship operator's revision of ship security plan**

**718.**(1) A ship operator for a regulated Barbadian ship that has a ship security plan in force may, by a written notice to the Director, request the Director to approve a revised ship security plan for the ship.

(2) The notice shall be accompanied by a copy of the revised plan.

(3) If a request is made under subsection (1), sections 714 and 715 apply in relation to the request.

(4) If the Director approves the revised plan, it replaces any other plan for the ship in force at that time.

**Direction to revise ship security plan**

**719.**(1) If the Director is no longer satisfied that a ship security plan for a regulated Barbadian ship adequately addresses the requirements under sections 713 to 715

*(a)* because there is a change in the circumstances that relate to maritime transport, or offshore facility, security;

*(b)* because there is a change in circumstances that could impact on maritime transport, or offshore facility, security; or

*(c)* for any other reason,

the Director may, by a written notice to the ship operator for the ship, direct the ship operator to give the Director a revised plan for the ship.

(2) The notice shall specify the period within which the revised plan shall be given.

(3) If the ship operator gives the Director the revised plan within the specified period, or within any further period allowed by the Director, sections 714 and 715 apply in relation to the revised plan.

(4) If the ship operator does not give the Director the revised plan within the specified period, or within any further period allowed by the Director, the Director shall, by written notice given to the ship operator, cancel the approval of the existing plan.

(5) If the Director approves the revised plan, it replaces any other plan for the ship in force at that time.

**Cancellation of inadequate ship security plans**

**720.** If

*(a)* the Director is no longer satisfied that a ship security plan for a regulated Barbadian ship that is in force adequately addresses the requirements under sections 713 to 715; and

*(b)* the Director is satisfied that it is not appropriate to direct the ship operator of the ship to

(i) vary the plan under section 717; or

(ii) revise the plan under section 719,

the Director shall, by a written notice to the ship operator, cancel the approval of the plan.

**Cancellation for failure to comply with ship security plan**

**721.**(1) If

*(a)* a ship security plan for a regulated Barbadian ship is in force; and

*(b)* the number of demerit points prescribed by regulations has been accumulated in respect of the ship,

the Director may, by a written notice to the ship operator for the ship, cancel the approval of the plan.

(2) Before cancelling the approval of a plan under subsection (1), the Director may, by a written notice to the ship operator, request the ship operator to show cause why the approval of the plan should not be cancelled.

**Request to cancel ship security plans**

**722.** If the ship operator for a regulated Barbadian ship that has a ship security plan in force makes a written request to the Director for the approval of the plan to be cancelled, the Director shall, by a written notice to the ship operator, cancel the approval of the plan.

**International ship security certificates**

**723.** A regulated Barbadian ship shall have an international ship security certificate, in accordance with the International Ship and Port Facility Security Code.

**Exemptions from requirement**

**724.**(1) The ship operator for a regulated Barbadian ship may apply to the Director for the ship to be exempt from the operation of this Division on international ship security certificates.

(2) The application shall be in a form specified in a Marine Notice.

(3) The Director shall grant the exemption only after consultation with the Headquarters of the Barbados Defence Force.

(4) On receipt of an application under subsection (1), the Director may exempt the ship from the operation of this Division on international ship security certificates in the circumstances specified in the exemption.

(5) If the Director grants an exemption, the Director shall give the ship operator a copy of the exemption.

(6) An exemption under this section has effect according to its terms.

(7) If the Director refuses to grant an exemption, the Director shall give the ship operator a written notice of the refusal and include the reasons for the refusal.

**Offence**

**725.**(1) The ship operator for a regulated Barbadian ship commits an offence and is liable on summary conviction to a fine of $10 000 if

*(a)* the ship is being used for maritime transport; and

*(b)* there is no international ship security certificate or interim international ship security certificate in force for the ship.

(2) Subsection (1) does not apply if the ship operator has a reasonable excuse.

(3) An offence under subsection (1) is a strict liability offence.

**Application for an international ship security certificate**

**726.**(1) The ship operator for a regulated Barbadian ship may apply to the Administration for an international ship security certificate in relation to the ship.

(2) An international ship security certificate shall be issued only after a successful survey for maritime security compliance is completed in relation to the ship and endorsement of the certificate by the ship's company security officer.

(3) On an application under subsection (1), the Administration shall give a ship operator an international ship security certificate for a regulated Barbadian ship if

*(a)* there is a ship security plan in force for the ship; and

*(b)* the ship is ISSC-verified.

**ISSC Verification**

**727.**(1) A regulated Barbadian ship is ISSC-verified if

*(a)* a recognized security organization has inspected the ship;

*(b)* the organization has verified that the ship meets the requirements determined in writing by the Administration; and

*(c)* the period, determined in writing by the Administration, within which the ship shall be next inspected has not ended.

(2) In making a determination under subsection (1), the Administration shall have regard to the obligations set out in the International Ship and Port Facility Security Code.

(3) If, on an inspection of a regulated Barbadian ship in respect of which there is an international ship security certificate in force

*(a)* the recognized security organization finds that the ship does not meet the requirements determined under paragraph (1)*(b)*; and

*(b)* the ship does not meet those requirements within any period allowed in writing by the recognized security organization,

the ship is no longer ISSC-verified.

**When an international ship security certificate is in force**

**728.** An international ship security certificate comes into force when it is given and remains in force until any of the following occurs:

*(a)* the Administration cancels the international ship security certificate;

*(b)* the ship operator is no longer the ship operator for the ship; or

*(c)* the period of 5 years after the international ship security certificate is given expires.

**Cancellation of international ship security certificate**

**729.** The Administration shall, by a written notice to the ship operator for a regulated Barbadian ship, cancel the international ship security certificate for the ship if

*(a)* there is no longer a ship security plan in force for the ship; or

*(b)* the ship is no longer ISSC-verified.

**Interim international ship security certificate**

**730.**(1) If

*(a)* the ship operator for a regulated Barbadian ship has applied to the Administration for an international ship security certificate for the ship;

*(b)* there is a ship security plan in force for the ship;

*(c)* the ship is not ISSC-verified; and

*(d)* the Administration reasonably believes that, were the ship to be inspected as referred to in section 727(1), the ship would be ISSC–verified,

the Administration may give the ship operator an interim international ship security certificate for the ship.

(2) If

*(a)* the Administration has given a ship operator an international ship security certificate for a regulated Barbadian ship; and

*(b)* while the international ship security certificate is in force, another ship operator becomes the ship operator for the ship,

the Administration may give the other ship operator an interim international ship security certificate for the ship.

(3) An interim international ship security certificate is in force for the period, not exceeding 6 months, specified in the certificate.

**Offence for false or misleading statements**

**731.**(1) The master of a regulated Barbadian ship who makes a statement, including an oral statement or a statement in a document, as to whether an international ship security certificate or interim international ship security certificate is in force for the ship commits an offence and is liable on summary conviction to a fine of $200 000 if

*(a)* the master does so knowing that the statement

(i) is false or misleading in a material particular; or

(ii) omits any matter or thing without which the statement is misleading in a material particular; and

*(b)* any of the following applies

(i) the statement is made to a maritime industry player;

(ii) the statement is made to a person who is authorized by a contracting state to the International Convention for the Safety of Life at Sea to request information about, or in connection with, whether an international ship security certificate or interim international ship security certificate is in force for the ship;

(iii) the statement is made to a person who is exercising powers or performing functions under, or in connection with, a law of Barbados; or

(iv) the statement is made in compliance or purported compliance with a law of Barbados.

(2) Absolute liability applies to an element of the offence set out in subparagraphs (1)*(b)*(i), (ii), (iii) or (iv).

**Delegation of powers and functions**

**732.**(1) The Administration may, in writing, delegate all or any of its powers and functions under this Division to a person engaged by a recognized security organization who satisfies the criteria prescribed by the Administration in writing.

(2) The Administration, in consultation with the Headquarters of the Barbados Defence Force, may determine, in writing, that an organization is a recognized security organization.

(3) In exercising powers or functions delegated under subsection (1), the delegate shall comply with any directions of the Administration.

**Recognized security organizations**

**733.**(1) The Administration may, in writing, authorize a person to whom powers and functions were delegated under section 732(1) to conduct inspections of ships to verify that the ships meet the requirements necessary for ISSC-verification.

(2) If a person authorized under subsection (1) conducts a ship inspection, the person is taken to be a duly authorized officer for the purposes of section 744(1).

**Fees for international ship security certificates**

**734.** A Barbados-registered ship shall pay to the Shipping Minister the fees for international ship security certificates specified in the regulations.

*Division 6*

*International Ship Security Certificates for Regulated Foreign Ships*

**International ship security certificates**

**735.**(1) The ship operator for a regulated foreign ship shall

*(a)* have an international ship security certificate in force, or a valid certification approved in writing by the Director as an alternative to an international ship security certificate, for the ship; and

*(b)* ensure that the ship carries the required ship security records.

(2) If the ship operator for a regulated foreign ship contravenes subsection (1), the ship operator or the master of the ship may be given a control direction under section 757.

(3) This section does not apply in relation to a ship of a kind prescribed by the regulations.

**Pre-arrival information**

**736.** The master of a regulated foreign ship shall provide pre-arrival information of a kind specified in the *Facilitation of International Maritime Traffic Act, 2024* (Act 2024-2) in accordance with that Act.

**Inspections**

**737.**(1) The master of a regulated foreign ship shall allow a duly authorized officer to board and inspect the ship in accordance with Division 13.

(2) The master of a regulated foreign ship shall provide a duly authorized officer with any ship security records kept on the ship when requested by the officer to do so.

(3) If the master of a ship contravenes subsection (1) or (2), the master or the ship operator for the ship may be given a control direction under section 744.

**Compliance with security levels**

**738.**(1) Subject to subsections (2) to (6), a regulated foreign ship shall, at all times, implement ISPS level 1 measures.

(2) If maritime security level 2 is in force for the ship because the ship is in a security-regulated port where maritime security level 2 is in force, the ship shall implement ISPS level 2 measures.

(3) If maritime security level 3 is in force for the ship because the ship is in a security-regulated port where maritime security level 3 is in force, the ship shall implement ISPS level 3 measures.

(4) If the Headquarters of the Barbados Defence Force declares under section 677(2) that maritime security level 2 is in force for the ship, the ship shall implement ISPS level 2 measures.

(5) If the Headquarters of the Barbados Defence Force declares under section 677(2) that maritime security level 3 is in force for the ship, the ship shall implement ISPS level 3 measures.

(6) A ship registered in another country that is directed by that country to implement a higher level of security than would otherwise apply under this section shall comply with the direction.

(7) If a regulated foreign ship does not implement security measures in accordance with subsections (1) to (6), the ship operator for, or the master of, the ship may be given a control direction.

**Security directions to regulated foreign ships**

**739.**(1) If the Headquarters of the Barbados Defence Force gives a security direction to a regulated foreign ship under section 681, the ship shall comply with the direction.

(2) If a regulated foreign ship does not comply with a security direction, the ship operator for, or the master of, the ship may be given a control direction under section 744.

**Compliance with maritime, ship and offshore security plans**

**740.**(1) The operations of a regulated foreign ship shall not hinder or obstruct compliance with the maritime security plan of a maritime industry player in a way that compromises the security of the operations of the player.

(2) The operations of a regulated foreign ship shall not hinder or obstruct compliance with the ship security plan of a regulated Barbadian ship in a way that compromises the security of the regulated Barbadian ship.

(3) The operations of a regulated foreign ship shall not hinder or obstruct compliance with the offshore security plan of an offshore industry player in a way that compromises the security of the operations of the player.

(4) If the operations of a regulated foreign ship compromise the security of the operations of a maritime industry player or a ship referred to in subsection (1), (2) or (3), the ship operator for, or the master of, the regulated foreign ship may be given a control direction under section 744.

**Acknowledging level notifications and directions**

**741.**(1) The master of a regulated foreign ship commits an offence and is liable on summary conviction to a fine of $150 000 if

*(a)* the master is notified by the Headquarters of the Barbados Defence Force or a port operator that maritime security level 2 or 3 is in force for the ship; and

*(b)* the master fails to acknowledge the notification to the Headquarters of the Barbados Defence Force.

(2) The master of a regulated foreign ship commits an offence and is liable on summary conviction to a fine of $175 000 if

*(a)* the master is notified by an offshore facility operator that maritime security level 2 or 3 is in force for the facility;

*(b)* the maritime security level in force for the facility is also in force for the ship under section 668; and

*(c)* the master fails to acknowledge the notification to the Headquarters of the Barbados Defence Force.

(3) The master of a regulated foreign ship commits an offence and is liable on summary conviction to a fine of $200 000 if

*(a)* the master is given

(i) a security direction by the Headquarters of the Barbados Defence Force that relates to the operations of the ship; or

(ii) a control direction that relates to the ship; and

*(b)* the master fails to acknowledge the direction to the Headquarters of the Barbados Defence Force.

(4) The ship operator for a regulated foreign ship commits an offence and is liable on summary conviction to a fine of $100 000 if

*(a)* the ship operator is notified by the Headquarters of the Barbados Defence Force that maritime security level 2 or 3 is in force for the ship; and

*(b)* the ship operator fails to acknowledge the notification to the Headquarters of the Barbados Defence Force.

(5) The ship operator for a regulated foreign ship commits an offence and is liable on summary conviction to a fine of $100 000 if

*(a)* the ship operator is given

(i) a security direction by the Headquarters of the Barbados Defence Force that relates to the operations of the ship; or

(ii) a control direction that relates to the ship; and

*(b)* the ship operator fails to acknowledge the direction to the Headquarters of the Barbados Defence Force.

(6) An offence under any of subsections (1) to (5) is a strict liability offence.

**Control directions**

**742.**(1) The Headquarters of the Barbados Defence Force may give a direction to the ship operator for, or master of, a regulated foreign ship requiring the ship operator or master to take specified action, or refrain from taking specified action, in relation to the ship.

(2) The Headquarters of the Barbados Defence Force shall not give a control direction unless the direction is

*(a)* necessary for ensuring compliance with this Division; or

*(b)* a direction of a kind that can be given under Chapter XI-2 of the International Convention for the Safety of Life at Sea or the International Ship and Port Facility Security Code by a port state to a foreign flagged ship.

(3) The action that a ship operator or master may be directed to take under subsection (1) includes

*(a)* removing the ship from Barbadian waters;

*(b)* removing the ship from a security-regulated port;

*(c)* moving the ship within a security-regulated port;

*(d)* removing the ship from an offshore security zone;

*(e)* if the ship is located in the vicinity of a security-regulated offshore facility and is engaged in any activity in relation to the facility, removing the ship from the vicinity of the facility;

*(f)* holding the ship in a particular position for a specified period or until a specified event occurs;

*(g)* taking particular actions, or ensuring that particular actions are taken, on board the ship; and

*(h)* allowing a duly authorized officer on board the ship to inspect the ship or ship security records carried by the ship.

(4) A control direction that is given orally has no effect until the Headquarters of the Barbados Defence Force commits the direction to writing.

(5) A direction shall not require the payment of money to the Headquarters of the Barbados Defence Force or to any other person other than an amount of money that is already recoverable at law.

(6) The National Security Minister may, by regulation or directive, prescribe requirements for, or in relation to, the giving of control directions.

**Enforcement of control directions**

**743.**(1) Neither the ship operator for, nor the master of, a regulated foreign ship shall engage in conduct that contravenes a control direction that relates to the ship.

(2) A ship operator or master who contravenes subsection (1) may be subject to an injunction under section 869.

*Division 7*

*Offshore Security Plans*

**Who shall have offshore security plans**

**744.**(1) The following offshore industry players are required to have an offshore security plan

*(a)* an offshore facility operator;

*(b)* a player of a kind prescribed by regulation; and

*(c)* a particular player prescribed by regulation.

(2) The Headquarters of the Barbados Defence Force may, by a written notice to an offshore industry player, permit the player to have more than one offshore security plan.

(3) The notice shall specify the operations or locations to be covered by each plan.

**Offence – operating without an offshore security plan**

**745.**(1) An offshore industry player who is required under section 744 to have an offshore security plan in force and does not have such a plan commits an offence and is subject to the payment of an administrative penalty imposed under section 1485.

(2) In respect of subsection (1), the maximum fine for any other offshore industry player is $5 000.

(3) Subsection (1) does not apply if the player has a reasonable excuse.

(4) An offence under subsection (1) is a strict liability offence.

**Offence – failing to comply with offshore security plan**

**746.**(1) An offshore industry player who is required under section 763 to have an offshore security plan in force and who fails to comply with the plan commits an offence and is liable on summary conviction to a fine of $15 000.

(2) In respect of subsection (1), the maximum fine for any other offshore industry player is $10 000.

(3) Subsection (1) does not apply if the player has a reasonable excuse.

(4) An offence under subsection (1) is a strict liability offence.

**Compliance with offshore security plans of offshore industry players**

**747.**(1) A maritime industry player shall not engage in conduct that hinders or obstructs compliance with an offshore security plan of an offshore industry player.

(2) If

*(a)* an offshore security plan for an offshore industry player covers the activities of another offshore industry player; and

*(b)* the other player

(i) is not required to have an offshore security plan; and

(ii) has been given the relevant parts of the covering plan,

the other offshore industry player shall take all reasonable steps to comply with the covering plan.

(3) If

*(a)* an offshore security plan for an offshore industry player covers the activities of another offshore industry player; and

*(b)* the other player

(i) is required to have an offshore security plan;

(ii) has been given the relevant parts of the covering plan; and

(iii) has agreed in writing to those activities being covered by the covering plan,

the other offshore industry player shall take all reasonable steps to comply with the covering plan.

(4) If a maritime industry player contravenes subsection (1), (2) or (3), the player does not commit an offence but may be subject to an enforcement order or an injunction under section 869.

**Hindering or obstructing compliance with offshore security plans**

**748.**(1) The operations of a regulated Barbadian ship shall not hinder or obstruct compliance with an offshore security plan.

(2) If the operations of a regulated Barbadian ship hinder or obstruct compliance with an offshore security plan, the ship operator for, or master of, the ship may be subject to a ship enforcement order or an injunction under section 869.

**Content of offshore security plans**

**749.**(1) An offshore security plan for an offshore industry player shall

*(a)* include a security assessment for

(i) the player's operation; or

(ii) if the player has more than one offshore security plan, the operations or locations covered by the plan; and

*(b)* set out the security activities or measures to be undertaken or implemented by the player under the plan for maritime security levels 1, 2 and 3;

*(c)* designate, by name or by reference to a position, all security officers responsible for implementing and maintaining the plan;

*(d)* make provision for the use of declarations of security;

*(e)* demonstrate that the implementation of the plan will make an appropriate contribution towards the achievement of maritime security outcomes; and

*(f)* complement, to the fullest extent possible, the occupational health and safety requirements under the laws of Barbados applying at the facility.

(2) A security assessment under paragraph (1)*(a)* shall

*(a)* take into account any documents required in writing by the Director to be taken into account; and

*(b)* address any matters prescribed by regulation.

**Prescribed content for offshore security plans**

**750.** Regulations or a directive made under section 693 may prescribe specific matters that are to be dealt with in

*(a)* an offshore security plan; or

*(b)* an offshore security plan for a particular kind of offshore industry player.

**Form of offshore security plan**

**751.**(1) An offshore security plan shall be

*(a)* in writing; and

*(b)* prepared in accordance with any requirements set out in the regulations or a directive made under section 693.

(2) An offshore security plan shall include

*(a)* information on the location of each offshore facility to which the plan relates;

*(b)* if the Headquarters of the Barbados Defence Force has not established an offshore security zone under section 791 within or around an offshore facility to which the plan relates and the player proposes that the Headquarters of the Barbados Defence Force should establish such a zone or zones within or around such a facility, information on each proposed zone; and

*(c)* if the Headquarters of the Barbados Defence Force has established an offshore security zone under section 791 (1) within or around an offshore facility to which the plan relates

(i) information on the zone;

(ii) if the player proposes that a zone be changed, information on the proposed change; and

(iii) if the player proposes that the Director should establish an additional offshore security zone, or revoke the establishment of an existing offshore security zone, within or around the facility, information on the zone if the proposal were accepted.

**Providing offshore security plans for approval**

**752.**(1) An offshore industry player may, by written notice given to the Headquarters of the Barbados Defence Force, request the Headquarters of the Barbados Defence Force to approve an offshore security plan for the player.

(2) The notice shall be accompanied by a copy of the plan.

(3) If the Headquarters of the Barbados Defence Force is satisfied that the plan adequately addresses the relevant requirements under sections 749 to 751, the Headquarters of the Barbados Defence Force shall

*(a)* approve the plan; and

*(b)* give the player written notice of the approval.

(4) If the Headquarters of the Barbados Defence Force is not satisfied that the plan adequately addresses the relevant requirements under sections 749 to 751, the Headquarters of the Barbados Defence Force shall

*(a)* refuse to approve the plan; and

*(b)* give the player written notice of the refusal and include reasons for the refusal.

(5) In determining whether the plan adequately addresses the relevant requirements under sections 749 to 751, the Headquarters of the Barbados Defence Force may take account of existing circumstances as they relate to the security of maritime transport and offshore facilities.

(6) If the Headquarters of the Barbados Defence Force does not approve, or refuse to approve, an offshore security plan within the consideration period, the Headquarters of the Barbados Defence Force is taken to have refused to approve the plan.

(7) The Headquarters of the Barbados Defence Force may, by a written notice given to the player within the consideration period, request the player to give the Headquarters of the Barbados Defence Force specified information relevant to the approval of the plan.

(8) The notice shall specify a period of not more than 45 days within which the information shall be given.

(9) If more than one notice is given to a player under subsection (7), the total of the periods specified in the notices shall not exceed 45 days.

(10) For the purposes of this section, the consideration period is the period of 60 days commencing on the day on which the Headquarters of the Barbados Defence Force received the plan, extended, in relation to each notice given under subsection (7), by a number of days equal to the number of days falling within the period

*(a)* commencing on the day on which the notice under subsection (5) was given; and

*(b)* ending on

(i) the day on which the information requested in that notice was received by the Headquarters of the Barbados Defence Force; or

(ii) if the information is not given within the period specified in that notice, the last day of that period.

**When an offshore security plan is in force**

**753.**(1) If the Headquarters of the Barbados Defence Force approves the offshore security plan, the plan comes into force at the time specified in the notice of approval.

(2) If

*(a)* the time specified in the notice is earlier than the time at which the notice was given; or

*(b)* no time is specified in the notice as the time when the plan comes into force,

the plan comes into force when the notice is given.

(3) The plan remains in force for a period of 5 years or such lesser period of not less than 12 months specified in the notice of approval, unless before the end of that period

*(a)* the plan is replaced under section 756(4) or 757(4); or

*(b)* the approval of the plan is cancelled under this Division.

**Variations to Offshore Security Plans**

**754.**(1) If an offshore security plan for an offshore industry player is in force, the player may, by written notice given to the Headquarters of the Barbados Defence Force, request the Headquarters of the Barbados Defence Force to vary the plan.

(2) The player shall set out the proposed variation in the notice.

(3) If the Headquarters of the Barbados Defence Force has established an offshore security zone or zones under section 791 within or around an offshore facility to which the plan relates, the notice shall include

*(a)* if the player proposes that such a zone be changed, information on the proposed change; and

*(b)* if the player proposes that the Headquarters of the Barbados Defence Force should establish an additional offshore security zone, or revoke the establishment of an existing offshore security zone, within or around the facility, information on the zones within or around the facility if the proposal were accepted.

(4) The National Security Minister may by regulation or directive set out further requirements for the notices referred to above.

(5) If the Headquarters of the Barbados Defence Force is satisfied that the plan, as varied, would continue to adequately address the relevant requirements under sections 749 to 751, the Headquarters of the Barbados Defence Force shall

*(a)* approve the variation; and

*(b)* give the player written notice of the approval.

(6) If the Headquarters of the Barbados Defence Force is not satisfied that the plan, as varied, would continue to adequately address the relevant requirements under sections 749 to 751, the Headquarters of the Barbados Defence Force shall

*(a)* refuse to approve the variation; and

*(b)* give the player written notice of the refusal and include the reasons for the refusal.

(7) In determining whether the plan, as varied, would continue to adequately address the requirements under sections 749 to 751, the Headquarters of the Barbados Defence Force may take account of existing circumstances as they relate to the security of maritime transport and offshore facilities.

(8) If the Headquarters of the Barbados Defence Force does not approve, or refuse to approve, the variation within the consideration period, the Headquarters of the Barbados Defence Force is taken to have refused to approve the variation.

(9) The Headquarters of the Barbados Defence Force may, by a written notice given to the player within the consideration period, request the player to give the Headquarters of the Barbados Defence Force specified information relevant to the approval of the variation.

(10) The notice shall specify a period of not more than 45 days within which the information shall be given.

(11) If more than one notice is given to the player under subsection (9), the total of the periods specified in the notices shall not exceed 45 days.

(12) For the purposes of this section, the consideration period is the period of 60 days commencing on the day on which the notice under subsection (1) was received by the Headquarters of the Barbados Defence Force, extended, in relation to each notice given under subsection (9), by a number of days equal to the number of days falling within the period

*(a)* commencing on the day on which the notice under subsection (9) was given; and

*(b)* ending on

(i) the day on which the information requested in that notice was received by the Headquarters of the Barbados Defence Force; or

(ii) if the information is not given within the period specified in that notice, the last day of that period.

**Directed variations of offshore security plans**

**755.**(1) If the Director is no longer satisfied that an offshore security plan for an offshore industry player that is in force adequately addresses the requirements under sections 749 to 751, the Headquarters of the Barbados Defence Force may, by written notice given to the player, direct the player to vary the plan.

(2) The Headquarters of the Barbados Defence Force shall not give a direction under subsection (1) unless it is satisfied that the plan, as varied, would adequately address the requirements under sections 749 to 751.

(3) In the notice, the Headquarters of the Barbados Defence Force shall

*(a)* set out the variation; and

*(b)* specify the period within which the player shall give the Headquarters of the Barbados Defence Force the plan as varied.

(4) If the player does not give the Headquarters of the Barbados Defence Force the plan

*(a)* varied in accordance with the direction; and

*(b)* within the specified period, or within any further period allowed by the Headquarters of the Barbados Defence Force,

the Headquarters of the Barbados Defence Force shall, by a written notice to the player, cancel the approval of the plan.

**Revision of offshore security plans**

**756.**(1) If an offshore security plan for an offshore industry player is in force, the player may, by a written notice to the Headquarters of the Barbados Defence Force, request the Headquarters of the Barbados Defence Force to approve a revised offshore security plan in its place.

(2) The notice shall be accompanied by a copy of the revised plan.

(3) If a request is made in accordance with this section, sections 752 and 753 apply in relation to the revised plan.

(4) If the revised plan is approved, it replaces the existing plan.

**Direction to revise offshore security plan**

**757.**(1) If the Headquarters of the Barbados Defence Force is no longer satisfied that the existing offshore security plan for an offshore industry player adequately addresses the relevant requirements under sections 749 to 751

*(a)* because there is a change in circumstances that relate to the security of maritime transport or offshore facilities;

*(b)* because there is a change in circumstances that could impact on the security of maritime transport or offshore facilities; or

*(c)* for any other reason,

the Headquarters of the Barbados Defence Force may, by a written notice to the player, direct the player to give the Headquarters a revised offshore security plan.

(2) The notice shall specify the period within which the revised plan shall be given.

(3) If the player gives the Headquarters of the Barbados Defence Force the revised plan within the specified period, or within any further period allowed by the Headquarters of the Barbados Defence Force, sections 752 and 753 apply in relation to the revised plan.

(4) If the player does not give the Headquarters of the Barbados Defence Force the revised plan within the specified period, or within any further period allowed by the Headquarters of the Barbados Defence Force, the Headquarters of the Barbados Defence Force shall, by a written notice to the player, cancel the approval of the existing plan.

(5) If the revised plan is approved, it replaces the existing plan.

**Cancellation of inadequate offshore security plans**

**758.** If

*(a)* the Headquarters of the Barbados Defence Force is no longer satisfied that an offshore security plan for an offshore industry player is in force adequately addresses the requirements under sections 749 to 751; and

*(b)* the Headquarters of the Barbados Defence Force is satisfied that it is not appropriate to direct the player to

(i) vary the plan under section 755; or

(ii) revise the plan under section 757,

the Headquarters of the Barbados Defence Force shall, by a written notice to the player, cancel the approval of the plan.

**Cancellation for failure to comply with offshore security plans**

**759.**(1) If

*(a)* an offshore security plan for an offshore industry player is in force; and

*(b)* the player has accumulated the number of demerit points prescribed by regulations,

the Headquarters of the Barbados Defence Force may, by a written notice to the player, cancel the approval of the plan.

(2) Before cancelling the approval of a plan under subsection (1), the Headquarters of the Barbados Defence Force may, by a written notice to the player, request the player to show cause why the approval of the plan should not be cancelled.

**Cancellation of offshore security plans where facility moved**

**760.** If

*(a)* an offshore security plan for an offshore industry player that is in force relates, in whole or in part, to a particular offshore facility; and

*(b)* that facility is moved to a new location for the purpose of extracting petroleum from the seabed or its subsoil at that location,

the Headquarters of the Barbados Defence Force may, by a written notice to the player, cancel the approval of the plan.

**Cancellation of offshore security plan on request**

**761.** If an offshore industry player makes a written request to the Headquarters of the Barbados Defence Force for the approval of offshore security plan that is in force to be cancelled, the Headquarters of the Barbados Defence Force shall, by a written notice to the player, cancel the approval of the plan.

*Division 8*

*International Ship Security Certificate for a Barbadian Ship Regulated as an Offshore Facility*

**Requirement for international ship security certificate**

**762.** A Barbadian ship regulated as an offshore facility shall have an international ship security certificate.

**Offence**

**763.**(1) The offshore facility operator for Barbadian ship regulated as an offshore facility that is being used for maritime transport or the extraction of petroleum from the seabed or its subsoil commits an offence and is liable on summary conviction to a fine of $10 000 if there is no international ship security certificate or interim international ship security certificate in force for the ship.

(2) Subsection (1) does not apply if the offshore facility operator has a reasonable excuse.

(3) An offence under subsection (1) is a strict liability offence.

**Application for international ship security certificate**

**764.**(1) The offshore facility operator for a Barbadian ship regulated as an offshore facility may apply to the Administration for an international ship security certificate for the ship.

(2) The application process may be specified in a Marine Notice.

(3) The Administration shall give an offshore facility operator an international ship security certificate applied for under subsection (1) if

*(a)* there is an offshore security plan in force for the ship or a security-regulated offshore facility of which the ship forms a part; and

*(b)* the ship is ISSC-verified.

**Verification for international ship security certificate**

**765.**(1) A Barbadian ship regulated as an offshore facility is ISSC-verified if

*(a)* a recognized security organization has inspected the ship;

*(b)* the organization has verified that the ship meets the requirements determined in writing by the Administration; and

*(c)* the period, determined in writing by the Administration, within which the ship shall be next inspected has not ended.

(2) In making a determination under subsection (1), the Administration shall have regard to the obligations set out in the International Ship and Port Facility Security Code.

(3) If a recognized security organization inspects a Barbadian ship regulated as an offshore facility for which there is an international ship security certificate in force and

*(a)* the organization finds that the ship does not meet the requirements determined under paragraph (1)*(b)*; and

*(b)* the ship does not meet those requirements within any period allowed in writing by the organization,

the ship is no longer ISSC-verified.

**When an international ship security certificate is no longer in force**

**766.** If the Administration gives an international ship security certificate to the offshore facility operator for a Barbadian ship regulated as an offshore facility, the certificate comes into force when it is given and remains in force until

*(a)* the Administration cancels the certificate;

*(b)* the offshore facility operator is no longer the offshore facility operator for the ship; or

*(c)* the period of 5 years after the certificate is given expires.

**Cancellation of international ship security certificates**

**767.** The Administration shall, by a written notice to the offshore facility operator for a Barbadian ship regulated as an offshore facility, cancel the international ship security certificate for the ship if

*(a)* there is no longer an offshore security plan in force for the ship or a security-regulated offshore facility of which the ship forms a part; or

*(b)* the ship is no longer ISSC-verified.

**Interim international ship security certificates**

**768.**(1) If

*(a)* the offshore facility operator for a Barbadian ship regulated as an offshore facility has applied to the Administration for an international ship security certificate for the ship;

*(b)* there is an offshore security plan in force for the ship or a security-regulated offshore facility of which the ship forms a part;

*(c)* the ship is not ISSC-verified; and

*(d)* the Administration reasonably believes that, were the ship to be inspected under section 765(1), the ship would be ISSC-verified,

the Administration may give the operator an interim international ship security certificate for the ship.

(2) If

*(a)* the Administration has given an offshore facility operator an international ship security certificate for a Barbadian ship regulated as an offshore facility; and

*(b)* while the certificate is in force, another offshore facility operator becomes the offshore facility operator for the ship,

the Administration may give the other offshore facility operator an interim international ship security certificate for the ship.

(3) An interim international ship security certificate is in force for the period, not exceeding 6 months, specified in the certificate.

**Offence**

**769.**(1) The master of a Barbadian ship regulated as an offshore facility who makes a statement, including an oral statement or a statement in a document, as to whether an international ship security certificate or interim international ship

security certificate is in force for the ship commits an offence and is liable on summary conviction to a fine of $200 000 if

*(a)* the master does so knowing that the statement

(i) is false or misleading in a material particular; or

(ii) omits any matter or thing without which the statement is misleading in a material particular; and

*(b)* any of the following applies:

(i) the statement is made to a maritime industry player;

(ii) the statement is made to a person who is authorized by a contracting state to the International Convention for the Safety of Life at Sea to request information about, or in connection with, whether an international ship security certificate or interim international ship security certificate is in force for the ship;

(iii) the statement is made to a person who is exercising powers or performing functions under, or in connection with, a law of Barbados; or

(iv) the statement is made in compliance or purported compliance with a law of Barbados.

(2) Absolute liability applies to an element of the offence set out in subparagraph (1)*(b)*(i), (ii), (iii) or (iv).

**Delegation of powers and functions**

**770.**(1) The Administration may, by writing, delegate all or any of its powers and functions under this Division to a person engaged by a recognized security organization who satisfies the criteria prescribed by the Administration in writing.

(2) In exercising powers or functions delegated under subsection (1), the delegate shall comply with any directions of the Administration.

**Conduct of inspections**

**771.**(1) The Administration may, by writing, authorize a person to whom powers and functions can be delegated under section 770(1) to conduct inspections of ships to verify that the ships meet the requirements necessary for ISSC verification.

(2) If a person authorized under subsection (1) conducts a ship inspection, the person is taken to be a duly authorized officer for the purposes of section 765(1).

*Division 9*

*Foreign Ships Regulated as Offshore Facilities*

**Requirement for international ship security certificate**

**772.**(1) The offshore facility operator for a foreign ship regulated as an offshore facility shall

*(a)* have an international ship security certificate in force, or a valid certification approved in writing by the Director as an alternative to an international ship security certificate, for the ship; and

*(b)* ensure that the ship carries the required ship security records.

(2) If the offshore facility operator for a foreign ship regulated as an offshore facility contravenes subsection (1), the offshore facility operator or the master of the ship may be given a control direction under section 777.

**Pre-arrival information**

**773.** The master of a foreign ship regulated as an offshore facility shall provide pre-arrival information of a kind, and in the manner, specified in the *Facilitation of International Maritime Traffic Act, 2024* (Act 2024-2).

**Foreign ship regulated as an offshore facility**

**774.**(1) The master of a foreign ship regulated as an offshore facility shall allow a duly authorized officer to board and inspect the ship in accordance with Division 12.

(2) The master of a foreign ship regulated as an offshore facility shall provide a duly authorized officer with any ship security records kept on the ship when requested by the officer to do so.

(3) If the master of a ship contravenes subsection (1) or (2), the master or the offshore facility operator for the ship may be given a control direction under section 777.

**Compliance with security directions**

**775.**(1) If the Headquarters of the Barbados Defence Force gives a security direction to a foreign ship regulated as an offshore facility under section 682, the ship shall comply with the direction.

(2) If a foreign ship regulated as an offshore facility does not comply with a security direction, the offshore facility operator for, or the master of, the ship may be given a control direction under section 777.

**Acknowledging level notifications and direction**

**776.**(1) The master of a foreign ship regulated as an offshore facility commits an offence and is liable on summary conviction to a fine of $150 000 if

*(a)* the master is notified by the Headquarters of the Barbados Defence Force, the Director, a port operator or the offshore facility operator that maritime security level 2 or 3 is in force for the ship; and

*(b)* the master fails to acknowledge the notification to the Headquarters of the Barbados Defence Force.

(2) The master of a foreign ship regulated as an offshore facility commits an offence and is liable on summary conviction to a fine of $175 000 if

*(a)* the master is given

(i) a security direction by the Headquarters of the Barbados Defence Force that relates to the operations of the ship; or

(ii) a control direction under section 777 that relates to the ship; and

*(b)* the master fails to acknowledge the direction to the Headquarters of the Barbados Defence Force.

(3) The offshore facility operator for a foreign ship regulated as an offshore facility commits an offence and is liable on summary conviction to a fine of $125 000 if

*(a)* the offshore facility operator is notified by the Headquarters of the Barbados Defence Force or a port operator that maritime security level 2 or 3 is in force for the ship; and

*(b)* the offshore facility operator fails to acknowledge the notification to the Headquarters of the Barbados Defence Force.

(4) The offshore facility operator for a foreign ship regulated as an offshore facility commits an offence and is liable on summary conviction to a fine of $125 000 if

*(a)* the offshore facility operator is given

(i) a security direction by the Headquarters of the Barbados Defence Force that relates to the operations of the ship; or

(ii) a control direction under section 777 that relates to the ship; and

*(b)* the offshore facility operator fails to acknowledge the direction to the Headquarters of the Barbados Defence Force.

(5) An offence under any of subsections (1) to (4) is a strict liability offence.

**Control directions**

**777.**(1) The Headquarters of the Barbados Defence Force may give a control direction to

*(a)* the offshore facility operator for a foreign ship regulated as an offshore facility; or

*(b)* the master of the ship;

requiring the offshore facility operator or master to take specified action, or refrain from taking specified action, in relation to the ship.

(2) The Headquarters of the Barbados Defence Force shall not give a control direction unless the direction is

*(a)* necessary for ensuring compliance with this Division; or

*(b)* a direction of a kind that can be given, under Chapter XI-2 of the International Convention for the Safety of Life at Sea or the International Ship and Port Facility Security Code, by a port state to a foreign flagged ship.

(3) The actions that an offshore facility operator or master may be directed to take under subsection (1) include

*(a)* removing the ship from Barbadian waters;

*(b)* removing the ship from a security-regulated port;

*(c)* moving the ship within a security-regulated port;

*(d)* removing the ship from an offshore security zone;

*(e)* moving the ship within or around an offshore security zone;

*(f)* holding the ship in a particular position for a specified period or until a specified event occurs;

*(g)* taking particular actions, or ensuring that particular actions are taken, on board the ship; and

*(h)* allowing a duly authorized officer on board the ship to inspect the ship or ship security records carried by the ship.

(4) A control direction that is given orally has no effect until the Director commits the direction to writing.

(5) A control direction shall not require the payment of money to the Headquarters of the Barbados Defence Force, or to any other person, other than an amount of money that is already recoverable at law.

(6) The regulations or a directive made under section 693 may prescribe requirements in relation to the giving of control directions.

**Enforcement of control directions**

**778.**(1) The offshore facility operator for a foreign ship regulated as an offshore facility shall not engage in conduct that contravenes a control direction that relates to the ship.

(2) If an offshore facility operator contravenes subsection (1), the offshore facility operator may be subject to an injunction under section 869.

(3) The master of a foreign ship regulated as an offshore facility shall not engage in conduct that contravenes a control direction that relates to the ship.

(4) If the master of a ship contravenes subsection (3), the master may be subject to an injunction under section 869.

*Division 10*

*Maritime Security Zones*

**Establishing port security zones**

**779.**(1) The chief executive officer of a port may establish one or more port security zones within the port of a type prescribed under section 780.

(2) The chief executive officer shall issue a notice of establishment of a port security zone to the Headquarters of the Barbados Defence Force, port operators and other port users, that include a map of the port that shows the boundaries of the port security zones.

(3) If

*(a)* a maritime security plan for a port operator for a security-regulated port includes a map provided in accordance with section 694(2)*(a)* or 694(2)*(b)*(ii) or (iii); and

*(b)* the port's chief executive officer gives the port operator notice under section 696(1)*(b)* approving the plan,

the port's chief executive officer is taken to have given the port operator a notice under subsection (1) establishing, or revoking the establishment of, the port security zones proposed by the operator in the map included in the plan.

(4) If

*(a)* a notice under section 698(1) requesting a port's chief executive officer to vary a maritime security plan for a port operator for a security-regulated port includes a map provided in accordance with section 698(3); and

*(b)* the port's chief executive officer gives the port operator notice under section 698(4)*(b)* approving the variation,

the port's chief executive officer is taken to have given the port operator a notice under subsection (1) establishing, or revoking the establishment of, the port security zones proposed by the port operator in the map included in the notice requesting the variation.

(5) If a port's chief executive officer establishes a port security zone under subsection (1), the port's chief executive officer shall, in writing, notify the establishment to each maritime industry player, other than the port operator, who controls an area included within the zone and include a map that shows the boundaries of the zone.

**Types of port security zones**

**780.**(1) The National Security Minister, in consultation with the Minister responsible for Shipping, may by regulation or directive prescribe different types of port security zones.

(2) The purposes for which different types of port security zones may be prescribed include

*(a)* controlling the movement of people, ships or any other thing within security-regulated ports;

*(b)* restricting access to areas within security-regulated ports;

*(c)* providing cleared areas within security-regulated ports;

*(d)* preventing interference with ships;

*(e)* preventing interference with people or goods that have been, or are to be, transported by ship; and

*(f)* ensuring the security of

(i) fuel storage areas;

(ii) cargo and baggage handling facilities;

(iii) navigational aids; and

(iv) critical installations.

**Matters to be considered in establishing port security zones**

**781.**(1) In establishing a port security zone, the chief executive officer of a port shall have regard to the purpose of the zone, and take into account

*(a)* the existing physical features of the port;

*(b)* the existing operational features of the port; and

*(c)* the views of

(i) the port operator;

(ii) each person who controls an area of land, including any buildings on the land, that is to be included within the boundaries of the zone; and

(iii) the offshore facility operator for any security-regulated offshore facility all or part of which is to be included within the boundaries of the zone.

(2) In establishing the port security zone, the Port's chief executive officer shall define in writing or other form of visual representation what constitutes the existing physical and operational features of the port.

**Requirements for port security zones**

**782.**(1) The regulations or a directive made under section 693 may, for the purpose of safeguarding against unlawful interference with maritime transport or offshore facilities, prescribe requirements in relation to each type of port security zone, including

*(a)* access to port security zones, conditions of access and the issuance and use of security passes and other identification systems;

*(b)* the identification or marking of port security zones;

*(c)* the movement, management or operation of ships, other vessels, vehicles and other things in port security zones;

*(d)* the maintenance of the integrity of port security zones;

*(e)* the management of people and goods, including the management of unaccompanied, unidentified or suspicious goods, in port security zones;

*(f)* the management, sale or disposal of ships, other vessels, vehicles or goods abandoned in port security zones; and

*(g)* the time within which prescribed requirements are to be met.

(2) The regulations or a directive may prescribe penalties for offences under those regulations, not exceeding

*(a)* for an offence committed by a port operator, ship operator, port facility operator or offshore facility operator, $175 000;

*(b)* for an offence committed by any other maritime industry player, $150 000; and

*(c)* for an offence committed by any other person, $100 000.

(3) If a body corporate is convicted of an offence under the regulations, the court may impose a fine of up to 3 times the amount referred to in subsection (2).

(4) Regulations or a directive may provide for the recovery by a person of costs and expenses reasonably incurred by the person in the performance of functions, or the exercise of powers, by the person in relation to a security identification card scheme set out in those regulations.

(5) An amount recoverable under the regulations shall not be such as to amount to taxation.

(6) Regulations or a directive may authorize the use or disclosure of information, including personal information within the meaning of the *Data Protection Act, 2019* (Act 2019-29), for the purpose of, or in relation to, assessing the security risk posed by a person.

**Declaring ship security zones**

**783.**(1) The chief executive officer of a port, in consultation with the Headquarters of the Barbados Defence Force and the Director, may, by a written notice to

*(a)* the ship operator for, or the master of, a security-regulated ship; and

*(b)* the port operator for a security-regulated port,

declare that a ship security zone, of a type prescribed under section 784, is to operate around the ship while the ship is within the port.

(2) The Headquarters of the Barbados Defence Force may, by a written notice to

*(a)* the ship operator for, or the master of, a security-regulated ship; and

*(b)* the offshore facility operator for a security-regulated offshore facility,

declare that a ship security zone, of a type prescribed under section 784, is to operate around the ship while the ship is in the vicinity of the facility or is engaged in any activity in relation to the facility.

(3) For the avoidance of doubt, if

*(a)* a ship security zone is operating around a ship; and

*(b)* a person or thing is on board the ship,

the person or thing is not in the ship security zone.

**Types of ship security zones**

**784.**(1) The National Security Minister may by regulation or directive prescribe different types of ship security zones.

(2) The purposes for which different types of ship security zones may be prescribed include

*(a)* limiting contact with security-regulated ships;

*(b)* controlling the movement of ships and other things in the vicinity of a security-regulated ship;

*(c)* providing cleared areas around security-regulated ships;

*(d)* preventing interference with security-regulated ships; and

*(e)* preventing interference with people or goods that have been, or are to be, transported by security-regulated ships.

**Matters to be considered in declaring ship security zones**

**785.**(1) In declaring under section 783(1) that a ship security zone is to operate around a security-regulated ship, the port's chief executive officer shall have regard to the purpose of the zone, and take into account

*(a)* the operational features of the ship;

*(b)* the existing physical features of the ports, and related port services, to be used by the ship; and

*(c)* the existing operational features of the ports, and related port services, to be used by the ship.

(2) In declaring under section 783(2) that a ship security zone is to operate around a security-regulated ship, the Headquarters of the Barbados Defence Force shall have regard to the purpose of the zone, and take into account

*(a)* the operational features of the ship;

*(b)* the existing physical features of the offshore facilities to be serviced by the ship; and

*(c)* the existing operational features of the offshore facilities to be serviced by the ship.

**Requirements for ship security zones**

**786.**(1) The National Security Minister may, for the purposes of safeguarding against unlawful interference with maritime transport or offshore facilities, prescribe requirements by regulation or a directive made under section 693 for each type of ship security zone, including

*(a)* access to ship security zones, conditions of access and the issuance and use of security passes and other identification systems;

*(b)* the identification or marking of ship security zones;

*(c)* the movement, management or operation of ships and other vessels and vehicles and other things in ship security zones;

*(d)* maintenance of the integrity of ship security zones;

*(e)* the management of people and goods, including the management of unaccompanied, unidentified or suspicious goods, in ship security zones;

*(f)* the management, sale or disposal of things abandoned in ship security zones; and

*(g)* the time at which prescribed requirements are to be met.

(2) Regulations made under this section may prescribe penalties for offences under those regulations not exceeding

*(a)* for an offence committed by a port operator, ship operator, port facility operator or offshore facility operator, $175 000;

*(b)* for an offence committed by any other maritime industry player, $150 000; and

*(c)* for an offence committed by any other person, $100 000.

(3) If a body corporate is convicted of an offence under the regulations, the court may impose a fine of up to 3 times the amount referred to in subsection (2).

(4) Regulations or a directive may provide for the recovery by a person of costs and expenses reasonably incurred by the person in the performance of functions, or the exercise of powers, by the person in relation to a security identification card scheme set out in those regulations.

(5) An amount recoverable under the regulations shall not be such as to amount to taxation.

(6) Regulations or a directive may authorize the use or disclosure of information, including personal information within the meaning of the *Data Protection Act, 2019* (Act 2019-29), for the purpose of, or in relation to, assessing the security risk posed by a person.

**Establishing on-board security zones**

**787.**(1) The Administration, in consultation with the Headquarters of the Barbados Defence Force may, by a written notice to the ship operator for a regulated Barbadian ship, establish one or more on-board security zones on the ship, of a type prescribed under section 788.

(2) The notice shall identify the areas or parts of the ship to be covered by the on-board security zone or zones.

**Types of on-board security zones**

**788.**(1) The National Security Minister may, by regulation or directive, prescribe different types of on-board security zones.

(2) The purposes for which types of on-board security zones may be prescribed include

*(a)* controlling access to areas or parts of regulated Barbadian ships;

*(b)* maintaining the security of areas or parts of regulated Barbadian ships;

*(c)* providing cleared areas on regulated Barbadian ships;

*(d)* preventing interference with the operation of regulated Barbadian ships; and

*(e)* preventing interference with people or goods that are being, have been, or are to be, transported by regulated Barbadian ships.

**Matters to be considered in establishing on-board security zones**

**789.** In establishing an on-board security zone on a regulated Barbadian ship, the Administration shall

*(a)* have regard to the purpose of the zone; and

*(b)* take into account

(i) the operational features of the ship; and

(ii) the views of the ship operator for the ship.

**Requirements for on-board Security Zones**

**790.**(1) The National Security Minister may, by regulation or a directive made under section 693, for the purposes of safeguarding against unlawful interference with maritime transport or offshore facilities, prescribe requirements in relation to each type of on-board security zone, including

*(a)* access to on-board security zones, conditions of access, and the issuance and use of security passes and other identification systems;

*(b)* the identification or marking of on-board security zones;

*(c)* the movement, management or operation of vehicles and other things in on-board security zones;

*(d)* maintenance of the integrity of on-board security zones;

*(e)* the management of people and goods, including the management of unaccompanied, unidentified or suspicious goods, in on-board security zones;

*(f)* the management, sale or disposal of things abandoned in on-board security zones; and

*(g)* the time within which prescribed requirements are to be met.

(2) Regulations or a directive may prescribe penalties for offences under those regulations not exceeding

*(a)* for an offence committed by a port operator, ship operator, port facility operator or offshore facility operator, $175 000;

*(b)* for an offence committed by any other maritime industry player, $150 000; and

*(c)* for an offence committed by any other person $100 000.

(3) If a body corporate is convicted of an offence under the regulations, the court may impose a fine of up to 3 times the amount referred to in subsection (2).

(4) Regulations or a directive may provide for the recovery by a person of costs and expenses reasonably incurred by the person in the performance of functions, or the exercise of powers, by the person in relation to a security identification card scheme set out in those regulations.

(5) An amount recoverable under the regulations shall not be such as to amount to taxation.

(6) Regulations or a directive may authorize the use or disclosure of information, including personal information within the meaning of the *Data Protection Act, 2019* (Act 2019-29) for the purpose of, or in relation to, assessing the security risk posed by a person.

**Establishing offshore security zones**

**791.**(1) The Headquarters of the Barbados Defence Force may, by a written notice to the offshore facility operator for a security-regulated offshore facility, establish one or more offshore security zones, of a type prescribed under section 792, within and around the facility.

(2) The notice shall include information about the location and boundaries of the offshore security zones of the kind and in the form prescribed by regulation.

(3) If

*(a)* an offshore security plan for an offshore facility operator includes information in accordance with section 751(2)*(b)* or section 751(2)*(c)* (ii) or (iii) relating to proposed changes to the offshore security zones within or around an offshore facility; and

*(b)* the Headquarters of the Barbados Defence Force gives the offshore facility operator notice under section 752(3)*(b)* approving the plan,

the Headquarters of the Barbados Defence Force is taken to have given the offshore facility operator a notice under subsection (1) establishing, or revoking the establishment of, the offshore security zones proposed by the offshore facility operator in the information included in the plan.

(4) If

*(a)* a notice under section 754 requesting the Headquarters of the Barbados Defence Force to vary an offshore security plan for an offshore facility operator includes information in accordance with section 754(3); and

*(b)* the Headquarters of the Barbados Defence Force gives the offshore facility operator notice under section 754(4)*(b)* approving the variation,

the Headquarters of the Barbados Defence Force is taken to have given the offshore facility operator a notice under subsection (1) establishing, or revoking the establishment of, the offshore security zones proposed by the offshore facility operator in the information included in the notice requesting the variation.

(5) If the Headquarters of the Barbados Defence Force establishes an offshore security zone under subsection (1), the offshore facility operator shall, in writing, notify the establishment to each maritime industry player, other than the offshore facility operator, who conducts operations within the zone.

(6) The notice shall include information about the location and boundaries of the zone of the kind and in the form prescribed by regulation or directive.

**Types of offshore security zones**

**792.**(1) The National Security Minister may by regulation may prescribe different types of offshore security zones.

(2) The purposes for which different types of offshore security zones may be prescribed include

*(a)* limiting contact with security-regulated offshore facilities;

*(b)* controlling the movement of people within a security-regulated offshore facility;

*(c)* controlling the movement of ships and other things within and around a security-regulated offshore facility;

*(d)* providing cleared areas within and around security-regulated offshore facilities;

*(e)* preventing interference with security-regulated offshore facilities; and

*(f)* preventing interference with people or goods, including petroleum, that have been, or are to be, transported to or from security-regulated offshore facilities.

**Matters to be considered in establishing offshore security zones**

**793.** In establishing an offshore security zone, the Headquarters of the Barbados Defence Force shall

*(a)* have regard to the purpose of the zone; and

*(b)* take into account

(i) the existing physical features of the security-regulated offshore facility;

(ii) the existing operational features of the facility; and

(iii) the views of the offshore facility operator and, if all or part of the zone is within a security-regulated port, the port operator for that port; and

*(c)* act consistently with Barbados' obligations under international law.

**Requirements for offshore security zones**

**794.**(1) The National Security Minister may, by regulation or a directive made under section 693, prescribe requirements in relation to each type of offshore security zone for the purpose of safeguarding against unlawful interference with maritime transport or offshore facilities, including

*(a)* access to offshore security zones, conditions of access and the issuance and use of security passes and other identification systems;

*(b)* the identification or marking of offshore security zones;

*(c)* the movement, management or operation of ships and other vessels and vehicles and other things in offshore security zones;

*(d)* maintenance of the integrity of offshore security zones;

*(e)* the management of people and goods, including the management of unaccompanied, unidentified or suspicious goods, in offshore security zones;

*(f)* the management, sale or disposal of ships, other vessels, vehicles or goods abandoned in offshore security zones;

*(g)* the time within which prescribed requirements are to be met; and

*(h)* the suspension of the existence of an offshore security zone in prescribed circumstances.

(2) Regulations or a directive may prescribe penalties for offences under those regulations, not exceeding

*(a)* for an offence committed by a port operator, ship operator, port facility operator or offshore facility operator, $175 000;

*(b)* for an offence committed by any other maritime industry player, $150 000; and

*(c)* for an offence committed by any other person, $100 000.

(3) If a body corporate is convicted of an offence under the regulations, the court may impose a fine of up to 3 times the amount referred to in subsection (2).

(4) Regulations or a directive may provide for the recovery by a person of costs and expenses reasonably incurred by the person in the performance of functions, or the exercise of powers, by the person in relation to a security identification card scheme set out in those regulations.

(5) An amount recoverable under the regulations shall not be such as to amount to taxation.

(6) Regulations or a directive may authorize the use or disclosure of information, including personal information within the meaning of the *Data Protection Act, 2019* (Act 2019-29), for the purpose of, or in relation to, assessing the security risk posed by a person.

(7) The regulations shall be consistent with Barbados' obligations under international law.

*Division 11*

*Other Security Measures*

**Screening and clearing people**

**795.**(1) For the purposes of this Division, a person is screened when the person undergoes screening in accordance with regulations made under section 799 in preparation for

*(a)* boarding a vessel; or

*(b)* entering an area within a security-regulated port or an offshore security zone.

(2) For the purposes of this Division, a person receives clearance if

*(a)* after being screened, the person is allowed, by a screening officer, to pass through the screening point;

*(b)* the person passes through a screening point and the regulations provide, or the Comptroller of Customs by a written notice provides, that the person may pass through that screening point without being screened; or

*(c)* the person enters a cleared area or boards a cleared vessel other than through a screening point and the regulations provide, or the Comptroller of Customs by a written notice provides, that the person may enter the area or aboard the vessel that way.

(3) For the purposes of this Division, a person is cleared at a particular time if

*(a)* the person has received clearance; and

*(b)* since receiving clearance, the person has at all times been in a cleared area or on a cleared vessel.

(4) For the purposes of paragraph (3)*(b)*, a person is taken to be in a cleared area if the person is under the supervision or control prescribed in the regulations.

(5) For the avoidance of doubt,

*(a)* a notice under paragraph (2)*(b)* may provide that a class of persons may pass through a screening point without being screened; and

*(b)* a notice under paragraph (2)*(c)* may provide that a class of persons may enter a cleared area or board a cleared vessel other than through a screening point.

**Screening and clearing goods**

**796.**(1) For the purposes of this Division, goods are screened when the goods undergo screening in accordance with regulations made under section 799 in preparation for

*(a)* being taken on board a vessel; or

*(b)* being taken into an area within a security-regulated port or an offshore security zone.

(2) For the purposes of this Division, goods receive clearance if

*(a)* after being screened, the goods are allowed, by a screening officer, to pass through a screening point;

*(b)* the goods pass through a screening point and the regulations provide, or the Comptroller of Customs by a written notice provides, that the goods may pass through that screening point without being screened; or

*(c)* the goods enter a cleared area or are taken on board a cleared vessel other than through a screening point and the regulations provide, or the Comptroller of Customs by a written notice provides, that the goods may enter a cleared area or be taken on board a vessel that way.

(3) For the purposes of this Division, goods are cleared at a particular time if

*(a)* the goods have received clearance; and

*(b)* since receiving clearance, the goods have at all times been in a cleared area or on a cleared vessel.

(4) For the purposes of paragraph (3)*(b)*, goods are taken to be in a cleared area if the goods are under the supervision or control prescribed in the regulations.

(5) For the avoidance of doubt,

*(a)* a notice under paragraph (2)*(b)* may provide that a class of goods may pass through a screening point without being screened; and

*(b)* a notice under paragraph (2)*(c)* may provide that a class of goods may enter a cleared area or be taken on board a cleared vessel other than through a screening point.

**Screening and clearing vehicles**

**797.**(1) For the purposes of this Division, a vehicle is screened when the vehicle undergoes screening in accordance with regulations made under section 799 in preparation for

*(a)* being taken on board a vessel; or

*(b)* entering an area within a security-regulated port or an offshore security zone.

(2) For the purposes of this Division, a vehicle receives clearance if

*(a)* after being screened, the vehicle is allowed, by a screening officer, to pass through the screening point;

*(b)* the vehicle passes through a screening point and the regulations provide, or the Comptroller of Customs by a written notice provides, that the vehicle may pass through that screening point without being screened; or

*(c)* the vehicle enters a cleared area or goes on board a cleared vessel other than through a screening point and the regulations provide, or the Comptroller of Customs by a written notice provides, that the vehicle may enter the area or be taken on board the vessel that way.

(3) For the purposes of this Division, a vehicle is cleared at a particular time if

*(a)* the vehicle has received clearance; and

*(b)* since receiving clearance, the vehicle has at all times been in a cleared area or on a cleared vessel.

(4) For the purposes of paragraph (3)*(b)*, a vehicle is taken to be in a cleared area if the vehicle is under the supervision or control prescribed in the regulations.

(5) For the avoidance of doubt,

*(a)* a notice under paragraph (2)*(b)* may provide that a class of vehicles may pass through a screening point without being screened; and

*(b)* a notice under paragraph (2)*(c)* may provide that a class of vehicles may enter a cleared area or be taken on board a cleared vessel other than through a screening point.

**Screening and clearing vessels**

**798.**(1) For the purposes of this Division, a vessel is screened when the vessel undergoes screening in accordance with regulations made under section 799 in preparation for

*(a)* being taken on board another vessel; or

*(b)* entering an area within a security-regulated port or an offshore security zone.

(2) For the purposes of this Division, a vessel receives clearance if

*(a)* after being screened, the vessel is allowed, by a screening officer, to pass through the screening point;

*(b)* the vessel passes through a screening point and the regulations provide, or the Comptroller of Customs by a written notice provides, that the vessel may pass through that screening point without being screened; or

*(c)* the vessel enters a cleared area or is taken on board a cleared vessel other than through a screening point and the regulations provide, or the Comptroller of Customs by a written notice provides, that the vessel may enter the area or be taken on board the other vessel that way.

(3) For the purposes of this Division, a vessel is cleared at a particular time if

*(a)* the vessel has received clearance; and

*(b)* since receiving clearance, the vessel has at all times been in a cleared area or on a cleared vessel.

(4) For the purposes of paragraph (3)*(b)*, a vessel is taken to be in a cleared area if the vessel is under the supervision or control prescribed in the regulations.

(5) For the avoidance of doubt,

*(a)* a notice under paragraph (2)*(b)* may provide that a class of vessels may pass through a screening point without being screened; and

*(b)* a notice under paragraph (2)*(c)* may provide that a class of vessels may enter a cleared area or be taken on board a cleared vessel other than through a screening point.

**Requirements for screening and clearing**

**799.**(1) The Minister may, by regulation, for the purposes of safeguarding against unlawful interference with maritime transport or offshore facilities, prescribe requirements in relation to

*(a)* screening;

*(b)* receiving clearance; and

*(c)* the circumstances in which persons, goods, vehicles or vessels are required to be cleared.

(2) Regulations made under subsection (1) may include the following:

*(a)* the persons who are authorized or required to conduct screening;

*(b)* the things to be detected by screening;

*(c)* the procedures for dealing with things detected by screening;

*(d)* the circumstances in which persons shall be cleared in order to

(i) board a vessel; or

(ii) enter an area within a security-regulated port or an offshore security zone;

*(e)* the circumstances in which stores, baggage, cargo, vehicles or vessels shall be cleared in order to be taken

(i) on board a vessel; or

(ii) into an area within a security-regulated port or an offshore security zone;

*(f)* the places where screening is to be conducted;

*(g)* the methods, techniques and equipment to be used for screening;

*(h)* the notices that are to be displayed in places where screening is to be conducted; and

*(i)* the supervision and control measures for ensuring that persons, goods, vehicles and vessels that have received clearance remain cleared on vessels that are not cleared vessels or in areas that are not cleared areas.

(3) Regulations made under paragraph (2)*(a)* or *(g)* may provide that some or all of the matters set out in that paragraph are to be specified in a written notice made by the Comptroller of Customs.

(4) A notice referred to in subsection (3) may provide that the notice is to be given only to the persons, or classes of persons, specified in the notice.

(5) Regulations made under this section may prescribe penalties for offences under those regulations not exceeding

*(a)* for an offence committed by a port operator, ship operator, port facility operator or offshore facility operator, $175 000;

*(b)* for an offence committed by any other maritime industry player, $150 000; or

*(c)* for an offence committed by any other person, $100 000.

(6) If a body corporate is convicted of an offence under the regulations, the court may impose a fine of up to 3 times the amount set out in subsection (2).

**Weapons in maritime security zones**

**800.** A person who has a weapon in his possession in a maritime security zone commits an offence of strict liability and is liable on conviction to a fine of $300 000 or 7 years imprisonment if the person is not

*(a)* a law enforcement officer;

*(b)* a member of the Barbados Defence Force who is on duty; or

*(c)* a person authorized by the regulations to have the weapon in his possession in the maritime security zone.

**Carrying weapons through a screening point**

**801.** A person who has a weapon in his possession when he passes through a screening point commits an offence of strict liability, and is liable on conviction to a fine of $350 000 or 7 years imprisonment if the person is not

*(a)* a law enforcement officer or a duly authorized officer; or

*(b)* a person authorized by the regulations to pass through the screening point with the weapon in his possession.

**Weapons on board certain ships – strict liability**

**802.** Subject to Division 22 of Part XXVII, a person who carries a weapon or otherwise has in his possession a weapon that is located at a place that is accessible to the person on board a regulated Barbadian ship or a ship regulated as an offshore facility commits an offence of strict liability and is liable on conviction to a fine of $575 000 or 12 years imprisonment if

*(a)* the person is not a law enforcement officer;

*(b)* the carriage or possession of the weapon is not authorized by regulations or permitted in writing by the Director after consultation with maritime law enforcement; and

*(c)* the weapon is not under the control of the master of the ship.

**Failure to comply with conditions**

**803.**(1) A person commits an offence of strict liability and is liable on conviction to a fine of $50 000 or 3 years imprisonment if

*(a)* the person is in a maritime security zone, on board a regulated Barbadian ship or on board a ship regulated as an offshore facility;

*(b)* the person is authorized or permitted to have a weapon in his possession or under his control; and

*(c)* the person fails to comply with any conditions relating to the authorization or permission.

(2) Subsection (1) does not apply if the person has a reasonable excuse.

**Director may permit by class**

**804.** For the avoidance of doubt, for the purposes of sections 478 to 482, the Director, after consultation with maritime law enforcement, may give permission in relation to particular conduct by giving permission to a class of persons.

**Other weapons requirements**

**805.**(1) The Minister may, by regulation, for the purposes of safeguarding against unlawful interference with maritime transport or offshore facilities, prescribe requirements in relation to the carriage and use of weapons in a maritime security zone, on board a regulated Barbadian ship or on board a ship regulated as an offshore facility.

(2) Regulations made under subsection (1) may

*(a)* authorize the carriage of weapons in a maritime security zone, on board a regulated Barbadian ship or on board a ship regulated as an offshore facility;

*(b)* regulate the conduct of a person in a maritime security zone, on board a regulated Barbadian ship or on board a ship regulated as an offshore facility who carries or uses a weapon, or is suspected of carrying or using a weapon, unlawfully; and

*(c)* regulate the treatment of a weapon surrendered by a person in a maritime security zone, on board a regulated Barbadian ship or on board a ship regulated as an offshore facility.

(3) Regulations made under this section may prescribe penalties for offences under those regulations not exceeding

*(a)* for an offence committed by a port operator, ship operator, port facility operator or offshore facility operator, $275 000;

*(b)* for an offence committed by any other maritime industry player, $250 000; and

*(c)* for an offence committed by any other person, $200 000.

(4) If a body corporate is convicted of an offence under the regulations, the court may impose a fine of up to 3 times the amount set out in subsection (2).

**Prohibited items in maritime security zones**

**806.** A person in a maritime security zone of a kind prescribed in regulations for the purposes of this section who has a prohibited item in his possession commits an offence of strict liability and is liable on conviction to a fine of $275 000 or imprisonment for a term of 7 years if the person is not

*(a)* a law enforcement officer, a duly authorized officer;

*(b)* a member of the Barbados Defence Force who is on duty; or

*(c)* authorized by the regulations to have the prohibited item in his possession in the maritime security zone.

**Carrying prohibited items through a screening point**

**807.** A person who has a prohibited item in his possession when he passes through a screening point commits an offence and is liable on conviction to a fine of $250 000 or 5 years imprisonment if the person is not

*(a)* a law enforcement officer or a duly authorized officer; or

*(b)* authorized by the regulations, to pass through the screening point with the prohibited item in his possession.

**Prohibited items on board certain ships**

**808.**(1) A person who carries a prohibited item, or otherwise has in his possession a prohibited item, that is located at a place that is accessible to the person on board a regulated Barbadian ship or a ship regulated as an offshore facility commits an offence of strict liability if

*(a)* the person is not a law enforcement officer, a duly authorized officer;

*(b)* the carriage or possession of the prohibited item is not authorized by regulations; and

*(c)* the prohibited item is not under the control of the master of the ship.

(2) A person who commits an offence under subsection (1) is liable on summary conviction to a maximum fine of $200 000.

**Failure to comply with conditions**

**809.** A person commits an offence and is liable on summary conviction to a fine of $50 000 if

*(a)* the person is in a maritime security zone, on board a regulated Barbadian ship or on board a ship regulated as an offshore facility;

*(b)* the person is authorized or permitted to have a prohibited item in his possession or under his control; and

*(c)* the person fails to comply with any conditions relating to the authorization or permission.

**Director may permit by class**

**810.** For the avoidance of doubt, for the purposes of sections 485 to 489, the Director, after consultation with maritime law enforcement, may give permission in relation to particular conduct by giving permission to a class of persons.

**Other prohibited items requirements**

**811.**(1) The Minister may, by regulation, for the purposes of safeguarding against unlawful interference with maritime transport or offshore facilities, prescribe requirements in relation to the carriage and use of prohibited items in a maritime security zone, on board a regulated Barbadian ship or on board a ship regulated as an offshore facility.

(2) Regulations made under subsection (1) may

*(a)* authorize the carriage of prohibited items in a maritime security zone, on board a regulated Barbadian ship or on board a ship regulated as an offshore facility;

*(b)* regulate the conduct of a person in a maritime security zone, on board a regulated Barbadian ship or on board a ship regulated as an offshore facility who carries or uses a prohibited item, or is suspected of carrying or using a prohibited item, unlawfully; and

*(c)* regulate the treatment of a prohibited item surrendered by a person in a maritime security zone, on board a regulated Barbadian ship or on board a ship regulated as an offshore facility.

(3) Regulations made under this section may prescribe penalties for offences under those regulations not exceeding

*(a)* for an offence committed by a port operator, ship operator, port facility operator or offshore facility operator, $250 000;

*(b)* for an offence committed by any other maritime industry player, $225 000; and

*(c)* for an offence committed by any other person, $200 000.

*Division 12*

*Powers of Officials*

**Appointment of maritime security inspectors**

**812.** The National Security Minister, in consultation with the Minister responsible for Shipping, may appoint in writing a class of persons as maritime security inspectors, including

*(a)* law enforcement officers;

*(b)* port employees in the Maritime Security Department; and

*(c)* persons who satisfy criteria prescribed in the regulations or an order made by the National Security Minister.

**Identity cards**

**813.**(1) The National Security Minister, in consultation with the Minister responsible for Shipping, shall issue each maritime security inspector with an identity card.

(2) The regulations or order may set out requirements in relation to the form, issuance and use of identity cards.

(3) The regulations or order may provide that the identity card may be combined with another identity card.

**Maritime security inspectors powers – ISSC verifications**

**814.**(1) A maritime security inspector may inspect

*(a)* a regulated Barbadian ship or a ship regulated as an offshore facility;

*(b)* the ship security records for the ship; and

*(c)* any other document relating to the security of the ship,

for the purposes of determining whether the ship meets the requirements necessary for ISSC verification.

(2) In exercising a power under this section, a maritime security inspector shall not subject a person to a greater indignity than is necessary and reasonable for the exercise of the power.

**Maritime security inspectors powers - security-regulated ships**

**815.**(1) For the purpose of determining whether a person or a ship is complying with this Act or to investigate a possible contravention of this Act, a maritime security inspector may

*(a)* board and inspect a security-regulated ship, including a restricted access area on the ship;

*(b)* inspect equipment on the ship;

*(c)* make any still or moving image or any recording of equipment on the ship;

*(d)* observe and record operating procedures for the ship, whether carried out by the crew or some other person;

*(e)* discuss those procedures with a person carrying them out or with another maritime industry player;

*(f)* inspect, photograph or copy

(i) the ship's international ship security certificate;

(ii) a ship security record for the ship;

(iii) a document or record held on the ship that relates to a passenger or an item of cargo; or

(iv) in the case of a regulated Barbadian ship, any document that relates to the security of the ship; or

*(g)* operate equipment on a security-regulated ship for the purposes of gaining access to a document or record relating to the ship.

(2) In exercising a power under this section, a maritime security inspector shall not subject a person to a greater indignity than is necessary and reasonable for the exercise of the power.

**Exercise of powers – security-regulated ships**

**816.**(1) A maritime security inspector may exercise a power under section 814 or 815 in an operational area of a security-regulated ship

*(a)* if the power is exercised within the boundaries of a security-regulated port, at any time and without notice; or

*(b)* in any other case, after giving the ship operator for, or the master of, the ship concerned reasonable notice.

(2) A maritime security inspector may exercise a power under section 814 or 815 in a private living area of a security-regulated ship if

*(a)* both the master and any person or persons who occupy the private living area consent to the inspection; or

*(b)* the inspector has a warrant, issued under section 822, to search the private living area,

and if the inspector is accompanied by the master of the ship or a person nominated by the master.

**Maritime security inspectors powers – security-regulated offshore facilities**

**817.**(1) A maritime security inspector may exercise the powers set out in subsection (2)

*(a)* to determine whether a person or a ship is complying with this Act; or

*(b)* to investigate a possible contravention of this Act.

(2) For the purposes set out in subsection (1), a maritime security inspector may

*(a)* enter and inspect a security-regulated offshore facility, including any restricted access area on the facility;

*(b)* inspect equipment on the facility;

*(c)* make any still or moving image or any recording of equipment on the facility;

*(d)* observe and record operating procedures for the facility, whether carried out by the crew or some other person;

*(e)* discuss those procedures with a person carrying them out or with another maritime industry player;

*(f)* inspect, photograph or copy a document or record made or kept by a maritime industry player that relates to the security of the facility; or

*(g)* operate equipment on the facility for the purposes of gaining access to a document or record relating to the facility.

(3) In exercising a power under this section, a maritime security inspector shall not subject a person to a greater indignity than is necessary and reasonable for the exercise of the power.

(4) In exercising a power under this section within the boundaries of a security-regulated offshore facility, a maritime security inspector shall take account of occupational health and safety requirements under the laws of Barbados applying at the facility.

**Exercise of powers – security-regulated offshore facilities**

**818.**(1) A maritime security inspector may exercise a power under section 814 or in an operational area of a security-regulated offshore facility

*(a)* if the power is exercised within the boundaries of a security-regulated port, at any time and without notice; or

*(b)* in any other case, after giving reasonable notice to the offshore facility operator for the facility.

(2) A maritime security inspector may exercise a power under section 814 or in a private living area of a security-regulated offshore facility with the consent of both

*(a)* the offshore facility operator for the facility; and

*(b)* any person or persons who occupy the private living area,

if the inspector is accompanied by the offshore facility operator for the facility or a person nominated by the offshore facility operator.

**Maritime security inspector's powers – players**

**819.**(1) For the purpose of determining whether a person or a ship is complying with this Act or to investigate a possible contravention of this Act, a maritime security inspector may

*(a)* enter and inspect

(i) any area, vehicle, vessel or building, other than a residence under the control of a maritime industry player; or

(ii) if a maritime industry player operates from a residence or a part of a residence, the residence or the part of the residence from which the player operates;

*(b)* inspect equipment in a place, vehicle or vessel referred to in paragraph *(a)*;

*(c)* make any still or moving image or any recording of equipment in a place, vehicle or vessel referred to in paragraph *(a)*;

*(d)* observe the operating procedures of a maritime industry player;

*(e)* discuss those procedures with an employee of the maritime industry player or with another maritime industry player;

*(f)* inspect, photograph or copy a document or record made or kept by a maritime industry player; and

*(g)* operate equipment at a place referred to in paragraph *(a)* for the purposes of gaining access to a document or record made or kept by a maritime industry player.

(2) In exercising a power under this section, a maritime security inspector shall not subject a person to a greater indignity than is necessary and reasonable for the exercise of the power.

**When powers may be exercised – players**

**820.** A maritime security inspector may exercise a power under section 512

*(a)* if the power is exercised within the boundaries of a security-regulated port, at any time and without notice; and

*(b)* in any other case, after giving the maritime industry player concerned reasonable notice.

**Offence – hindering or obstructing a maritime security inspector**

**821.**(1) A person who engages in conduct hinders or obstructs a maritime security inspector in the exercise of a power under this Division commits an offence and is liable on summary conviction to a fine of $50 000.

(2) Subsection (1) does not apply if the person has a reasonable excuse.

**Inspection warrants**

**822.**(1) A maritime security inspector may apply to a magistrate for a warrant to inspect a private living area on a security-regulated ship or security-regulated offshore facility.

(2) The magistrate may issue the warrant if the magistrate is satisfied, by information on oath or affirmation, that it is necessary to inspect the private living area to

*(a)* determine whether the ship meets the requirements necessary for international ship security certificate verification;

*(b)* determine whether a person or a ship is complying with this Act; or

*(c)* investigate a possible contravention of this Act.

(3) Before issuing a warrant, a magistrate may require the maritime security inspector or another person to give to the magistrate, either orally or by affidavit, any further information that the magistrate requires concerning the grounds on which the issue of the warrant is being sought.

(4) The warrant shall

*(a)* authorize the maritime security inspector to inspect the private living area, using such assistance and such force to enter the area as is necessary and reasonable;

*(b)* state whether the inspection is authorized to be made at any time or during specified hours of the day or night;

*(c)* specify the day, not more than one week after the issuance of the warrant, on which the warrant ceases to have effect; and

*(d)* state the purpose for which the warrant is issued.

**Inspection of warrants by electronic means**

**823.**(1) If, in an urgent case, a maritime security inspector considers it necessary to do so, the maritime security inspector may apply to a magistrate by telephone, fax or other electronic means for a warrant under section 822.

(2) The magistrate may

*(a)* require communication by voice to the extent that it is practicable in the circumstances; and

*(b)* make a recording of the whole or any part of any communication by voice.

(3) Before applying for a warrant under subsection (1), the maritime security inspector shall prepare an information of the kind referred to in section 822(2) that sets out the grounds on which the warrant is sought.

(4) If it is necessary to do so, the maritime security inspector may apply for the warrant before the information is sworn or affirmed.

(5) If the magistrate is satisfied that there are reasonable grounds for issuing the warrant

*(a)* after having considered the terms of the information; and

*(b)* after having received any further information the magistrate requires concerning the grounds on which the warrant is being sought,

the magistrate may complete and sign the same warrant that the magistrate would issue under section 822 if the application had been made under that section.

(6) If the magistrate completes and signs the warrant

*(a)* the magistrate shall

(i) tell the maritime security inspector what the terms of the warrant are;

(ii) tell the maritime security inspector the day on which and the time at which the warrant was signed;

(iii) tell the maritime security inspector the day, not more than one week after the magistrate completes and signs the warrant, on which the warrant ceases to have effect; and

(iv) record on the warrant the reasons for issuing the warrant; and

*(b)* the maritime security inspector shall

(i) complete a form of warrant in the same terms as the warrant completed and signed by the magistrate; and

(ii) write on the form the name of the magistrate and the day on which and the time at which the warrant was signed.

(7) The maritime security inspector shall, not later than the day after the day of expiry or execution of the warrant, whichever is the earlier, send to the magistrate

*(a)* the form of warrant completed by the maritime security inspector; and

*(b)* the information referred to in subsection (3), duly sworn or affirmed.

(8) When the magistrate receives the documents referred to in subsection (7), the magistrate shall

*(a)* attach them to the warrant that the magistrate completed and signed; and

*(b)* deal with them in the way in which the magistrate would have dealt with the information if the application had been made under section 822.

(9) A form of warrant duly completed under subsection (6) is authority for the same powers as are authorized by a warrant signed by the magistrate.

(10) If

*(a)* it is material, in any proceedings, for a court to be satisfied that an exercise of a power was authorized by this section; and

*(b)* a warrant signed by the magistrate authorizing the exercise of the power is not produced in evidence,

the court shall assume that the exercise of the power was not authorized by such a warrant.

**Officer powers – operational areas of security regulated ships**

**824.**(1) A duly authorized officer may exercise the powers set out in subsection (2) in an operational area of a security-regulated ship for the purpose of determining whether a person or a ship is complying with this Act.

(2) For the purpose set out in subsection (1), a duly authorized officer may

*(a)* board a security-regulated ship and inspect its operational areas, including any restricted access area in the operational area of the ship;

*(b)* observe and record operating procedures for the ship, whether carried out by the crew or some other person;

*(c)* inspect, photograph or copy

(i) the ship's international ship security certificate; and

(ii) a ship security record for the ship; and

*(d)* operate equipment in the operational area of a security-regulated ship to gain access to a document or record relating to the ship.

(3) A duly authorized officer may exercise a power under subsection (2)

*(a)* if the power is exercised within the boundaries of a security-regulated port, at any time and without notice; or

*(b)* in any other case, after giving the ship operator for, or the master of, the ship reasonable notice.

(4) In exercising a power under this section, a duly authorized officer shall not subject a person to a greater indignity than is necessary and reasonable for the exercise of the power.

**Officer powers – operational areas of security-regulated offshore facilities**

**825.**(1) A duly authorized officer may exercise the powers set out in subsection (2) in an operational area of a security-regulated offshore facility for the purpose of determining whether a person or a ship is complying with this Act.

(2) For the purpose set out in subsection (1), a duly authorized officer may

*(a)* enter a security-regulated offshore facility and inspect its operational areas, including any restricted access area in the operational area of the facility;

*(b)* observe and record operating procedures for the facility, whether carried out by the crew or some other person;

*(c)* inspect, photograph or copy any security record for the facility;

*(d)* if all or part of the facility is a ship regulated as an offshore facility, inspect, photograph or copy the ship's international ship security certificate; and

*(e)* operate equipment in the operational area of a security-regulated offshore facility to gain access to a document or record relating to the facility.

(3) A duly authorized officer may exercise a power under subsection (2)

*(a)* if the power is exercised within the boundaries of a security-regulated offshore facility, at any time and without notice; and

*(b)* in any other case, after giving the offshore facility operator for the facility reasonable notice.

(4) In exercising a power under this section, a duly authorized officer shall not subject a person to a greater indignity than is necessary and reasonable for the exercise of the power.

(5) In exercising a power under this section within the boundaries of a security-regulated offshore facility, a duly authorized officer shall take account of occupational health and safety requirements under the laws of Barbados applying at the facility.

**Offence—hindering or obstructing a duly authorized officer**

**826.**(1) A person who engages in conduct that hinders or obstructs a duly authorized officer in the exercise of a power under this Division commits an offence of strict liability and is liable on summary conviction to a fine of $50 000.

(2) Subsection (1) does not apply if the person has a reasonable excuse.

**Access to ports by maritime law enforcement officers**

**827.**(1) A maritime law enforcement officer may enter, and remain in, any part of a security-regulated port at any time.

(2) Before entering a part of a security-regulated port that is under the control of a maritime industry player, the maritime law enforcement officer shall

*(a)* identify himself as a maritime law enforcement officer to the player; and

*(b)* tell the player why the officer is entering that part of the security-regulated port.

**Access to offshore facilities by maritime law enforcement officers**

**828.**(1) A maritime law enforcement officer may enter, and remain in, any part of a security-regulated offshore facility at any time.

(2) Before entering a part of a security-regulated offshore facility that is under the control of an offshore industry player, a law enforcement officer shall

*(a)* identify himself as a maritime law enforcement officer to the player; and

*(b)* tell the player why the officer is entering that part of the security-regulated offshore facility.

**Search powers**

**829.**(1) If a maritime law enforcement officer reasonably believes that it is necessary to do so for the purpose of safeguarding against unlawful interference with maritime transport or offshore facilities, the law enforcement officer may stop a person who is within a maritime security zone, on a security-regulated ship or on a ship regulated as an offshore facility and conduct an ordinary search or a frisk search of the person.

(2) If a law enforcement officer stops a person under subsection (1), the officer shall

*(a)* identify himself as a maritime law enforcement officer to the person;

*(b)* tell the person why the person has been stopped; and

*(c)* if the person is to be searched, tell the person why the person is to be searched.

(3) A person who engages in conduct that hinders or obstructs a maritime law enforcement officer in the exercise of a power under subsection (1) commits an offence and is liable on summary conviction to a fine of $50 000.

**Search of vehicles**

**830.**(1) If a maritime law enforcement officer reasonably believes that it is necessary to do so for the purpose of safeguarding against unlawful interference with maritime transport or offshore facilities, the law enforcement officer may, within a maritime security zone

*(a)* require the driver of a vehicle to stop the vehicle; and

*(b)* search a vehicle.

(2) If a maritime law enforcement officer stops a vehicle under subsection (1), the maritime law enforcement officer shall

*(a)* identify himself as a maritime law enforcement officer to the driver of the vehicle; and

*(b)* tell the driver why the vehicle has been stopped.

(3) If a maritime law enforcement officer searches a vehicle under subsection (1), the officer shall, if there is a driver or person in control of the vehicle present

*(a)* identify himself as a maritime law enforcement officer to the driver or person; and

*(b)* tell the driver or person why the vehicle is to be searched.

(4) A person who engages in conduct that hinders or obstructs a maritime law enforcement officer in the exercise of a power under subsection (1) commits an offence and is liable on summary conviction to a fine of $50 000.

**Search of vessel**

**831.**(1) If a maritime law enforcement officer reasonably believes that it is necessary to do so for the purpose of safeguarding against unlawful interference with maritime transport or offshore facilities, the law enforcement officer may, within a maritime security zone

*(a)* require the person in control of a vessel to stop the vessel; and

*(b)* search the vessel.

(2) If a maritime law enforcement officer stops a vessel under subsection (1), the officer shall

*(a)* identify himself as a law enforcement officer to the person in control of the vessel; and

*(b)* tell the person in control of the vessel why the vessel has been stopped.

(3) If a maritime law enforcement officer searches a vessel under subsection (1), the officer shall, if there is a person in control of the vessel present

*(a)* identify himself as a maritime law enforcement officer to the person; and

*(b)* tell the person why the vessel is to be searched.

(4) A person who engages in conduct that hinders or obstructs a maritime law enforcement officer in the exercise of a power under subsection (1) commits an offence, and is liable on summary conviction to a fine of $50 000.

**Requests to vacate ships or zones**

**832.**(1) If a maritime law enforcement officer reasonably suspects that a person on a security-regulated ship or on a ship regulated as an offshore facility

is committing, or has committed, an offence under this Act, the officer may request the person to vacate

*(a)* the ship; or

*(b)* if the ship is within a maritime security zone, the zone.

(2) If a maritime law enforcement officer reasonably suspects that a person within a maritime security zone is committing, or has committed, an offence under this Act, the officer may request the person to leave the zone.

(3) A person to whom a request has been made under subsection (1) or (2) who fails to comply with the request commits a strict liability offence and is liable on summary conviction to a fine of $10 000.

**Removing person from ships or zones**

**833.**(1) If a person fails to comply with a request to leave a ship or a zone made under section 832, maritime law enforcement officer may remove the person from the ship or zone.

(2) A maritime law enforcement officer shall not use more force, or subject the person to a greater indignity, than is necessary and reasonable to remove the person from the ship or zone.

**Removing vehicles from zones**

**834.**(1) If a maritime law enforcement officer reasonably suspects that

*(a)* a vehicle in or near a maritime security zone presents a risk to maritime transport security or offshore facility security; or

*(b)* a vehicle is in a maritime security zone without proper authorization,

the maritime law enforcement officer may remove the vehicle from the zone.

(2) A maritime law enforcement officer shall not remove a vehicle without making reasonable efforts to have the person in control of the vehicle remove the vehicle.

(3) A maritime law enforcement officer

*(a)* shall not use more force, or subject a person to greater indignity, than is necessary and reasonable to remove a vehicle; and

*(b)* shall make reasonable efforts to avoid damaging the vehicle.

**Removing vessels from zones**

**835.**(1) If a maritime law enforcement officer reasonably suspects that

*(a)* a vessel in or near a maritime security zone presents a risk to maritime transport security or offshore facility security; or

*(b)* a vessel is in a maritime security zone without proper authorization,

the maritime law enforcement officer may remove the vessel from the zone.

(2) A maritime law enforcement officer shall not remove a vessel without making reasonable efforts to have the person in control of the vessel remove the vessel.

(3) A maritime law enforcement officer

*(a)* shall not use more force, or subject a person to a greater indignity, than is necessary and reasonable to remove a vessel; and

*(b)* shall make reasonable efforts to avoid damaging the vessel.

**Other law enforcement powers**

**836.** This Act shall not be interpreted to limit the exercise of the powers that a law enforcement officer has apart from this Act.

**Maritime security assessment inspectors**

**837.**(1) The Minister may appoint in writing, or require the Director to appoint in writing, maritime security assessment inspectors for the purpose of conducting security assessments of areas, facilities, buildings other than residences, vessels and vehicles under the control of maritime industry players.

(2) Where the Minister appoints maritime security assessment inspectors, he shall make regulations relating to

*(a)* their training and qualifications;

*(b)* their uniforms;

*(c)* their identification;

*(d)* their specific functions and powers; and

*(e)* any other relevant matters.

**Maritime security guards**

**838.**(1) The Minister may appoint in writing, or require the Director to appoint in writing, as maritime security guards, persons who

*(a)* are not law enforcement officers;

*(b)* are permanently on duty at a security-regulated port or security-regulated offshore facility; and

*(c)* are appropriately trained and qualified.

(2) Where the Minister appoints maritime security guards, he shall develop regulations relating to

*(a)* their training and qualifications;

*(b)* their uniforms;

*(c)* their identification;

*(d)* their power to physically restrain persons;

*(e)* their power to request information;

*(f)* their power to request persons to vacate maritime security zones;

*(g)* their power to remove persons and vehicles from maritime security zones;

*(h)* their power to remove vessels from maritime security zones; and

*(i)* any other requirements applicable to them.

**Screening officers**

**839.** The Minister may make regulations prescribing the following for screening officers:

*(a)* their training and qualification requirements; and

*(b)* requirements in relation to the form, issuance and use of identity cards;

*(c)* requirements in relation to their uniforms; and

*(d)* any other requirements applicable to them.

**Screening powers**

**840.**(1) If a screening officer considers it necessary in order to screen a person properly, the screening officer may request the person to remove any item of the person's clothing.

(2) A screening officer shall refuse to allow a person to pass through the screening point if

*(a)* a screening officer requests the person to remove an item of clothing under subsection (1);

*(b)* the person refuses to comply with the request;

*(c)* the person refuses to be screened in a private room by a screening officer of the same sex as the person; and

*(d)* as a result it is not possible to screen the person properly.

**Screening powers –alternative screening procedure**

**841.** If a person chooses to undergo a frisk search as an alternative to another screening procedure, a screening officer may frisk search the person to the extent necessary to screen the person properly.

**Screening powers –additional screening procedure**

**842.**(1) A screening officer may request the person to undergo a frisk search if

*(a)* the person undergoes a screening procedure and the results of that procedure indicate that additional screening procedures are necessary in order to screen the person properly; or

*(b)* the screening officer considers it necessary in order to screen a person properly.

(2) If a screening officer conducts a frisk search following a request under subsection (1), the screening officer may conduct the search only to the extent necessary to complete the proper screening of the person.

(3) A screening officer shall not

*(a)* require a person to undergo a frisk search under this section without the person's consent; or

*(b)* conduct a frisk search of a person under this section without the person's consent.

(4) Subsection (3) does not apply if the officer has a reasonable excuse.

(5) If

*(a)* a screening officer requests a person to undergo a frisk search under subsection (1);

*(b)* the person refuses to comply with the request;

*(c)* the person refuses

(i) to be screened in a private room by a screening officer of the same sex as the person; or

(ii) to undergo a frisk search during that screening; and

*(d)* as a result it is not possible to screen the person properly,

the screening officer shall refuse to allow the person to pass through the screening point.

**Screening officers' power to physically restrain persons**

**843.**(1) A screening officer may physically restrain a person if

*(a)* the screening officer reasonably suspects that the person is committing, or has committed, an offence under this Act; and

*(b)* the screening officer reasonably believes it is necessary to do so in order to

(i) ensure that a person who is not cleared under section 795 is not in a cleared area; or

(ii) maintain the integrity of a cleared area.

(2) If a person is restrained under subsection (1), the screening officer may detain the person until the person can be dealt with by a law enforcement officer.

**Powers of screening officers**

**844.** In exercising a power under this Division, a screening officer shall not use more force, or subject a person to a greater indignity, than is necessary and reasonable.

*Division 13*

*Incident Reporting*

**Reporting by port operators**

**845.**(1) A port operator shall report a maritime transport or offshore facility security incident in accordance with this section.

(2) A port operator shall report an incident that relates to the port operator to

*(a)* port's chief executive officer;

*(b)* the Headquarters of the Barbados Defence Force;

*(c)* if it relates to a part of the port that is controlled by another person, that other person;

*(d)* if it relates to operations conducted within the port other than those conducted by the port operator, the person who conducts those operations;

*(e)* if it relates to a security-regulated ship within the port, the ship operator for, or the master of, the ship; and

*(f)* if all or part of a security-regulated offshore facility is within the port, the offshore facility operator for the facility.

(3) A port operator is not required to make a report under paragraph (2)*(c)*, *(d)* or *(e)* if the incident

*(a)* relates to the port in general; and

*(b)* is not specifically directed at

(i) in the case of an incident referred to in paragraph (2)*(c)*, the part of the port controlled by that other person;

(ii) in the case of an incident referred to in paragraph (2)*(d)*, those operations; or

(iii) in the case of an incident referred to in paragraph (2)*(e)*, that ship.

(4) A port operator shall report an incident that relates to the port of another port operator to that other port operator.

(5) A port operator shall report an incident that relates to a security-regulated ship to

*(a)* the ship operator for the ship; or

*(b)* the master of the ship.

(6) A port operator shall report an incident that relates to a security-regulated offshore facility to the offshore facility operator for the facility.

**Offence**

**846.**(1) A port operator who becomes aware of a maritime transport or offshore facility security incident and who fails to report the incident under section 845 as soon as possible commits an offence of strict liability and is subject to the payment of an administrative penalty imposed under section 1485.

(2) Subsection (1) does not apply in relation to a report required to be made to a particular person if

*(a)* the port operator believes, on reasonable grounds, that the person is already aware of the incident; or

*(b)* the port operator has a reasonable excuse.

**Reporting by ship masters**

**847.**(1) The master of a security-regulated ship or a ship regulated as an offshore facility shall report a maritime transport or offshore facility security incident in accordance with this section.

(2) A master shall report an incident that relates to the master's ship to

*(a)* the Headquarters of the Barbados Defence Force;

*(b)* the Director;

*(c)* if the ship is within a security-regulated port, the port operator for the port;

*(d)* if the ship is using a port facility within a security-regulated port, the port facility operator for the port facility; and

*(e)* if the ship is located in the vicinity of a security-regulated offshore facility and is engaged in any activity in relation to the facility, the offshore facility operator for the facility.

(3) A master shall report an incident that relates to a security-regulated port, including a port facility within the port, to the port operator for the port.

(4) A master shall report an incident that relates to another security-regulated ship to

*(a)* the ship operator for the ship; or

*(b)* the master of the ship.

(5) A master shall report an incident that relates to a security-regulated offshore facility to the offshore facility operator for the facility.

**Offence**

**848.**(1) The master of a security-regulated ship or a ship regulated as an offshore facility who becomes aware of a maritime transport or offshore facility security incident and who fails to report the incident under section 847 as soon as possible commits an offence of strict liability and is subject to the payment of an administrative penalty imposed under section 1485.

(2) Subsection (1) does not apply in relation to a report required to be made to a particular person if

*(a)* the master believes, on reasonable grounds, that the person is already aware of the incident; or

*(b)* the master has a reasonable excuse.

**Reporting by ship operators**

**849.**(1) The ship operator for a security-regulated ship shall report maritime transport or offshore facility security incidents in accordance with this section.

(2) A ship operator shall report an incident that relates to a security-regulated ship of the ship operator to

*(a)* the Headquarters of the Barbados Defence Force;

*(b)* the Director;

*(c)* if the ship is within a security-regulated port, the port operator for the port;

*(d)* if the ship is using a port facility within a security-regulated port, the port facility operator for the port facility; and

*(e)* if the ship is located in the vicinity of a security-regulated offshore facility and is engaged in any activity in relation to the facility, the offshore facility operator for the facility.

(3) A ship operator shall report an incident that relates to a port to the port operator for the port.

(4) A ship operator shall report an incident that relates to another security-regulated ship to

*(a)* the ship operator for the ship; or

*(b)* the master of the ship.

(5) A ship operator shall report an incident that relates to a security-regulated offshore facility to the offshore facility operator for the facility.

**Offence**

**850.**(1) A ship operator for a security-regulated ship who becomes aware of a maritime transport or offshore facility security incident and who fails to report the incident under section 849 as soon as possible commits an offence of strict liability and is subject to the payment of an administrative penalty imposed under section 1485.

(2) Subsection (1) does not apply in relation to a report required to be made to a particular person if

*(a)* the ship operator believes, on reasonable grounds, that the person is already aware of the incident; or

*(b)* the ship operator has a reasonable excuse.

**Reporting by offshore facility operators**

**851.**(1) The offshore facility operator for a security-regulated offshore facility shall report maritime transport or offshore facility security incidents in accordance with this section.

(2) An offshore facility operator shall report an incident that relates to a security-regulated offshore facility of the offshore facility operator to

*(a)* the Headquarters of the Barbados Defence Force;

*(b)* the Director;

*(c)* if the facility is within a security-regulated port, the port operator for the port; and

*(d)* if a security-regulated ship is located in the vicinity of the facility and is engaged in any activity in relation to the facility, the ship operator for, or master of, the ship.

(3) An offshore facility operator shall report an incident that relates to a port to the port operator for the port.

(4) An offshore facility operator shall report an incident that relates to a security-regulated ship to

*(a)* the ship operator for the ship; or

*(b)* the master of the ship.

**Offence**

**852.**(1) An offshore facility operator who becomes aware of a maritime transport or offshore facility security incident and who fails to report the incident under section 851 as soon as possible commits an offence of strict liability and is subject to the payment of an administrative penalty imposed under section 1485.

(2) Subsection (1) does not apply in relation to a report required to be made to a particular person if

*(a)* the offshore facility operator believes, on reasonable grounds, that the person is already aware of the incident; or

*(b)* the offshore facility operator has a reasonable excuse.

**Reporting by port facility operators**

**853.**(1) A port facility operator for a port facility within a security-regulated port shall report maritime transport or offshore facility security incidents in accordance with this section.

(2) A port facility operator shall report an incident that relates to a facility of a port facility operator to

*(a)* the port's chief executive officer;

*(b)* the Headquarters of the Barbados Defence Force; and

*(c)* the port operator.

(3) A port facility operator shall report an incident that relates to the port other than the port facility to the port operator.

(4) A port facility operator shall report an incident that relates to another port to the port operator for that other port.

(5) A port facility operator shall report an incident that relates to a security-regulated ship to

*(a)* the ship operator for the ship; or

*(b)* the master of the ship.

(6) A port facility operator shall report an incident that relates to a security-regulated offshore facility to the offshore facility operator for the facility.

**Offence**

**854.**(1) A port facility operator who becomes aware of a maritime transport or offshore facility security incident and who fails to report the incident under section 853 as soon as possible commits an offence of strict liability, and is subject to the payment of an administrative penalty imposed under section 1485.

(2) Subsection (1) does not apply in relation to a report required to be made to a particular person if

*(a)* the port facility operator believes, on reasonable grounds, that the person is already aware of the incident; or

*(b)* the port facility operator has a reasonable excuse.

**Reporting by persons with incident reporting responsibilities**

**855.**(1) A person with incident reporting responsibilities shall report every maritime transport or offshore facility security incident to the Headquarters of the Barbados Defence Force.

(2) If the incident relates to a security-regulated port, the person shall also report it to the port operator for the port.

(3) If the incident relates to a security-regulated ship, the person shall also report it to

*(a)* the ship operator for the ship; or

*(b)* the master of the ship.

(4) If the incident relates to a security-regulated offshore facility, the person shall also report it to the offshore facility operator for the facility.

**Offence**

**856.**(1) A person with incident reporting responsibilities who becomes aware of a maritime transport or offshore facility security incident and who fails to

report the incident under section 855 as soon as possible commits an offence of strict liability and is liable on summary conviction to

*(a)* if the person is a maritime industry player, a fine of $5 000; and

*(b)* for any other person, a fine of $3 500.

(2) Subsection (1) does not apply in relation to a report required to be made to a particular person if

*(a)* the person with incident reporting responsibilities believes, on reasonable grounds, that the person to be notified is already aware of the incident; or

*(b)* the person with incident reporting responsibilities has a reasonable excuse.

**Employees**

**857.**(1) An employee of a maritime industry player who becomes aware of a maritime transport or offshore facility security incident and who fails to report the incident to the maritime industry player as soon as possible commits an offence of strict liability and is liable on summary conviction to a fine of $3 000.

(2) Subsection (1) does not apply if the employee has a reasonable excuse.

**How reports are to be made**

**858.**(1) The Headquarters of the Barbados Defence Force may, by order, specify

*(a)* information that shall be included in a report required by this Division; and

*(b)* the way in which the report shall be made.

(2) A report of a maritime transport or offshore facility security incident that does not comply with the requirements of a legislative instrument made under subsection (1) is taken, for the purposes of this Division, not to have been made.

*Division 14*

*Information Gathering*

**Definition**

**859.** In this Division, "security compliance information" means information that relates to compliance, or a failure to comply, with this Act.

**Demand for information**

**860.**(1) If the Headquarters of the Barbados Defence Force believes, on reasonable grounds, that a maritime industry player has security compliance information, the Headquarters of the Barbados Defence Force may, by a written notice to the player, require the player to provide it with the information.

(2) The information shall be provided within a period of not be less than 14 days, and in the form and manner, specified in the notice.

(3) The Headquarters of the Barbados Defence Force may specify in the notice that the player is to provide the information

*(a)* orally;

*(b)* in writing;

*(c)* by electronic transmission; or

*(d)* by a combination of those means.

(4) A person who fails to comply with a notice under subsection (2) commits an offence and is liable on summary conviction to a fine of $7 500.

(5) Subsection (4) does not apply if the person has a reasonable excuse.

(6) An offence under subsection (4) is a strict liability offence.

**Self-incrimination**

**861.**(1) A person is not excused from providing security compliance information under section 860 on the ground that the information might tend to incriminate the person or expose the person to a penalty.

(2) If the person is a natural person,

*(a)* the information;

*(b)* the providing of the information; and

*(c)* any information, document or thing obtained as a direct or indirect consequence of providing the information,

are not admissible in evidence against the person in a criminal proceeding, or any other proceeding for the recovery of a penalty, other than a proceeding under any other national legislation that relates to the providing of information.

*Division 15*

*Enforcement*

**Infringement notices**

**862.**(1) A court may impose a penalty as an alternative to prosecuting a person who is alleged to have committed an offence under any of sections 688(1), 689(1), 745(1), 800(3), 801(3), 806(3), 807(3), 829(3), 830(4) or 831(4).

(2) The National Security Minister may by regulation establish a penalty scheme for the purposes of subsection (1).

(3) Penalties established under a scheme referred to in subsection (2) shall not exceed one-quarter of the fine that a court could impose on a person as a penalty for that offence.

**Enforcement orders**

**863.**(1) The Headquarters of the Barbados Defence Force may make a written enforcement order under this section

*(a)* prohibiting or restricting specified activities by a maritime industry player named in the enforcement order; or

*(b)* requiring a maritime industry player named in the enforcement order to take specified action.

(2) The Headquarters of the Barbados Defence Force may make an enforcement order under this section only if it reasonably believes that

*(a)* the maritime industry player named in the order has contravened this Act; and

*(b)* it is necessary to make the order to safeguard against unlawful interference with maritime transport or offshore facilities.

(3) An enforcement order shall

*(a)* bear a clear and direct relationship to the contravention; and

*(b)* be proportionate to the contravention.

(4) An enforcement order shall not require the payment of money to the Headquarters of the Barbados Defence Force or to any other person, other than an amount of money that is already recoverable at law.

**Commencement and duration of enforcement orders**

**864.**(1) An enforcement order comes into force

*(a)* if a commencement time that is after the day on which the order is given to the maritime industry player concerned is specified in the order, at that time; or

*(b)* in any other case, at the beginning of the seventh day after it is given to the maritime industry player concerned.

(2) An enforcement order remains in force

*(a)* for the period, if any, specified in the order; or

*(b)* until it is revoked by the Headquarters of the Barbados Defence Force.

**Reviews of enforcement orders**

**865.**(1) The Headquarters of the Barbados Defence Force shall

*(a)* at intervals of not more than 3 months, review an enforcement order; and

*(b)* after each review, confirm, vary or revoke the order by an instrument in writing.

(2) The Headquarters of the Barbados Defence Force shall revoke an order unless it is satisfied that the order is still needed to safeguard against unlawful interference with maritime transport or offshore facilities.

(3) The Headquarters of the Barbados Defence Force shall not vary the order unless it is satisfied that the order as varied

*(a)* adequately safeguards against unlawful interference with maritime transport or offshore facilities; and

*(b)* meets the requirements set out in sections 863(3) and (4).

(4) If an order is varied, the order continues in force as varied.

**Notice of enforcement orders**

**866.**(1) As soon as practicable after making or reviewing an enforcement order, the Headquarters of the Barbados Defence Force shall inform the maritime industry player named in the order of the making of the order, or the decision on the review, as the case may be.

(2) A failure to comply with this section does not affect the validity of an order.

**Compliance with enforcement orders**

**867.**(1) A person shall not engage in conduct that contravenes an enforcement order.

(2) If a person contravenes subsection (1), the person does not commit an offence but may be subject to an injunction under section 869.

**Ship enforcement orders – regulated Barbadian ships**

**868.**(1) The Headquarters of the Barbados Defence Force may give a ship enforcement order to

*(a)* the ship operator for a regulated Barbadian ship; or

*(b)* the master of the ship,

requiring the ship operator or master to take a specified action, or refrain from taking a specified action, in relation to the ship.

(2) The Headquarters of the Barbados Defence Force may give a ship enforcement order only if it reasonably believes that

*(a)* the regulated Barbadian ship named in the order has operated in contravention of this Act; and

*(b)* the order is necessary to safeguard against unlawful interference with maritime transport or offshore facilities.

(3) A ship enforcement order shall

*(a)* bear a clear and direct relationship to the contravention; and

*(b)* be proportionate to the contravention.

(4) The action that a ship operator or master may be directed to take under subsection (1) includes

*(a)* removing the ship from specified waters;

*(b)* removing the ship from a security-regulated port;

*(c)* moving the ship within a security-regulated port;

*(d)* removing the ship from an offshore security zone;

*(e)* if the ship is located in the vicinity of a security-regulated offshore facility and is engaged in any activity in relation to the facility, removing the ship from the vicinity of the facility;

*(f)* holding the ship in a particular position for a specified period or until a specified event occurs;

*(g)* taking a particular action, or ensuring that a particular action is taken, on board the ship; and

*(h)* allowing a duly authorized officer on board the ship to inspect the ship or ship security records carried by the ship.

(5) A ship enforcement order has no effect unless the Headquarters of the Barbados Defence Force commits the direction to writing before giving it.

**Enforcement of ship enforcement orders**

**869.**(1) The ship operator for a regulated Barbadian ship shall not engage in conduct that contravenes a ship enforcement order that relates to the ship.

(2) A ship operator who contravenes subsection (1) may be subject to an injunction under section 870.

(3) The master of a regulated Barbadian ship shall not engage in conduct that contravenes a ship enforcement order that relates to the ship.

(4) A master who contravenes subsection (3) may be subject to an injunction under section 870.

**Injunctions**

**870.**(1) If a person has engaged, is engaging or is proposing to engage in any conduct in contravention of this Act, the High Court may, on the application of the Director, grant an injunction

*(a)* restraining the person from engaging in the conduct; or

*(b)* requiring the person to do an act or thing.

(2) On an application, the Court may grant an injunction by consent of all parties to the proceedings, whether or not the court is satisfied that the person has engaged, is engaging or is proposing to engage in conduct in contravention of this Act.

(3) The Court may grant an interim injunction pending its determination of an application.

(4) The Court is not to require the Headquarters of the Barbados Defence Force or anyone else, as a condition of granting an interim injunction, to give an undertaking as to damages.

(5) The Court may discharge or vary an injunction it has granted.

(6) The power to grant or vary an injunction restraining a person from engaging in conduct may be exercised

*(a)* whether or not it appears to the Court that the person intends to engage again, or to continue to engage, in such conduct; and

*(b)* whether or not the person has previously engaged in such conduct.

(7) The power to grant or vary an injunction requiring a person to do an act or thing may be exercised

*(a)* whether or not it appears to the Court that the person intends to refuse or fail again, or to continue to refuse or fail, to do that act or thing; and

*(b)* whether or not the person has previously refused or failed to do that act or thing and whether or not there is an imminent danger of

substantial damage to any person if the person refuses or fails to do that act or thing.

**Demerit points system**

**871.** The National Security Minister may, by regulation, in accordance with this Division, establish a demerit points system under which the approval of a maritime security plan, a ship security plan or an offshore security plan may be cancelled.

**Demerit points – maritime security plans**

**872.**(1) The demerit points system may provide that the approval of a maritime security plan of a maritime industry player may be cancelled if the maritime industry player accrues a prescribed number of demerit points.

(2) A demerit points system shall allow demerit points to be accumulated in respect of the ship only if a ship operator

*(a)* is convicted of an offence under section 707 or 708 in respect of the ship; or

*(b)* is convicted of an offence under a scheme established under regulations made under section 862 or pays a penalty to Barbados as an alternative to prosecution for an offence under section 863 in respect of the ship.

(3) A scheme established under section 870 may provide that different provisions apply to different kinds of ships or to different classes of ships within a kind of ship.

**Demerit points – ship security plans**

**873.**(1) A demerit points system may provide that the approval of a ship security plan may be cancelled if the number of demerit points prescribed by regulations is accumulated in respect of the ship.

(2) A demerit points system shall allow demerit points to be accumulated in respect of the ship only if a ship operator

*(a)* is convicted of an offence under section 707 or 708 in respect of the ship; or

*(b)* is convicted of an offence under a scheme established under regulations made under section 862 or pays a penalty to Barbados as an alternative to prosecution for an offence under section 863 in respect of the ship.

(3) A scheme established under section 870 may provide that different provisions apply to different kinds of ships or to different classes of ships within a kind of ship

**Demerit points – offshore security plans**

**874.**(1) A demerit points system may provide that the approval of an offshore security plan of an offshore industry player may be cancelled if the offshore industry player accrues a prescribed number of demerit points.

(2) Demerit points shall be accrued only if the offshore industry player

*(a)* is convicted of an offence under this Act; or

*(b)* is convicted of an offence under a scheme established under regulations made under section 862 and pays a penalty to Barbados as an alternative to prosecution.

(3) A scheme established under section 870 may provide that different provisions apply to different kinds of offshore industry players or to different classes of players within a kind of offshore industry player.

*Division 16*

*Decisions Review*

**Establishment of administrative appeals tribunal**

**875.** The National Security Minister may establish for the purposes of this Part an Administrative Appeals Tribunal for a review of a decision made by the Director in respect of maritime-security-related matters referred to in section 876.

**Review of decisions by tribunal**

**876.** An application may be made to the Administrative Appeals Tribunal for a review of a decision by the Headquarters of the Barbados Defence Force, or the Director, as the case may be

*(a)* to refuse to approve a maritime security plan under section 696(2) or (4), a ship security plan under section 714(2) or (4) or an offshore security plan under section 440(2) or (4);

*(b)* to refuse to approve a variation of a maritime security plan under 698(5) or (7), a ship security plan under section 716(4) or (6) or an offshore security plan under section 754(5) or (7);

*(c)* to direct a maritime industry player or ship operator to vary a plan under section 699, 717 or 755;

*(d)* to direct a maritime industry player or ship operator to revise a plan under section 701, 719 or 757;

*(e)* to cancel the approval of a maritime security plan, a ship security plan or an offshore security plan under section 702, 703, 720, 721, 397 or 398;

*(f)* to refuse to grant an exemption under section 706 or 734;

*(g)* to refuse an interim international ship security certificate under section 730 or 768;

*(h)* to declare that a particular port, or a part of a particular port, is a security-regulated port under section 654(1);

*(i)* to designate a person as a port operator under section 655;

*(j)* to declare that one of the following is a security-regulated offshore facility under section 658(1):

(i) an offshore facility;

(ii) a part of an offshore facility;

(iii) a group of offshore facilities; or

(iv) parts of a group of offshore facilities;

*(k)* to designate a person as an offshore facility operator under section 659;

*(l)* to establish a port security zone under section 779;

*(m)* to declare, under section 783, that a ship security zone is to operate around a security-regulated ship;

*(n)* to establish an on-board security zone under section 787; or

*(o)* to establish an offshore security zone under section 791.

*Division 17*

*Port Security*

**Security requirements for ships entering or within a port**

**877.**(1) When a ship enters or is within a port, the owner, agent or master of the ship shall ensure that the ship complies with the requirements of Chapter XI-2 of the International Convention for the Safety of Life at Sea and Part A of the International Ship and Port Facility Security Code that are relevant to the ship, taking into consideration the guidance given in Part B of the International Ship and Port Facility Security Code.

(2) The chief executive officer of a port

*(a)* shall communicate the security levels set for, and provide security level information to, any ship that enters or is within the port; and

*(b)* may require the owner, agent or master of the ship to provide the information referred to in regulation 9*(b)* of Chapter XI-2 of the International Convention for the Safety of Life at Sea Regulations.

(3) Any owner, agent or master of a security-regulated ship who contravenes subsection (1) or fails to provide any information required by the port's chief executive officer under paragraph (2)*(b)*, commits an offence and is liable to a fine of $20 000.

**Security requirements for port facility**

**878.** The owner or operator of any port facility shall ensure that

*(a)* the port facility complies with the requirements of Chapter XI-2 of the International Convention for the Safety of Life at Sea Regulations and Part A of the International Ship and Port Facility Security Code that are relevant to the port facility, taking into consideration the guidance given in Part B of the International Ship and Port Facility Security Code;

*(b)* there is a valid statement of compliance issued in respect of the port facility; and

*(c)* the port facility undergoes an intermediate verification exercise in accordance with section 879(3).

**Statement of compliance**

**879.**(1) The Headquarters of the Barbados Defence Force shall issue a statement of compliance in respect of a port facility, if at the date the statement of compliance is issued, the port facility complies with

*(a)* the requirements of the International Ship and Port Facility Security Code that are relevant to the port facility; and

*(b)* such additional requirements as the Headquarters of the Barbados Defence Force may impose.

(2) Subject to subsection (4), a statement of compliance is valid for a period of 5 years from the date it is issued.

(3) Where a statement of compliance has been issued in respect of a port facility, the port facility shall, during the period between 24 months and 36 months from the date the statement of compliance is issued, undergo an intermediate verification exercise conducted by a recognized security organization to determine whether, as at the date of the intermediate verification exercise, the port facility complies with

*(a)* the requirements of the International Ship and Port Facility Security Code that are relevant to the port facility; and

*(b)* such additional requirements as the Headquarters of the Barbados Defence Force may impose.

(4) Where it is determined at an intermediate verification exercise that a port facility does not comply with the requirements referred to in subsection (3), the Headquarters of the Barbados Defence Force may suspend the statement of compliance until the non-compliance has been rectified or withdraw the statement of compliance.

**Maintenance of conditions**

**880.**(1) Where a statement of compliance has been issued in respect of a port facility, the owner or operator of the port facility shall

*(a)* ensure that all levels of protective security measures and security organization for the port facility are maintained in accordance with the International Ship and Port Facility Security Code;

*(b)* ensure that

(i) a port facility security plan has been implemented in respect of the port facility; and

(ii) the port facility is operated in compliance with the port facility security plan;

*(c)* ensure the continual relevance and accuracy of the port facility security plan;

*(d)* conduct security drills at intervals of not more than 3 months; and

*(e)* conduct security exercises, at least once each year, with not more than 18 months between such exercises.

(2) The Headquarters of the Barbados Defence Force shall cause periodic reviews to be conducted to ensure continued compliance by port facilities with the International Ship and Port Facility Security Code.

**Submission of information**

**881.** A person required to submit information to the chief executive officer of a port, an authorized officer or a public officer authorized by the Administration, who submits information that is false, misleading, or inaccurate

*(a)* for any purpose under any of sections 876 to 879; or

*(b)* to comply with any requirement of Chapter XI-2 of the International Convention for the Safety of Life at Sea Regulations or Part A of the

International Ship and Port Facility Security Code, taking into consideration the guidance given in Part B of the International Ship and Port Facility Security Code,

commits an offence and is liable on summary conviction to a fine of $300 000.

**Additional international ship and port facility security requirements**

**882.** Further requirements in relation to the International Ship and Port Facility Security Code shall be complied with as prescribed under the regulations.

**Signage in maritime security zones**

**883.**(1) In a maritime security zone

*(a)* there shall be as many signs as is necessary for a person approaching the maritime security zone to see at least one of the signs;

*(b)* signage shall be a minimum of 400 millimetres wide by 300 millimetres high;

*(c)* signage shall be permanently affixed on the maritime security zone boundary; and

*(d)* signage shall be affixed on the security barrier of the permanent maritime security zone.

(2) If the establishment of a maritime security zone does not come into force until a particular event takes place, such as an escalation in maritime security level or when a security-regulated ship arrives in port, signage shall be displayed in a prominent place on the boundary or on the security barrier to communicate that there is a maritime security zone in force.

**Terminology used in maritime security zone signage**

**884.** The terminology used in maritime security zone signage shall be the same as the terminology used in this Act and any regulations relating to maritime security.

**Maritime security zone signage size**

**885.**(1) A sign shall be of a size sufficient to ensure that it can be read at the distance from which it needs to be viewed.

(2) Where signage is not practical or effective, a Marine Notice of the existence of a maritime security zone shall be published.

**Maritime security level signage**

**886.** If there is a need to indicate a maritime security level in signage, the security level shall be indicated, consistent with the International Ship and Port Facility Security Code, as 'Normal', 'Heightened' or 'Extreme' as the equivalent of maritime security levels 1, 2 and 3, respectively.

**Minister responsible for placement of maritime security zone signage**

**887.** The National Security Minister, in consultation with the Minister responsible for Shipping, shall be responsible for the placement of maritime security zone signage in accordance with this Act.

*Division 18*

*Suppression of Unlawful Acts of Violence against the Safety of Ships and Platforms*

**Administration**

**888.** Except where expressly provided otherwise, this Division shall be administered by the Director, or any other person so authorized in writing by him in collaboration with maritime law enforcement.

**Definitions**

**889.**(1) In this Division,

"BCN weapon" means

*(a)* biological weapons, including

(i) microbial or other biological agents or toxins of types and in quantities that have no justification for prophylactic, protective or other peaceful purposes; and

(ii) weapons, equipment or means of delivery designed to use such agents or toxins for hostile purposes or in armed conflict;

*(b)* chemical weapons consisting of toxic chemicals and their precursors, either combined or separated, other than those intended for

(i) industrial, agricultural, research, medical, pharmaceutical or other peaceful purposes;

(ii) purposes directly related to protection against toxic chemicals or chemical weapons;

(iii) military purposes not connected with the use of chemical weapons and not dependent on the use of the toxic properties of chemicals as a method of warfare; or

(iv) law enforcement, including domestic riot control purposes;

*(c)* munitions and devices specifically designed to cause death or harm through the release of toxic chemicals referred to in paragraph *(b)*;

*(d)* any equipment designed for use directly in connection with the employment of munitions and devices referred to in paragraph *(c)*; or

*(e)* nuclear weapons and other nuclear explosive devices;

"convention state" means a state party to the SUA Convention other than Barbados;

"engage in conduct" includes omitting to perform an act;

"fixed platform" means an artificial island, installation or structure permanently attached to the seabed for the purpose of exploration for, or exploitation of, resources or for other economic purposes;

"Protocol state" means a state party to the Protocol of 2005 to the Convention for the Suppression of Unlawful Acts against the Safety of Maritime Navigation, 2005 other than Barbados;

"serious injury or damage" means

*(a)* serious bodily injury;

*(b)* extensive destruction of a place of public use, a state or government facility, an infrastructure facility, or a public transportation system, resulting in a major economic loss; or

*(c)* substantial damage to the environment, including air, soil, water, fauna or flora;

"SUA Convention" means the Convention for the Suppression of Unlawful Acts of Violence against the Safety of Maritime Navigation, 2005;

"SUA Protocol" means Protocol of 2005 to the Convention for the Suppression of Unlawful Acts of Violence Against the Safety of Maritime Navigation;

"toxic chemical" means a chemical that through its chemical action on life processes can cause death, temporary incapacitation or permanent harm to humans or animals; and

"transport" means to initiate, arrange or exercise effective control, including decision-making authority, over the movement of a person or item.

(2) Unless the contrary intention appears, an expression used in this Division has the same meaning as in the SUA Convention or SUA Protocol, whether or not an express meaning is given to it by the SUA Convention or SUA Protocol.

(3) For the purposes of this Division,

*(a)* the terms "place of public use", "state or government facility", "infrastructure facility" and "public transportation system" have the

same meaning as given to those terms in the International Convention for the Suppression of Terrorist Bombings, adopted at New York on 15th December 1997; and

*(b)* the terms "source material" and "special fissionable material" have the same meaning as given to those terms in the Statute of the International Atomic Energy Agency, approved at New York on 26th October 1956.

**Convictions under foreign laws**

**890.** If a person has been convicted in a foreign country of an offence under the law of that country in respect of any conduct, the person is not liable to be convicted of an offence under this Division in respect of that conduct.

*Division 19*

*Provisions relating to the 2005 SUA Convention*

**Seizing a ship**

**891.**(1) A person shall not take possession of, or take or exercise control over, a ship by the threat or use of force or by any other kind of intimidation.

(2) A person who contravenes subsection (1) commits an offence and is liable on conviction on indictment to imprisonment for life.

**Acts of violence**

**892.**(1) A person shall not perform an act of violence against a person on board a private ship knowing that the act is likely to endanger the safe navigation of the ship.

(2) A person who contravenes subsection (1) commits an offence and is liable on conviction on indictment to imprisonment for a term of 15 years.

**Destroying or damaging a ship**

**893.**(1) A person shall not engage in conduct that causes the destruction of a ship.

(2) A person shall not engage in conduct that causes damage to a ship or its cargo, knowing that such damage is likely to endanger the safe navigation of the ship.

(3) A person who contravenes subsection (1) or (2) commits an offence and is liable on conviction on indictment to imprisonment for life.

**Placing destructive devices on a ship**

**894.**(1) A person shall not place on a ship a device or substance that is likely to destroy the ship.

(2) A person shall not place on a ship a device or substance that is likely to cause damage to the ship or her cargo knowing that it is likely to endanger the safe navigation of the ship.

(3) A person who contravenes subsection (1) or (2) commits an offence and is liable on conviction on indictment to imprisonment for a term of 15 years.

**Destroying or damaging navigational facilities**

**895.**(1) A person shall not engage in conduct that causes the destruction of, serious damage to, or serious interference with the operation of maritime navigational facilities that is likely to endanger the safe navigation of a ship.

(2) A person who contravenes subsection (1) commits an offence and is liable on conviction on indictment to imprisonment for a term of 15 years

**Giving false information**

**896.**(1) A person shall not communicate false information knowing that the information is false and knowing that the communication will endanger the safe navigation of a ship.

(2) A person who contravenes subsection (1) commits an offence and is liable on conviction on indictment to imprisonment for a term of 15 years.

**Causing death**

**897.**(1) A person who engages in conduct that causes the death of another person in connection with the commission or attempted commission of an offence under any of sections 890 to 895 commits an offence.

(2) A person who commits an offence under subsection (1) is liable on conviction on indictment to imprisonment for life.

**Causing grievous bodily harm**

**898.**(1) A person who engages in conduct that causes grievous bodily harm to another person in connection with the commission or attempted commission of an offence under any of sections 890 to 895 commits an offence.

(2) A person who commits an offence under subsection (1) is liable on conviction on indictment to imprisonment for a term of 15 years.

**Causing injury to a person**

**899.**(1) A person who engages in conduct that causes injury to another person in connection with the commission or attempted commission of an offence under any of sections 890 to 895 or 897 commits an offence.

(2) A person who commits an offence under subsection (1) is liable on conviction on indictment to imprisonment for a term of 10 years.

**Threatening to endanger a ship**

**900.**(1) A person shall not threaten to do an act that would constitute an offence under section 891, 892 or 894 with the intent to compel an individual, a body corporate or a body politic to do or refrain from doing an act, if that threat is likely to endanger the safe navigation of the ship concerned.

(2) A person who commits an offence under subsection (1) is liable on conviction on indictment to imprisonment for a term of 7 years.

(3) For the purposes of this section, a person is taken to threaten to do an act if the person makes any statement or does anything else indicating, or from which it could reasonably be inferred, that it is his intention to do that act.

**Threatening a population, government, or an international organization**

**901.**(1) A person shall not, with the intent of intimidating a population or compelling a government or an international organization to do or to abstain from doing any act,

*(a)* use against or on a ship. or discharge from a ship any explosive, radioactive material or BCN weapon in a manner that causes or is likely to cause death or serious injury or damage;

*(b)* discharge from a ship, oil, liquefied natural gas, or any other hazardous or noxious substance, in a quantity or concentration that causes or is likely to cause death or serious injury or damage;

*(c)* use a ship in a manner that causes death or serious injury or damage;

*(d)* threaten to take an action referred to in paragraph *(a)*, *(b)* or *(c)*; or

*(e)* transport on board a ship

(i) explosive or radioactive material, knowing that it is intended to be used to cause, or in a threat to cause, death or serious injury or damage for the purpose of intimidating a population or compelling a government or an international organization to do or to abstain from doing any act;

(ii) any BCN weapon, knowing it to be a BCN weapon;

(iii) any source material, special fissionable material or equipment or material designed or prepared for the processing, use or production of special fissionable material, knowing that it is

intended to be used in a nuclear explosive activity or in any other nuclear activity not under safeguards pursuant to an International Atomic Energy Agency comprehensive safeguards agreement; or

(iv) any equipment, materials, software or related technology that significantly contributes to the design, manufacture or delivery of a BCN weapon, with the intention that it will be used for that purpose.

(2) It shall not be an offence within the meaning of the SUA Convention to transport an item or material referred to in subparagraph (1)*(b)*(iii) or, insofar as it relates to a nuclear weapon or other nuclear explosive device, subparagraph (1)*(b)*(iv), if the item or material is transported to or from the territory of, or is otherwise transported under the control of, a state party to the Treaty on the Non-Proliferation of Nuclear Weapons where

*(a)* the resulting transfer or receipt of the item or material, including a transfer or receipt internal to a state, is not contrary to such state party's obligations under that Treaty; and

*(b)* if the item or material is intended for the delivery system of a nuclear weapon or other nuclear explosive device of a state party to that Treaty, the holding of the weapon or device is not contrary to that state party's obligations under that Treaty.

(3) A person who commits an offence under subsection (1) is liable on conviction on indictment to imprisonment for a term of 10 years.

**Intentionally transporting another person on board a ship**

**902.**(1) A person commits an offence if that person intentionally transports another person on board a ship knowing that the person has committed an act that constitutes an offence under any of sections 851 to 861, or an offence set forth in any treaty to the Annex to the SUA Convention, with the intention to assist that person to evade criminal prosecution.

(2) A person who commits an offence under subsection (1) is liable on conviction on indictment to imprisonment for a term of 15 years.

**Commencement of proceedings**

**903.**(1) Proceedings shall not be commenced against a person for an offence under this Division unless, when the alleged offence was committed,

*(a)* the ship concerned was

(i) on, or scheduled to engage in, an international voyage; or

(ii) on, or scheduled to engage in, a voyage in the territorial sea or internal waters of a foreign country; and

*(b)* the alleged offence had a Barbadian element or a convention state element.

(2) Paragraph (1)*(a)* does not apply if the person is in Barbados only because he was extradited to Barbados in relation to the acts that constituted the offence.

(3) For the purposes of this section, an offence under this Division had a Barbadian element if

*(a)* the ship concerned was a Barbadian ship; or

*(b)* the alleged offender was a national of Barbados.

(4) For the purposes of this section, an offence under this Division had a Convention state element if

*(a)* the ship concerned was a ship flying the flag of a SUA Convention state;

*(b)* the ship concerned was in the territorial sea or internal waters of a SUA Convention state;

*(c)* the alleged offender was a national of a SUA Convention state;

*(d)* the alleged offender was stateless and was habitually resident in a SUA Convention state that had extended its jurisdiction under Article 6(2) *(a)* of that Convention;

*(e)* during the commission of the alleged offence, a national of a SUA Convention state was seized, threatened, injured or killed and that state had extended its jurisdiction under Article 6(2)*(b)* of that Convention; or

*(f)* the alleged offence was committed in an attempt to compel a SUA Convention state to do or abstain from doing any act and that state had extended its jurisdiction under Article 6(2)*(c)* of that Convention.

**Arrest powers**

**904.**(1) A ship's master may arrest and hold in custody any person who he has reasonable grounds to believe has committed an offence under this Division.

(2) A ship's master may hold an alleged offender in custody only until he can deliver the alleged offender to

*(a)* an appropriate authority of a SUA Convention state; or

*(b)* another appropriate authority.

**Delivery of alleged offenders to SUA Convention state**

**905.**(1) A ship's master may deliver to an appropriate authority of a SUA Convention state any person who he has reasonable grounds to believe has committed an offence under this Division.

(2) A ship's master who intends to deliver a person under subsection (1) shall notify the appropriate authority of the SUA Convention state

*(a)* of his intention to deliver the person; and

*(b)* of his reasons for intending to do so.

(3) A notification under subsection (2) shall be given

*(a)* if it is reasonably practicable to do so before the ship concerned has entered the territorial sea of the SUA Convention state; or

*(b)* in any other case, as soon as is reasonably practicable.

(4) If a ship's master delivers a person under subsection (1), he shall

*(a)* make to the authority of the SUA Convention state such oral or written statements relating to the alleged offence as the authority may reasonably require; and

*(b)* deliver to the authorities of the state such other evidence relating to the alleged offence as is in the master's possession.

(5) A ship's master who fails to comply with subsection (3) or (4) commits an offence, and is liable on summary conviction to a fine of $25 000.

(6) Subsection (5) does not apply if the ship's master has a reasonable excuse.

*Division 20*

*The SUA Protocol*

**Seizing control of a fixed platform**

**906.**(1) A person shall not take possession of, or take or exercise control over, a fixed platform by the threat or use of force or by any other kind of intimidation.

(2) A person who commits an offence under subsection (1) is liable on conviction on indictment to imprisonment for life.

**Acts of violence**

**907.**(1) A person shall not perform an act of violence against a person on board a fixed platform knowing that the act is likely to endanger the safety of the platform.

(2) A person who commits an offence under subsection (1) is liable on conviction on indictment to imprisonment for a term of 15 years.

**Destroying or damaging a fixed platform**

**908.**(1) A person shall not engage in conduct that causes the destruction of, or damage to, a fixed platform knowing that the destruction or damage is likely to endanger the safety of the platform.

(2) A person who commits an offence under subsection (1) is liable on conviction on indictment to imprisonment for life.

**Placing destructive devices on a fixed platform**

**909.**(1) A person shall not place or caused to be placed on a fixed platform a device or substance that is likely to destroy that fixed platform or likely to endanger the safety of the platform.

(2) A person who commits an offence under subsection (1) is liable on conviction on indictment to imprisonment for a term of 15 years.

**Causing death**

**910.**(1) A person who engages in conduct that causes the death of another person in connection with the commission or attempted commission of an offence under any of sections 905 to 908 commits an offence.

(2) A person who commits an offence under subsection (1) is liable on conviction on indictment to imprisonment for life.

**Causing grievous bodily harm**

**911.**(1) A person who engages in conduct that causes grievous bodily harm to another person in connection with the commission or attempted commission of an offence under any of sections 905 to 908 commits an offence.

(2) A person who commits an offence under subsection (1) is liable on conviction on indictment to imprisonment for a term of 15 years.

**Causing injury to a person**

**912.**(1) A person who engages in conduct that causes injury to another person in connection with the commission or attempted commission of an offence under any of sections 905 to 908 or 910 commits an offence.

(2) A person who commits an offence under subsection (1) is liable on conviction on indictment to imprisonment for a term of 10 years.

**Threatening to endanger a fixed platform**

**913.**(1) A person shall not threaten to do an act that would constitute an offence under any of sections 905 to 911 and 913 with intent to compel an individual, a body corporate or a body politic to do or refrain from doing an act, if that threat is likely to endanger the safety of a fixed platform.

(2) A person who commits an offence under subsection (1) is liable on conviction on indictment to imprisonment for a term of 10 years.

**Threatening a population, government, or an international organization**

**914.**(1) A person shall not intentionally, engage in the following conduct when the purpose of the conduct, by its nature or context, is to intimidate a population or to compel a government or an international organization to do or to abstain from doing any act:

*(a)* use against or on a fixed platform or discharge from a fixed platform an explosive, radioactive material or BCN weapon in a manner that causes or is likely to cause death or serious injury or damage;

*(b)* discharge, from a fixed platform, oil, liquefied natural gas or any other hazardous or noxious substance in a quantity or concentration that causes or is likely to cause death or serious injury or damage; or

*(c)* threaten to commit an offence referred to in paragraph *(a)* or *(b)*.

(2) A person who commits an offence under subsection (1) is liable on conviction on indictment to imprisonment for a term of 10 years.

**Commencement of proceedings**

**915.**(1) Proceedings shall not be commenced against a person for an offence under this Division unless, when the alleged offence was committed,

*(a)* the platform concerned was beyond Barbados' territorial sea; and

*(b)* the alleged offence had a Barbadian element or a SUA Protocol state element.

(2) Subsection (1)*(a)* does not apply if the person is in Barbados only because he was extradited to Barbados in relation to the acts that constituted the offence.

(3) For the purposes of this section, an offence under this Division had a Barbadian element if

*(a)* the fixed platform concerned was on the Barbadian continental shelf; or

*(b)* the alleged offender was a national of Barbados.

(4) For the purposes of this section, an offence under this Division had a SUA protocol state element if

*(a)* the fixed platform concerned was on the continental shelf of a SUA Protocol state;

*(b)* the fixed platform concerned was in the territorial sea or internal waters of a SUA Protocol state;

*(c)* the alleged offender was a national of a SUA Protocol state;

*(d)* the alleged offender was stateless and was habitually resident in a SUA Protocol state that had extended its jurisdiction under Article 3(2)*(a)* of that Protocol;

*(e)* during the commission of the alleged offence, a national of a SUA Protocol state was seized, threatened, injured or killed and that state had extended its jurisdiction under Article 3(2)*(b)* of that Protocol;

*(f)* the alleged offence was committed in an attempt to compel a SUA Protocol state to do or refrain from doing any act and the state had extended its jurisdiction under Article 3(2)*(c)* of that Protocol.

*Division 21*

*Miscellaneous – SUA Protocol*

**Consent of Attorney-General**

**916.**(1) A prosecution for an offence under Division 19 or 20 shall not be commenced except with the consent of the Attorney-General or of a person authorized in writing by the Attorney-General to give consent.

(2) Despite subsection (1),

*(a)* a person may be arrested for such an offence, and a warrant for such an arrest may be issued and executed;

*(b)* a person may be charged with an offence under Division 19 or 20; and

*(c)* a person so charged may be remanded in custody or on bail;

but no further step in the proceedings referred to in that subsection is to be taken until the Attorney-General's written consent has been given.

(3) Nothing in subsection (2) prevents the discharge of the accused, if proceedings are not continued within a reasonable time.

**Prosecution on indictment**

**917.** An offence under Division 19 or 20 shall not be tried except on indictment.

**Evidence**

**918.** A certificate by the Attorney-General, or a person authorized in writing by the Attorney-General to give such a certificate, stating

*(a)* that a specified state was, at specified times, a SUA Convention or SUA Protocol state;

*(b)* the extent to which a specified SUA Convention or SUA Protocol state had, at specified times, extended its jurisdiction under Article 6(2) of the SUA Convention or Article 3(2) of the SUA Protocol;

*(c)* that specified waters were, at a specified time

(i) within the territorial sea, or above the continental shelf, of Barbados or of a specified foreign country; or

(ii) beyond the territorial sea of Barbados and of any foreign country;

is, for the purposes of any proceedings under this Act, *prima facie* evidence of the facts stated in the certificate.

*Division 22*

*Privately Contracted Armed Security Personnel*

**Carriage on Barbados vessels**

**919.**(1) An owner of a Barbados-flagged merchant or commercial fishing vessel that will be operating in, or navigating through, a high risk area may carry on board privately contracted armed security personnel, only if

*(a)* an application for permission to do so has been submitted to the Administration;

*(b)* particulars as to the high risk area the vessel is intended to transit or operate in have been provided;

*(c)* the owner of the vessel has submitted its counter-piracy plan to the Administration for review;

*(d)* the privately contracted armed security personnel are contracted under the Baltic and International Maritime Council's standard contract for the employment of security guards on vessels; and

*(e)* security companies supplying the personnel are International Organization for Standardization 28007-certified.

(2) An application requesting privately contracted armed security personnel to be placed on Barbados ships shall be accompanied by

*(a)* the provisional GUARDCON standard contract between the shipping company and the privately contracted armed security personnel;

*(b)* details of, and justification for, the amount and type of firearms; and

*(c)* details of each of the privately contracted armed security personnel, including the person's full name, date and place of birth, residential addresses for the past 5 years, a certified copy of his passport and birth certificate, and any other supporting information on the person, including any licenses to use firearms.

(3) On receipt of the application referred to in subsection (1), the Administration shall consult with the Barbados Coast Guard and transmit the shipping company's counter-piracy plan to the Barbados Coast Guard for review and subsequent approval by the Administration.

(4) No permission shall be granted for privately contracted armed security personnel to be carried on board Barbados vessels unless the conditions set out in subsections (1) and (2) are satisfied.

(5) The Minister may make regulations setting out

*(a)* further conditions for privately contracted armed security personnel on board Barbados vessels;

*(b)* boarding procedures of privately contracted armed security personnel in relation to Barbados vessels;

*(c)* procedures for the use of weapons;

*(d)* rules for engagement, in consultation with shipowners; and

*(e)* any other relevant matters.

**Requirement for proportionality**

**920.**(1) Privately contracted armed security personnel on board Barbados vessels shall at all times act proportionately to a threat and use the minimum of force necessary

(2) A person who contravenes subsection (1) commits an offence and is liable on conviction to a fine of $150 000 or imprisonment for a term of 7 years, or both.

**Maritime Safety Committee recommendations and guidelines**

**921.** Ship masters, ship operators and the Administration shall duly take into account the International Maritime Organization Maritime Safety Committee recommendations and guidelines on the use of privately contracted armed security personnel on board ships in high-risk areas when making decisions to permit privately contracted armed security personnel on board Barbados vessels.

**Prohibition on arming seafarers**

**922.**(1) Seafarers shall not be armed, assist or be involved in any activities that concern privately contracted armed security personnel under any circumstances.

(2) Any person who commits an offence under subsection (1) is liable on conviction to a fine of $100 000 or imprisonment for a term of 3 years, or both.

**Control of vessel**

**923.**(1) Consistent with the International Convention for the Safety of Life at Sea requirements for the ship's master to have complete control over the vessel at all times, a ship's master shall retain control and overall authority of the vessel, despite the presence of privately contracted armed security personnel on board.

(2) The master's authority referred to in subsection (1) extends to authorizing privately contracted armed security personnel to target, deploy or discharge weapons of any kind.

**Derogation from ship master's command**

**924.** Notwithstanding section 922, privately contracted armed security personnel may derogate from the ship master's command only if

*(a)* the derogation is for self-defense purposes;

*(b)* there is a grave life or death situation; or

*(c)* the derogation is to protect the ship, ship's crew and other persons on board.

**Shipping company insurance coverage**

**925.** A shipping company with a ship that sails under the Barbados flag shall, prior to contracting privately contracted armed security personnel, have adequate insurance coverage against liabilities, losses and expenses arising from the deployment of armed guards on board the ship.

**Security personnel company insurance coverage**

**926.**(1) A shipowner shall ensure that a company employing privately contracted armed security personnel that is engaged by it holds suitable insurance coverage for themselves, their personnel and third-party liability.

(2) The shipowner of a Barbados ship shall provide to the Administration evidence that the privately contracted armed security personnel to be engaged on the ship hold and will maintain for the duration of the contract

*(a)* public and employers' liability insurance coverage to a level required by the shipowner; and

*(b)* personal accident, medical expenses, hospitalization and repatriation insurance.

(3) A company employing privately contracted armed security personnel shall insure its personnel to carry and use firearms on the high seas and in territorial seas for accident, injury and damage arising from the use of firearms and liability for any claim that might arise from the carriage and use of firearms.

*Division 23*

*Control of Dangerous Vessels in Barbados Waters*

**Control of dangerous vessels**

**927.**(1) The Minister responsible for Shipping may by order prohibit the entrance of a vessel into the harbours, bays or other waters of Barbados where he is of opinion that the presence of the vessel will pose a danger to shipping or navigation or to a person or thing on the land.

(2) The Minister responsible for Shipping may order the departure from a harbour, bay or other waters of Barbados of any vessel whose continued presence in that place in his opinion poses a danger to shipping or navigation or to a person or thing on the land.

**Enforcement of order**

**928.**(1) The Minister responsible for Shipping may adopt any measures and employ any means he deems suitable or effective for enforcing an order made under section 926.

(2) A master or person in charge of a vessel who fails to comply with an order made under section 926, and any person who obstructs or interferes with compliance with or the execution of such an order, is liable on summary conviction to a fine of $50 000 or to imprisonment for a term of 12 months, or both.

*Division 24*

*Security-Regulated Entry of Maritime Traffic into Barbados*

**Security-related information**

**929.** A ship arriving from a port outside of Barbados shall submit in accordance with the *Facilitation of International Maritime Traffic Act, 2024* (Act 2024-2), the following security-related information

*(a)* security-related information required under the International Convention for the Safety of Life at Sea regulation XI-2/9.2.2;

*(b)* advanced electronic cargo information for customs risk assessment purposes; and

*(c)* an advanced notification form for waste delivery to port reception facilities, for waste assessment, planning and environmental security purposes.

**Port entry**

**930.**(1) The shipowner, master or agent of a foreign vessel of 500 GT and above that calls at a port in Barbados shall supply the following International Ship and Port Facility Security Code security information to the port's chief executive officer through the maritime single window established under the *Facilitation of International Maritime Traffic Act, 2024* (Act 2024-2 )

*(a)* the vessel's International Ship and Port Facility Security compliance number;

*(b)* the ship's current security level, or any change in its security level while it was in port;

*(c)* the ship's security officer contact details;

*(d)* a list of all expected visitors and contractors;

*(e)* a crew list with a copy of documents of identification;

*(f)* a description of any security incident while it was in port; and

*(g)* a description of any security incidents while it was in any of the previous 10 ports of call prior to arriving in Barbados.

(2) Port security officials shall advise vessels entering under an International Ship and Port Facility Security regime of the level of port security operating at the time of entry at the port.

(3) Where the level of port security is communicated to the vessel's owner, master or agent, the ship shall increase its level of security in line with the port security level and work with port security officials to ensure appropriate and adequate International Ship and Port Facility Security measures are activated by both the ship and the port.

(4) A ship's International Ship Security Certificate indicating compliance with the International Ship and Port Facility Security Code is subject to port state control inspections, but such inspections shall not extend to an examination of the ship's security plan itself, given the confidentiality of the plan.

(5) A ship may be subject to additional control measures if there is reason to believe that the security of the ship or of the previous port facilities the ship has called at prior to arriving in Barbados has been compromised.

(6) A ship may be denied entry into Barbados if

*(a)* the ship herself;

*(b)* the port facility the ship served prior to arriving in Barbados; or

*(c)* another ship she has interfaced with prior to arriving in Barbados;

are considered to be in violation of the International Convention for the Safety of Life at Sea Chapter XI-2 or Part A of the International Ship and Port Facility Security Code.

**Carriage requirements for shipboard navigational systems**

**931.**(1) In accordance with the International Convention for the Safety of Life at Sea regulation V/19,

*(a)* all ships 300 GT and over engaged on international voyages;

*(b)* all cargo ships 500 GT and over not engaged on international voyages; and

*(c)* all passenger ships of any size;

shall be fitted with automatic identification systems and maintain automatic identification system operation at all times when transiting through or navigating in Barbados' waters, except where international agreements, rules or standards provide for the protection of navigational information.

(2) A ship that contravenes the requirements of subsection (1) is liable to detention and inspection by the Barbados Coast Guard, and a fine of $250 000, where the ship is found to be in breach of applicable safety, security and marine pollution prevention requirements, or otherwise found to be engaged in any other unlawful activity.

(3) An automatic identification system shall be capable of providing information about the ship to other ships and to the Barbados Coast Guard and Barbados Port Authority.

(4) An automatic identification system shall

*(a)* automatically provide information, including the ship's identity, type, position, course, speed, navigational status and other safety-related information to appropriately equipped shore stations in Barbados and to other ships and aircraft;

*(b)* automatically receive such information from similarly fitted ships;

*(c)* monitor and track ships; and

*(d)* exchange data with the Barbados Coast Guard and Barbados Port Authority.

**Prohibition on publication of AIS data**

**932.** For reasons of ship and port facility security, automatic identification system data transmitted by ships through an automatic identification system shall not be made publicly available on the internet or elsewhere by the Barbados Coast Guard, Barbados Port Authority or any other entity in Barbados unless authorized by the Director, after consultation with Barbados Coast Guard and the Minister.

**AIS operations**

**933.** An automatic identification system shall be operated taking into account all relevant International Maritime Organization guidelines on such systems.

*Division 25*

*Other Maritime Security Crimes*

**Definition**

**934.** In this Division, "marine environmental security threats" means threats to shipping and other traditional maritime activities and threats to coastal communities and the non-human environment.

**National maritime security strategy**

**935.** The National Security Minister may develop a National Maritime Security Strategy, in consultation with the Shipping Minister and private maritime security entities, for the purpose of addressing the following maritime crimes involving ships

*(a)* illicit trafficking by ships in drugs and psychotropic substances;

*(b)* the human element of maritime crime, including

(i) stowaways;

(ii) human trafficking; and

(iii) migrant smuggling;

*(c)* marine security threats, including

(i) illegal, unreported and unregulated fishing;

(ii) illegal dumping of hazardous wastes and toxic substances into the sea; and

(iii) maritime cyber security threats;

*(d)* subterfuge shipping, including illicit energy and other commodities trading, and other deceptive seaborne trading practices to evade detection; and

*(e)* any other maritime security threats and marine environmental security threats.

**Maritime security plans**

**936.** The Barbados Coast Guard, in consultation with the Marine Police Unit of the Barbados Police Service and other relevant stakeholders, may develop maritime security plans in relation to the maritime security threats referred to in section 934.

*Division 26*

*Maritime Safety and Security Training*

**Authority of the Barbados Coast Guard**

**937.** The Barbados Coast Guard may, in consultation with the Administration, conduct maritime safety and security training, and perform any other activity incidental to such training.

**Approvals and verifications**

**938.** The Barbados Coast Guard may

*(a)* approve maritime safety and security training programs offered by public and private entities that comply with

(i) the International Maritime Organization maritime safety and security standards;

(ii) maritime safety and security proficiency requirements under the International Convention on Standards of Training, Certification and Watchkeeping for Seafarers and Seafarers' Training, Certification and Watchkeeping Code; and

(iii) international guidelines for maritime security training course providers;

*(b)* approve training for vessel personnel with designated safety and security duties and vessel safety and security officers;

*(c)* verify that maritime safety and security services that are provided

(i) by public or private entities to a Barbados port or on board a Barbados ship; or

(ii) by any other port or ship of a member of the Regional Security System when in Barbados waters or otherwise on request by a Regional Security System member state;

comply with International Maritime Organization maritime safety and security standards for land-based and sea-going maritime safety and security operations, including counter-piracy maritime security; and

*(d)* perform any other related functions.

**Requirements for maritime safety and security training providers**

**939.** A maritime safety and security training provider intending to train

*(a)* port facility personnel;

*(b)* seafarers; or

*(c)* other maritime security personnel for port and shipboard safety and security operations; in a Barbados port, on board a Barbados ship, or in any other port or on any other ship falling under the Regional Security System shall have its training approved by the Barbados Coast Guard.

**Requirements for maritime safety and security service providers**

**940.** A maritime security service provider intending to perform maritime safety and security operations

*(a)* in a port facility in Barbados;

*(b)* in a port facility in a member state of the Regional Security System;

*(c)* on board a Barbados ship;

*(d)* on board a ship flying the flag of a Regional Security System member state; or

*(e)* on board a vessel flying the flag of any other state, where requested in writing by the owner or agent of the foreign vessel;

shall have its services verified by the Barbados Coast Guard .

**Form of approvals**

**941.**(1) An approvals under section 937 or 938 shall be in the form of a certificate prescribed by the Barbados Coast Guard, issued under the authority of the Barbados Coast Guard, and accompanied by the signature, stamp and official seal of the Barbados Coast Guard.

(2) Matters related to approvals and verifications not provided for in this Act or the regulations shall be communicated by the Barbados Coast Guard in a Marine Notice.

(3) A certificate of approval for a maritime safety and security training provider shall be issued for maritime safety and security training providers.

(4) A certificate of verification for maritime safety and security services provider shall be issued for maritime safety and security service providers.

(5) A person offering both maritime safety and security training and maritime safety and security services shall require both certificates referred to in subsections (3) and (4).

(6) Approvals shall be commensurate with different maritime safety and security levels in respect of maritime safety and security training and maritime safety and security service competencies.

**Externally-obtained maritime security certification**

**942.**(1) The Barbados Coast Guard may

*(a)* accept for approval a certification awarded by an internationally accredited or recognized maritime safety and security training institution qualifying a maritime safety and security training provider to provide instruction in maritime safety and security; or

*(b)* accept a maritime security company not registered in Barbados that seeks to provide maritime safety and security services pursuant to this Act.

(2) An acceptance under paragraph (1)*(a)* or *(b)* shall be in the form of an endorsement.

**Remuneration for services by the Barbados Coast Guard**

**943.**(1) The Barbados Coast Guard shall charge a fee for services rendered by it under this Division.

(2) Fees shall be consistent with the type of service provided.

(3) A services and fee schedule shall be published in a Marine Notice by the Barbados Coast Guard.

**Regulatory and enforcement powers**

**944.** The Barbados Coast Guard shall

*(a)* ensure the safety of all persons in a vessel in Barbados waters;

*(b)* ensure the safety of all seafarers on Barbados vessels;

*(c)* ensure the security of all persons, vessels, ports and offshore facilities over which Barbados has jurisdiction;

*(d)* ensure that safety equipment is carried on board Barbados vessels;

*(e)* ensure the environmental safety of Barbados' waters;

*(f)* ensure the accuracy of hydrographic data on Barbados' nautical charts; and

*(g)* oversee coastal rescue volunteers, hydrographic activities, and the flag and port state control inspection regime.

**Implementation of maritime safety and security laws**

**945.** The Barbados Coast Guard may

*(a)* provide guidance on maritime safety and security matters;

*(b)* propose maritime safety and security legislation; and

*(c)* implement, in consultation with the Administration, maritime safety and security laws.

**Flag state control officers**

**946.** The Administration may, on a written request to the Chief of Staff of the Barbados Defence Force, request members from the Barbados Coast Guard

to perform the flag and port state control functions specified in this Act and the regulations.

**Maritime security documentation**

**947.**(1) The Administration may require the production of any document, including certificates, permits and licenses, in relation to the maritime security instruments referred to in this Division.

(2) The Administration may specify additional requirements in respect of maritime security documentation in a Marine Notice.

## PART XXVIII

## SHIPWRECKS AND WRECK REMOVAL

### *Division 1*

### *Interpretation and Application*

**Definitions**

**948.** In this Part,

"affected state" means a state in whose Convention area a wreck is located;

"Barbados' Convention area" means its territory, including its territorial sea and exclusive economic zone of Barbados;

"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;

"court", in relation to any proceedings, includes any court having jurisdiction in the matter to which the proceedings relate;

"damage" includes loss;

"derelict" means property, whether a vessel or cargo, that has been abandoned and deserted at sea by those who were in charge of it without any hope of recovering it, but does not include temporary desertion of a vessel;

"flotsam" means goods lost from a ship that has sunk or otherwise perished and that are recoverable by reason of their remaining afloat;

" hazard" means any condition or threat that

*(a)* poses a danger or impediment to navigation; or

*(b)* may reasonably be expected to result in major harmful consequences to the marine environment or damage to the coastline or related interests of a state;

"International Safety Management Code" means the International Management Code for the Safe Operation of Ships and for Pollution Prevention 2002 adopted by the International Maritime Organization, and any amendment to it that has come into force and has been accepted by the Government;

"jetsam" means goods cast overboard in order to lighten a vessel that is in danger of sinking;

"lagan" means goods cast overboard from a ship that subsequently perishes that are buoyed so as to render them recoverable;

"maritime casualty" means a collision of ships, stranding, other incident of navigation or other occurrence on board a ship or external to it, that results in material damage or an imminent threat of material damage to a ship or its cargo;

"Nairobi Convention" means the Nairobi International Convention on the Removal of Wrecks, 2007;

"operator", in relation to a ship, means the owner of the ship or any other organization or person, including a manager or the bareboat charterer, who has assumed the responsibility for operation of the ship from the owner of the ship and who, on assuming such responsibility, has agreed to take over all duties and responsibilities established under the International Safety Management Code;

"receiver of wreck" means the public official appointed by the Minister who administers law dealing with maritime wrecks and salvage;

"registered owner" means

*(a)* in relation to a ship owned by a state that is operated by a person registered in that state as the ship's operator, the person registered as its operator; and

*(b)* in relation to any other ship,

(i) the person registered as the owner of the ship; or

(ii) in the absence of registration, the person who owns the ship;

"related interest" means an interest of a coastal state directly affected or threatened by a wreck and includes

*(a)* maritime coastal, port and estuarine activities, including fisheries activities, that constitute an essential means of livelihood of the persons concerned;

*(b)* tourist attractions and other economic interests of the area concerned;

*(c)* the health of the coastal population and the wellbeing of the area concerned, including conservation of marine living resources and of wildlife; and

*(d)* offshore and underwater infrastructure;

"removal" means any form of prevention, mitigation or elimination of the hazard created by a wreck;

"state party" means a state in respect of which the Nairobi Convention is in force;

"wreck" means a vessel, or part of a vessel, lying wrecked on, in or under the sea-bed or on or in land covered by water and any objects that were formerly contained in or on a vessel that are lying on, in or under the sea-bed or on or in land covered by water, and includes jetsam, flotsam, lagan and derelict found in or on the shores of the sea or in tidal water or a harbour, but does not include a vessel that has come off its mooring or buoys, including marker buoys and mooring buoys, that do not form part of fishing equipment; and

"wreck", in relation to a maritime casualty, means

*(a)* a sunken or stranded ship;

*(b)* any part of a sunken or stranded ship, including any object that is or has been on board such a ship;

*(c)* any object that is lost at sea from a ship and that is stranded, sunken or adrift at sea; or

*(d)* a ship that is about, or may reasonably be expected, to sink or to strand, where effective measures to assist the ship or any property in danger are not already being taken.

**Exclusion from application**

**949.**(1) This Part does not apply to a wreck deemed to be historic or an antiquity, or any sunken material of a historical nature.

(2) Such historic or antiquated wrecks, or any sunken material of a historical nature, shall be preserved in accordance with national maritime heritage laws.

(3) Operations to recover and remove other shipwrecks that may be considered environmentally hazardous shall be carried out in accordance with this Part so as to prevent destruction of any historic or antiquated wrecks or sunken material of a historical nature or destruction of any underwater archaeological and natural heritage resources in Barbados' waters.

**Application of the Nairobi Convention**

**950.** This Part applies to Barbados' territory, including its territorial sea, in accordance with Article 3(2) of the Nairobi Convention.

*Division 2*

*Receiver of Wreck*

**Administration**

**951.** This Division shall be administered by the Receiver of Wreck and the Director, in consultation with the Environmental Protection Department.

**Appointment and powers of receiver of wreck**

**952.**(1) The Minister may appoint the Director to be the Receiver of Wreck and in that capacity he shall exercise general direction and supervision over all matters relating to wreck and salvage.

(2) The Minister may designate any person to be the Receiver of Wreck in a specified area and to perform the duties of a receiver under this Part and Part XXIX.

(3) An action authorized under this Part to be carried out by a receiver may be carried out by the Receiver of Wreck.

**Scope of duties of Receiver of Wreck**

**953.** The duties of the Receiver of Wreck extend to vessels to which

*(a)* this Act and the regulations apply;

*(b)* the *Shipping (Domestic Vessels) Act, 2024* (Act 2024-22) and regulations apply; and

*(c)* national maritime heritage laws apply.

**Role and duties of Receiver of Wreck**

**954.**(1) Upon notification that a wreck has been found the Receiver of Wreck shall attend at the site of the wreck.

(2) The Receiver of Wreck shall

*(a)* give legal owners the opportunity to recover their property and to ensure that the salvage reward is paid to the legal salvor when due;

*(b)* ensure the safe custody, protection and preservation of wrecked property;

*(c)* obtain information in respect of wrecks;

*(d)* settle salvage claims;

*(e)* protect the duties and taxes arising from an unclaimed wreck; and

*(f)* assist in cases of wreck or casualty, including the preservation of life and property and the prevention of disputes.

**Where vessel is wrecked, stranded or in distress**

**955.**(1) Where a vessel is wrecked, stranded or in distress at any place on or near the coasts of Barbados or any tidal water within Barbados, the Receiver of Wrecks shall, on being informed of the circumstances,

*(a)* forthwith proceed to that place;

*(b)* take command of all persons present; and

*(c)* assign such duties and give such directions to each person as he thinks fit for the preservation of the vessel and of the lives of the shipwrecked persons.

(2) The Receiver shall not interfere with the master and crew of the vessel in regard to the management of the vessel unless he is requested to do so by the master.

(3) A person who intentionally disobeys a direction of the Receiver commits an offence and is liable on summary conviction, to a fine of $10 000.

**Powers of Receiver in case of vessel distress**

**956.**(1) Where a vessel is wrecked, stranded or in distress at any place on or near the coasts of Barbados or any tidal water within Barbados, the Receiver of Wreck may, for the preservation of shipwrecked persons or of the vessel, cargo and equipment

*(a)* require such persons as he thinks necessary to assist him;

*(b)* require the master, or other person having the charge, of a vessel near at hand to give such assistance with his crew or vessel as may be in his power; and

*(c)* require the use of a vehicle that is near at hand.

(2) A person who refuses, without reasonable excuse, to comply with a requirement made under subsection (1) commits an offence and is liable on summary conviction to a fine of $10 000.

**Persons not permitted to act as Receiver of Wreck**

**957.** No person shall be appointed as Receiver of Wreck, or be allowed to retain that Office, who

*(a)* is concerned, directly or indirectly, in the purchase or sale of wrecked goods or articles, or of ships or boats, ships tackle, apparel, furniture or other marine stores;

*(b)* is concerned, directly or indirectly, in the building or repairs of vessels;

*(c)* is a consul or vice-consul for a foreign state; or

*(d)* acts, or claims to act, in respect of any wrecked ship or other property as agent for an owner, a shipper, a consignee, an insurer or a salvor having or claiming an interest in the wrecked ship.

*Division 3*

*Reporting of Wrecks*

**Wreck reporting**

**958.**(1) Where a Barbados ship is involved in a maritime casualty resulting in a wreck in a Convention area other than Barbados' Convention area, the master or the operator of that ship shall report the wreck to the government of the affected state without delay.

(2) Where a Barbados ship is involved in a maritime casualty resulting in a wreck in Barbados' Convention area, the master or the operator of that ship shall report the wreck without delay, to

*(a)* the Director;

*(b)* the Receiver of Wreck; and

*(c)* the Environmental Protection Department.

(3) A report under subsection (1) or (2) shall contain

*(a)* the name and principal place of business of the registered owner of the ship involved in the maritime casualty; and

*(b)* so far as it is known, the following information

(i) the precise location of the wreck;

(ii) the type, size and construction of the wreck;

(iii) the nature of the damage to, and the condition of, the wreck;

(iv) the nature and quantity of the cargo, including any hazardous and noxious substances;

(v) the amount and types of oil, including bunker oil and lubricating oil, on board;

(vi) the volume, weight and nature of any hazardous substance or material contained in the wreck; and

(vii) the type of hazards posed by the wreck, including whether it is radioactive, noxious, toxic, flammable or a marine poison.

(4) If a report required to be made under subsection (1) or (2) is not made, the master and the operator of the ship each commit an offence and are liable on summary conviction to a fine of $10 000.

*Division 4*

*Locating, Marking and Removal of Wrecks*

**Application**

**959.** This Division applies to a ship that is involved in a maritime casualty resulting in a wreck in Barbados' Convention area.

**Locating and marking of wrecks**

**960.** Upon becoming aware of a wreck, the Receiver of Wreck shall take all reasonable steps to ensure Barbados' compliance with its obligations under Articles 7 and 8 of the Nairobi Convention.

**Measures to facilitate wreck removal**

**961.**(1) Where a wreck has been determined by the Receiver of Wreck to constitute a hazard, the Receiver shall take all reasonable steps to give a notice requiring the registered owner of the ship involved in the maritime casualty resulting in the wreck to

*(a)* remove the wreck; and

*(b)* provide evidence of insurance or other financial security as required by any regulations made under this Part.

(2) The notice shall be in writing and shall

*(a)* specify a reasonable deadline within which the registered owner shall remove the wreck, taking into account the nature of the hazard as determined by the Receiver of Wreck;

*(b)* specify that if the registered owner does not remove the wreck within that deadline, the Receiver of Wreck may remove the wreck at the registered owner's expense; and

*(c)* state the Receiver of Wreck's intention to intervene immediately in circumstances where the hazard becomes particularly severe.

(3) The notice may specify conditions as to the removal of the wreck to the extent necessary to ensure that the removal proceeds in a manner that is consistent with considerations of safety and protection of the marine environment.

**Removal of wrecks**

**962.**(1) The Receiver of Wreck may remove a wreck that the Receiver has determined, in consultation with Environmental Protection Department, to constitute a hazard

*(a)* where the registered owner of the ship does not remove the wreck within the deadline specified in the notice under section 960(2);

*(b)* where the registered owner of the ship cannot be contacted; or

*(c)* where the Receiver has determined that, having regard to the nature of the hazard, immediate action must be taken to remove the wreck.

(2) Where the Receiver removes a wreck under subsection (1), the Receiver shall do so by the most practical and expeditious means available, consistent with considerations of safety and protection of the marine environment.

(3) The Receiver of Wreck

*(a)* may sell a wreck, free of liens and encumbrances and in the manner the Receiver thinks fit;

*(b)* may take from the proceeds of the sale of the wreck the expenses incurred by the Receiver in relation to the sale; and

*(c)* shall hold the surplus of the proceeds of the sale, if any, in trust for the persons entitled to them.

**Removal of wreck in other circumstances**

**963.** Where a wreck is likely to become an obstruction or danger to navigation or to lifeboats engaged in the lifeboat service or a threat or harm to

*(a)* the marine environment;

*(b)* public health;

*(c)* marine resources, flora and fauna and their habitats;

*(d)* tourist attractions of any area concerned; or

*(e)* maritime coastal, port, estuarial, or aquatic activities, including fishing and tourist activities;

the owner of the wreck at the time of its sinking, wrecking, stranding, grounding or abandonment shall as soon as possible raise and remove it or otherwise render it harmless.

**Wreck removal permit**

**964.**(1) Prior to removing a shipwreck in Barbados, the owner of the wreck shall obtain a wreck removal permit from the Environmental Protection Department.

(2) An application for a wreck removal permit shall outline a wreck removal methodology that will not cause further environmental damage, disruption of ecosystem services or discharge of pollutants as defined in the *Marine Pollution Control Act*, Cap. 392A.

(3) A wreck removal permit fee shall be determined by the Minister responsible for Environment and published by the Maritime Minister in a Marine Notice.

**Determination of hazard**

**965.** In determining whether a wreck constitutes a hazard under section 962(1) or 963(1) or the nature of a hazard under section 962(2)*(a)* or 963(1)*(c)*, the Receiver of Wreck shall take into account

*(a)* the matters set out in Article 6 of the Nairobi Convention;

*(b)* the proximity of the wreck to Barbados' coastline;

*(c)* the proximity to, and possible affect on, nearby coral reefs or other essential marine ecosystems; and

*(d)* the proximity to areas designated under the Revised Guidelines for the Identification and Description of Particularly Sensitive Areas, adopted by the International Maritime Organization by resolution A.982(24) or a later version thereto.

*Division 5*

*Civil Liability for Wreck Removal*

**Liability of registered owner**

**966.**(1) This section applies to

*(a)* a ship involved in a maritime casualty resulting in a wreck in Barbados' Convention area; and

*(b)* costs incurred by the Receiver of Wreck for locating, marking and removing the wreck under Division 4.

(2) Subject to subsections (3) and (4), the registered owner of the ship is liable for the Receiver of Wreck's costs.

(3) The registered owner of a ship is not liable for the Receiver of Wreck's costs if, or to the extent that, liability for the costs would conflict with

*(a)* a convention listed in paragraph 1 of Article 11 of the Nairobi Convention to which Barbados is a party, if the convention is in force in Barbados;

*(b)* any enactment implementing such a convention; or

*(c)* any other provision specified in an order made by the Administration, with the approval of the Minister, and published in the *Official Gazette*.

(4) The registered owner of a ship is not liable for the Receiver of Wreck's costs if the registered owner of the ship proves that an exception set out in paragraph 1*(a)*, *(b)* or *(c)* of Article 10 of the Nairobi Convention applies.

(5) Where the registered owner of more than one ship is liable for costs under this section but the costs for which each is liable cannot reasonably be separated, the registered owners are jointly liable for the total costs.

(6) For the purposes of this section, a reference to the registered owner of the ship is a reference to the registered owner of the ship at the time the ship was involved in a maritime casualty resulting in a wreck.

**Restriction of liability for costs**

**967.** No claim for the costs under section 965(2) may be made against the registered owner of the ship otherwise than in accordance with this Part.

**No limitation of liability for wrecks**

**968.** Wreck removal is excluded from limitation of liability and cannot be sought under the *Merchant Shipping (Liability and Compensation) Act, 2024* (Act 2024- ).

**Extinguishment of claims**

**969.** An action to recover costs incurred under section 965 may not be brought unless the action is commenced on or before the earlier of

*(a)* 3 years after the day on which the notice by the Receiver of Wreck is given under section 960; and

*(b)* 6 years after the day on which the maritime casualty occurred that resulted in the wreck.

*Division 6*

*Compulsory Insurance*

**Application and interpretation**

**970.**(1) This Division applies to a ship, other than an excluded ship, having a gross tonnage of 300 GT or above.

(2) In this Division,

"covered by wreck removal insurance", in respect of a ship, means that there is in force in respect of the ship wreck removal insurance;

"excluded ship" means a ship that

*(a)* is operated under a license or permit, or is exempted from the requirement of a license or permit, under the *Shipping (Domestic Vessels) Act, 2024* (Act 2024-22) and the regulations made under it; or

*(b)* is insured under a policy of insurance covering the registered owner's liability under this as required by the *Shipping (Domestic Vessels) Act, 2024*; and

"wreck removal insurance" means a contract of insurance or other financial security satisfying the requirements of Article 12 of the Nairobi Convention.

**Compulsory wreck removal insurance**

**971.**(1) A Barbados ship shall not enter or leave a port in Barbados, or a port in a country other than Barbados, unless

*(a)* the ship is covered by wreck removal insurance;

*(b)* the Director has certified that the ship is covered by wreck removal insurance; and

*(c)* a copy of the Director's certificate is carried on board the ship.

(2) A foreign ship shall not enter or leave a port in Barbados unless

*(a)* the ship is covered by wreck removal insurance; and

*(b)* there is carried on board the ship written evidence of that insurance.

(3) The master of a ship shall

*(a)* ensure that the certificate mentioned in paragraph (1)*(c)* or the written evidence mentioned in paragraph (2)*(b)*, as the case may be, is carried on board the ship; and

*(b)* on demand, produce the certificate or the written evidence to

(i) an officer of the Administration; or

(ii) a consular officer.

(4) If

*(a)* a Barbados ship enters or leaves, or a person attempts to navigate the ship into or out of, a port in Barbados or any other country in contravention of subsection (1); or

*(b)* a foreign ship enters or leaves, or a person attempts to navigate the ship into or out of, a port in Barbados in contravention of subsection (2),

the master and the operator of the ship each commit an offence and are liable on summary conviction to a fine of $30 000.

(5) A master of a ship who fails to comply with subsection (3) commits an offence and is liable on summary conviction to a fine of $30 000.

(6) If a person attempts to navigate a ship into or out of a port in Barbados in contravention of subsection (4), the ship may be detained, in accordance with Part XXX, by

*(a)* the Director;

*(b)* a designated port state control officer of the Administration;

*(c)* a law enforcement officer; or

*(d)* a commissioned officer in the Barbados Armed Forces.

(7) In this section, a reference to a port includes

*(a)* in the case of a port in Barbados, any offshore facility in the territorial sea of Barbados; and

*(b)* in the case of a port in a country other than Barbados, an offshore facility in the territorial sea of that country.

**Issuance of certificates**

**972.**(1) The registered owner of a Barbados ship may apply to the Administration for a certificate certifying that the ship is covered by wreck removal insurance for a specified period.

(2) Subject to subsection (3), the Administration shall issue a certificate on an application under subsection (1) if the Director is satisfied that the ship is covered by wreck removal insurance for the specified period.

(3) The Administration may refuse to issue a certificate if the Director has any doubt as to

*(a)* whether the obligations of the person providing the wreck removal insurance will be met; or

*(b)* whether the insurance will satisfy the requirements of Article 12 of the Nairobi Convention in all circumstances.

(4) The registered owner of a foreign ship registered in a country that is not a state party may apply to the Administration for a certificate that the ship is covered by wreck removal insurance for a specified period.

(5) The Administration may, on an application under subsection (4),

*(a)* issue the certificate if the Administration is satisfied that the ship is covered by wreck removal insurance for the specified period; and

*(b)* without prejudice to any other ground, refuse to issue the certificate on a ground mentioned in subsection (3).

(6) The Administration shall

*(a)* maintain a record of a certificate issued under this section; and

*(b)* make the record available for public inspection.

**Third party rights against insurers**

**973.**(1) This section applies to a ship that is involved in a maritime casualty resulting in a wreck in Barbados' Convention area if, at the time of the maritime casualty, the ship is covered by wreck removal insurance.

(2) If the registered owner of the ship is liable for the Administration's costs of locating, marking and removing the wreck under section 965, the Administration may recover the costs from the insurer providing the wreck removal insurance.

(3) It is a defence for an insurer in a claim under this section to prove that the maritime casualty was caused by the wilful misconduct of the registered owner of the ship.

(4) An insurer may also rely on any defences available to the registered owner of the ship.

(5) An insurer may limit its liability in respect of a claim made under this section in the same manner, and to the same extent, as the registered owner of

the ship may limit its liability, whether or not the maritime casualty resulted from an act or omission of the registered owner.

**Jurisdiction of Barbados courts**

**974.**(1) The admiralty jurisdiction of the High Court shall have jurisdiction to hear and determine questions or claims in the nature of wreck and salvage in respect of a ship or an aircraft that relate to liability incurred by the registered owner of the ship or aircraft.

(2) Nothing in this Part affects any claim, or the enforcement of any claim, that a person incurring liability under this Part may have against another person in respect of that liability.

*Division 7*

*Miscellaneous*

**Receiver of Wreck to report to Director**

**975.** The Receiver of Wreck shall keep the Director informed in any matters involving wrecks, and shall produce any reports required by the Director on such matters.

**Fees of receiver**

**976.**(1) There shall be paid to every receiver the expenses properly incurred by him in the performance of his duties and the fees in respect of such other matters as may be prescribed.

(2) A receiver shall not be entitled to any remuneration other than the fees referred to in subsection (1).

(3) A receiver shall, in addition to any other rights and remedies for the recovery of the expenses and fees referred to in subsection (1), have the same rights and remedies in respect of them as a salvor has in respect of salvage due to him and may, if the property in respect of which any such expenses and fees

are due is not under arrest in any court, seize or detain the property until his expenses and fees are paid, or until security is given for those fees to his satisfaction.

(4) Whenever a dispute arises as to the amount payable to the receiver in respect of expenses or fees, the dispute shall be determined by the Minister, whose decision shall be final.

(5) All fees received by a receiver in respect of any services performed by him as a receiver, shall be paid into the Marine Heritage Fund, and a separate account of them shall be kept.

(6) The monies arising from fees referred to in subsection (5) shall be applied to defray any expenses incurred in carrying this Part and Part XXIX into effect.

**Government ship**

**977.**(1) Subject to subsection (3), nothing in this Part applies in relation to

*(a)* a warship; or

*(b)* a ship being used by the government of a state otherwise than for commercial purposes.

(2) Section 965 does not apply to a ship that is owned by a state party, if there is carried on board the ship a certificate issued by the state party stating

*(a)* that the ship is owned by the state party; and

*(b)* that any liability under section 965 will be met up to the limit prescribed by section 967.

(3) Subject to subsection (2), Division 5 applies to a ship referred to in paragraph (1)*(a)* or *(b)* if it is specified in a notice under paragraph 3 of Article 4 of the Nairobi Convention.

**Power of arrest**

**978.** An officer of the Administration or a law enforcement officer who reasonably believes that a person has committed an offence under this Part may,

without a warrant, arrest the person and take the person before a magistrate's court to be dealt with according to law.

**Powers and duties of Administration officers**

**979.** The powers conferred and the duties imposed on the Director under this Act may, subject to the Director's directions, be exercised and carried out by any officer of the Administration generally or as specifically authorized by the Director by name or office.

**Extra-territoriality**

**980.** Where an offence under section 957 or 970 is committed in relation to a Barbados ship outside Barbados, the master or the operator of the ship may be dealt with as if the offence was committed in Barbados.

**Delivery of wreck**

**981.**(1) Delivery of a wreck or payment of the proceeds of sale of a wreck by a receiver shall discharge the receiver from all liability in respect of the delivery or payment.

(2) Delivery of a wreck by a receiver shall not prejudice or affect any question that may be raised by third parties concerning the right or title to the wreck.

**Offence of taking wreck to foreign port**

**982.**(1) A person commits an offence if he takes into a foreign port and sells

*(a)* a vessel stranded, derelict or otherwise in distress found on or near the coasts of Barbados or any tidal water within Barbados' waters;

*(b)* a part of the cargo or equipment of, or anything belonging to, such a vessel; or

*(c)* a wreck found within the waters referred to in paragraph *(a)*.

(2) A person who commits an offence under this section is liable on conviction on indictment to a fine of $300 000 or to imprisonment for a term of 5 years, or both.

**Offence of interfering with wrecked vessel or wreck**

**983.**(1) Subject to subsection (2), a person commits an offence if he boards or attempts to board a vessel that is wrecked, stranded or in distress without the permission of the master of the vessel.

(2) No offence is committed under subsection (1) if the person is a receiver or a person lawfully acting as a receiver or acting on the command of a receiver or a person so acting.

(3) A person commits an offence if

*(a)* he impedes or hinders the saving of

(i) a vessel that is stranded or in danger of being stranded, or otherwise in distress, on or near a coast or tidal water of Barbados;

(ii) a part of the cargo or equipment of such a vessel; or

(iii) a wreck;

*(b)* he conceals a wreck;

*(c)* he defaces or obliterates a mark on a vessel; or

*(d)* he wrongfully carries away or removes

(i) a part of a vessel that is stranded or in danger of being stranded, or otherwise in distress, on or near a coast or tidal water of Barbados;

(ii) a part of cargo or equipment of such a vessel; or

(iii) a wreck.

(4) The master of a vessel may forcibly repel any person committing or attempting to commit an offence under subsection (1).

(5) A person who commits an offence under this subsection (1) or (3) is liable, on summary conviction to a fine of $10 000.

**Power of entry**

**984.**(1) Where a receiver has reason to believe that

*(a)* a wreck is being concealed by, or is in the possession of, a person who is not its owner; or

*(b)* a wreck is being otherwise improperly dealt with;

he may apply to the High Court for a search warrant.

(2) Where a search warrant is granted under subsection (1) to a receiver, he may, by virtue of the warrant

*(a)* enter any house or other place, or any vessel; and

*(b)* search for, seize and detain any wreck found there.

(3) Where a seizure of wreck is made under this section in consequence of information given by a person to the Receiver of Wreck, the person giving the information shall be entitled, by way of salvage, to such a sum not exceeding $700, as the Principal Receiver of Wreck may allow.

**Release of goods from customs and excise control**

**985.** The Comptroller of Customs shall, subject to taking security for the protection of the revenue in respect of the goods,

*(a)* permit goods saved from a ship stranded or wrecked on its homeward voyage to be forwarded to the port of its original destination; and

*(b)* permit goods saved from a ship stranded or wrecked on her outward voyage to be returned to the port at which they were shipped.

**Powers of port authority**

**986.**(1) Where a vessel is sunk, stranded or abandoned in or near an approach to a port, harbour or tidal water under the control of a port authority in a manner that, in the opinion of that authority, will be, or is likely to be, an obstruction or danger to navigation or to vessels engaged in a service in that port, harbour or water, or the approaches to it, the authority may

*(a)* take possession of, and raise, remove or destroy, the whole or a part of the vessel and any other article or thing forming part of the equipment, cargo, stores or ballast of the vessel;

*(b)* light or buoy the vessel, part of the vessel or any other property referred to in paragraph *(a)* until it is raised, removed or destroyed;

*(c)* subject to subsections (4) and (5), sell, in such manner as the authority thinks fit, the vessel or a part of the vessel that has been raised or removed and any other property referred to in paragraph *(a)* recovered in the exercise of the powers conferred under paragraph *(a)* or *(b)*; and

*(d)* reimburse itself, out of the proceeds of the sale, for expenses incurred by it in relation to the sale.

(2) Any surplus of the proceeds of a sale under subsection (1)*(c)* shall be held by the authority on trust for the persons entitled to it.

(3) Except in the case of property that is of a perishable nature or that would deteriorate in value by delay, no sale shall be made under paragraph (1)*(c)* until at least 7 days' notice of the intended sale has been given by advertisement in a local newspaper circulating in or near the area over which the authority has control

(4) At any time before property is sold under paragraph (1)*(c)*, the owner of the property shall be entitled to have it delivered to him on payment of its fair market value.

(5) The market value of property for the purposes of subsection (4) shall be that agreed to between the authority and the owner or, failing agreement, that determined by a person appointed for the purpose by the Minister.

(6) A sum paid to the authority in respect of any property under subsection (4) shall, for the purposes of this section, be treated as the proceeds of sale of the property.

(7) Any proceeds of sale arising under paragraph (1)*(c)* from the sale of a vessel and any other property recovered from the vessel shall be treated as a common fund.

**Power to pass over adjoining land**

**987.**(1) Subject to subsections (3) and (4), where a vessel is wrecked, stranded or in distress at a place on or near the coasts of Barbados or any tidal water within Barbados, all persons may pass and re-pass over any adjoining land and deposit on the land any cargo or other article recovered from the vessel, without being subject to interruption by the owner or occupier, for the purpose of

*(a)* rendering assistance to the vessel;

*(b)* saving the lives of shipwrecked persons; or

*(c)* saving the cargo or equipment of the vessel.

(2) The right of passage conferred by subsection (1) includes a right of passage with vehicles.

(3) No right of passage is conferred by subsection (1) where access can be gained by an equally convenient public road.

(4) A rights conferred by subsection (1) shall be so exercised as to do as little damage as possible.

(5) Any damage sustained by an owner or occupier of land in consequence of the exercise of the rights conferred by this section shall be a charge on the vessel, cargo or articles in respect of, or by which, the damage is caused.

(6) An amount payable in respect of such damage shall, in case of a dispute, be determined and be recoverable in the same manner as an amount of salvage is determined and recoverable under this Part.

(7) Where the owner or occupier of any land he

*(a)* impedes or hinders any person in the exercise of the rights conferred by this section;

*(b)* impedes or hinders the deposit on the land of any cargo or other article recovered from the vessel; or

*(c)* prevents or attempts to prevent any cargo or other article recovered from the vessel from remaining deposited on the land for a reasonable time until it can be removed to a safe place of public deposit;

he commits an offence and is liable on summary conviction to a fine of $10 000.

**Incoming wreck reports**

**988.** The Receiver of Wreck shall process incoming reports of a wreck in the interest of both the owner and salvor, including researching the ownership of the wreck and liaising with the finder, owner and other interested parties, including the Barbados Museum and Historical Society and Government Departments.

**Receiver to assist in settling in claims**

**989.** In an endeavour to settle salvage claims amicably, the Receiver of Wreck may

*(a)* provide for the payment of what may be due by detaining the property saved;

*(b)* release the property on proper security being given;

*(c)* sell the property, when necessary, to satisfy the claims of salvors; and

*(d)* apportion money paid in satisfaction of salvage claims.

**Reporting formalities**

**990.** The Receiver of Wreck shall maintain a report book, and in every instance in which the Receiver takes possession or custody of goods or articles, whether the wreck or otherwise, the Receiver shall enter them in the report book.

**Notice of wreck to Receiver**

**991.** When a report has been received, the Receiver of Wreck shall, within 72 hours of taking possession of a wreck,

*(a)* ensure that a notice is posted, describing the wreck and any marks that distinguish it, at a place near where the wreck was found;

*(b)* send a similar notice to the Director of the Barbados Museum and Historical Society; and

*(c)* if, in the opinion of the Receiver, the value of the wreck exceeds $20 000, send a report to the Director.

**Statement relating to a shipping casualty**

**992.**(1) Whenever a shipping casualty, including a collision between ships, the foundering of a ship, a missing ship or a fire on a ship, is reported to the Receiver of Wreck he shall advise the Administration immediately and follow up with details in the form of a report.

(2) The Director shall send a marine surveyor to carry out a report on a shipping casualty or request the Receiver of Wreck to carry out the report and take sworn statements, and shall maintain a record of this.

(3) A certified copy of the report and the statements taken under subsection (2) shall be forwarded to the Minister.

**Fees - general**

**993.**(1) The Minister may prescribe fees to be paid to the Receiver of Wreck.

(2) The Receiver of Wreck shall not be entitled to any other payment in carrying out his duties and he will have the same rights in respect of the recovery of expenses or fees that a salvor has in respect of salvage due to him.

(3) Any disputes that arise about the amount of fees or expenses payable to the Receiver will be determined by the Minister, whose decision shall be final.

**Fees Chargeable**

**994.**(1) A fee of $10 will be paid to the Receiver of Wreck for every report sent by him to the Director.

(2) A fee of 7.5 per cent of the value of the wreck will be paid to the Receiver for a wreck taken into custody by him.

(3) Where services are rendered by a Receiver in respect of a ship in distress that is not a wreck, or in respect of the cargo or articles belonging to such a ship, a fee of $100 will be paid to the Receiver by the shipowner or cargo owner, as the case may be, for each day during which the Receiver is employed on that service.

(4) In addition, any fees payable, any expenses incurred by a Receiver will be chargeable.

**Safe deposit of wreck and reports**

**995.**(1) As soon as a wreck is reported and brought to the Receiver of Wreck or otherwise taken possession of by him, he shall deposit it in a place of safe and proper custody, avoiding all unnecessary expense.

(2) The Receiver shall record an accurate description of the wreck and any marks on it in his report book.

**Custody of articles or cargo from wrecked property**

**996.**(1) A person who finds or takes possession of articles or cargo from a wreck in Barbados or finds and takes possession of articles or cargo from a wreck outside Barbados and brings it into Barbados shall

*(a)* if he owns the wreck, give notice to the Receiver of Wreck stating that he has found a wreck or taken possession of it and describe the marks that distinguish it; or

*(b)* if he is not the owner of the wreck, deliver it as soon as possible to the Receiver;

for the purpose of securing the property, preventing theft, providing for the just payment of salvage claims and restoring property to its owners.

(2) If it is necessary to detain the property, the Receiver shall do so and deposit it in a safe place, taking care to avoid all unnecessary expense.

**Wreck or proceeds to be retained for one year**

**997.** The Receiver of Wreck shall not part with or give up possession of a wreck or of the proceeds of its sale for a period of one year from the time the wreck came into the receiver's possession, unless

*(a)* an owner or agent establishes his right to possession and identifies the property to the Receiver's satisfaction; or

*(b)* the Receiver is given a written direction by the Director to give up possession to the owner or underwriters or their agent.

**Proof of ownership**

**998.** The Receiver shall advise owners and underwriters that, with a view to keeping down expenses, it is in their interest to identify their property, to lodge security and to complete their proofs of ownership at an early date.

**Claims of owners**

**999.**(1) When a person establishes a claim to ownership of a wreck to the satisfaction of the Receiver within one year from the time when the wreck came into the Receiver's possession and has paid the salvage, fees and expenses due, the person will be entitled to have possession of the wreck or of the proceeds of sale of the wreck.

(2) A diplomatic agent or a consular officer of a foreign state shall be deemed to be the agent of the owner regarding the custody and disposal of a foreign wreck found in Barbados or brought into a harbour of Barbados where

*(a)* the wreck is a vessel or part of a vessel registered in the foreign state; or

*(b)* the owner of the wreck resides in the foreign state.

**Suspected claim to ownership**

**1000.**(1) If a person claims to retain a wreck as its owner and the Receiver of Wreck has any doubts as to his title, the Receiver shall request the claimant to complete a claim to the wreck or other property in a form prescribed in a Marine Notice and to prove ownership to the satisfaction of the Receiver.

(2) The possession of a wreck by an agent appointed by the owner shall be treated as equivalent to possession of the wreck by the owner.

(3) No person claiming to be the agent of an owner, master or underwriter shall interfere with or to take possession of property in the Receiver's custody under this Act, unless satisfactory evidence of ownership and of the authority of the person claiming has been produced.

**Property proved not to be wreck**

**1001.**(1) The Receiver of wreck shall refuse to accept into his custody property that does not appear to be a wreck.

(2) If property taken into the Receiver's custody is subsequently verified by the claimant not to be wreck, no commission shall be charged on restoring it, but an account of actual expenses necessarily incurred in recovering and protecting it shall be paid by the owners.

(3) If an owner refuses to make a payment under subsection (2), the Receiver need not detain the property, but shall report the particulars of the case to the Director.

**Limitation on power of Receiver**

**1002.**(1) The Receiver of Wreck is not to take possession of or detain property if

*(a)* the master of the vessel is in possession or is able to keep custody of the property, or the owner or an agent of the owner or master can take and keep custody of the property;

*(b)* there are no dutiable articles among the property; and

*(c)* all salvage claims are paid or provided for by proper security.

(2) The Receiver may offer his services explaining his position and office and shall give any assistance that the master, owner or agent may require.

(3) The presence of an agent or the owner who is able to take charge of their property does not relieve the Receiver from attending at the scene of wreck and doing all in his power to prevent any attempt at stealing the property.

**Possession of sunken and abandoned vessels**

**1003.**(1) Where a vessel has sunk off the coast below the low water mark and is afterwards abandoned by its owner, the Receiver of Wreck shall take possession of the vessel.

(2) In order to take possession it will be sufficient for the Receiver, or his nominee, to proceed in a boat to the spot where the vessel is lying and to drop a

lead line over the vessel, declaring at the same time that he takes possession of the vessel by virtue of the powers vested in him by statute.

(3) A record of the transaction shall be kept by the Receiver in his report book and signed by him or his nominee, as the case may be, and the Receiver shall at the same time make a report to the Director.

**Receiver to put fair construction on derelict**

**1004.** In claiming the custody of a wreck, the Receiver of Wreck shall take care to put a fair and proper construction on the term derelict and, where the property is still in the custody or possession of the master or crew or of persons appointed by the master, the Receiver shall not encourage persons improperly claiming possession as salvors or make claims himself to the custody of the property as a wreck.

**Immediate sale of wreck by Receiver**

**1005.** A wreck in the possession of a Receiver of Wreck may, with the prior agreement of the Director of the Barbados Museum and Historical Society, be sold, if in the Receiver's opinion it

*(a)* is valued at less than $10 000;

*(b)* is so damaged, perishable or volatile in nature that it cannot be kept; or

*(c)* is not of sufficient value to pay for storage.

**Disposal of unclaimed wreck**

**1006.**(1) Where a wreck remains unclaimed one year after it came into the Receiver of Wreck's possession, the Receiver shall notify the Director of the Barbados Museum and Historical Society.

(2) The Director of the Barbados Museum and Historical Society shall decide within 30 days whether the wreck or any part of it is of historical, archaeological or artistic importance and notify the Receiver of his decision.

(3) If the Director of the Barbados Museum and Historical Society decides that the wreck or any part of it is of historical, archaeological or artistic importance, the Receiver shall deliver the wreck or part to the Director, who shall retain it on behalf of the Government of Barbados.

(4) Where no owner establishes a claim to a wreck found in Barbados or Barbados waters and in the possession of the Receiver within one year after it came into the Receiver's possession and Director of the Barbados Museum and Historical Society decides that the wreck is not of historical, archaeological or artistic importance, the Receiver shall sell the wreck and

*(a)* deduct from the proceed the expenses of the sale, any other expenses incurred by him and his fees;

*(b)* pay to the salvors the amount of salvage determined in accordance with Article 13 of the Salvage Convention; and

*(c)* pay any remaining proceeds to the Marine Heritage Fund in accordance with national maritime heritage laws.

**Receiver not responsible for property**

**1007.**(1) When a person establishes a claim to ownership of property and the Receiver of Wreck has given up possession of it, whether or not the salvage is paid or security by bond or by cash is lodged, the Receiver is no longer required to look after the property.

(2) An agent who receives property on behalf of his principal shall be responsible for the property and any claim the agent may have shall be settled by his principal.

**Government entitlement to unclaimed wrecks**

**1008.** The Government of Barbados is entitled to an unclaimed wreck and is deemed to be the owner of that wreck.

**Claim by agent**

**1009.**(1) If a person claiming a wreck is an agent, or an owner unknown to the Receiver of Wreck, that person shall complete a form prescribed by the Receiver and published in a Marine Notice, and shall deliver and produce documents in support of the claim according to the directions on the form.

(2) The Receiver shall not deliver up possession of a wreck to an agent or owner unknown to the Receiver before verifying the documents produced as required under subsection (1).

**Whole of property to be taken**

**1010.** When a claim to wrecked property is admitted, the claimant shall take the whole of the property comprised in the claim or pay the expenses of any portion of it that is left by him with the Receiver as not worth claiming.

**Claim after expiration of 12 months**

**1011.** If no claim to a wreck is made within one year after the Receiver obtains possession of it, any subsequent application by or on behalf of the owner shall be referred to the Administration.

**Master as agent for owners of ship and cargo**

**1012.** Where the owner of a ship is responsible for the ship's cargo and the master of the ship has the legal custody of it as the agent of the owner, in the absence of evidence to the contrary, the Receiver of Wreck shall treat the master as the agent of the owner not only of the ship but also of its cargo.

**Humanitarian cargo**

**1013.** Humanitarian cargo donated by Barbados or another state shall not be seized, arrested or detained, if Barbados or the other state, as the case may be, has agreed to pay for salvage services rendered in respect of the cargo.

**Delivery of cargo to Receiver**

**1014.**(1) Where a vessel is wrecked, stranded or in distress at a place on or near the coasts of Barbados, any cargo or other articles belonging to or separated from the vessel that are washed on shore or otherwise lost or taken from the vessel shall be delivered to the Receiver of Wreck.

(2) A person, including an owner, who

*(a)* conceals or keeps possession of cargo or articles referred to in subsection (1); or

*(b)* refuses to deliver the cargo or articles to the Receiver or to any person authorized by the Receiver to require delivery;

commits an offence and is liable on summary conviction to a fine of $10 000.

(3) If necessary, the Principal Receiver or any person authorized by him may take any such cargo or articles by force from a person who refuses to deliver it.

*Division 8*

*Finders of Wrecks*

**Duties of finder of wreck**

**1015.**(1) A person other than the Receiver of Wreck who finds or takes possession of a wreck in Barbados or outside Barbados and brings it into Barbados shall

*(a)* if the person is the owner of the wreck, make a report to the Receiver stating that he has found or taken possession of it and describing the marks that distinguish it; and

*(b)* if the finder is not the owner of the wreck, deliver it, as soon as possible, to

(i) a person claiming the wreck; or

(ii) the Receiver of Wreck.

(2) A person who is not the owner of the wreck and who fails to report a wreck commits an offence and

*(a)* forfeits any claim to salvage; and

*(b)* is liable to pay twice the value of the wreck

(i) if it is claimed, to the owner or to the person entitled to the wreck; or

(ii) if it is unclaimed, to the Receiver on behalf of the Government of Barbados.

(3) Any sum payable under paragraph (2)*(b)* to the owner of the wreck or to a person entitled to the wreck may be recovered as a civil debt.

(4) A person who conceals a wreck or a person other than its owner who keeps possession of a wreck or refuses to deliver a wreck to the Receiver or to a person authorized by the Receiver commits an offence and is liable on summary conviction to a fine of $150 000.

**Payments by National Museum**

**1016.**(1) Where a wreck is requested by the Barbados Museum and Historical Society, the Society shall

*(a)* pay to the Receiver of Wreck any expenses incurred by him and his fees in relation to the wreck or any part of it; and

*(b)* pay to the salvors of the wreck or any part of it a salvage reward determined in accordance with the criteria outlined under Article 13 of the International Convention on Salvage, 1989.

(2) A wreck that the Director of the Barbados Museum and Historical Society decides is of historical, archaeological or artistic importance shall not, in whole or in part, be removed by any person without the approval of that Director.

(3) A person who contravenes subsection (2) commits an offence and is liable on summary conviction to a fine of $300 000 unless it can be shown the act was done

*(a)* in the course of an action to deal with an emergency;

*(b)* out of necessity due to stress of weather or navigational hazards; or

*(c)* out of the need to protect the marine environment.

**Payments by other local museums**

**1017.** The payment regime in this Division applies in respect of a wreck requested by a local museum other than the Barbados Museum and Historical Society.

**No use of auctioneer**

**1018.**(1) Where the Receiver of Wreck sells a wreck, he shall not employ an auctioneer for the purpose.

(2) The Receiver may conduct the sale of a wreck without an auction licence.

**Sales to be advertised**

**1019.**(1) Advertisements of the sale of wrecked goods shall be published in newspapers and online.

(2) The cost of advertising wrecked goods shall not be charged against the proceeds of the sale.

**Reserve bid at sale of wreck**

**1020.** In order to prevent goods from being sold under their value, the Receiver shall fix a fair and reasonable sum as a reserve bid on the part of the Government of Barbados or other party entitled to the proceeds of the sale of unclaimed wreck.

# PART XXIX

# MARINE SALVAGE

**Definition**

**1021.** In this Part,

"Salvage Convention" means the International Convention on Salvage 1989.

**Interpretation**

**1022.** A reference in the Salvage Convention to judicial proceedings shall be read as a reference to proceedings in the High Court and any reference to a tribunal having jurisdiction in judicial proceedings shall be construed accordingly.

**International Convention on Salvage 1989**

**1023.**(1) Subject to this Part, the International Convention on Salvage, 1989 shall have the force of law in Barbados.

(2) Nothing in subsection (1) shall affect any rights or liabilities arising out of salvage operations started or other acts done before the date of commencement of this Part.

(3) As respects any period before the entry into force of the Salvage Convention, a reference in the Salvage Convention to a state party to the Convention shall be read as a reference to Barbados.

**Assistance to persons in danger at sea**

**1024.**(1) The master of a vessel who fails to comply with the duty imposed on him by Article 10, paragraph 1 of the Salvage Convention commits an offence and is liable

*(a)* on summary conviction, to a fine of $75 000 or to imprisonment for a term of 6 months, or both;

*(b)* on conviction on indictment, to a fine of $100 000 or to imprisonment for a term of 2 years, or both.

(2) Compliance by the master of a vessel with that duty shall not affect his right or the right of any other person to a payment under the Salvage Convention or under any contract.

**Reward and special compensation**

**1025.** In fixing a reward under Article 13 of the Salvage Convention and assessing special compensation under Article 14, the court or arbitrator is under no duty to fix a reward under Article 13 up to the maximum salved value of the vessel and other property before assessing the special compensation to be paid under Article 14.

**Recourse for life salvage payment**

**1026.** Where services are rendered wholly or in part in Barbados waters in saving life from a vessel of any nationality, or elsewhere in saving life from a Barbados ship, and

*(a)* the vessel and other property are destroyed; or

*(b)* the sum to which the salvor is entitled under Article 16, paragraph 2 of the Salvage Convention is less than a reasonable amount for the services rendered in saving life;

the Minister may pay to the salvor such a sum or additional sum, as the case may be, as he thinks fit in respect of the services rendered in saving life.

**Evidence of state party**

**1027.** An order made by the Minister under this Part declaring that a state specified in the order is a party to the Salvage Convention in respect of a specified country shall be conclusive evidence that the state is a party to the Salvage Convention in respect of that country.

**Valuation of property by receiver**

**1028.**(1) Where a dispute as to salvage arises, the Receiver of Wreck may, on the application of either party, appoint a valuer to value the property.

(2) When the valuation has been made the Receiver shall give a copy of it to both parties.

(3) A copy of the valuation purporting to be signed by the valuer, and certified as a true copy by the Receiver, shall be admissible as evidence in any subsequent proceedings.

(4) There shall be paid in respect of the valuation by the person applying for it such a fee as the Minister may direct.

**Detention of property liable for salvage**

**1029.**(1) Where salvage is due to a person under this Part, the Receiver of Wreck shall

*(a)* if the salvage is due in respect of services rendered

(i) in assisting a vessel;

(ii) in saving life from a vessel; or

(iii) in saving the cargo and equipment of a vessel; detain the vessel and cargo or equipment; and

*(b)* if the salvage is due in respect of the saving of a wreck and the wreck is not sold as unclaimed under this Part, detain the wreck.

(2) Subject to subsection (3), the Receiver shall detain the vessel and the cargo and equipment, or the wreck, as the case may be, until payment is made for salvage or a process is issued for the arrest or detention of the property by the High Court.

(3) The Receiver may release any property detained under subsection (2), if security is given

*(a)* to his satisfaction; or

*(b)* where

(i) the claim for salvage exceeds $20 000; and

(ii) any question is raised as to the sufficiency of the security;

to the satisfaction of the High Court.

(4) Security given for salvage under this section in an amount exceeding $20 000 may be enforced by the High Court in the same manner as if bail had been given in that court.

**Sale of detained property**

**1030.**(1) The Receiver of Wreck may sell any property detained under section 1028, if the persons liable to pay the salvage in respect of which the property is detained are aware of the detention where

*(a)* the amount is not disputed, and payment of the amount due is not made within 20 days after the amount is due;

*(b)* the amount is disputed, but no appeal lies from the first court to which the dispute is referred and payment is not made within 21 days after the decision of the first court; or

*(c)* the amount is disputed and an appeal lies from the decision of the first court to some other court and within 21 days after the decision of the first court payment of the sum due is not made and proceedings are not commenced for an appeal.

(2) The proceeds of sale of detained property shall, after payment of the expenses of the sale, be applied by the Receiver in payment of the expenses, fees and salvage, and any excess shall be paid to the owners of the property or any other persons entitled to it.

**Apportionment of salvage under $20 000 by Receiver**

**1031.**(1) Where

*(a)* the aggregate amount of salvage payable in respect of salvage services rendered in Barbados waters has been finally determined and does not exceed $20 000; and

*(b)* a dispute arises as to the apportionment of the amount among several claimants;

the person liable to pay the amount may apply to the Receiver of Wreck for leave to pay it to him.

(2) If the Receiver receives an amount under subsection (1), he shall give the person paying it a certificate stating the amount paid and the services in respect of which it is paid.

(3) A certificate under subsection (2) shall be a full discharge and indemnity to the person by whom it was paid, and to his vessel, cargo, equipment and effects, against the claim of any person in respect of the services mentioned in the certificate.

(4) The Receiver shall, with all convenient speed, distribute any amount received by him under this section among the persons entitled to it, on such evidence and in such shares and proportions as he thinks fit.

(5) A decision by the Receiver under subsection (4) shall be made on the basis of the criteria contained in Article 13 of the Salvage Convention.

(6) The Receiver may retain any money that appears to him to be payable to a person who is absent.

(7) A distribution made by the Receiver under this section shall be final and conclusive as against all persons claiming to be entitled to any part of the amount distributed.

**Apportionment of salvage by the court**

**1032.**(1) Where

*(a)* the aggregate amount of salvage payable in respect of salvage services rendered in Barbados waters has been finally determined and exceeds $20 000; or

*(b)* the aggregate amount of salvage payable in respect of salvage services of any amount rendered outside Barbados has been finally determined;

the High Court may, if a delay or dispute arises as to the apportionment of the amount, apportion the amount of salvage among the persons entitled to it in such manner as it thinks just.

(2) A decision of the High Court under this section shall be made on the basis of the criteria contained in Article 13 of the Salvage Convention.

(3) For the purpose of making an apportionment, the High Court may

*(a)* appoint a person to carry the apportionment into effect;

*(b)* compel a person in whose hands or under whose control the amount may be to distribute it or to pay it into court to be dealt with as the Court directs; and

*(c)* issue such processes as it thinks fit.

**Salvage by or on behalf of the Government**

**1033.**(1) Where salvage services are rendered by or on behalf of the Government of Barbados, whether in right of the Government of Barbados or otherwise, the Government shall be entitled to claim salvage in respect of those services to the same extent as any other salvor, and shall have the same rights and remedies in respect of those services as any other salvor

(2) No claim for salvage services by the commander or crew of a Government of Barbados ship shall be finally adjudicated upon without the consent of the Minister to the prosecution of the claim.

(3) Any document purporting to give the consent of the Minister for the purposes of subsection (2) and to be signed by an officer of the Administration shall be evidence of that consent.

(4) If a claim is prosecuted without the consent required by subsection (2), the claim shall be dismissed with costs.

## PART XXX

## SHIPPING GOVERNANCE

### IMO Instruments Implementation Code

**1034.**(1) The Administration shall ensure that the operation of its maritime functions in respect of flag, port and coastal state obligations are in accordance with the International Maritime Organization Instruments Implementation Code, and meet the audit standards for the mandatory International Maritime Organization member state audit scheme.

(2) In order for Barbados to meet the objective of the Code, the Administration shall develop and put into place a strategy based upon its statement of policy, including measures for

*(a)* implementation and enforcement of relevant international mandatory instruments;

*(b)* adherence to international recommendations, as appropriate;

*(c)* continuous review and verification of the effectiveness of Barbados in respect of meeting its international obligations; and

*(d)* the achievement, maintenance and improvement of overall organizational performance and capability.

(3) The Administration shall

*(a)* communicate its strategy, including information on national legislation, to concerned parties;

*(b)* assign responsibilities to the relevant government bodies to update and revise any relevant policies adopted, as necessary; and

*(c)* establish resources and processes capable of providing administrative instructions to implement applicable international rules and regulations and develop and disseminate any interpretative national regulations, as necessary.

(4) The Administration shall periodically publish and update, through Marine Notices to owners and masters, a list of the national standards established by the Administration, and all international treaties, conventions, protocols, regulations and agreements that have come into force and to which Barbados is a party or has declared a national standard.

(5) The Administration shall publish and periodically update, for the attention of all parties involved in the management and operation of ships entitled to fly the flag of Barbados, the policy, goals and measures to be taken toward the effective and efficient implementation of

*(a)* mandatory instruments; and

*(b)* other International Maritime Organization instruments as may be included by the Organization into the International Maritime Organization member state audit scheme from time to time.

(6) In addition to the instruments given the force of law under this Act, owners and masters shall ensure that their vessels are in compliance with the requirements of all applicable international treaties, conventions, protocols, codes and agreements that have come into force and to which Barbados is a party and all applicable national standards.

(7) In addition to the instruments given the force of law under this Act, yachts shall be subject to all applicable international treaties, conventions, protocols,

codes and agreements that have come into force and to which Barbados is a party, and all applicable national standards and codes.

**Barbados-IMO Compliance Monitoring Program**

**1035.**(1) There is established a program to be known as the Barbados-IMO Compliance Monitoring Program for the purpose of

*(a)* conducting annual maritime performance audits of Barbados in relation to maritime safety, maritime security, marine environmental protection and maritime labour welfare;

*(b)* determining the extent that Barbados meets the obligations imposed upon it through its adoption of international maritime instruments to which it is Party; and

*(c)* assessing the effectiveness of the implementation of these objectives.

(2) The Barbados-IMO Compliance Monitoring Program shall be guided by

*(a)* critical areas identified in the IMSAS audit regime;

*(b)* a corrective action plan specific to Barbados stemming from a recent audit of Barbados by the International Maritime Organization; and

*(c)* reports and recommendations submitted to the Administration in relation to the program by the National Maritime Performance Audit Committee.

(3) The Administration shall make every effort to remedy any deficiencies identified in an annual maritime performance audit.

**Establishment of National Maritime Performance Audit Committee**

**1036.**(1) There is established a committee to be known as the National Maritime Performance Audit Committee.

(2) The *Ninth Schedule* shall have effect with respect to the constitution of the National Maritime Performance Audit Committee and otherwise in relation thereto.

(3) The Committee shall develop and implement the Barbados-IMO Compliance Monitoring Program.

(4) The Committee shall submit reports to the Minister within 3 months after the completion of an annual maritime performance audit.

**Flag state control enforcement measures**

**1037.**(1) Barbados-flagged ships shall be subject to flag state inspections, in accordance with this Act and the regulations.

(2) Barbados-flagged ships shall be surveyed and certified for continued compliance with international maritime safety, security and environmental performance standards, in accordance with this Act and the regulations.

**Flag state obligations and responsibilities**

**1038.** The Administration, in developing and implementing maritime policies, legislation, associated rules, regulations and administrative procedures, shall, to ensure continued compliance by Barbados ships with International Maritime Organization instruments to which Barbados is party, continually address the following areas in respect of Barbados-flagged ships

*(a)* flag state control measures;

*(b)* the role and operation of the Administration;

*(c)* flag state enforcement arrangements;

*(d)* the control, survey, inspection, audit, verification, approval and certification functions;

*(e)* the selection, recognition, authorization, empowerment and monitoring of recognized organizations and nominated surveyors;

*(f)* investigations required to be reported to the International Maritime Organization; and

*(g)* reporting to International Maritime Organization and other administrations.

**Record-keeping**

**1039.** The Administration shall establish and maintain

*(a)* records of evidence of conformity with International Maritime Organization requirements and the effective operation of ships in accordance with those requirements; and

*(b)* procedures to define controls and responsibilities within departments of the Administration.

**Port state obligations and responsibilities**

**1040.** Foreign-flagged ships, when in a port or any place designated and publicized as a port in Barbados waters, shall be subject to port state inspections in accordance with this Act and any statutory instruments made thereunder.

**Coastal state control - obligations and responsibilities**

**1041.**(1) Foreign-flagged ships remaining in or transiting through Barbados' waters shall be subject to coastal State controls.

(2) The Administration, in consultation with relevant entities, shall establish and maintain effective coastal state control mechanisms and monitoring systems in relation to

*(a)* radio communication services;

*(b)* meteorological services and warnings;

*(c)* hydrographic services;

*(d)* ships' routing;

*(e)* ship reporting systems;

*(f)* vessel traffic services;

*(g)* aids to navigation;

*(h)* coastal and marine environmental protection; and

*(i)* any other matters falling within the purview of coastal State control.

(3) Notwithstanding the general application of this Act to vessels above 150GT, this section applies to vessels irrespective of size.

**Improvement measures**

**1042.** The Administration shall

*(a)* establish systems and mechanisms to ensure continual improvement of measures put in place to give effect to the International Maritime Organization instruments to which Barbados is party;

*(b)* establish systems and mechanisms for detecting and eliminating causes for non-compliance through internal audits;

*(c)* mobilize adequate human resources to execute flag, port and coastal state control functions in relation to the various International Maritime Organization instruments to which Barbados is party; and

*(d)* put effective mechanisms in place to monitor, evaluate and continuously improve maritime safety, security, environmental protection and maritime labour standards at the national level.

**Competent authorities - flag state control**

**1043.**(1) The Administration, in collaboration with the Barbados Maritime Ships' Registry, is the competent authority in respect of matters concerning Barbados vessels.

(2) The following persons are competent authorities authorized to act on behalf of the Administration

*(a)* the Principal Registrar;

*(b)* flag state control officers;

*(c)* Administration-nominated recognized organizations and marine surveyors;

*(d)* ship superintendents; and

*(e)* harbour masters.

**Competent authorities - port state control**

**1044.** The following are competent authorities in respect of port state control matters

*(a)* the Administration;

*(b)* authorized agents of the Administration, including Administration-designated port state control officers;

*(c)* authorized officers of a local seaport, including the harbour master, other port officers and customs and port health officials; and

*(d)* maritime law enforcement officers.

**Competent authorities - coastal state control**

**1045.** The following are competent authorities in respect of coastal state control matters

*(a)* the Administration;

*(b)* the Coastal Zone Management Unit;

*(c)* the Fisheries Division;

*(d)* the Environmental Protection Department of the Ministry responsible for Environment;

*(e)* Barbados Port Inc.;

*(f)* maritime law enforcement; and

*(g)* any other entity specified in a marine notice by the Administration.

**Coastal state control over vessels without nationality**

**1046.**(1) A maritime law enforcement officer may authorize the exercise maritime powers accorded to such officers in relation to a vessel if

*(a)* the vessel is not flying the flag of a state; or

*(b)* the officer suspects, on reasonable grounds, that the vessel

(i) has been flying the flag of more than one state, and swapping them according to convenience, in contravention of Article 92 of the United Nations Convention on the Law of the Sea;

(ii) is flying the flag of a state that she is not entitled to fly; or

(iii) is not entitled to fly the flag of any state.

(2) The powers of maritime law enforcement officers extend to boarding a vessel referred to in subsection (1) if

*(a)* the master of the vessel fails, upon request, to make a valid claim of registry;

*(b)* a claim of registry is denied by the state whose registry is claimed;

*(c)* the master of the vessel makes a claim of registry that is not confirmed by that state; or

*(d)* the vessel claims the nationality of a state not recognized by the boarding or apprehending state.

(3) Notwithstanding the general application of this Act to vessels above 150 GT, this section applies to vessels irrespective of size, provided such vessels without nationality are in Barbados waters.

**Failure to consider international obligations**

**1047.**(1) The exercise of a power to give an authorization under this Part is not invalid

*(a)* because of a failure to consider Barbados' international obligations or the international obligations or domestic law of another country;

*(b)* because of a defect in the consideration of Barbados' international obligations or the international obligations or domestic law of another country; or

*(c)* because the exercise of the power is inconsistent with Barbados' international obligations.

(2) Subsection (1) is not to be interpreted to imply that the exercise of a power under any other provision of this Act is invalid for a reason specified in paragraph (1)*(a)*, *(b)* or *(c)*.

**When authorizations are in force**

**1048.**(1) An authorization granted under section 1045 is in force until it is spent or it lapses.

(2) An authorization is spent when the continuous exercise of powers under the authorization ends.

(3) An authorization lapses if powers have not been exercised under the authorization within 72 hours after it is given.

**Form of authorization**

**1049.**(1) An authorization need not be in writing.

(2) An authorization in writing is not a legislative instrument.

**Semi-submersibles**

**1050.** For the purposes of section 1045, a semi-submersible is deemed to be a vessel without nationality and thus subject to Barbados' jurisdiction.

**Virtual vessel surveys**

**1051.**(1) Vessel surveys capable of being conducted virtually may be conducted in respect of any Barbados-registered vessel by

*(a)* an international classification society;

*(b)* a recognized organization; or

*(c)* a flag state control officer.

(2) Where a vessel survey is incapable of being conducted virtually, it shall be conducted physically.

(3) A survey certificate may be issued in respect of any vessel that was surveyed and verified to be compliant with the applicable

*(a)* maritime safety, security, marine environmental performance standards under this Act and the regulations;

*(b)* maritime labour safety standards stipulated in the Maritime Labour Convention, 2006; and

*(c)* vessel emissions control and energy efficiency standards under the *Marine Transport (Emissions Control) Act, 2024* (Act 2024-25) and the regulations made under it.

(4) Where a vessel is found to be deficient in one or more aspects following a virtual survey, the vessel shall not be issued a certification until the deficiency is corrected.

(5) Evidence of a virtual vessel survey and its outcome shall be properly documented.

**Remote port state control inspections**

**1052.**(1) A designated port state control officer of the Administration or maritime law enforcement officer may carry out port state control inspections virtually in respect of any vessel in Barbados' jurisdiction to verify that

*(a)* the condition of the vessel and its equipment comply with International Maritime Organization maritime safety, security and environmental performance standards;

*(b)* in the case of maritime labour safety standards, the maritime labour protection requirements as stipulated under the Maritime Labour Convention, 2006 are complied with; and

*(c)* the vessel is manned and operated in compliance with the applicable International Maritime Organization instruments.

(2) Where a port state control inspection is incapable of being conducted virtually, it shall be conducted physically.

(3) Evidence of a virtual port state control inspection and its outcome shall be properly documented.

(4) To expedite port state control inspections, vessels shall submit their International Maritime Organization safety and environmental related documentation prior to arriving in Barbados through the Maritime Single Window in accordance with the *Facilitation of International Maritime Traffic Act, 2024* (Act 2024-2) and the regulations.

# PART XXXI

# INSPECTIONS, ENFORCEMENT AND POWERS

## *Division 1*

## *General*

### Power to require production of ships' documents

**1053.**(1) The powers conferred by this section may be exercised in relation to Barbados ships and foreign ships in Barbados' waters, and are available to any of the following officers whenever there is reason to suspect that this Act or any statutory instruments made thereunder, *Marine Transport (Emissions Control) Act, 2024* (Act 2024-25), or any other enactment concerning merchant ships is not complied with

*(a)* a port state control officer;

*(b)* a flag state control officer;

*(c)* a surveyor of ships;

*(d)* a commissioned naval officer;

*(e)* a Barbados consular officer;

*(f)* the Principal Registrar or a person discharging his functions;

*(g)* a duly authorized officer of customs, port or port health;

*(h)* a ship superintendent; and

*(i)* a person appointed as an inspector by the Minister for the purposes of this Act and the regulations, generally or for the purposes of specific aspects of this Act and the regulations.

(2) A person referred to in subsection (1) may exercise a power to

*(a)* require the owner, master or any member of the crew to produce an official logbook or other document relating to the crew or a member of the crew in his possession or control;

*(b)* require the master to produce a list of all persons on board his ship, and take copies of or extracts from the official log-books or other such documents;

*(c)* muster the crew; and

*(d)* require the master to appear and give an explanation concerning the ship or her crew or the official log-books or documents produced or required to be produced.

(3) A person who, on being required by an officer under this section to produce a log-book or other document, fails without reasonable excuse to produce the log-book or document commits an offence and is liable on summary conviction to a fine of $3 000.

(4) A person who is required by an officer under this section

*(a)* to produce a log-book or document and refuses to allow the log-book or document to be inspected or copied;

*(b)* to muster the crew and impedes the muster; or

*(c)* to give any explanation and refuses or neglects to give the explanation or knowingly misleads or deceives the officer;

commits an offence and is liable on summary conviction to a fine of $10 000.

**Power to require ships to be moved**

**1054.**(1) The powers conferred by this section shall not be exercisable where a ship in Barbados waters

*(a)* is a foreign ship calling at a port in Barbados or on a voyage to an offshore terminal in Barbados, or otherwise lawfully in Barbados; or

*(b)* is not a ship referred to in paragraph *(a)* but appears to the Minister to be exercising the right of innocent passage.

(2) Subject to subsection (3), the Minister may, for a purpose referred to in subsection (4), give directions to the owner of a ship, a person in possession of ship or the master of a ship, requiring

*(a)* that the ship is to be moved, or is to be removed from a specified area or locality or from Barbados waters; or

*(b)* that the ship is not to be moved to a specified place or area within Barbados waters, or over a specified route within Barbados waters.

(3) The power of the Minister under subsection (2)*(a)* to require a ship to be removed from Barbados waters is not exercisable in relation to a Barbados ship.

(4) A power under subsection (2) may be exercised for the purpose of

*(a)* securing the safety of the ship or of other ships, of persons on the ship or other ships, of any other persons or property, or of preventing or reducing any risk to that safety; or

*(b)* preventing or reducing pollution in Barbados or in Barbados waters, or of preventing or reducing any risk of such pollution.

(5) If, in the opinion of the Minister, the powers conferred by subsection (2) are, or have proved to be, inadequate for a purpose referred to in subsection (4), the Minister, or a person authorized by the Minister, may for that purpose take any such action as he has power to require to be taken by a direction under this section.

(6) Every person concerned with compliance with directions given, or with action taken, under this section shall use his best endeavours to avoid any risk to human life.

(7) An action taken respecting a ship that is under arrest or respecting the cargo of such a ship, pursuant to a direction given under this section

*(a)* does not constitute contempt of court; and

*(b)* does not make the Admiralty Marshal of the High Court liable in any civil proceedings.

(8) In this section, unless a contrary intention appears, "specified" in relation to a direction under this section, means specified by the direction.

**Offences**

**1055.**(1) A person to whom a direction is given under section 1053 who fails to comply with a requirement of the direction commits an offence.

(2) A person commits an offence who intentionally obstructs a person who is

*(a)* acting on behalf of the Minister in connection with the giving or service of a direction under section 1053;

*(b)* acting in compliance with a direction under that section; or

*(c)* acting under section 1053(6) or (7).

(3) In proceedings for an offence under subsection (1), it shall be a defence for the accused to prove that he has used all due diligence to ensure compliance with the direction, or that he had reasonable cause for believing that compliance with the direction would have involved a serious risk to human life.

(4) A person who commits an offence under this section is liable

*(a)* on summary conviction, to a fine of $100 000; or

*(b)* on conviction on indictment, to a fine of $300 000.

**Service of directions**

**1056.**(1) If the Minister is satisfied that a company or other body is not one to which the *Companies Act*, Cap. 308, applies so as to authorize the service of a direction under that Act, he may give a direction under section 1053 to that company or body, as the owner of, or the person in possession of, a ship, by serving the direction on the master of the ship.

(2) For the purpose of giving or serving a direction under section 1053 to or on any person on a ship, a person acting on behalf of the Minister may go on board the ship.

**Power to inspect ships and their equipment**

**1057.**(1) For the purpose of ensuring that this Act or the regulations, or that the terms of an approval, license, consent, direction or exemption given by virtue of the regulations, are complied with,

*(a)* a surveyor of ships;

*(b)* a ship superintendent;

*(c)* a designated port state control officer; or

*(d)* a person appointed by the Minister, either generally or in a particular case, to exercise powers under this section;

may at all reasonable times go on board a ship and inspect the ship and her equipment or any part of it, any articles on board and any document carried in the ship in accordance with this Act or the regulations.

(2) The powers conferred by subsection (1) are not exercisable in relation to a foreign-registered ship while the ship is exercising the right of innocent passage.

(3) The powers conferred by subsection (1) are exercisable in relation to a Barbados ship outside Barbados' waters and may also be so exercised by a proper officer.

(4) A person exercising powers under this section shall not unnecessarily detain or delay a ship but may, if he considers it necessary in consequence of an accident or for any other reason, require a ship to be taken into dock for a survey of the ship's hull or machinery.

(5) Where a person referred to in subsection (1) has reasonable grounds for believing that there are on any premises provisions or water intended for supply to a Barbados ship that, if provided on the ship, would not be in accordance with

the safety requirements in accordance with international maritime safety requirements or regulations on provisions and water to be provided on ships, he may enter the premises and inspect the provisions or water for the purpose of ascertaining whether they would be in accordance that Act.

(6) A person who obstructs another person in the exercise of his powers under this section or who fails to comply with subsection (4) commits an offence and is liable on summary conviction to a fine of $10 000.

**Powers of inspectors in relation to premises and ships**

**1058.**(1) The powers conferred by this section may be exercised in relation to

*(a)* any premises in Barbados; or

*(b)* any Barbados ship in any place and any other ship present in Barbados or in Barbados waters.

(2) An inspector may, for the purpose of performing his functions under section 1056,

*(a)* at any reasonable time or, in a situation that in his opinion is or may be dangerous, at any time

(i) enter any premises, or

(ii) board any ship,

if he has reason to believe that it is necessary for him to do so;

*(b)* on entering any premises or on boarding a ship in accordance with paragraph *(a)*, take with him any other person authorized for the purpose by the Director, and any equipment or materials he requires;

*(c)* make such an examination and investigation as he considers necessary;

*(d)* give a direction requiring that the premises or ship, any part of the premises or ship, or anything in the premises or ship, be left undisturbed, whether generally or in particular respects, for so long as

is reasonably necessary for the purposes of an examination or investigation;

*(e)* take such measurements and photographs and make such recordings as he considers necessary for the purpose of an examination or investigation;

*(f)* take samples of any articles or substances found in the premises or ship and of the atmosphere in or in the vicinity of the premises or ship;

*(g)* in the case of any article or substance that he finds in the premises or ship that appears to him to have caused or to be likely to cause danger to health or safety, cause it to be dismantled or subjected to any process or test, but not so as to damage or destroy it unless it is necessary in the circumstances;

*(h)* in the case of an article or substance referred to in paragraph *(g)*, take possession of it and detain it for so long as is necessary

(i) to examine it and do to it anything that he has power to do under that paragraph;

(ii) to ensure that it is not tampered with before his examination of it is completed; or

(iii) to ensure that it is available for use as evidence in any proceedings for an offence under this Act or any instrument made under it;

*(i)* require any person who he has reasonable cause to believe is able to give information relevant to an examination or investigation

(i) to attend at a place and time specified by the inspector;

(ii) to answer, in the absence of persons other than persons whom the inspector may allow to be present and a person nominated to be present by the person on whom the requirement is imposed, such questions as the inspectors thinks fit to ask; and

(iii) to sign a declaration of the truth of his answers;

*(j)* require the production, and inspect and take copies, of any entry in

(i) a book or document required to be kept under this Act;

(ii) any other book or document that he considers it necessary for him to see for the purposes of any examination or investigation; and

*(k)* require any person to afford him such facilities and assistance with respect to any matters or things within that person's control or in relation to which that person has responsibilities as the inspector considers are necessary to enable him to exercise the powers conferred on him under this section.

(3) Nothing in this section authorizes a person to unnecessarily prevent a ship from proceeding on a voyage.

(4) The Minister may make regulations providing for the procedure to be followed in connection with the taking of samples under paragraph (2)*(f)* and subsection (7) and providing for the way in which samples that have been taken are to be dealt with.

(5) Where an inspector proposes to exercise a power conferred under paragraph (2)*(g)* in relation to an article or substance found in any premises or ship, he shall, if so requested by a person who at the time is present in, and has responsibilities in relation to, the premises or ship, cause anything that is to be done by virtue of that power to be done in the presence of that person unless the inspector considers that that person's presence would be prejudicial to the safety of that person.

(6) Before exercising the power under paragraph (2)*(g)*, an inspector shall consult such persons as appear to him appropriate for the purpose of ascertaining what dangers, if any, there may be in doing anything that he proposes to do under that power.

(7) Where under the power conferred under paragraph (2)*(h)* an inspector takes possession of an article or substance found in any premises or ship, he shall leave there with a responsible person or, if that is impracticable, fixed in a conspicuous position, a notice giving particulars of the article or substance

sufficient to identify it and stating that he has taken possession of it under that power.

(8) Before taking possession of a substance under paragraph (2)*(h)*, an inspector shall, if it is practicable for him to do so, take a sample of the substance and give to a responsible person at the premises or on board the ship a portion of the sample marked in a manner sufficient to identify it.

(9) No answer given by a person pursuant to a requirement imposed under paragraph (2)*(i)* shall be admissible in evidence against that person or the husband or wife of that person in any proceedings except proceedings under section 1058(1)*(c)* in respect of a statement in or a declaration relating to the answer.

(10) A person referred to in paragraph (2)*(i)* shall be entitled, on the occasion on which questions are asked, to make representations to the inspector.

**Offences**

**1059.**(1) A person commits an offence who

*(a)* intentionally obstructs an inspector in the exercise of a power under section 1057;

*(b)* without reasonable excuse, does not comply with a requirement imposed under section 1057 or prevents another person from complying with such a requirement; or

*(c)* makes a statement or signs a declaration that he knows is false, or recklessly makes a statement or signs a declaration that is false, in purported compliance with a requirement made under section 1057(2)*(i)*.

(2) A person who commits an offence under subsection (1) is liable

*(a)* on summary conviction, to a fine of $50 000; or

*(b)* on conviction on indictment to a fine of $75 000 and to imprisonment for a term of one year.

(3) On an order for discovery in a court action, nothing in section 1057 shall be taken to compel the production by a person of a document that he would be entitled to withhold on grounds of legal professional privilege.

(4) A person who complies with a requirement imposed on him under section 1057(2)*(i)*, *(j)* or *(k)* shall be entitled to recover from the person who imposed the requirement the amount of any expenses incurred in complying with the requirement as may be prescribed.

(5) Any payments under subsection (4) shall be made out of the Consolidated Fund.

**Improvement notice**

**1060.**(1) Where an inspector is of the opinion that a person

*(a)* is contravening a relevant statutory provision; or

*(b)* has contravened one or more of those provisions in circumstances that make it likely that the contravention will continue or be repeated;

he may serve on that person an improvement notice.

(2) An improvement notice shall

*(a)* state that the inspector is of the opinion referred to in subsection (1) *(b)*, specify the provision or provisions in relation to which he has reached that opinion and give the reasons why he is of that opinion; and

*(b)* require the person on whom the notice is served to remedy the contravention in question or the matters occasioning it within a period specified in the notice.

(3) The period specified under subsection (2)*(b)* shall not expire before the end of the period within which a notice can be given under section 1062 requiring questions relating to the improvement notice to be referred to arbitration.

**Prohibition notice**

**1061.**(1) Where an inspector is of the opinion that an activity to which a relevant statutory provision applies is being, or is likely to be, carried on board a ship by or under the control of a person and involves or will involve a risk of serious personal injury to any other person, whether on board the ship or not, the inspector may serve on the person a prohibition notice.

(2) A prohibition notice shall

*(a)* state that the inspector is of the opinion referred to in subsection (1);

*(b)* specify the matters that in his opinion give or will give rise to the risk;

*(c)* where in his opinion any of those matters involve or will involve a contravention of a relevant statutory provision, state that he is of that opinion, specify the provision or provisions in relation to which he is of that opinion and give the reasons why he is of that opinion; and

*(d)* direct

(i) that the activity to which the notice relates shall not be carried on by or under the control of the person on whom the notice is served;

(ii) that the ship shall not go to sea; or

(iii) both;

unless the matters specified in the notice and any associated contravention of a specified provision have been remedied.

(3) A direction contained in a prohibition notice under paragraph (2)*(d)* shall take effect

*(a)* at the end of a period specified in the notice; or

*(b)* if the direction is given under subparagraph (2)*(d)*(ii) or the notice so declares, immediately.

**Directed measures**

**1062.**(1) An improvement notice or a prohibition notice may include directions as to the measures to be taken to remedy a contravention or matter to which the notice relates, and afford the person on whom the notice is served a choice between different ways of remedying the contravention or matter.

(2) An improvement notice or a prohibition notice shall not direct any measures to be taken to remedy the contravention of a relevant statutory provision that are more onerous than those necessary to secure compliance with that provision.

(3) Where an improvement notice or a prohibition notice that is not to take immediate effect has been served

*(a)* the notice may be withdrawn by an inspector at any time before the end of the period specified in it under section 1060(2)*(b)* or section 1061; and

*(b)* such a period may be extended or further extended by an inspector at any time when a referral to arbitration in respect of the notice is not pending under section 1063.

**Referral of notice to arbitration**

**1063.**(1) A person on whom an improvement notice or a prohibition notice was served may, by a notice given to the inspector within 21 days from the service of the notice, refer to a single arbitrator appointed by agreement between the parties any question

*(a)* as to whether a reason or matter specified in an improvement notice or a prohibition notice constituted a valid basis for an opinion formed by an inspector; or

*(b)* as to whether directions included in a notice under section 1061(1) were reasonable.

(2) Where a notice is given by a person in accordance with subsection (1),

*(a)* in the case of an improvement notice, the giving of the notice shall have the effect of suspending the operation of the improvement notice until the decision of the arbitrator is published to the parties or the referral is abandoned by that person; and

*(b)* in the case of a prohibition notice, the giving of the notice shall have the effect of suspending the operation of the prohibition notice in the same manner if, on the application of that person, the arbitrator so directs.

(3) Where, on a referral under this section, an arbitrator decides that

*(a)* a reason or matter to which the reference relates did not constitute a valid basis for the inspector's opinion; or

*(b)* the direction was unreasonable;

he shall either cancel the notice or affirm it with such modifications as he sees fit or affirm the notice in its original form.

(4) A person shall not be appointed as an arbitrator under this section unless he is

*(a)* a person holding an unrestricted certificate of competency as a master mariner or as a chief engineer officer, or a person holding a certificate equivalent to such a certificate;

*(b)* a naval architect;

*(c)* a person with at least 10 years standing as an attorney at law; or

*(d)* a person with special experience of shipping matters or of activities carried on in ports.

(5) In connection with his functions under this section, an arbitrator shall have the powers conferred on an inspector by section 1057(3).

**Compensation - invalid prohibition notice**

**1064.**(1) Where on a reference under section 1063 relating to a prohibition notice

*(a)* the arbitrator decides that a reason or matter did not constitute a valid basis for the inspector's opinion; and

*(b)* it appears to him that there were no reasonable grounds for the inspector to form that opinion;

the arbitrator may, subject to subsection (3), award the person on whom the notice was served such compensation in respect of any loss suffered by him in consequence of the service of the notice as the arbitrator thinks fit.

(2) Where on any such reference the arbitrator decides that a direction included in the notice was unreasonable, the arbitrator may, subject to subsection (3), award the person on whom the notice was served such compensation in respect of any loss suffered by him in consequence of the direction as the arbitrator thinks fit.

(3) An arbitrator shall not award compensation under subsection (1) or (2) unless

*(a)* it appears to him that a direction given under section 1060 or 1061 contained a requirement that the ship shall not go to sea; or

*(b)* it appears to him that

(i) the inspector was of the opinion that there would be a risk of injury referred to in the notice if the ship went to sea; and

(ii) the effect of the direction given under section 1060 or 1061 was to prohibit the departure of the ship unless the matters or contraventions referred to in the direction were remedied.

(4) Any compensation awarded under this section shall be payable out of the Consolidated Fund.

**Offences-improvement and prohibition notices**

**1065.**(1) A person who contravenes a requirement imposed by an improvement notice commits an offence and is liable

*(a)* on summary conviction to a fine of $20 000; or

*(b)* on conviction on indictment to a fine of $50 000.

(2) A person who contravenes a prohibition imposed by a prohibition notice commits an offence and is liable

*(a)* on summary conviction to a fine of $30 000; or

*(b)* on conviction on indictment to a fine of $75 000 or to imprisonment for a term of 2 years, or both.

(3) It shall be a defence for a person charged with an offence under this section to prove that he exercised all due diligence to avoid a contravention of the requirement or prohibition in question.

(4) In this section, a reference to an improvement notice or a prohibition notice includes a reference to such a notice as modified under section 1062.

*Division 2*

*Marine Environmental-related Inspections and Enforcement*

**Application**

**1066.** This Division applies to inspections and enforcement under Part XXV.

**Power to require information**

**1067.**(1) If

*(a)* a foreign ship is navigating in the territorial sea, contiguous zone or exclusive economic zone of Barbados; and

*(b)* there are clear grounds for believing that an act or omission that constitutes a contravention of this Act has occurred in relation to the ship while in the exclusive economic zone;

an officer of the Administration or a maritime law enforcement officer may require the master of the ship to provide the information referred to in subsection (2).

(2) The following information may be required

*(a)* the ship's identity;

*(b)* its port of registry;

*(c)* its last port of call;

*(d)* its next port of call; and

*(e)* such other relevant information required to establish whether the contravention occurred.

**Powers of maritime law enforcement and port state control officers**

**1068.**(1) For the purpose of ascertaining

*(a)* whether a provision of this Act that is applicable in relation to a Barbados ship or a foreign ship in Barbados' waters has been complied with;

*(b)* whether there has been a discharge from the ship in contravention of this Act;

*(c)* whether a provision of the International Maritime Organization marine pollution prevention conventions incorporated under Part XXV that is applicable in relation to a foreign ship has been complied with;

*(d)* whether a provision of a law of a country other than Barbados giving effect to the International Maritime Organization marine pollution prevention conventions that is applicable in relation to a foreign ship has been complied with; or

*(e)* whether a potential or actual offence in relation to Barbados' sanitary laws or has been, or may be, committed in Barbados waters;

a maritime law enforcement officer or port state control officer may exercise the powers referred in subsection (2).

(2) In the circumstances set out in subsection (1), a maritime law enforcement officer or port state control officer may

*(a)* go on board the ship with such assistants and equipment as he considers necessary;

*(b)* require the master of the ship to take such steps as the inspector directs to facilitate the boarding;

*(c)* inspect and test machinery or equipment of the ship;

*(d)* require the master of the ship to take such steps as the inspector directs to facilitate the inspection or testing of machinery or equipment of the ship;

*(e)* open, or require the master of the ship to open, a hold, bunker, tank, compartment or receptacle in or on board the ship and inspect the contents of a hold, bunker, tank, compartment or receptacle in or on board the ship;

*(f)* require the master of the ship to produce a record book required by this Act to be carried in the ship or any other books, documents or records relating to the ship or its cargo that are carried in the ship;

*(g)* make copies of, or take extracts from, any such books, documents or records;

*(h)* require the master of the ship to certify that a true copy of an entry in a record book required by this Act to be carried in the ship made by the inspector is a true copy of such an entry;

*(i)* require the master of the ship to produce any substances on board the ship or under the ship's control;

*(j)* intervene in the contiguous zone of Barbados to prevent potential sanitary-related offences that may otherwise occur in the territorial sea;

*(k)* apprehend vessels in the contiguous zone of Barbados that have committed sanitary-related offences inside the territorial sea of Barbados and are endeavouring to escape;

*(l)* examine, and take samples of, any substances on board the ship or under the ship's control; and

*(m)* require a person to answer questions.

(3) This section does not authorize the inspection of a foreign ship navigating in the exclusive economic zone of Barbados if the inspection is in respect of an act or omission, or possible act or omission, in relation to the ship while in the exclusive economic zone unless

*(a)* there are clear grounds for believing that the act or omission was a substantial discharge or disposal causing or threatening to cause significant pollution of the marine environment; and

*(b)* a requirement for information under section 1066 has not been complied with, or information supplied purportedly in compliance with such a requirement is manifestly at variance with the evident factual situation.

(4) A person who fails to comply with a requirement made of the person by an officer under subsection (1) commits an offence and is liable on summary conviction to a fine of $15 000.

(5) A person who, in answering a question that the person is required to answer under subsection (1), makes a statement that is false or misleading in a material particular commits an offence and is liable on summary conviction to a fine of $200 000.

(6) An officer shall not, in exercising a power under subsection (1), unnecessarily delay a ship from going to sea.

(7) An offence under subsection (3) is a strict liability offence.

(8) Subsection (3) does not apply if the person has a reasonable excuse.

**Detention of foreign ships for pollution breaches**

**1069.**(1) A foreign ship may be detained if

*(a)* the ship is voluntarily at a port in Barbados and there are clear grounds for believing that a pollution breach has occurred as a result of acts or omissions in relation to the ship in the territorial sea, contiguous zone or exclusive economic zone of Barbados;

*(b)* the ship is in the territorial sea of Barbados and there are clear grounds for believing that a pollution breach has occurred as a result of acts or omissions in relation to the ship while navigating in the territorial sea;

*(c)* the ship is in the territorial sea, contiguous zone or exclusive economic zone of Barbados and there is clear objective evidence that a pollution breach has occurred as a result of an act or omission in relation to the ship in the exclusive economic zone that resulted in a discharge from the ship that has caused, or threatens to cause, major damage to the coastline of Barbados, to related interests of Barbados or to any resources of the territorial sea or exclusive economic zone.

(2) If a ship is detained under paragraph (1)*(b)* or *(c)*, the Administration or national maritime law enforcement may have her escorted to a port.

(3) The ship shall be immediately released if

*(a)* security is provided in accordance with subsection (4);

*(b)* all proceedings that have been instituted in respect of the pollution breach have been discontinued;

*(c)* all such proceedings have been concluded, whether or not any appeal is pending, without any person being convicted of an offence or being found liable to pay an amount of money;

*(d)* all such proceedings have been concluded, and all penalties other amounts of money, and costs and expenses ordered to be paid in respect of the pollution breach have been paid;

*(e)* the Administration believes that the pollution breach did not occur, or did not occur as a result of actions in relation to the ship; or

*(f)* the Administration determines for any other reason that the ship should be released.

(4) Security referred to in paragraph (3)*(a)* shall

*(a)* be provided in a form acceptable to the Administration; and

*(b)* be an amount that, in the Administration's opinion, is equivalent to the maximum amount of all penalties and other amounts of money, costs and expenses that could be payable by the master, any other member of the crew of the ship and the owner of the ship in respect of the pollution breach.

(5) The master and owner of the ship commit a strict liability offence and are liable on summary conviction to a fine of $10 000 if

*(a)* the ship was detained at a port and leaves the port;

*(b)* the ship was detained in the territorial sea and leaves the outer limits of the territorial sea;

*(c)* the ship was detained in the contiguous zone and leaves the outer limits of the contiguous zone; or

*(d)* the ship was detained in the exclusive economic zone and leaves the outer limits of the exclusive economic zone;

before the ship is released from detention.

(6) In this section,

"pollution breach" means a discharge or disposal from a ship that contravenes this Act or a statutory instrument made under it;

"port" includes an off-shore installation over which Barbados has jurisdiction.

**Harbour master's power to detain for discharge of wastes**

**1070.**(1) A harbour master may detain a ship where the harbour master has reason to believe that the master or owner of the ship has committed an offence under Division 2, 3, 5, 6 or 9 of Part XXV by the discharge from the ship of oil or a mixture containing oil, noxious liquid substances in bulk, sewage, garbage, or ballast water or sediment into the waters of the harbour.

(2) Section 1220, other than subsections 1220(1), (4) and (5), applies to the detention of a ship under this section as if

*(a)* in section 1220(2), the reference to a competent authority were a reference to the harbour authority; and

*(b)* in section 1220(4), the persons in relation to whom that section applies were the harbour master or any person acting on his behalf.

(3) Where a harbour master detains a ship other than a Barbados ship under this section, he shall immediately notify the Minister, who shall then inform the consul or diplomatic representative of the state whose flag the ship is entitled to fly or the appropriate maritime authorities of that state.

(4) A harbour master who detains a ship under this section shall immediately release the ship if

*(a)* no proceedings for the offence are instituted within 7 days after the day on which the ship is detained;

*(b)* proceedings for the offence instituted within that period are concluded without the master or owner being convicted;

*(c)* $500 000 is paid to the harbour authority by way of security or security that, in the opinion of the harbour authority, is satisfactory and in an amount not less than $500 000 is given to the harbour authority by or on behalf of the master or owner; or

*(d)* the master or owner is convicted of the offence and any costs or expenses ordered to be paid by him and any fine imposed on him have been paid.

(5) The harbour authority shall repay any sum paid under paragraph (4)*(c)* or release any security given if

*(a)* no proceedings for the offence are instituted within the period of 7 days after the day on which the sum is paid; or

*(b)* proceedings for the offence instituted within that period are concluded without the master or owner being convicted.

(6) Where a sum has been paid, or security has been given, by a person under paragraph (4)*(c)* and the master or owner is convicted of an offence, the sum so paid or the amount made available under the security shall be applied as follows

*(a)* first in payment of any costs or expenses ordered by the court to be paid by the master or owner; and

*(b)* next in payment of any fine imposed by the court;

and any balance shall be repaid to that person.

## PART XXXII

## MARITIME ACCIDENT AND INCIDENT INVESTIGATION AND INQUIRIES

### Definitions-PART XXXII

**1071.** In this Part,

"Maritime accident" includes an occurrence that involves a vessel and in which

*(a)* a person is seriously harmed as a result of

(i) being on the vessel;

(ii) direct contact with any part of the vessel including any part that has become detached from the vessel;

(iii) direct exposure to the wash of the vessel or interaction (other than direct contact) between 2 vessels;

(iv) being involved in the salvage of any vessel – except where the injuries are self inflicted or inflicted by other persons or when injuries are to stowaways hiding outside the areas normally available to passengers and crew;

*(b)* the vessel sustains damage or structural failure that

(i) adversely affects the structural strength, performance or seaworthiness of the vessel;

(ii) would normally require major repair or replacement of the affected component;

(iii) poses a threat to the safety of people on board the vessel; or

(iv) there is a complete or partial failure of machinery or equipment that affects the seaworthiness of the vessel;

*(c)* there is a loss of, or damage to, or movement of, or change in the state of, the cargo of the ship which poses a risk to the vessel or other vessels;

*(d)* there is a significant loss of, or significant damage to, property (not being the cargo carried by the vessel) or the property of any person (whether or not aboard the vessel), whether or not the loss or damage arises from an interaction between 2 vessels;

*(e)* there is a loss or escape of any substance or thing that may

(i) result or has resulted, in serious harm to any person;

(ii) pose a risk, or has resulted in damage to the vessel or other vessels; or

(iii) pose a risk, or has resulted in damage to any property (whether or not on board the vessel);

*(f)* a person is lost at sea (whether or not subsequently found) or is missing; or

*(g)* the vessel is foundering, capsizing, being abandoned; stranding; missing or has foundered, capsized, been abandoned, been in a collision, or has had a major fire on board.

"Maritime incident" means any occurrence other than an accident, that is associated with the operation of a vessel and affects or could affect the safe operation of the vessel.

**Maritime Accident and Incident Investigation Council**

**1072.**(1) There shall be established for the purposes of this Part a body separate and independent from the Administration to be known as the Maritime Accident and Incident Investigation Council.

(2) The Maritime Accident and Incident Investigation Council shall

*(a)* manage on behalf of Barbados, maritime accident and incident affairs, in accordance with the Code of the International Standards and Recommended Practices for a Safety Investigation into a Marine Casualty or Marine Incident (Casualty Investigation Code);

*(b)* conduct, in the event of a maritime accident or incident, an investigation;

*(c)* perform all other functions related to maritime accidents and incidents, in accordance with

(i) this Act and any of its statutory instruments;

(ii) Casualty Investigation Code; and

(iii) international best practice in the field of maritime accidents and incidents.

(3) To ensure impartiality and transparency in matters relating to maritime accidents and incidents, members of the Maritime Accident and Incident Investigation Council shall not be officers or members of the Administration, or in any way affiliated with the Administration.

**Formal investigation**

**1073.**(1) Whether or not a preliminary inquiry into the casualty has been held under section 1072, the Minister may cause a formal investigation into a shipping casualty to be held by the Maritime Accident and Incident Investigation Council appointed in accordance with the regulations.

(2) The Council holding a formal investigation shall consist of a judge, or a magistrate or attorney at law with at least 10 years standing, who shall be assisted by one or more assessors with requisite skills and knowledge in maritime matters appointed by the Minister.

(3) Where in an investigation any question as to the cancellation or suspension of a certificate issued to an officer pursuant to the International Convention on Standards of Training, Certification and Watchkeeping, 1978 or the regulations is likely to arise, there shall be not less than 2 assessors.

(4) Where as a result of the investigation the Committee is satisfied, with respect to any officer or any matter referred to the Administration, the Council may cancel or suspend any certificate issued to the officer or censure him.

(5) Where the Council cancels or suspends the certificate under subsection (4), the officer shall deliver the certificate to the Council or the Director.

(6) A person who fails to deliver a certificate as required under subsection (5) commits an offence and is liable on summary conviction to a fine of $10 000.

(7) Where a certificate has been cancelled or suspended under this section, the Director may re-issue the certificate, reduce the period of suspension and return the certificate, or grant a new certificate of the same or a lower grade in place of the cancelled or suspended certificate.

(8) The Council may make such awards as it thinks just with regard to the costs or expenses of the investigation and with regard to the parties by whom those costs or expenses are to be paid.

(9) An award of costs or expenses may, on the application of a party named in it, be made a court order.

(10) Subsections (2), (4) and (6) apply to endorsements of certificates in the same manner as certificates.

(11) The Council shall make a report on the investigation to the Minister.

**Rehearing and appeals**

**1074.**(1) Where a formal investigation has been held, the Maritime Accident and Incident Investigation Council where it considers it necessary, or the Minister, shall order the whole or part of the case to be reheard if

*(a)* new and important evidence that could not have been produced at the inquiry or investigation has been discovered; or

*(b)* it appears to the Minister that there are other grounds for suspecting that a miscarriage of justice may have occurred.

(2) An order under subsection (1) may provide for the rehearing to be made by the Council that held the investigation or by the High Court.

(3) A rehearing under this section shall be conducted in accordance with rules made under section 1075(1) and shall apply in relation to a rehearing in the same manner as it applies in relation to the holding of an investigation.

(4) Where the Council holding the investigation has decided to cancel or suspend the certificate of a person issued pursuant to the International Convention on Standards of Training, Certification and Watchkeeping, 1978 or has found a person at fault, if no application for an order under subsection (1) has been made, or if such an application has been refused, that person or any other person who has an interest in the investigation and who has appeared at the hearing and is affected by the decision or finding may appeal to the High Court.

**Rules relating to inquiries and investigations**

**1075.**(1) The Maritime Accident and Incident Investigation Council may make rules for the conduct of inquiries for formal investigations, and for the conduct of any rehearing under section 1074 that is not held by the High Court.

(2) Rules made under this section may provide for the appointment and summoning of assessors, the manner in which facts may be proved, the persons allowed to appear and the notices to be given to persons affected.

(3) Rules of the court made for the purpose of re-hearings that are held by the High Court, or of appeals to the Court of Appeal, may require the Court, subject to any exceptions allowed by the rules, to hold such a re-hearing or hear such an appeal with the assistance of one or more assessors.

**Inquiries into deaths and injuries**

**1076.**(1) Subject to subsection (6), where

*(a)* a person dies in a Barbados ship or in a boat or life-raft from such a ship; or

*(b)* the master of, or a seafarer employed in, such a ship dies in a country outside Barbados;

an inquiry into the cause of the death shall be held by the Director or a proper officer at the next port where the ship calls after the death, or at any other place that the Director may direct.

(2) Subject to subsection (6), where it appears to the Director that

*(a)* in consequence of an injury sustained or a disease contracted by a person when he was the master of, or a seafarer employed in, a Barbados ship, he ceased to be employed in the ship and subsequently died; and

*(b)* the death occurred in a country outside Barbados within one year after the day on which he ceased to be employed;

the Director may arrange for an inquiry into the cause of death to be held by a proper officer or such other person as specified in writing by the Director.

(3) Subject to subsection (6), where it appears to the Director that a person may

*(a)* have died in a Barbados ship or in a boat or life-raft from such a ship; or

*(b)* have been lost from such a ship, boat or life-raft and have died as a result;

the Director may arrange for an inquiry to be held by a proper officer or such other person as authorized in writing by the Director, into whether the person died under those circumstances and where the Chief Maritime Social Services Officer, or proper officer finds that the death occurred under those circumstances he shall inquire into the cause of death.

(4) The Director or proper officer holding an inquiry, or such other person authorized in writing by the Director to hold an inquiry shall, for the purpose of the inquiry, have the powers conferred on an inspector by section 1057.

(5) The person holding the inquiry shall make a report of his findings to the Director, who shall make the report available

*(a)* if the person to whom the report relates was employed in the ship and a person was named as his next of kin in the crew agreement or list of the crew in which the name of the person to whom the report relates last appeared, to the person so named;

*(b)* in any case, to any person requesting it who appears to the Director to be interested.

(6) No inquiry shall be held under this section where a coroner’s inquest is to be held.

**Transmission of particulars of deaths on ships**

**1077.** Where

*(a)* a coroner holds an inquest into a death, or makes a post mortem examination of a dead body, as a result of which the coroner is satisfied that an inquest in unnecessary; and

*(b)* it appears to the coroner that the death in question is of a type referred to in a merchant shipping notice;

the coroner shall send to the Principal Registrar particulars in respect of the deceased of a kind prescribed by regulations made by the Minister under that subsection.

**Casualty investigation fees**

**1078.** All Barbados vessels on international voyages shall pay an annual fee for casualty investigations as specified in the regulations.

## PART XXXIII

## SHIPBUILDING, SHIP REPAIR AND SHIP RECYCLING

### *Division 1*

### *General*

**Definitions**

**1079.** In this Part,

"application" means an application for assistance made under section 1082;

"application date" means

*(a)* in the case of a shipbuilder building a ship to be owned by that shipbuilder, the day on which a completed application form, together with a copy of the plans and specifications of the ship, is received by the Minister responsible for Shipping; and

*(b)* in any other case, the day on which a completed application form, together with a copy of the contract, is received by the Shipping Minister;

"approved cost" means the approved cost of an eligible ship determined by the Minister responsible for Finance;

"assistance" means a grant made to a shipbuilder in respect of an eligible ship;

"building", in relation to a ship, includes the conversion of a ship;

"completed", in relation to an eligible ship, means that the ship was built in Barbados and delivered to a shipowner and that a certificate of registration has been issued for that ship under Part VII or that another form of documentation specified in a subsidy agreement has been issued for the ship;

"contract" means a contract in writing entered into by a

*(a)* shipbuilder for the construction of the whole or a part of a ship in Barbados; or

*(b)* shipbuilder for the construction of a ship registered in accordance with the Act as a vessel under construction, but being built in whole or in part outside of Barbados;

"conversion", in relation to a ship, means work or alterations done to the ship that, in the opinion of the Minister responsible for Shipping, substantially change its size, function or other characteristics;

"eligible ship" means a ship that is declared by the Minister responsible for Finance under section 1084 to be an eligible ship for the purposes of this Part;

"improvement agreement" means an agreement in writing entered into between the Government of Barbados and a shipbuilder for improvement of the whole or part of a ship;

"improvement plan" means a plan for the improvement of shipyard performance submitted by a shipbuilder;

"improvement project" means a project that forms an element of an improvement plan and whose description, estimated cost and relationship to the strategy of the improvement plan are identified in it;

"self-propelled" means vessels with their own propulsion systems that are capable of navigating without external aid, and includes autonomous vessels

"shipbuilder" means a company incorporated in Barbados that is engaged in the business of building ships in Barbados; and

"subsidy agreement" means an agreement between the Barbados Government and a shipbuilder for subsidizing costs associated with shipbuilding.

**Application- Part XXXIII**

**1080.** Except where expressly provided otherwise in this Part, the provisions of this Part apply to

*(a)* ships being built in whole or in part in Barbados;

*(b)* ships in process of construction and registered under the Barbados flag, as a vessel under construction, in accordance with this Act.

**Responsibility for this Part**

**1081.**(1) The Minister responsible for Finance shall be responsible for this Part.

(2) The Minister responsible for Shipping may make recommendations to the Finance Minister in respect of financial-related matters concerning this Part.

**Payment of assistance**

**1082.**(1) The Minister responsible for Finance may, in respect of an eligible ship or series of eligible ships that in the opinion of the Minister responsible for Finance are similar, authorize the following assistance

*(a)* the grant of a subsidy;

*(b)* the grant of a contribution; or

*(c)* both of the grants referred to in paragraphs *(a)* and *(b)*.

(2) Where a ship is intended to be owned by the Government of Barbados, no subsidy shall be payable in respect of its construction.

**Application for assistance**

**1083.**(1) An application for assistance shall be submitted to the Minister responsible for Shipping, together with

*(a)* evidence that the shipbuilder has sufficient resources to complete the ship or ships in respect of which the application is made;

*(b)* evidence that the shipbuilder is able to carry out the construction of the ship without having to over-expand his facilities in relation to anticipated long-term demand;

*(c)* evidence that the construction of the ship will not have a detrimental effect on the long-term competitive status of the shipbuilder or of the Barbadian shipbuilding and repair industry;

*(d)* in the case of a ship to be built for a foreign owner, evidence that the construction of the ship will not have a detrimental effect on the continuing availability of facilities to satisfy domestic requirements for ship construction and repair;

*(e)* where the ship is being built by a shipbuilder for a person other than the shipbuilder, a copy of the contract;

*(f)* where the ship is being built by a shipbuilder to be owned by that shipbuilder, a copy of the plans and specifications of the ship; and

*(g)* the information required by the application form prescribed by the Administration.

(2) Subject to subsection (3), an application shall be made

*(a)* where the ship is being built by a shipbuilder for a person other than the shipbuilder, within 60 days after the earliest of

(i) the execution of the contract for the construction of the ship in respect of which the application is made; and

(ii) the commencement of the construction of the ship; or

*(b)* where the ship is being built by a shipbuilder for that shipbuilder, within 60 days after the commencement of the construction of the ship in respect of which the application is made.

(3) The Minister responsible for Shipping may extend the time set out in subsection (2) for making an application where, in his opinion, the circumstances of the case require an extension.

(4) On the basis of the information submitted by the shipbuilder to the Minister responsible for Shipping under subsection (1), the Minister responsible for Shipping may make a recommendation to the Minister responsible for Finance for payment of assistance in respect of the ship or series of ships to be constructed.

**Eligible ship**

**1084.** The Minister responsible for Finance may, based on the information submitted to him by the Minister responsible for Shipping, declare a ship to be an eligible ship if

*(a)* the ship, after completion, will be at least

(i) 200 GT, if self-propelled;

(ii) 500 GT, if it is not self-propelled;

(iii) 50 GT, if it is a tug;

(iv) 12m or more in overall length, if it is a fishing vessel; or

(v) any other tonnage size specified in an order by the Minister responsible for Finance, in relation to both self-propelled and non-self-propelled ships;

*(b)* the ship is not intended to be used by its owner primarily for personal recreation; and

*(c)* construction of the ship commenced, or a contract for the construction of the ship was executed, prior to 1st July, 2021.

**Subsidy agreement**

**1085.**(1) Where an application submitted under this Part by a shipbuilder is approved by the Minister responsible for Finance, a subsidy agreement shall be entered into between the Barbados Government and the shipbuilder in respect of each eligible ship or each series of eligible ships that are the subject of the application.

(2) A subsidy agreement shall

*(a)* prescribe the maximum amount of the subsidy that may be granted under this Part in respect of the eligible ship;

*(b)* prescribe the maximum amount of the contribution that may be granted under this Part in respect of the eligible ship;

*(c)* provide for the payment of a subsidy to the shipbuilder of an eligible ship by

(i) a lump sum payment following completion of the construction of the ship; or

(ii) subject to paragraph *(d)*, progress payments not exceeding in the aggregate 85 per cent of the estimated subsidy payable before the

ship is completed and the balance of the subsidy in one or more payments after completion of the ship;

*(d)* provide that the lump sum payment of a subsidy under subparagraph *(c)* (i) or the final payment of a subsidy under subparagraph *(c)*(ii) shall not be made until, in the opinion of the Finance Minister, all the terms in the subsidy agreement have been complied with;

*(e)* provide that the grant of a contribution payable shall be in respect of moneys expended in accordance with an improvement agreement;

*(f)* provide that the shipbuilder shall use Barbadian materials, components, equipment and services

(i) in the construction of the eligible ship; and

(ii) for the improvement of shipyard performance;

if such materials, components, equipment and services are, after consultation with the Minister responsible for Shipping, available and competitive;

*(g)* provide that the shipbuilder shall repay that portion of any contribution granted that exceeds the contribution payable under this Part; and

*(h)* set out the construction schedule of the ship or ships.

**Subsidy Payable**

**1086.**(1) Subject to subsection (2), a subsidy payable may be paid by the Barbados Government to a shipbuilder in respect of a ship in an amount not exceeding the shipbuilding subsidy payment rates specified by the Minister responsible for Finance by order.

(2) The Minister responsible for Finance may by order specify the subsidies in respect of small vessels of 150 GT or below, to support the boat building industry.

**Deferred application date**

**1087.**(1) If the construction schedule of an eligible ship does not provide for an expeditious commencement of the construction of the ship commensurate with the shipbuilder's building program, or if the construction schedule does not provide for completion of the eligible ship within a time that appears reasonable to the Minister responsible for Shipping, the application date shall be a date, not be earlier than the date on which the application was made, as determined by the Minister responsible for Shipping.

(2) If the construction schedule of a subsidy agreement in respect of an eligible ship is not followed by the shipbuilder and the ship is completed at a date later than that provided in the schedule, for causes not beyond the control of the shipbuilder and the shipowner, the Finance Minister responsible for Finance may, for the purposes of calculating the subsidy, declare the application to have been received at a date that is correspondingly later.

**Improvement plan**

**1088.**(1) A shipbuilder who applies for the grant of a contribution under this Part shall submit to the Minister responsible for Shipping, in a form acceptable to the Minister responsible for Shipping, a proposed strategic plan for the improvement of his shipyard, including

*(a)* market and product assumptions and strategies, and the specific projects that relate to them;

*(b)* on-going improvements relating to safety and technological conditions;

*(c)* a statement as to the expected improvements in capacity, productivity or safety relating to each project;

*(d)* financial statements for the last three fiscal years of the shipbuilder; and

*(e)* a projected balance sheet that reflects the implementation of individual elements of the plan.

(2) The Minister responsible for Shipping may make a recommendation to the Minister responsible for Finance in respect of the application for a grant of contribution made by the shipbuilder under subsection (1).

(3) A project or improvement referred to in paragraph (1)*(a)* or *(b)* may be undertaken or made

*(a)* by the shipbuilder; or

*(b)* with the approval of the Minister responsible for Finance, by a wholly-owned subsidiary of the shipbuilder or, if the shipbuilder itself is a wholly-owned subsidiary, by its parent company.

**Improvement agreement**

**1089.**(1) Where an improvement plan is approved by the Minister responsible for Finance, an improvement agreement shall be entered into between the Barbados Government and the shipbuilder.

(2) An improvement agreement shall

*(a)* identify expenditures proposed and their relationship to the improvement plan;

*(b)* include the terms and conditions in respect of the payment of any grant of a contribution;

*(c)* provide that the shipbuilder shall repay the portion of the contribution payable that is in respect of equipment obtained under the improvement agreement and

(i) diverted to uses other than those provided in the approved plan; or

(ii) disposed of by the shipbuilder within 5 years of its acquisition or such shorter period as may be determined by the Finance Minister; and

*(d)* provide for an audit to be made, by the external auditors of the shipbuilder, of the cost of the improvement project and provide for the cost of the improvement project to be verified, at the discretion of the Minister, by a person authorized by the Finance Minister.

**Contractual arrangements-shipbuilding**

**1090.** Shipbuilding contractual arrangements shall be consistent with the new build standard contract requirements specified in section 1386.

**Contractual arrangements-ship repair**

**1091.** Ship repair contractual arrangements shall be consistent with the ship repair standard contract requirements specified in section 1404.

*Division 2*

*Workplace Health and Safety in Shipbuilding, Repair and Recycling*

**Definitions**

**1092.** In this Division,

"competent person" means a person who has sufficient experience and training to perform the work required to be carried out;

"designated person" means a competent person appointed in writing by

*(a)* an occupier of a shipyard;

*(b)* an employer of persons carrying out work in a shipyard or on board a ship in a harbour; or

*(c)* a principal who gives direction, to persons on the work carried out by those persons in a shipyard or on board a ship in a harbour, to perform any task or duty prescribed under this Division;

"employee's lift" means a powered car operating in guides and used primarily to carry persons in a substantially vertical direction;

"fire watchman" means the person on a shipbuilding, repair or recycling site keeping watch to prevent and or extinguishing fires that may occur during shipbuilding, repair or recycling works;

"hazardous work" means work that is likely to endanger the life of a person in a shipyard or on board a ship in a harbour, and includes any type of work that is specified by the Director in writing to be hazardous work;

"high-risk work" means work referred to in section 1094;

"hot-work" means riveting, welding, flame cutting, burning or any other work involving the use or generation of heat or the production of sparks;

"responsible person", in relation to work carried out in a shipyard or on board a ship in a harbour, means

*(a)* in the case of a shipyard, the occupier of the shipyard; and

*(b)* in the case of a ship in a harbour,

(i) the employer of a person who carries out the work; or

(ii) the principal under whose direction a person carries out the work;

"safety assessor" means a safety assessor appointed under section 1105(3);

"shipyard" includes a dry or wet dock, wharf, jetty and quay and its precincts; and

"ship repair manager" means a ship repair manager appointed under section 1096.

**Application of this Division**

**1093.**(1) This Division applies to

*(a)* the construction, re-construction, repair, refitting, fitting, painting, finishing, furnishing or breaking up of a ship;

*(b)* the scaling, scurfing or cleaning of boilers, including combustion chambers and smoke boxes, in a ship;

*(c)* the cleaning of a tank, bilge or holds in a ship; and

*(d)* the survey or inspection of a ship or her contents by a person other than the ship's crew.

(2) The workplace health and safety standards for shipbuilding, repair and recycling in respect of ships being built in whole or in part in a place outside Barbados, where such ships are registered in Barbados as a vessel under construction, in accordance with this Act, shall be

*(a)* equivalent to the health and safety standards for shipbuilding, repair and recycling specified under this Act; and

*(b)* in alignment with international health and safety at work standards for the shipbuilding, repair and recycling industry.

**High risk work**

**1094.** This Part applies only to the following types of high-risk work that are carried out in relation to a ship, including a ship under construction, in a shipyard or on board a ship in a harbour

*(a)* work that involves the use of any hazardous, volatile, corrosive or flammable chemical, material or solvent in significant quantities;

*(b)* work involving entry into a confined space;

*(c)* spray painting work;

*(d)* grit-blasting work carried out in a confined space;

*(e)* testing or dismantling of a pipe or equipment that

(i) contains, or had contained, oil or corrosive or substances that are flammable or toxic; or

(ii) contains steam;

*(f)* ballasting and de-ballasting of a ship;

*(g)* repair or maintenance work carried out on the hydraulic system of a ship;

*(h)* bunkering and transferring or fuel oil;

*(i)* radiography work; and

*(j)* such other work as the Director, after consultation with the Minister responsible for Shipping, may specify in writing to the occupier of the shipyard, the master, owner or agent of the ship or the employer or principal of the person carrying out the work.

**Health and safety training**

**1095.**(1) The employer of a person who carries out hazardous work in a shipyard or on board a ship in a harbour, or the principal under whose direction it is carried out, shall ensure that the person does not carry out any hazardous work unless he has undergone a health and safety training course approved by the Director.

(2) A person shall not carry out any hazardous work in a shipyard or on board a ship in a harbour unless he has undergone a health and safety training course approved by the Director.

(3) The employer of a person who carries out hot-work in a shipyard or on board a ship in a harbour, or the principal under whose direction it is carried out, shall ensure that the person does not carry out any hot-work unless he has undergone a health and safety training course on hot-work approved by the Director.

(4) A person shall not carry out any hot-work in a shipyard or on board a ship in a harbour unless he has undergone a health and safety training course on hot-work approved by the Director.

(5) The employer of a person who carries out spray painting work, or painting in a confined space, in a shipyard or on board a ship in a harbour, or the principal under whose direction it is carried out, shall ensure that the person does not carry out any spray painting work, or painting in a confined space, unless he has undergone a health and safety training course on painting approved by the Director.

(6) A person shall not carry out any spray painting work, or painting in a confined space, in a shipyard or on board a ship in a harbour unless he has undergone a health and safety training course on painting approved by the Director.

(7) The employer of a person who oversees or supervises work in a shipyard or on board a ship in a harbour, or the principal under whose direction it is carried out, shall ensure that the person does not oversee or supervise any work, including any process, in the shipyard or on board the ship in the harbour unless he has received adequate health and safety training to ensure that the work that he oversees or supervises can be carried out safely.

(8) A person shall not oversee or supervise any work, including any process, in a shipyard or on board a ship in a harbour unless he has received adequate health and safety training to ensure that the work that he oversees or supervises can be carried out safely.

**Duties of ship repair manager**

**1096.**(1) The occupier of the shipyard and the master, owner or agent of a ship in a harbour shall appoint a ship repair manager to take charge of and co-ordinate all activities relating to the construction or repair of the ship.

(2) A person referred to in subsection (1) shall ensure that no person is appointed as a ship repair manager unless the person has received adequate health

and safety training to ensure that he is able to co-ordinate safely all activities relating to the construction or repair of the ship.

**Ship repair manager to approve work**

**1097.** The master, owner, agent or crew of a ship in a shipyard or in a harbour shall not carry out any work on the ship without the approval of the ship repair manager.

**Notification of work carried out**

**1098.**(1) Where any work referred to in this Division is to be carried out on board a ship in a harbour, the master, owner or agent of the ship shall notify the Director of the work 3 days prior to its commencement.

(2) The Director may prescribe the form of a notice under subsection (1).

**Vessel safety coordination task force**

**1099.** Where hazardous work is to be carried out on board a ship or the structural part of a ship under construction,

*(a)* in the case of a shipyard, the occupier of the shipyard; and

*(b)* in the case of a ship in a harbour, the master, owner or agent of the ship;

shall establish a vessel safety co-ordination task force for that ship.

**Function of vessel safety coordination task force**

**1100.**(1) A person who establishes a vessel safety co-ordination task force shall ensure that it plans and co-ordinates all work that is to be carried out on board the ship so that the work is done safely and with due regard to the health of all persons working on the ship.

(2) The vessel safety co-ordination task force shall

*(a)* review and discuss regularly all matters relating to the health and safety of the persons involved in the work;

*(b)* draw up a plan for the co-ordination of the work to ensure that, where different types of work are being carried out at the same time, the types of work are compatible;

*(c)* ensure that all relevant first-line supervisors and the master, owner and agent of the ship or their representatives are informed of the plan;

*(d)* review on a daily basis all work in progress on the ship;

*(e)* plan and co-ordinate the movement and storage of hazardous materials;

*(f)* review on a daily basis the validity of all permits issued under this Division;

*(g)* monitor all hot-works carried out on the ship and ensure that all safety measures are maintained throughout the period of the work;

*(h)* ensure that every confined space is checked for concentrations of oxygen, dangerous gases and flammable vapours before any person enters into it and regularly while work is being carried out, and review the results of such checks;

*(i)* ensure that every person is provided with and uses the appropriate personal protective equipment for his work; and

*(j)* make arrangements, and determine the locations, for the display of safety signs and permits on board the ship.

**Composition of vessel safety coordination task force**

**1101.**(1) A person who establishes a vessel safety co-ordination task force shall ensure that subsections (2) to (5) are complied with.

(2) The vessel safety coordination task force shall comprise a chairman, a secretary and as many members as may be necessary for the functions of the committee to be effectively carried out.

(3) The ship repair manager shall be the chairman of the vessel safety coordination task force.

(4) The workplace health and safety officer, or such other person as may be appointed by the ship repair manager, shall be the secretary of the vessel safety coordination task force.

(5) The master, owner or agent of the ship, or his representative, and the supervisors, including contractors' supervisors, from each trade involved in work on board the ship shall be members of the vessel safety coordination task force.

**Frequency of meetings**

**1102.**(1) A person who establishes a vessel safety co-ordination task force shall ensure that the vessel safety coordination task force meets daily, including on Sundays and public holidays, when any hazardous work is being carried out on the ship and at such other times as the chairman of the vessel safety coordination task force may decide.

(2) Unless the chairman of the vessel safety coordination task force otherwise decides, every member of the vessel safety coordination task force shall attend such meetings.

**Duties of chairman**

**1103.** The chairman of the vessel safety coordination task force shall

*(a)* preside at every meeting;

*(b)* decide who are the members required to attend each meeting;

*(c)* ensure that every member who is to attend the meeting is informed in good time of the date, time and venue of the meeting;

*(d)* ensure that the vessel safety coordination task force exercises its functions in accordance with this Division; and

*(e)* ensure that every decision made at the meeting is implemented by the relevant member.

**Duties of secretary**

**1104.** The secretary of the vessel safety coordination task force shall

*(a)* make and keep a record of all matters discussed and decisions made at each meeting of the vessel safety coordination task force and provide a copy of the record to every member of the task force;

*(b)* keep a copy of every permit issued under this Division; and

*(c)* update the permit co-ordination notice board.

**Handing-over procedure for shifts**

**1105.**(1) Where work is carried out in a shipyard or on board a ship in a harbour in shifts, the person responsible for the work shall

*(a)* provide a written handing-over procedure to be followed by the supervisor or the foreman of each out-going and in-coming shift, so that the supervisor or foreman of the in-coming shift

(i) will have a comprehensive and accurate knowledge of what occurred during the previous shift; and

(ii) is apprised of his and his workers' duties and responsibilities; and

*(b)* ensure that the procedure referred to in paragraph *(a)* is followed.

(2) The procedure referred to in paragraph (1)*(a)* shall include the handing over to the supervisor or foreman of the in-coming shift of

*(a)* the activities chart; and

*(b)* a copy of the records of the latest vessel safety coordination task force meeting.

**Implementation of permit-to-work**

**1106.**(1) Where high-risk work is or is to be carried out,

*(a)* in the case of a shipyard, the occupier of the shipyard; and

*(b)* in the case of a ship in a harbour, the master, owner or agent of the ship,

shall implement a permit-to-work system in accordance with this Division and appoint a safety assessor in accordance with subsection (3).

(2) A permit-to-work system referred to in subsection (1) shall provide that

*(a)* the high-risk work is to be carried out with due regard to the health and safety of persons carrying out the work;

*(b)* those persons are to be informed of the hazards associated with the high-risk work and the precautions they have to take; and

*(c)* the necessary safety precautions are to be taken and enforced when the high-risk work is being carried out.

(3) A person who implements a permit-to-work system shall appoint as a safety assessor a workplace health and safety officer or other competent individual who the person reasonably believes is competent to perform the functions and duties of a safety assessor.

**No high-risk work without permit-to-work**

**1107.**(1) Where high-risk work is or is to be carried out,

*(a)* in the case of a shipyard,

(i) the occupier of the shipyard;

(ii) the employer of the person who carries out the high-risk work; or

(iii) the principal under whose direction the person carries out the high-risk work; and

*(b)* in the case of a ship in a harbour,

(i) the employer of the person who carries out the high-risk work; or

(ii) the principal under whose direction the person carries out the high-risk work;

shall ensure that no high-risk work is carried out without a permit-to-work in respect of that work issued by the ship repair manager of the ship to which the work relates.

(2) Nothing in subsection (1) shall interfere with or render unlawful any rescue work or other work necessary for the general safety of life or property.

**Application for permit-to-work**

**1108.**(1) An application for a permit-to-work shall

*(a)* be made by the supervisor or foreman of a person who is to carry out any high-risk work;

*(b)* be made in a form and submitted in a manner as may be required by the Minister responsible for Shipping;

*(c)* state the measures that will be taken to ensure the health and safety of persons who carry out the high-risk work; and

*(d)* be submitted to the Minister responsible for Shipping and to the ship repair manager and safety assessor of the shipyard or the ship in the harbour where the high-risk work is to be carried out.

**Evaluation of permit-to-work**

**1109.**(1) On receipt of the application for a permit-to-work, the safety assessor shall

*(a)* assess whether all reasonably practicable measures have been taken to ensure the health and safety of the persons who will be carrying out the high-risk work; and

*(b)* inspect the site where the high-risk work is to be carried out and its surroundings together with the supervisor or foreman of the person who is to carry out the work to ensure that the high-risk work can be carried out with due regard to the health and safety of the person and of any

other person at work in the shipyard or on board the ship in the harbour who may be affected.

(2) If the safety assessor is satisfied that the high-risk work can be carried out with due regard to the health and safety of the person who is to carry out the high-risk work and of other persons at work in the shipyard or on board the ship in the harbour who may be affected, he shall endorse the application for the permit-to-work and forward the endorsed application to the Minister responsible for Shipping and the ship repair manager.

(3) The safety assessor shall exercise all due diligence when performing his functions in relation to the evaluation and endorsement of an application for a permit-to-work under subsections (1) and (2).

**Issuance of permit-to-work**

**1110.**(1) Based on an endorsed application for a permit-to-work by the safety assessor, the Minister responsible for Shipping may issue permit-to-work in relation to any high-risk work if he is satisfied that

*(a)* there has been a proper evaluation of the risks and hazards involved in the carrying out of the high-risk work based on the available information;

*(b)* no incompatible work that may pose a risk to the health and safety of the person who is to carry out the high-risk work and of other persons at work in the shipyard or on board the ship in the harbour will be carried out at the same time and in the same vicinity as the high-risk work;

*(c)* all reasonably practicable measures will or have been taken to ensure the health and safety of the persons who are to carry out the high-risk work; and

*(d)* all persons who are to carry out the high-risk work are informed of the hazards associated with it.

(2) Records of a permit-to-work in respect of any high-risk work shall be retained by the Administration.

(3) The Minister responsible for Shipping shall exercise all due diligence when performing his function in relation to the issuance of a permit-to-work under subsection (1).

(4) Subject to section 1113, a permit-to-work shall be valid for the period stated in it, and if the high-risk work for which the permit-to-work is issued is not completed within that period, a fresh application shall be made in accordance with section 1107.

**Posting of permit-to-work**

**1111.** The supervisor or foreman of a person who carries out any high-risk work shall

*(a)* clearly post a copy of the permit-to-work issued in respect of that high-risk work, including, where reasonably practicable, a sketch of the area where the high-risk work is permitted, at the area where the work is carried out; and

*(b)* ensure that the copy is not removed until the date of expiry or revocation of the permit-to-work or on completion of the high-risk work, whichever is the earlier.

**Monitoring of high-risk work**

**1112.**(1) The ship repair manager shall continually review the progress of all high-risk work carried out pursuant to any permit-to-work issued in relation to a ship of which he is the ship repair manager to ensure that the high-risk work is carried out with due regard to the health and safety of the persons carrying out the high-risk work.

(2) The supervisor or foreman of any person who carries out any high-risk work shall

*(a)* ensure that the measures necessary to ensure the health and safety of the person at work are taken and are in place at all times during the validity period of the permit-to-work; and

*(b)* inform the ship repair manager upon completion of the high-risk work.

**Duty to report incompatible work**

**1113.**(1) Any person who is aware of work being carried out in a shipyard or on board a ship in a harbour that is incompatible with high-risk work being carried out there shall immediately report the incompatible work to his supervisor, the workplace health and safety officer, the workplace health and safety coordinator or the ship repair manager.

(2) For the purposes of subsection (1), work in a shipyard or on board a ship in a harbour that is carried out at or in the vicinity of high-risk work and that is likely to pose a risk to the health or safety of persons at work in the shipyard or on board the ship in the harbour shall be treated as incompatible work.

**Revocation of permit-to-work**

**1114.** If, after issuing a permit-to-work in respect of high-risk work, the ship repair manager is of the view that the carrying out of the high-risk work poses, or is likely to pose, a risk to the health and safety of persons at work in the shipyard or on board a ship in the harbour, he may in writing request the Minister responsible for Shipping to order the high-risk work to cease immediately and revoke the permit-to-work.

**Implementation of hot-work permit**

**1115.**(1) Where hot-work is, or is to be, carried out in relation to a ship, including a ship under construction, in a shipyard or on board a ship in a harbour,

*(a)* in the case of a shipyard, the occupier of the shipyard; and

*(b)* in the case of a ship in a harbour, the master, owner or agent of the ship;

shall implement a hot-work permit system in accordance with this Division and appoint a safety assessor in accordance with subsection (3).

(2) A hot-work permit system referred to in subsection (1) shall provide that

*(a)* the hot-work is carried out with due regard to the health and safety of persons carrying out the hot-work;

*(b)* persons are informed of the hazards associated with the hot-work and the precautions they have to take; and

*(c)* the necessary safety precautions are taken and enforced when the hot-work is being carried out.

(3) A person who implements a hot-work permit system shall appoint as a safety assessor a workplace health and safety officer or other competent person who the person reasonably believes is competent to perform the functions and duties of a safety assessor.

**Requirement for hot-work permit**

**1116.** Where hot-work is or is to be carried out in a shipyard or on board a ship in a harbour,

*(a)* in the case of a shipyard,

(i) the occupier of the shipyard;

(ii) the employer of the person who carries out the hot-work; or

(iii) the principal under whose direction the person carries out the hot-work; and

*(b)* in the case of a ship in a harbour,

(i) the employer of the person who carries out the hot-work; or

(ii) the principal under whose direction the person carries out the hot-work,

shall ensure that no hot-work is carried out without a hot-work permit in respect of that hot-work, issued by the Minister responsible for Shipping in respect of the ship to which the hot-work relates.

**Application for hot-work permit**

**1117.**(1) An application for a hot-work permit shall

*(a)* be made by the supervisor or foreman of the person who is to carry out any hot-work;

*(b)* be made in the form and manner prescribed by the Minister responsible for Shipping;

*(c)* state the measures that will be taken to ensure the health and safety of persons who carry out the hot-work; and

*(d)* be submitted to the Minister responsible for Shipping and to the ship repair manager and safety assessor of the shipyard or the ship in the harbour where the hot-work is to be carried out.

(2) Every application for a hot-work permit shall be accompanied by sketches showing the exact locations where the hot-work is to be carried out.

**Evaluation of hot-work permit**

**1118.**(1) On receipt of the application for a hot-work permit, the safety assessor shall

*(a)* assess whether all reasonably practicable measures have been taken to ensure the health and safety of the persons who will be carrying out the hot-work; and

*(b)* inspect the site where the hot-work is to be carried out and its surroundings together with the supervisor or foreman of the person who is to carry out the work to ensure that the hot-work can be carried out with due regard to the health and safety of the person and of any other

person at work in the shipyard or on board the ship in the harbour who may be affected.

(2) If the safety assessor is satisfied that the hot-work can be carried out with due regard to the health and safety of the person who is to carry out the hot-work and of other persons at work in the shipyard or on board the ship in the harbour who may be affected, he shall endorse the application for the hot-work permit and forward the endorsed application to the Minister responsible for Shipping and ship repair manager.

(3) The safety assessor shall exercise all due diligence when performing his functions in relation to the evaluation and endorsement of an application for a hot-work permit under subsections (1) and (2).

**Issuance of hot-work permit**

**1119.**(1) Based on an endorsed application for a permit-to-work by the safety assessor, the Minister responsible for Shipping may issue a hot-work permit in relation to any hot-work if he is satisfied that

*(a)* it is necessary to carry out the hot-work;

*(b)* there is no alternative work method to the hot-work;

*(c)* there has been a proper evaluation of the risks and hazards involved in carrying out the hot-work based on the available information;

*(d)* no incompatible work that may pose a risk to the health and safety of the person who is to carry out the hot-work and of other persons at work in the shipyard or on board the ship in the harbour will be carried out at the same time and in the same vicinity as the hot-work;

*(e)* all reasonably practicable measures will or have been taken to ensure the health and safety of the persons who are to carry out the hot-work; and

*(f)* all persons who are to carry out the hot-work are informed of the hazards associated with it.

(2) A hot-work permit shall be a controlled document and shall be serialized.

(3) A ship repair manager who issues a hot-work permit shall retain a copy of the permit.

(4) The ship repair manager shall exercise all due diligence when performing his function in relation to the issuance of a hot-work permit under subsection (1).

(5) Subject to section 1124, a hot-work permit shall be valid for the period stated in it, and if the hot-work for which the hot-work permit is issued is not completed within that period, a fresh application shall be made in accordance with section 1116.

(6) Sections 1110 and 1111 apply, with the necessary modifications, in respect of a hot-work permit in the same manner as they apply in respect of a permit-to-work.

**Persons carrying out hot-work**

**1120.** Where hot-work is to be carried out in a shipyard or on board a ship in a harbour, the employer of the person who carries out, or is to carry out, the hot-work, or the principal under whose direction it is carried out, shall ensure that the person

*(a)* has received sufficient training and is competent in hot-work; and

*(b)* has been fully instructed as to the danger likely to arise in connection with such work and the precautionary measures to be taken.

**Measures for hot-work**

**1121.** Where hot-work is to be carried out in a shipyard or on board a ship in a harbour, the person responsible for the work shall, before the issuance of a hot-work permit,

*(a)* ensure that the site of the intended hot-work and its surrounding areas are free from any hazardous substance; and

*(b)* if necessary to prevent danger from the opposite side of the surface on which the hot-work is to be carried out, keep watch for any fire and prevent the introduction of any hazardous substance.

**Marking of hot work area**

**1122.** Where hot-work is carried out in a shipyard or on board a ship in a harbour, the person responsible for the work shall ensure that the site where the hot-work is to be carried out is clearly marked for easy identification.

**Fire watchman**

**1123.**(1) Where hot-work is carried out in a shipyard or on board a ship in a harbour, the person responsible for the work shall ensure that a person who has been trained in fire-fighting is appointed as a watchman.

(2) The person responsible for the work shall ensure that the fire watchman is provided with suitable and adequate fire-fighting equipment.

(3) The fire watchman shall

*(a)* keep watch over the area in which the hot-work is being carried out and the surroundings for any fire throughout the duration of the hot-work; and

*(b)* in the event of a fire breaking out, extinguish or control the fire if it is within his means to do so and if not, immediately report the fire to the Barbados Fire Service.

**Duty to report incompatible work**

**1124.**(1) Any person who is aware of work being carried out in a shipyard or on board a ship in a harbour that is incompatible with hot-work being carried out there shall immediately report the incompatible work to his supervisor, the workplace health and safety officer, the health and safety coordinator or the ship repair manager.

(2) For the purposes of subsection (1), work in a shipyard or on board a ship in a harbour that is carried out at or in the vicinity of hot-work and that is likely to pose a risk to the health and safety of persons at work in the shipyard or on board the ship in the harbour shall be treated as incompatible work.

**Daily review and revocation of hot-work permit**

**1125.**(1) The ship repair manager shall review and assess the need to continue hot-work on a daily basis and revoke the hot-work permit if he thinks fit to do so.

(2) If, after issuing a hot-work permit in respect of any hot-work, the ship repair manager is of the view that the carrying out of the hot-work poses or is likely to pose a risk to the health and safety of persons at work in the shipyard or on board the ship in the harbour, he may in writing request the Minister responsible for Shipping to order the hot-work to cease immediately and revoke the hot-work permit.

**Equipment safety**

**1126.** Where a person uses equipment in a shipyard or on board a ship in a harbour for the purpose of any work to which these Regulations apply, the employer of the person or the principal under whose direction the person carries out the work shall ensure that the equipment is

*(a)* of good construction, sound material and adequate strength;

*(b)* free from defects; and

*(c)* appropriate for the work for which it is to be used.

**Approval of hazardous substances**

**1127.**(1) Any person who brings a hazardous substance into a shipyard or on board a ship in a harbour shall obtain approval to do so from

*(a)* in the case of a shipyard, the occupier of the shipyard; and

*(b)* in the case of a ship in a harbour, the master, owner or agent of the ship.

(2) For the purposes of subsection (1), "hazardous substance" means a substance listed in the *Tenth Schedule*.

**Falling hazards**

**1128.**(1) Where, in a shipyard or on board a ship in a harbour, there is an open side or opening into or through which any person is liable to fall more than 2m, the person responsible for the work shall take, so far as is reasonably practicable, such measures as are necessary to comply with subsections (2), (3) and (5).

(2) Subject to paragraph (4), every open side or opening referred to in paragraph (1) shall be covered or guarded by effective guard-rails, barriers or another equally effective means to prevent falls.

(3) Every guard-rail, barrier or other means of fall prevention referred to in subsection (2) shall

*(a)* be of good construction, sound material and adequate strength to withstand the impact during the course of work;

*(b)* be placed on the inside of the uprights and secured so as to prevent accidental displacement; and

*(c)* be placed so as to prevent the fall of any person.

(4) A guard-rail, barrier or other means of fall prevention referred to in subsection (2) may be removed where free access is required or work is actually in progress.

(5) Every guard-rail, barrier or other means of fall prevention referred to in subsection (2) that is removed under subsection (4) shall be reinstated or replaced immediately when free access is no longer required or work is no longer in progress.

**Drowning hazards**

**1129.** Where a person carries out work in a shipyard or on board a ship in a harbour that may expose him to the risk of falling into water in which he may drown, the person responsible for the work shall ensure that the person carrying out the work is provided, at all times during the exposure to the risk, with adequate equipment

*(a)* for keeping persons afloat;

*(b)* for promptly rescuing persons from the water; and

*(c)* for resuscitating rescued persons.

**Slipping hazards**

**1130.** Where work is carried out by a person in a shipyard or on board a ship in a harbour, the person responsible for the work shall ensure that any passageway, scaffold, platform or other elevated working surface to be used by the person carrying out the work is kept free from slipping hazards.

**Hazards arising from protruding objects**

**1131.** Where work is carried out in a shipyard or on board a ship in a harbour, the person responsible for the work shall ensure that

*(a)* all passageways, stairs, platforms and other means of access and places of work are kept free from debris or protruding objects or any other obstructions that could cause tripping; and

*(b)* any sharp projection that is present in a passageway, stair, platform or other means of access or place of work and that may injure any person is removed or otherwise made safe.

**Prevention of accidental closure of hatch**

**1132.** Where work is carried out in a shipyard or on board a ship in a harbour, the person responsible for the work shall ensure that if the cover of a hatch opening is in the open position, an effective means is provided to prevent accidental closure of the cover.

**Spray painting**

**1133.**(1) Where spray painting work is carried out in a shipyard or on board a ship in a harbour, the employer of the person who carries out the spray painting work, or the principal under whose direction it is carried out, shall comply with subsections (2), (3) and (5).

(2) A suitable and effective breathing apparatus for spray painting works shall be provided to every person employed in spray painting work.

(3) A breathing apparatus provided shall be

*(a)* of good construction and sound material;

*(b)* free from defects; and

*(c)* shall be so maintained in accordance with the generally accepted principles of sound and safe practice.

(4) Every person undertaking spray painting work in a tank, compartment or confined space shall use a suitable breathing apparatus of a type that constantly supplies fresh air by an air-line.

(5) An area or place where spray painting work is being carried out shall be adequately ventilated.

(6) A person who contravenes subsection (1) or (4) commits an offence and is liable on summary conviction to a fine of $50 000.

**Vehicular hazards**

**1134.**(1) The owner of a vehicle used in a shipyard shall ensure that the vehicle is of good construction and is roadworthy.

(2) No person shall drive a vehicle in a shipyard unless he has obtained the authorization of the occupier of the shipyard to do so.

(3) The occupier of a shipyard shall ensure that no person, except a person who has obtained an authorization referred to in subsection (2), drives a vehicle in a shipyard.

(4) Where a person drives a vehicle in a shipyard, the employer of the person who drives the vehicle, or the principal under whose direction it is carried out, shall ensure that the person does not drive the vehicle unless the person

*(a)* has been fully instructed as to the dangers likely to arise in connection with it and the precautions to be observed; and

*(b)* has received sufficient training to drive the vehicle.

(5) A person who contravenes subsection (2) commits an offence and is liable on summary conviction to a fine of $50 000.

**Lighting**

**1135.** Where work is carried out in a shipyard or on board a ship in a harbour, the person responsible for the work shall ensure that there is

*(a)* sufficient and suitable general lighting, whether natural or artificial, in every part of the shipyard or ship in which persons are at work or passing; and

*(b)* emergency lighting for use in the event of a power failure affecting the general lighting, of sufficient intensity and distribution to allow for the safe evacuation or rescue of persons in the shipyard or ship in the harbour.

**Disposal of debris**

**1136.** Where work is carried out in a shipyard or on board a ship in a harbour, the person responsible for the work shall to ensure that

*(a)* the handling and disposal of any debris or other article is done in a manner that will not endanger persons;

*(b)* no debris is allowed to accumulate so as to constitute a hazard; and

*(c)* no debris is thrown from heights.

**Prohibition on smoking**

**1137.**(1) Where work is carried out in a shipyard or on board a ship in a harbour, the person responsible for the work shall ensure that no person smokes in a place other than a designated smoking area.

(2) A person in a shipyard or on board a ship in a harbour shall not smoke in a place other than a designated smoking area.

**Safety signs**

**1138.** Where work is carried out in a shipyard or on board a ship in a harbour, the person responsible for the work shall provide appropriate safety signs placed at suitable locations.

**Emergency exits**

**1139.** Where work is carried out on board a ship in a shipyard or in a harbour, the person responsible for the work shall ensure that every person reporting for work on board the ship is given a proper briefing by his supervisor on the safe conduct of work and the means of escape and exits in the area of his work.

**Personal protective equipment**

**1140.** Where work is carried out in a shipyard or on board a ship in a harbour that requires any protection referred to in subsection (2), the employer of the

person who carries out the work or the principal under whose direction it is carried out shall provide and maintain, so far as is reasonably practicable, the following personal protective equipment for the person

*(a)* eye protection;

*(b)* fall protection;

*(c)* foot protection;

*(d)* hand protection;

*(e)* head protection;

*(f)* hearing protection; and

*(g)* respiratory protection.

**Electrical installations, equipment and connections**

**1141.**(1) Where work is carried out in a shipyard or on board a ship in a harbour in the course of which the person carrying out the work may come into contact with any part of an electrical installation or equipment, including motor generators, rectifiers, welding machines or welding sets, the person responsible for the work shall comply with subsections (2) to (7).

(2) All electrical installations and equipment, including motor generators, rectifiers, welding machines or welding sets, shall be

*(a)* of good construction and sound material;

*(b)* free from defects; and

*(c)* maintained in accordance with the generally accepted principles of sound and safe practice.

(3) All practical measures shall be taken to protect persons against the risk of electric shock arising from or in connection with the use of an electrical installation or equipment.

(4) All electrical connections shall be in accordance with the generally accepted principles of safe and sound practice.

(5) Plugs and socket-outlets used for connecting electrical equipment shall be of heavy duty industrial types.

(6) Portable hand-held electrical equipment used in a confined space shall be operated at a voltage not exceeding alternating current 55 volts, or direct current 120 volts, between the conductor and earth.

(7) All temporary electrical installations supplying electricity to portable electrical equipment shall be protected by effective residual current circuit breakers with a tripping current not exceeding 30 mA.

**Electrical welding equipment**

**1142.**(1) A person who provides alternating current electric arc welding equipment for use in a shipyard or on board a ship in a harbour shall comply with subsections (2) and (3).

(2) All alternating current electric arc welding equipment for use in a shipyard or on board a ship in a harbour shall be fitted with an effective low voltage shock preventer that reduces the open-circuit secondary voltage to 25 volts or less.

(3) The low voltage shock preventer referred to in subsection (2) shall be

*(a)* fitted in accordance with the manufacturer's instructions; and

*(b)* inspected and tested by a competent person once every 6 months.

**Gas cylinders**

**1143.**(1) Where welding or cutting work is carried out in a shipyard or on board a ship in a harbour, the person responsible for the work shall comply with subsections (2) and (3).

(2) No cylinder that contains, or has contained, oxygen or flammable gas or vapour shall be taken

*(a)* below the weather deck of a ship undergoing repair; or

*(b)* below the topmost completed deck of a ship under construction;

unless it is installed or placed in a part of the ship that is adequately ventilated to prevent a dangerous accumulation of gases.

(3) Subject to subsection (4), no liquefied petroleum gas shall be taken and used

*(a)* on board a ship undergoing repair; or

*(b)* below the topmost completed deck of a ship under construction;

unless all gas outlets have been fitted with effective anti-leakage devices.

(4) Subsection (3) does not apply to liquefied petroleum gas brought on board a ship by the master for the purpose of maintaining and running of the ship.

**Gas manifolds**

**1144.** The occupier of a shipyard shall ensure that all gas manifolds in the shipyard are clearly marked to indicate the substance they contain and are sited in a safe and accessible location in open air.

**Pipe lines and gas hoses**

**1145.** Where work involving the cutting, welding or heating of metal is carried out in a shipyard or on board a ship in a harbour, the person responsible for the work shall ensure that all pipes and hoses for the supply of oxygen, flammable gas or vapour to an apparatus for cutting, welding or heating metal are

*(a)* of good construction and sound material;

*(b)* free from defects; and

*(c)* properly maintained.

**Gas equipment**

**1146.** Where hot-work is carried out in a shipyard or on board a ship in a harbour, the person responsible for the work shall ensure that all equipment used to carry out hot-works, including any apparatuses, gas torches, blowpipes, pressure regulators, nozzles and connections, are

*(a)* of a design that is suitable for the gas or vapour being used;

*(b)* of good construction and sound and suitable material;

*(c)* free from defects; and

*(d)* properly maintained.

**Safety devices**

**1147.**(1) Where work involving oxy-fuel and air-fuel gas equipment is carried out in a shipyard or on board a ship in a harbour, the person responsible for the work shall comply with subsections (2), (3) and (4).

(2) A suitable non-return valve, or another equally effective means that prevents the backflow of gas, shall be fitted in accordance with the manufacturer's instructions between each gas torch inlet and gas hose of every oxy-fuel and air-fuel gas equipment.

(3) A flashback arrestor, or another equally effective means that stops flashbacks, shall be fitted in accordance with the manufacturer's instructions at every

*(a)* fuel gas and oxygen outlet; and

*(b)* pressure regulator outlet of each gas cylinder.

(4) An anti-leakage device, or another equally effective means to stop a leak, shall be provided on every oxygen and fuel gas line used in a confined space.

**Safety measures during break in gas welding and cutting**

**1148.**(1) Where work involving welding or cutting is carried out in a shipyard or on board a ship in a harbour, the person responsible for the work shall comply with subsections (2), (3) and (4).

(2) Where welding and cutting operations cease for the day, for a substantial period or during a meal interval,

*(a)* the supply valves of every gas cylinder and manifold shall be securely closed; and

*(b)* every gas torch, manifold and hose for flammable gases and oxidizing gases shall be taken to the weather deck, in the case of a ship undergoing repair, or to the topmost completed deck, in the case of a ship under construction, or, in either case, to a safe place that is adequately ventilated to prevent any dangerous accumulation of gases or vapours.

(3) Where it is impractical to comply with the requirements of paragraph (2) *(b)* during a meal interval, effective measures shall be taken to ensure that the work area is safe before work resumes, including

*(a)* the provision of effective ventilation to prevent the accumulation of gases in the shipyard or on board the ship in the harbour; and

*(b)* the testing of the atmosphere for the presence of flammable gases.

**Inspection of hot-work equipment**

**1149.**(1) Where hot-work is carried out in a shipyard or on board a ship in a harbour, the person responsible for the work shall comply with subsections (2), (3) and (4).

(2) All electrode holders, welding cables, cable connectors and other arc welding equipment shall be inspected by a competent person once every 30 days.

(3) All equipment and fittings used for the purpose of carrying out hot-work, including any gas hoses, torches, blowpipes, pressure regulators, nozzles and connections, shall be inspected and tested by a competent person or a workplace health and safety officer once every 14 days to ensure that they are free from defects and leaks

(4) All safety devices referred to in section 1146 shall be inspected and tested by a competent person or a workplace health and safety officer once every 12 months to ensure that they are effective.

(5) The competent person or the workplace health and safety officer, as the case may be, shall

*(a)* enter the results of the inspection and test into a register;

*(b)* keep the register of the inspection and test at the shipyard or on board the ship in the harbour; and

*(c)* produce the register for inspection upon request by an inspector.

(6) A competent person or workplace health and safety officer who fails to comply with subsection (5) commits an offence and is liable on summary conviction to a fine of $7 000.

**Prohibition on welding in wet conditions**

**1150.**(1) Where electric arc welding work is carried out in a shipyard or on board a ship in a harbour, the person responsible for the work shall ensure that, so far as is reasonably practicable, no electric arc welding work is carried out under wet conditions where there is risk of electrocution.

(2) No person shall carry out any electric arc welding in wet conditions where there is risk of electrocution.

(3) No person shall require, permit or direct any person to carry out electric arc welding in wet conditions where there is risk of electrocution.

(4) A person who contravenes subsection (2) commits an offence and is liable on summary conviction to a fine of $50 000.

(5) A person who contravenes subsection (3) commits an offence and is liable on summary conviction to a fine of $100 000.

**Adequate ventilation**

**1151.**(1) Where heating, welding, cutting or any other work involving the application of heat is carried out in a shipyard or on board a ship in a harbour, the person responsible for the work shall comply with subsections (2), (3) and (4).

(2) Where heating, welding, cutting or other work involving the application of heat is to be carried out in a confined space, adequate ventilation shall be provided.

(3) When heating, welding, cutting or other work involving the application of heat is to be carried out on materials containing lead, cadmium, beryllium, copper or any other toxic or harmful substances, effective local exhaust ventilation shall be provided to remove toxic or harmful fumes or other air impurities at the source of emission.

(4) Where the provision of ventilation under subsection (2) or (3) is not practicable, breathing apparatus of a type that constantly supplies fresh air by an air-line, or another equally suitable breathing apparatus, shall be provided to the person carrying out the work.

**Metallic fumes**

**1152.**(1) Where heating, welding, cutting or any other work involving the application of heat is carried out in a shipyard or on board a ship in a harbour, the person responsible for the work shall comply with subsections (2), (3) and (4).

(2) All welding, cutting or other works involving the application of heat shall, so far as is reasonably practicable, be carried out in open air or in areas with good ventilation.

(3) Where any work referred to in subsection (2) cannot be carried out in an area with good ventilation, effective local exhaust ventilation shall be provided to remove toxic or harmful fumes or other air impurities at the source of emission.

(4) Where the provision of local exhaust ventilation is not practicable under subsection (3)

*(a)* forced ventilation shall be used to dilute any toxic or harmful fumes or other air impurities; and

*(b)* breathing apparatus of a type that constantly supplies fresh air by an air-line, or another equally suitable breathing apparatus, shall be provided to and used by the person carrying out the work.

**Welding and cutting on containers that held flammable substances**

**1153.** Where an operation involving welding or cutting is carried out in a shipyard or on board a ship in a harbour on a container that has held an explosive or flammable substance or in which flammable gases may have been generated, the employer of the person who carries out the operation or the principal under whose direction it is carried out shall ensure that no such operation is carried out on the container unless

*(a)* the container has been thoroughly cleaned by steam or another equally effective means and is completely free from combustible gases; and

*(b)* the atmosphere in the container has been rendered non-flammable or non-explosive.

**Strength and stability**

**1154.**(1) The owner of a crane, employee's lift or material handling machinery that is being used in a shipyard or on board a ship in a harbour shall ensure that it is

*(a)* of good construction, sound material and adequate strength;

*(b)* free from defects; and

*(c)* properly maintained.

(2) The operator of a crane or material handling machinery being used in a shipyard or on board a ship in a harbour shall ensure that the crane or machinery is positioned and operated so as to be stable.

**Capacity chart**

**1155.**(1) The owner of a crane used in a shipyard or on board a ship in a harbour shall comply with subsections (2), (3) and (4).

(2) Where the capacity of the crane is variable, a capacity chart shall be provided.

(3) The capacity chart shall

*(a)* be posted and maintained in the crane where it is clearly visible to the operator;

*(b)* set out the safe loads for various lengths of jib at various angles and radial distances; and

*(c)* be prepared and certified by an authorized examiner, unless it is furnished by the manufacturer or builder of the crane.

(4) Where outriggers are provided, the safe loads with and without the use of outriggers shall be specified in the capacity chart.

**Thorough examination and inspection**

**1156.** Where work involving lifting operations is carried out in a shipyard or on board a ship in a harbour, the person responsible for the work shall ensure that, before a crane, employee's lift or material handling machinery is put into service for the first time in the shipyard or on board the ship in the harbour

*(a)* it has been thoroughly examined and inspected by a competent person; and

*(b)* in the case of a crane or an employee's lift, the examination and inspection is conducted by an authorized examiner.

**Handling of suspended loads**

**1157.**(1) Where a crane or material handling machinery is used in a shipyard or on board a ship in a harbour, the operator of the crane or material handling machinery shall take, so far as is reasonably practicable, such measures as are necessary to ensure that a suspended load is not moved over the head of a person.

(2) Where work involving lifting operations is carried out in a shipyard or on board a ship in a harbour, the employer of a person who carries out the work or the principal under whose direction it is carried out shall ensure that loads that have a tendency to swing or turn freely during hoisting are controlled by tag-lines.

**Prohibition of riding on loads**

**1158.**(1) Where work involving the use of a crane, hoisting machinery, material handling machinery or excavating machinery is carried out in a shipyard or on board a ship in a harbour, the person responsible for the work shall comply with subsection (3) and ensure that no person rides on the loads, buckets, skips, cars, slings or hooks of the crane or machinery.

(2) Subsection (1) does not apply to a lifting cage specially designed to hold persons while it is suspended from a crane.

(3) The use of a lifting cage shall be in accordance with the requirements on lifting gears set out in section 1159.

**Lifting gears**

**1159.**(1) No lifting gear shall be used in the workplace unless an authorized examiner has

*(a)* tested and examined the lifting gear; and

*(b)* issued and signed a certificate of test and examination, specifying the safe working load of the lifting gear.

(2) The certificate of test and examination shall be kept available for inspection.

(3) Every lifting gear used in the workplace shall be thoroughly examined by an authorized examiner at least once annually or at such other intervals as the Director may determine.

(4) Subject to subsection (5), every lifting gear shall be annealed at the following intervals:

*(a)* if in regular use,

(i) in the case of chains used in connection with molten metal or molten slag, at least once every 6 months; and

(ii) in any other case, at least once every year; and

*(b)* if not in regular use, only when necessary.

(5) Subsection (4) does not apply to the following classes of lifting gear:

*(a)* chains made of malleable cast iron;

*(b)* plate link chains;

*(c)* chains, rings, hooks, shackles and swivels made of steel or of any non-ferrous metal;

*(d)* hooks and swivels having screw-threaded parts;

*(e)* rings, hooks, shackles, and swivels permanently attached to pitch chains, pulley blocks or weighing machines;

*(f)* socket shackles secured to wire ropes by white metal capping;

*(g)* bordeaux connections;

*(h)* rope or rope slings; or

*(i)* any chain or lifting tackle that has been subjected to a normalizing heat treatment process.

(6) No lifting gear shall be loaded beyond its safe working load, except by an authorized examiner or an inspector for the purpose of testing the lifting gear.

(7) The occupier of the workplace in which a lifting gear is used shall comply with subsections (1) to (4) and (6).

(8) Subsections (1) and (3) do not apply to a lifting gear that consists of natural fibre ropes or natural fibre slings.

(9) An authorized examiner shall

*(a)* issue and sign a certificate, in a form prescribed by the Director, of the result of an examination under subsection (3);

*(b)* provide the certificate to the occupier of the workplace;

*(c)* inform the Director

(i) as soon as is reasonably practicable, if the examination shows that the lifting gear cannot continue to be used safely unless repairs are made; and

(ii) in any other case, within 28 days of the completion of the examination, of the results of the examination in a manner acceptable to the Director; and

*(d)* exercise all due diligence in making a certification or in conducting a test or examination of lifting gear.

(10) The owner of the lifting gear shall ensure that it is

*(a)* of good construction, sound material, adequate strength and free from patent defect; and

*(b)* properly maintained.

(11) An inspector may at any time test lifting gear and may prohibit its further use if he is not satisfied that the lifting gear is safe for the use to which it is put.

(12) A person who contravenes the prohibition of an inspector under subsection (11) commits an offence and is liable on summary conviction to a fine of $50 000.

**Cranes or machinery at rest**

**1160.** Where work involving the use of a crane or material handling machinery is carried out in a shipyard or on board a ship in a harbour, the employer of the person who carries out the work or the principal under whose direction it is carried out shall ensure that no load is left suspended on the crane or material handling machinery when it is not in use.

**Operator of employee's lift**

**1161.**(1) The occupier of a shipyard shall ensure that

*(a)* no employee's lift in the shipyard is operated unless it is in the charge of a designated person stationed in the car as its attendant; and

*(b)* no person other than the lift car attendant moves the car of an employee's lift or opens the car door or gate of the employee's lift.

(2) A lift car attendant

*(a)* shall not cause the lift car to move unless he is satisfied that the load is prepared for movement; and

*(b)* shall exercise all due diligence when operating the employee's lift.

**System for calling lifts**

**1162.** The occupier of a shipyard shall ensure that a system for calling a lift car to every landing level where workers are required to board or alight from the lift car is implemented in the shipyard.

**Offence**

**1163.** A person who contravenes a provision of this Division commits an offence and is liable on summary conviction to a fine of $100 000.

**IMO compliance**

**1164.** The design and construction of ships shall comply with the following International Maritime Organization instruments:

*(a)* the International Convention for the Safety of Life at Sea 1974, Chapter II-1;

*(b)* the 1966 Load Line Convention and the 1988 Protocol relating to it;

*(c)* the 1969 Tonnage Measurement Convention;

*(d)* the International Code on Intact Stability;

*(e)* in case of bulk carriers and oil tankers, the Goal-based Ship Construction Standards for Bulk Carriers and Oil Tankers of 150m in length and above, incorporated into the technical regulations of the International Convention for the Safety of Life at Sea;

*(f)* the International Convention for the Prevention of Marine Pollution from Ships, 1973, Annex VI, Energy Efficiency Design Index;

*(g)* the Guidelines of the International Maritime Organization Sub-Committee on Ship Design and Construction; and

*(h)* any other applicable International Maritime Organization instruments on ship design and construction.

**Compliance verification**

**1165.** The Administration shall ensure that surveys are carried out in national shipbuilding facilities, ship repair yards, and ship recycling facilities by government-approved surveyors to verify compliance with the requirements of section 1163.

*Division 4*

*Recycling of Ships*

**Application**

**1166.** This Division applies to

*(a)* the recycling of Barbados-origin ships; and

*(b)* the recycling of foreign-origin ships in Barbados.

**Administration**

**1167.** This Division shall be administered by the Minister responsible for Shipping, in consultation with the Environmental Protection Department and the Coastal Zone Management Unit.

**Controls on hazardous material**

**1168.**(1) No ship shall install or use prohibited hazardous materials that are notified in a Marine Notice by the Minister responsible for Shipping, after consultation with the Coastal Zone Management Unit and Environmental Protection Department.

(2) The Minister responsible for Shipping may, by notification in a Marine Notice and for the reasons specified in it, exempt a class or category of ships from subsection (1).

(3) Every ship shall comply with such restrictions and conditions in respect of the installation or use of prohibited hazardous materials as may be prescribed by the Minister.

**Surveys**

**1169.**(1) The Administration, or a person authorized by the Administration, shall conduct the following ship surveys:

*(a)* an initial survey before the issuance of a certificate on inventory of hazardous materials, so as to verify such requirements as may be prescribed;

*(b)* a renewal survey at intervals not exceeding 5 years;

*(c)* an additional survey, either general or partial, at the shipowner's request after a change, replacement or significant repair of the structure, equipment, systems, fittings, arrangements or material of the ship;

*(d)* a final survey prior to the ship being taken out of service and before the recycling of the ship, so as to verify such requirements as may be prescribed; and

*(e)* any other surveys prescribed by the Administration.

(2) A survey shall be conducted and a certificate on inventory of hazardous materials shall be issued by the Administration following the survey and prior to the commencement of ship recycling activities.

(3) The owner shall pay a fee for a certificate on inventory of hazardous materials are specified in the regulations.

**Certificate on inventory of hazardous materials**

**1170.**(1) The owner of every new ship shall make an application to the Administration for a certificate on inventory of hazardous materials for that ship.

(2) A certificate on inventory of hazardous materials shall be properly maintained and updated throughout the life of the ship, reflecting any new installations containing hazardous materials and changes in the ship's structure and equipment.

(3) A certificate on inventory of hazardous materials shall be endorsed by the Administration after the successful completion of an additional survey conducted under section 1168(1)*(c)*.

(4) In this section,

"existing ship" means a ship that is not a new ship;

"new installation" includes systems, equipment, insulation or other material installed on a ship after the date of entry into force of this Act; and

"new ship" means a ship

*(a)* for which the shipbuilding contract is placed on or after the date of entry into force of this Act or the keel of which is laid, or that is at a similar stage of construction, 6 months after the date of entry into force of this Act; and

*(b)* that is to be delivered within 30 months from the date of entry into force of this Act and is intended to be registered in Barbados.

**Validity of certificate**

**1171.**(1) A Barbados certificate on inventory of hazardous materials shall be issued or renewed for a period not exceeding 5 years.

(2) The Administration may extend the period of validity of a certificate on inventory of hazardous materials only

*(a)* for the purpose of allowing a ship to complete her voyage to the place in which she is to be surveyed; or

*(b)* in cases where it appears proper and reasonable to the Administration to grant an extension.

**Certificate suspension or cancellation**

**1172.** A certificate on inventory of hazardous materials may be suspended or cancelled by the Administration

*(a)* if the ship, *prima facie*, does not comply with the particulars of the Certificate;

*(b)* where an inventory of hazardous materials is not properly maintained and updated with such changes in ship structure and equipment as may be prescribed;

*(c)* in event of the transfer of the ship to the flag of another state;

*(d)* if a survey referred to in section 1168 is not completed within the specified survey period;

*(e)* if the endorsement of the Certificate does not disclose

(i) the conduct of an additional survey in accordance with section 1168(1)*(c)*; or

(ii) an extension of the validity of the Certificate, in accordance with section 1170.

**Prohibition on ship recycling**

**1173.** No person shall recycle a ship unless the ship recycling facility is authorized in accordance with section 1174 below.

**Ship recycling facility management plan and procedure**

**1174.**(1) A person seeking to establish a ship recycling facility in Barbados shall obtain a marine facilities license from the Minister responsible for Shipping, prepare a ship recycling facility management plan and submit the plan, along with an application for a ship recycling facility license, to the Minister.

(2) A marine facilities license shall be valid for 5 years.

(3) An applicant for a marine facilities license shall pay the fee specified in the regulations.

(4) The Administration or its nominee shall undertake an annual audit of every ship recycling facility in Barbados to confirm compliance with the requirements of this Act and any conditions specified in its marine facilities license.

**Suspension or cancellation of marine facilities license**

**1175.**(1) The Administration may, whenever it considers necessary, for reasons to be recorded in writing, conduct an inquiry or inspection of a ship recycling facility and issue a notice to the owner or operator of the facility to show cause as to why the marine facilities license should not be suspended or cancelled.

(2) If the Administration is satisfied that there has been a breach of this Act, or of any rules or regulations specific to ship recycling, it may suspend or cancel the marine facilities license.

(3) Notwithstanding subsections (1) and (2), if the Administration is of the opinion that it is necessary or expedient to do so in the public interest, it may, for reasons to be recorded in writing, suspend or cancel the marine facilities, license without issuing any notice.

**Emergency preparedness and response**

**1176.** A ship recycler shall maintain adequate measures for emergency preparedness and response in respect of the ship recycling facility and its operations.

**Workers' safety, training and insurance**

**1177.**(1) A ship recycler shall provide adequate measures for the health, safety, training and welfare of workers in the ship recycling facility.

(2) A ship recycler shall provide individual or comprehensive insurance coverage for permanent and temporary workers of the ship recycling facility.

**Ready-for-recycling ship certificate**

**1178.**(1) The owner of a ship who intends to recycle the ship shall make an application to the Administration for a ready-for-recycling ship certificate.

(2) A ready-for-recycling ship certificate may be issued after the successful completion of a survey and shall be valid for a period of 3 months from the date it is issued.

(3) The period of validity of a ready-for-recycling ship certificate may be extended by the Administration in a case where it appears proper and reasonable to the Administration to grant an extension.

(4) A ready-for-recycling ship certificate shall cease to be valid if the condition of the ship does not correspond with the particulars of the certificate.

(5) An applicant for a ready-for-recycling ship certificate shall pay the fee specified in the regulations.

**Ship recycling plan**

**1179.**(1) A person seeking to establish a ship recycling facility in Barbados shall apply for a marine facilities licence from the Administration.

(2) A person granted a marine facility licence to establish and operate a ship recycling facility in Barbados shall have individual ship recycling plans as part of operating the facility, to specify the manner in which each individual ship will be recycled.

(3) To ensure continual health and safety of persons involved in ship recycling and protection of the environment, individual ship recycling plans shall be subject to reviews and request for modifications by the Administration from time to time.

(4) In requesting any modification to a ship recycling plan, the Administration shall consult with relevant stakeholders.

**Recycling of a Barbados ship in a foreign territory**

**1180.** A ship registered in Barbados and intended to be recycled outside the territory of Barbados shall be recycled in accordance with the laws of that territory.

**Obligations of shipowner**

**1181.**(1) The owner of a ship intended to be recycled in Barbados shall

*(a)* give an advance notice to the Administration of the date of the arrival of the ship for recycling activities;

*(b)* clear any port dues upon arrival;

*(c)* submit any documentation specified by the Administration;

*(d)* keep the ship clear of cargo residues and minimize any remaining fuel oil and wastes on board; and

*(e)* satisfy any pre-recycling conditions specified by the Administration in response to the notice referred to in paragraph *(a)*.

**Grant of permission for ship recycling**

**1182.**(1) The Administration shall grant permission for recycling only after a physical inspection of the ship and for this purpose it may requisition the services of personnel with appropriate expertise.

(2) The Administration shall make its determination as to grant of permission within 30 days after receipt of a ship recycling plan under section 1178.

(3) Where the Administration fails to convey its decision in accordance with subsection (2), the permission shall be deemed to have been granted.

(4) The Administration may deny permission for recycling, for reasons to be recorded in writing, after affording an opportunity for the shipowner to be heard.

(5) A ship recycler, on receipt of a copy of permission to recycle the ship from the Administration, shall issue a statement of acceptance to the shipowner.

**Management of hazardous materials**

**1183.** A ship recycler shall

*(a)* ensure the safe and environmentally sound removal and management of hazardous materials from a ship; and

*(b)* comply with the requirements related to basic infrastructure facilities, including those related to the environmentally safe disposal or management of wastes and hazardous materials.

**Obligation to take environmental protection measures**

**1184.**(1) A ship recycler shall

*(a)* ensure that there is no damage caused to the environment due to recycling activities at the ship recycling facility; and

*(b)* take any measures necessary for protection of the environment.

(2) Where there is an oil spill in a recycling facility, the ship recycler shall be served a notice by the Administration, in consultation with the Environmental Protection Department, to take remedial action in a manner specified by that Department.

(3) A ship recycler who contravenes this section shall be liable to pay any resulting environmental damages and clean-up operation costs.

**Statement of completion**

**1185.** When a ship is recycled in accordance with the provisions of this Act, a statement of completion containing the relevant particulars as to the recycled ship shall be submitted by the ship recycler to the Administration.

**Report to Minister**

**1186.** The Director shall report the following to the Minister from time to time:

*(a)* a list of approved ship recycling facilities;

*(b)* a list of ships that have not complied with recycling provisions of this Act;

*(c)* any action taken in respect of such non-compliant ships; and

*(d)* a list of recycled ships.

**Appeal against decision of Administration**

**1187.**(1) A person who is aggrieved by a decision made by the Administration or an authorized surveyor, authorized organization or authorized person may file an appeal to the Minister responsible for Shipping within 30 days from the date of receipt of the decision.

(2) An appeal filed under subsection (1) may be disposed of in a manner that the Minister considers fit.

**Power to search and seize records**

**1188.** If the Administration or the Minister responsible for Shipping has reason to believe that an offence under this Division has been, or is being, committed at a ship recycling facility, the Administration or the Minister may enter and search the recycling facility, with the assistance of maritime law enforcement, and examine any record, register, document, equipment or other material object found in it and seize it if there is reason to believe that it may furnish evidence of the commission of an offence.

**Power to inspect, dismiss, exclude or detain a ship**

**1189.**(1) The Administration, or a surveyor authorized by it, may inspect a ship destined for ship recycling activities in Barbados at any reasonable time while it

is in a port or offshore area in Barbados waters for the purpose of verifying that there is on board

*(a)* a Barbados certificate on inventory of hazardous materials; or

*(b)* a Barbados ready-for-recycling ship certificate.

(2) The Administration, or a surveyor authorized by it, may dismiss, exclude or detain a ship destined for recycling activities in Barbados, in case of

*(a)* a failure to carry a required Barbados certificate on inventory of hazardous materials or Barbados ready-for-recycling ship certificate; or

*(b)* non-compliance with control measures for hazardous materials notified by the Minister responsible for on behalf of the Barbados Government.

(3) A ship detained under this section shall remain under detention until such time the non-compliance is rectified or permission is granted by the Administration for the detained ship to proceed to an appropriate repair yard or port, without danger to the ship, the environment or persons on board.

(4) A maritime law enforcement officer, maritime pilot, harbour master or Customs official may detain a ship under this section.

**Power to exempt**

**1190.**(1) Notwithstanding any other provision of this , the Minister may, by order in writing and upon such conditions, if any, as he may impose, exempt a vessel or a class of vessel, ship recycling facility or ship recycler from any specified requirement of or prescribed under this , if he is satisfied that the requirement has been substantially complied with or that compliance with the requirement is, or ought to be, dispensed with in the circumstances of the case.

(2) Where an exemption granted under subsection (1) is subject to any conditions, a breach of any of those conditions shall, without prejudice to any other remedy, be deemed to be an offence under this .

**Application of Basel Convention**

**1191.** The 1989 Basel Convention on the Control of Transboundary Movements of Hazardous Waste and their Disposal, shall apply to the recycling of ships, until such time as the International Maritime Organization's Hong Kong International Convention for the Safe and Environmentally Sound Recycling of Ships, 2009 enters into force.

**Compliance with the Hong Kong International Convention for the Safe and Environmentally Sound Recycling of Ships**

**1192.** The Administration shall ensure Barbados-registered vessels that have reached the end of their operational lives are managed consistent with

*(a)* this Act and any statutory instruments thereunder; and

*(b)* the Hong Kong International Convention for the Safe and Environmentally Sound Recycling of Ships 2009, as amended.

**Contractual arrangements for ship recycling**

**1193.** Contractual arrangements in relation to the demolition, dismantling and recycling of ships shall be consistent with the ship demolition, dismantling and recycling standard contract requirements set out in sections 1301, 1302 and 1354.

*Division 5*

*Shipyard Registration and Licensing*

**Registration**

**1194.**(1) An entity engaged, or intending to engage, in shipbuilding, ship repair or ship recycling activities in Barbados shall be registered with the Administration and obtain a shipyard certificate of registration from the Administration.

(2) A shipyard register shall be maintained in an electronic or other format by the Administration and kept open for inspection by the public during regular office hours.

(3) A registered shipyard shall be deleted from the shipyard register if it is

*(a)* non-operational for a period of 5 years; or

*(b)* found to have violated a requirement of this Act, the regulations, a merchant shipping notice or an international instrument pertaining to shipbuilding, ship repair or ship recycling.

(4) The name of the entity for shipyard registration shall reflect the nature of the operation of the business as shipbuilding, ship repair or ship recycling as one of its primary purposes.

(5) A new shipyard owner or operator shall obtain a qualification inspection prior to

*(a)* registration;

*(b)* issuance of a license; and

*(c)* classification of the shipyard.

(6) A shipyard shall pay an annual registration fee specified in the regulations.

(7) Every shipyard shall promote and observe gender equality and women empowerment in the workplace in support of Barbados' maritime policy mandate to integrate more women in the maritime sector.

(8) A shipyard owner or operator may opt to participate in the MARIFEM certification scheme, under Part X.

**Shipyard registration and MARIFEM certification benefits**

**1195.**(1) A Barbados-registered MARIFEM-certified shipyard is eligible for

*(a)* discounts on annual registration fees; or

*(b)* grants or subsidies in respect of identified vessels built, repaired or recycled using female labour, skills, knowledge or other inputs.

(2) The following shipyards are eligible for discounts:

*(a)* a shipyard attaining MARIFEM-COMMIT Certification within 6 months of registration;

*(b)* a shipyard attaining MARIFEM-ACT Certification within one year of registration;

*(c)* a shipyard attaining MARIFEM-LEAD Certification within 2 years of registration;

*(d)* a shipyard maintaining MARIFEM-COMMIT Certification throughout the 1-year validity period of the certification;

*(e)* a shipyard maintaining the MARIFEM-ACT Certification throughout the 2-year validity period of the certification; and

*(f)* a shipyard maintaining MARIFEM-LEAD Certification throughout the 3-year validity period of the certification.

**Other benefits**

**1196.**(1) A shipping or shipyard association or the owner, operator, manager or agent of a shipyard may propose to Women in Maritime Association of the Caribbean, Barbados Chapter Inc. other benefits considered appropriate for shipyards participating in the MARIFEM certification scheme.

(2) The Administration, in consultation with relevant entities, may review a benefits proposal and make recommendations regarding the benefits to the Minister.

(3) A proposed benefit takes effect upon the Minister’s approval.

**Licensing restriction**

**1197.** Only owners or operators of Barbados-registered shipyards shall be issued a marine facilities license by the Shipping Minister to undertake shipbuilding, ship repair or ship recycling activities in Barbados.

**Categories of marine facilities license**

**1198.** The following categories of marine facilities license may be issued:

*(a)* a marine facilities license for shipbuilding and ship repair;

*(b)* a marine facilities license for ship recycling; and

*(c)* a marine facilities license for shipbreaking.

**Marine facilities license fee payments**

**1199.** A marine facility shall pay an annual license fee specified in the regulations.

**License pre-requisite for incentives**

**1200.** A marine facilities license is a pre-requisite for obtaining the subsidies and grants specified in respect of eligible ships under Part XXXIII.

**Legal ownership or possession of shipyard**

**1201.**(1) An applicant for shipyard registration shall show proof of ownership or legal possession of the premises where the shipyard operation will be undertaken.

(2) Where shipyard premises are leased, the contract lease shall have a minimum validity of 5 years from the date of the issuance of the shipyard certificate of registration.

**Renewal of marine facilities license**

**1202.** A shipyard shall undergo annual inspection by the Administration or its nominee, in order for its marine facilities license to be renewed.

**ISO requirements**

**1203.** Every Barbados-registered shipyard shall secure

*(a)* International Organization for Standardization standard 9001:2015; and

*(b)* any other applicable International Organization for Standardization standards on shipbuilding, ship repair, ship recycling, from an accredited International Organization for Standardization certification body.

**Certification requirements**

**1204.** Shipbuilders, ship repairers and ship recyclers shall hold qualifications in the field of shipbuilding, ship repair or ship recycling, as the case may be, from a recognized institution or organization.

## PART XXXIV

## MISCELLANEOUS

### *Division 1*

### *Offences, Coopering, Admiralty Droits, Jurisdiction and Ship Detentions*

**Offences involving small vessels not specifically provided for**

**1205.** Notwithstanding the general application of this Act to Barbados-registered vessels above 150 GT and foreign-registered vessels above 150 GT

when in Barbados waters, where an act is committed in Barbados waters, by the owner, operator or other person in relation to a vessel of 150 GT or below, and

*(a)* there is no specific or equivalent provision in the *Shipping (Domestic Vessels) Act, 2024* (Act 2024-22); or

*(b)* other statutory instrument thereto in relation to the commission of such act,

the owner, operator or other person, shall be liable in accordance with section 1210(3) of this Act.

**Time limit for summary offences**

**1206.**(1) Subject to subsections (2) and (3), no person shall be convicted of an offence under this Act in summary proceedings unless

*(a)* the proceedings were commenced within 6 months after the day on which the offence was committed; or

*(b)* where the accused is outside Barbados during that period, the proceedings were commenced within the earlier of 2 months after he first arrives in Barbados and 3 years after the day on which the offence was committed.

(2) Subsection (1) does not apply in relation to an indictable offence.

(3) Subsection (1) shall not prevent a conviction for an offence in summary proceedings begun within 3 years after the day on which the offence was committed and within

*(a)* 6 months after the day when evidence that the Director of Public Prosecutions considers is sufficient to justify a prosecution for the offence came to his knowledge; or

*(b)* 2 months after the day when the accused was first present in Barbados after the expiration of the period referred to in paragraph *(a)*, if throughout that period the accused was absent from Barbados.

(4) For the purpose of subsection (3),

*(a)* a certificate of the Director of Public Prosecutions stating that evidence came to his knowledge on a particular day shall be conclusive evidence of that fact; and

*(b)* a document purporting to be a certificate of the Director of Public Prosecutions and to be signed on his behalf shall be presumed to be such a certificate.

**Time limit for summary orders**

**1207.** No order for the payment of money shall be made under this Act in proceedings before a Magistrate's Court unless

*(a)* the proceedings were commenced within 6 months after the day on which the matter of complaint arose; or

*(b)* where both or either of the parties to the proceedings are outside Barbados during that period, the proceedings were commenced within 6 months after they both first arrive in Barbados or are in Barbados at the same time.

**Offences by officers of bodies corporate**

**1208.**(1) Where a body corporate commits an offence under this Act or an instrument made under it, and the offence is proved to have been committed with the consent or knowledge of, or to be attributable to neglect on the part of, a director, manager, secretary or other similar officer of the body corporate or a person who was purporting to act in such a capacity, that person and the body corporate are deemed to commit that offence and are liable to be proceeded against and punished accordingly.

(2) A document required or authorized under this Act to be served on a foreign company for the purpose of the institution of, or otherwise in connection with, proceedings for an offence under this Act that is alleged to have been committed

by the company as the owner of a ship shall be treated as duly served on that company if the document is served on the master of the ship.

(3) A person authorized to serve a document for the purposes of the institution of, or otherwise in connection with, proceedings for an offence under this Act may, for that purpose, go on board the ship in question.

**Persons who may prosecute**

**1209.** Prosecutions in respect of offences under this Act may, without prejudice to any other enactment relating to prosecutions, be conducted by an officer appointed under this Act and authorized to do so in writing by the Director.

**Offences not specifically provided for**

**1210.**(1) A person who commits an offence under this Act or the regulations for which no specific penalty is provided is liable on summary conviction to a fine of $200 000.

(2) Where an offence under this Act or the regulations is a continuing one, and no penalty is provided in respect of its continuance, a person who commits that offence, in addition to any other liability, is liable on summary conviction to a fine of $1 000 for every day or part of a day during which the offence continues after conviction.

(3) In respect of an offence in relation to section 1205, a person is liable on summary conviction to a fine of $150 000, and where the offence is a continuing one, in addition to any other liability, is liable on summary conviction to a fine of $500 for every day or part of a day during which the offence continues after conviction.

**Enforcement and application of fines**

**1211.**(1) Where a fine imposed by a court in proceedings against the owner or master of a ship for an offence under this Act is not paid, or any costs or expenses ordered to be paid by him are not paid, at the time ordered by the court, the court

may, in addition to any other powers of enforcing payment, direct the amount remaining unpaid to be levied by distress of the ship and her equipment.

(2) Where a person is convicted of an offence under Part XXV and the court imposes a fine in respect of the offence, if it appears to the court that another person has incurred, or will incur, expenses in removing any pollution, or making good any damage, that is attributable to the offence, the court may order the whole or part of the fine to be paid to that other person to defray those expenses.

**Offence of coopering**

**1212.**(1) In this section, "coopering" means

*(a)* the meeting at sea by persons on board one vessel with persons on board another vessel for an illegal purpose; or

*(b)* the secret rendezvousing with a vessel approaching a Barbados port, anchorage or offshore terminal, under the pretence of doing legitimate business with the vessel in Barbados waters, during the course of which illegal cargo is transferred.

(2) It is an offence for a vessel to engage in coopering with another vessel.

(3) A person who engages in coopering commits an offence and is liable on summary conviction to a fine of 500 000 and a term of imprisonment for 5 years, or both.

**Compounding of offences**

**1213.**(1) The Director may compound an offence under this Act that is prescribed by the Director to be an offence compoundable on payment by the person suspected of having committed the offence of a sum of money not exceeding $75 000.

(2) On the payment of a sum of money under subsection (1),

*(a)* the person suspected of having committed the offence in respect of which the payment has been made shall, if in custody, be discharged;

*(b)* any ship detained in respect of such offence shall be released; and

*(c)* no further proceedings shall be taken against the person or ship in respect of the offence.

**Droits of Admiralty**

**1214.**(1) Subject to subsections (3) to (6), nothing in this Act shall alter the application of any droits of Admiralty or droits of or forfeitures.

(2) Droits and forfeitures, when condemned by a court of a Barbadian possession in the exercise of the jurisdiction conferred by this Act, shall, subject to any other Act, be notified, accounted for, and dealt with, in such a manner as the Treasury directs, and the officers of any court in a Barbadian possession exercising Admiralty jurisdiction shall comply with those directions in respect of the droits and forfeitures.

(3) The Prime Minister may, by order, direct that, subject to any conditions, exceptions, reservations, and regulations contained in the order, droits and forfeitures condemned by a court in a Barbadian possession shall form part of the revenues of that possession, either in perpetuity, for a limited term or subject to any revocation specified in the order.

(4) While droits or forfeitures under this or any other Act form part of the revenues of a Barbadian possession, they shall, subject to any applicable law, be notified, accounted for, and dealt with in manner directed by the Government of the possession, and the Treasury shall not have any power in relation to them.

(5) Droits of admiralty shall be surrendered for public benefit.

(6) In this section, “droits of admiralty” means rights claimed by the Government of Barbados over property found in Barbados’ jurisdiction belonging to an enemy that has been seized and condemned by the Government as droits of admiralty, and includes

*(a)* a wreck;

*(b)* treasure;

*(c)* fines;

*(d)* forfeitures;

*(e)* ransoms;

*(f)* recognizances;

*(g)* marine resources, living and non-living;

*(h)* vessels and cargo; and

*(i)* any other thing in connection with maritime war and hostilities that is seized and condemned as droits of admiralty by the Government of Barbados in the jurisdiction of Barbados.

**Jurisdiction in relation to offences**

**1215.**(1) For the purpose of conferring jurisdiction, an offence under this Act is deemed to have been committed in the place in Barbados where the offender is located.

(2) For the purpose of conferring jurisdiction, a matter of complaint under this Act is deemed to have arisen in the place in Barbados where the person complained against is located.

(3) The jurisdiction under subsections (1) and (2), shall be in addition to, and not in derogation of, any jurisdiction or power of a court under any other enactment.

(4) A court may exercise jurisdiction over maritime claims, brought under this Act or under any other national law on shipping, in accordance with Part 70 of the *Supreme Court (Civil Procedure) Rules, 2008*.

**Jurisdiction over ships lying off coasts**

**1216.** Where the area within which a court has jurisdiction is situated on the coast of the sea or abuts on or projects into any bay, channel or other navigable water, the court shall have jurisdiction as respects offences under this Act over

any vessel that is on, or lying or passing off, that coast or in or near that bay, channel or navigable water and over all persons on board that vessel.

**Jurisdiction over offences on board ships**

**1217.**(1) Where a Barbados citizen is charged with having committed an offence under this Act,

*(a)* on board any Barbados ship on the high seas;

*(b)* in any foreign port or harbour; or

*(c)* on board a foreign ship to which he does not belong;

a Barbados court that would have had jurisdiction in relation to the offence if it had been committed on board a Barbados ship within the limits of its ordinary jurisdiction shall have jurisdiction to try the offence.

(2) Where a person who is not a Barbados citizen is charged with having committed an offence on board any Barbados ship on the high seas, a Barbados court that would have had jurisdiction in relation to the offence if it had been committed on board a Barbados ship within the limits of its ordinary jurisdiction shall have jurisdiction to try the offence.

**Offences by ships outside the jurisdiction**

**1218.** In accordance with the requirements of International Maritime Organization conventions to which Barbados is party, the Administration shall cooperate with an administration of another party to those conventions in relation to proceedings against a Barbados ship for a convention-related breach in the jurisdiction of that party.

**Offences committed by Barbados seafarers**

**1219.**(1) An act in relation to property or a person that is done in a place, ashore or afloat, outside Barbados by a master or seafarer who at the time is, or within

the previous 3 months had been, employed in a Barbados ship that if done in Barbados would be an offence under the law of any part of Barbados shall

*(a)* be an offence under Barbados law, and

*(b)* be treated for the purposes of jurisdiction and trial as if it had been done within the jurisdiction of a Barbados court.

(2) Subsection (1) applies to an omission in the same manner as it applies to an act.

**Return of offenders**

**1220.**(1) The powers conferred on a Barbados consular officer by subsection (2), are exercisable in the event of a complaint being made to him

*(a)* that an offence against property or a person has been committed at a place, ashore or afloat, outside Barbados by a master or seafarer who at the time when the offence was committed, or within 3 months before that time, was employed in a Barbados ship; or

*(b)* that any offence on the high seas has been committed by a master or seafarer belonging to any Barbados ship.

(2) In relation to a complaint under subsection (1), a Barbados consular officer may

*(a)* inquire into the case upon oath, and

*(b)* if the case so requires, take any steps in his power for the purpose of placing the offender under the necessary restraint and sending him by a Barbados ship as soon as practicable in safe custody to Barbados for proceedings to be taken against him.

(3) The consular officer may, subject to subsections (5) and (6), order the master of a Barbados ship bound for Barbados to receive and carry the offender and the witnesses to Barbados.

(4) The consular officer shall endorse upon the agreement of the ship such particulars with respect to them as the Director requires.

(5) A consular officer shall not exercise the power under subsection (3) if a more convenient means of transport is available or is not available except at a disproportionate expense.

(6) No master of a ship may be required under subsection (3) to receive more than one offender for every 100 tons of his ship's gross tonnage, or more than one witness for every 50 tons of his ship's gross tonnage.

(7) The master of a ship to whose charge an offender has been committed under subsection (3), shall, on his ship's arrival in Barbados give the offender into the custody of a police officer.

(8) The master of a ship who is required under subsection (3) to receive and carry any offender or witness in his ship and who

*(a)* fails to do so; or

*(b)* in the case of an offender, fails to deliver him as required by subsection (7),

commits an offence and is liable on summary conviction to a fine of $50 000.

(9) The expense of imprisoning an offender and of carrying him and witnesses to Barbados otherwise than in the ship to which they belong shall be paid out of the Consolidated Fund.

(10) A reference in this section to carrying a person in a ship includes affording him subsistence during the voyage.

**Enforcing detention of ship**

**1221.**(1) Where under this Act a ship is to be detained, any of the following officers may issue an order for detention and detain the ship:

*(a)* the Director;

*(b)* a surveyor of ships authorized by the Director for the purpose;

*(c)* an officer of customs;

*(d)* a Barbados consular officer;

*(e)* a commissioned naval or military officer;

*(f)* an officer designated by the Administration as a port state control officer; and

*(g)* any other person authorized in writing by the Minister.

(2) A notice of detention may

*(a)* include a direction that the ship

(i) shall remain in a particular place; or

(ii) shall be moved to a particular anchorage or berth; and

*(b)* if it includes such a direction, specify circumstances relating to safety or the prevention of pollution in which the master may move his ship from that place, anchorage or berth.

(3) The master of a ship that has been detained or who has been served with a notice of detention or an order for detention commits an offence if the master proceeds to sea otherwise than in accordance with such a notice before the ship is released by a competent authority.

(4) The master of a ship who has been served with a notice of detention and who fails to comply with a direction given under paragraph (2)*(a)* commits an offence.

(5) The owner of a ship, and any person who sends to sea a ship, in respect of which an offence is committed under subsection (2), if party or privy to the offence, commits an offence under that subsection.

(6) A person who commits an offence under subsection (3), (4) or (5) is liable

*(a)* to pay a fine in an amount of $50 000 to the Barbados Coast Guard;

*(b)* on summary conviction to a fine of $150 000; or

*(c)* on conviction on indictment to a fine of $250 000.

(7) Where a ship proceeds to sea in contravention of subsection (2) and an officer authorized under subsection (1) to detain the ship is on board the ship in the execution of his duty, the owner and master of the ship each

*(a)* shall be liable to pay all expenses of, and incidental to, the officer being taken to sea; and

*(b)* commit an offence.

(8) A person who commits an offence under subsection (7) is liable

*(a)* on summary conviction, to a fine of $100 000;

*(b)* on conviction on indictment, to a fine of $200 000.

(9) Where under this Act a ship is to be detained, an officer of customs and excise shall detain the ship, and where under this Act a ship may be detained, an officer of customs and excise may refuse to clear the ship outwards or grant a transire to the ship.

(10) When a provision of this Act provides that a ship may be detained until a document is produced to the proper officer of customs and excise, unless the context otherwise requires, the document may be produced to an officer authorized to grant a clearance or transire of the ship.

(11) A reference in this section to proceeding to sea includes a reference to going on a voyage or excursion that does not involve going to sea and a reference to sending or taking to sea shall be construed accordingly.

(12) A person exercising a power of detention in respect of an alleged contravention of this Act shall immediately release the ship if

*(a)* no proceedings for the offence in question are instituted within 7 days after the day on which the ship is detained;

*(b)* such proceedings have been instituted through exercise of the power conferred by subsection (1) within that period and are concluded without the master or owner being convicted;

*(c)* either

(i) the sum of $150 000 is paid to the Minister by way of security; or

(ii) security that, in the opinion of the Minister, is satisfactory and is for an amount not less than $200 000 is given to the Minister by or on behalf of the master or owner;

*(d)* where the master or owner is convicted of the offence, any costs or expenses ordered to be paid by him, and any fine imposed on him, have been paid; or

*(e)* the release is ordered by a court or tribunal referred to in Article 292 of the United Nations Convention on the Law of the Sea 1982, and any bond or other financial security ordered by such a court or tribunal is posted.

(13) The Minister shall repay any sum paid under paragraph (12)*(c)* or release any security given

*(a)* if no proceedings for the offence in question are instituted within 7 days after the day on which the sum is paid; or

*(b)* if such proceedings have been instituted within that period and are concluded without the master or owner being convicted.

(14) Where a sum has been paid, or security has been given, by a person under paragraph (12)*(c)* and the master or owner is convicted of the offence in question, the sum paid or the amount made available under the security shall be applied

*(a)* first in the payment of any costs or expenses ordered by the Court to be paid by the master or owner; and

*(b)* next in the payment of any fine imposed by the Court,

and the balance shall be repaid to the person paying the sum or giving the security.

(15) Before a ship is released from detention, the detaining officer shall issue to the master or the shipowner's agent or representative a notice of release from detention, stating that the detaining officer is satisfied that the defects found in

the ship and specified in the notice, have been rectified, apart from any minor ones that are listed and that the ship can now be released from detention.

**Banning of ships**

**1222.**(1) A vessel flying the flag of a state of a memorandum of understanding region shall be refused access to a Barbados port, if the ship

*(a)* has been detained 3 times within a period of 36 months during a visit to a port in a state of a memorandum of understanding region;

*(b)* has been detained 3 times within a period of 24 months during a visit to a port in a state of a memorandum of understanding region;

*(c)* jumps detention imposed by a port in a state of a memorandum of understanding region; or

*(d)* refuses to call at an agreed repair yard following detention in a port in a state of a memorandum of understanding region.

(2) A vessel flying the flag of a state that is not a state of a memorandum of understanding region shall be refused access to a Barbados port, if the ship

*(a)* has been detained 3 times, within a period of 36 months during a visit to Barbados;

*(b)* has been detained 3 times within a period of 24 months during a visit to Barbados;

*(c)* jumps detention imposed upon the vessel during a visit to Barbados; or

*(d)* refuses to call at an agreed repair yard following detention in Barbados.

(3) Access to a Barbados port or anchorage by a banned ship may be permitted by the port's chief executive officer, in consultation with the Director, Barbados Coast Guard and the Minister, in the event of

*(a)* force majeure;

*(b)* overriding safety considerations; or

*(c)* to reduce or minimize the risk of pollution;

if adequate measures to the satisfaction of the Minister have been implemented by the owner, the operator or the master of the ship to ensure safe entry.

(4) The Minister, in consultation with the Director, shall take measures to ensure that a ship will be refused access to any port within the states whose authorities are signatories to a port state control memorandum, if the ship

*(a)* proceeds to sea without complying with the conditions determined by the authority in the port of inspection;

*(b)* refuses to comply with the requirements of an applicable instrument by not calling into the indicated repair yard for the purpose of rectifying the outstanding deficiencies; or

*(c)* flies the flag of a state appearing on the black list published in the annual report of the port state control memorandum and has been detained more than twice in the course of the preceding 36 months in the ports within the region of the memorandum, until the company has provided evidence, to the satisfaction of the authority where the ship was found to be defective, that the ship fully complies with all applicable requirements of the applicable international maritime instruments.

(5) A banned measure against a ship is not revoked by the transfer of the ship to another company or flag or a change in other parties involved with the ship.

(6) A ban is rectified only when the shipping company has provided evidence to the satisfaction of the Director that the ship is now in compliance with all applicable safety, security, marine pollution prevention and maritime labour safety requirements of the International Maritime Organization and International Labour Organization, respectively.

(7) A banned ship that has been brought into full compliance with all safety, security, marine pollution prevention and maritime labour safety requirements of the International Maritime Organization and International Labour Organization, respectively, implemented into the laws of Barbados may be

allowed entry into a Barbados port, on receipt of a notice of permission to re-enter a Barbados port or anchorage issued by the Director.

(8) A ship that had a banned status and that is subsequently brought into compliance with applicable International Maritime Organization and International Labour Organization international maritime instruments shall be subject to expanded port state control inspections, in accordance with the regulations, each time that ship is in Barbados' waters.

(9) A memorandum of understanding region means

*(a)* the European Union and Canada, under the Paris memorandum of understanding port state control agreements;

*(b)* Asia and the Pacific, under the Tokyo memorandum of understanding port state control agreements;

*(c)* the Caribbean, under the Caribbean memorandum of understanding port state control agreements;

*(d)* Latin America, under the Acuerdo de Vina del Mar memorandum of understanding port state control agreements;

*(e)* West and Central Africa, under the Abuja memorandum of understanding port state control agreements;

*(f)* the Black Sea, under the Black Sea memorandum of understanding port state control agreements;

*(g)* the Mediterranean Sea, under the Mediterranean Sea memorandum of understanding port state control agreements;

*(h)* the Indian Ocean, under the Indian Ocean memorandum of understanding port state control agreements; and

*(i)* the Arab states of the Gulf, under the GCC, Riyadh memorandum of understanding port state control agreements.

**Incorporation of Caribbean MOU**

**1223.** The Caribbean Memorandum of Understanding on Port State Control shall have the force of law in Barbados.

**No liability of authorized officers in proceedings against ship**

**1224.**(1) No officer or other authorized person bringing proceedings against a ship under this Act or the regulations shall be liable in damages in respect of the seizure or detention of the ship, whether or not the ship is not proceeded against or, if it is proceeded against, is adjudicated to be not in violation of this Act, the regulations or the conventions implemented under this Act, if the High Court is satisfied that there were reasonable grounds for the seizure or detention.

(2) If the High Court is not so satisfied, the Court may award costs and damages to the party aggrieved and may make any order that the Court thinks fit.

**Charging offenders at sea**

**1225.**(1) A maritime law enforcement officer may

*(a)* apprehend and bring before a court persons found committing arrestable offences under this Act and the regulations, to be charged before the court and to prosecute persons reasonably suspected of having committed offences; and

*(b)* take and record for the purposes of identification the measurements, photographs and fingerprint impressions of all persons in lawful custody.

(2) Notwithstanding the *Magistrates Courts Act*, Cap. 116A, a maritime law enforcement officer who is not an attorney-at-law may conduct proceedings before a court of summary jurisdiction under any enactment relating to an assigned matter or proceedings arising out of the same circumstances as proceedings commenced under such an enactment, whether or not the proceedings are persisted in.

(3) Proceedings under merchant shipping laws brought in the name of the Director, an officer or the Commissioner of Police shall not be dismissed by reason only of failure of the Director, officer or Commissioner to appear in person or by counsel or solicitor, if proceedings brought in the name of the Director or officer are conducted by an officer authorized to do so by the Director and proceedings brought in the name of the Commissioner of Police are conducted by a constable present in court.

**Sums ordered to be paid leviable by distress on ship**

**1226.**(1) Where a court makes an order directing payment to be made of a seafarer's wages, fines or other sums of money, if the person directed to pay is the master or owner of the ship and the money directed to be paid is not paid in accordance with the order, the court may direct the amount remaining unpaid to be levied by distress.

(2) Where a fine imposed by a court in proceedings against the owner or master of a ship for an offence under this Act is not paid, or any costs or expenses ordered to be paid by him are not paid at the time ordered by the court, the court may, in addition to any other powers for enforcing payment, direct the amount remaining unpaid to be levied by distress or arrestment and sale of the ship and her tackle, furniture and apparel.

(3) Where a person is convicted of an offence under this Act and a court imposes a fine in respect of the offence, if it appears to the court that a person has incurred, or will incur, expenses in making good any damage that is attributable to the offence, the court may order the whole or part of the fine to be paid to that person to defray those expenses.

**Depositions of persons abroad admissible**

**1227.**(1) Where the evidence of a person is required in the course of a legal proceeding before a judge or magistrate and it is proved that that person cannot be found in Barbados, a deposition that the person has previously made at a place outside Barbados in relation to the same subject matter shall, subject to subsection (2), be admissible in evidence in those proceedings.

(2) For a deposition to be admissible under subsection (1) in any proceedings, the deposition

*(a)* shall have been taken on oath;

*(b)* shall have been taken before a justice or magistrate or a Barbados consular officer in another place;

*(c)* shall be authenticated by the signature of the justice, magistrate or officer taking it; and

*(d)* shall, if the proceedings are criminal proceedings, have been taken in the presence of the accused and be certified by the justice, magistrate or officer taking it to have been taken in the presence of the accused.

(3) No proof need be given of the signature or official character of a person appearing to have signed such a deposition and, in any criminal proceedings, a certificate stating that the deposition was taken in the presence of the accused shall, unless the contrary is proved, be evidence of that fact.

(4) This section also applies to proceedings before a person authorized by law or the consent of the parties to receive evidence.

(5) Nothing in this section affects the admissibility in evidence of depositions under any other enactment or the practice of a court.

**Admissibility in evidence and inspection of documents**

**1228.**(1) The following documents shall be admissible in evidence and, when in the custody of the Director, shall be open to public inspection:

*(a)* documents purporting to be submissions to, or decisions by, a proper officer or such other person authorized in writing by the Director to hold an inquiry;

*(b)* the official logbook of a ship kept under section 1251 and, without prejudice to section 1229(2), any document purporting to be a copy of an entry an official logbook and certified as a true copy by the master of the ship;

*(c)* crew agreements, lists of crews and notices given in relation to additions to or changes in crew agreements and lists of crews;

*(d)* returns or reports under section 1246; and

*(e)* documents transmitted to the Director under section 1263.

(2) A certificate issued under the regulations shall be admissible in evidence.

**Admissibility of documents in evidence**

**1229.**(1) Where a document is by this Act declared to be admissible in evidence, the document shall, on its production from proper custody,

*(a)* be admissible in evidence in any court or before any person having by law or the consent of parties authority to receive evidence; and

*(b)* subject to all just exceptions, be evidence of the matters stated in the document.

(2) A copy of, or an extract from, a document that is admissible in evidence shall, subject to subsection (3), also be admissible in evidence and evidence of the matters stated in the document.

(3) A copy of, or extract from, a document shall not be admissible under subsection (2) unless

*(a)* it is proved to be an examined copy or extract; or

*(b)* it purports to be signed and certified as a true copy or extract by the officer to whose custody the original document was entrusted and that officer has furnished the certified copy or extract to a person who applied for it at a reasonable time and paid a price determined by the Director.

(4) A person shall, on payment of price determined by the Director, be entitled to have a certified copy of a declaration or document a copy of which is admissible as evidence under this Act.

(5) An officer with duties of certification under subsection (3) who intentionally certifies a document as being a true copy or extract knowing that the copy or extract is not a true copy or extract commits an offence and is liable

*(a)* on summary conviction, to imprisonment for a term of 6 months or a fine of $20 000; or

*(b)* on conviction on indictment to a fine of $50 000, to imprisonment for a term of 2 years, or both.

**Inspection and admissibility in evidence of copies**

**1230.**(1) Where under an enactment a document is open to public inspection when in the custody of the Director, the Director may supply a copy or other reproduction of the document for public inspection instead of the original but shall nevertheless make the original available for public inspection if the copy or other reproduction is illegible.

(2) Where the Director destroys a document that has been sent to him in accordance with an enactment and keeps a copy or other reproduction of that document, subsection (1) and any enactment providing for that document to be admissible in evidence or open to public inspection shall apply to the copy or other reproduction as if it were the original.

(3) For the purposes of this section and of section 1229(2) in its application to documents in the custody of the Director, a copy is to be taken to be the copy of a document notwithstanding that it is taken from a copy or other reproduction of the original.

**Proof of exemptions**

**1231.**(1) Where an exception, exemption, excuse or qualification applies in relation to an offence under this Act, it may be proved by the defendant, but need not be specified or negatived in an information or complaint.

(2) If an exception, exemption, excuse or qualification applies in relation to an offence is specified or negatived in an information or complaint, the defendant shall not be required to prove it.

**Service of documents**

**1232.**(1) A notice or document authorized or required to be served on a person may be served on that person

*(a)* by delivering it to him;

*(b)* by delivering it to his proper address; or

*(c)* by sending it to him by post at his proper address.

(2) A document required to be served on the master of a ship may be served

*(a)* where there is a master, by leaving it for him on board the ship with the person appearing to be in command or charge of the ship; and

*(b)* where there is no master, by delivering it to

(i) the managing owner of the ship;

(ii) if there is no managing owner, on an agent of the owner; or

(iii) where no such agent is known or can be found, by leaving a copy of the document fixed to the mast of the ship.

(3) A document authorized or required to be served on any person may

*(a)* in the case of a body corporate, be served on the secretary or clerk of that body; or

*(b)* in the case of a partnership, be served on a partner or a person having the control or management of the partnership business.

(4) A notice authorized by section 1059 or 1062 to be given to an inspector may be given by delivering it to him or by leaving it at, or sending it by post to, his office.

(5) For the purposes of this section, the proper address of a person on whom a document is to be served shall be his last known address, except that

*(a)* in the case of a corporation registered outside Barbados, it shall be its principal office in Barbados;

*(b)* in the case of any other body corporate or its secretary or clerk, it shall be the address of the registered or principal office of that body; and

*(c)* in the case of a partnership or a person having the control or management of the partnership business, it shall be the principal office of the partnership.

(6) Where the person to be served with a notice has specified an address in Barbados other than his proper address as provided in subsection (5) as the one at which he or someone on his behalf will accept such notices, that address shall be treated for the purposes of this section as his proper address.

*Division 2*

*Control and Returns of Persons on Ships*

**Offences in connection with passenger ships**

**1233.**(1) A person commits an offence in relation to a ship for which there is in force a passenger ship safety certificate or a passenger certificate issued under or recognized by this Act or any other passenger ship, wherever registered, while it is in Barbados or its territorial waters if

*(a)* he has been refused admission to the ship, on account of being drunk or disorderly, by the owner or a person in his employment and, after the amount of his fare, if it was already paid, is returned or tendered to him, nevertheless persists in attempting to enter the ship;

*(b)* he is drunk or disorderly on board the ship, is requested by the owner or a person in his employment to leave the ship at any place in Barbados at which he can conveniently do so and, after having the amount of his

fare, if it was already paid, returned or tendered to him, does not comply with the request;

*(c)* while on board the ship and after receiving a warning by the master or other officer of the ship, he molests or continues to molest another passenger;

*(d)* after having been refused admission to the ship by the owner or a person in his employment on account of the ship being full, and having had the amount of his fare, if it was already paid, returned or tendered to him, he nevertheless persists in attempting to enter the ship;

*(e)* he has boarded the ship at any place, was requested, on account of the ship being full, by the owner or a person in his employment to leave the ship before it has left that place, had the amount of his fare, if it was already paid, returned or tendered to him, and does not comply with that request;

*(f)* on arriving in the ship at a place to which he has paid his fare, he knowingly and intentionally refuses or neglects to leave the ship; or

*(g)* on board the ship he fails, when requested by the master or other officer of the ship, to pay his fare or to show a ticket or other receipt showing the payment of his fare.

(2) Any liability in respect of the commission of an offence under subsection (1) shall not prejudice the recovery of any fare that is payable.

(3) A person commits an offence if, on board any ship referred to in subsection (1), he intentionally does or causes to be done anything in such a manner as to

*(a)* obstruct or damage any part of the machinery or equipment of the ship; or

*(b)* obstruct, impede or molest a member of the crew in the navigation or management of the ship, or otherwise in the execution of his duty on or about the ship.

(4) The master or another officer of a ship referred to in subsection (1), and any person called by him to his assistance, may, without any warrant, detain a person who commits an offence under subsection (1) or (3) and whose name and address are unknown to the master or officer and deliver that person to a police officer.

(5) A person who commits an offence under subsection (1) or (3) is liable on summary conviction to a fine of $7 000.

(6) Where a person commits an offence under subsection (1) or (3) and, at the request of the master of the ship or any other person in the employment of its owner, refuses to give his name and address, or gives a false name or address, that person is liable on summary conviction to a fine of $7 500.

**Exclusion of drunken passengers from passenger ships**

**1234.** The master of a passenger ship may refuse to receive on board any person who by reason of drunkenness or otherwise is in such a state, or misconducts himself in such a manner, as to cause annoyance or injury to passengers on board, and if such a person is on board, may put him on shore at any convenient place.

**Stowaways**

**1235.**(1) A person who, without the consent of the master or of any other person authorized to give consent, goes to sea or attempts to go to sea in a Barbados ship commits an offence and is liable on summary conviction to a fine of $15 000.

(2) No person shall go to sea in a ship without the consent of the owner, master, a ship's officer or some other person entitled to give that consent, or secrete himself for the purpose of going to sea without that consent.

(3) A person who goes to sea in a ship without consent under subsection (1) or (2) is, so long as he remains in the ship, deemed to belong to the ship and be subject to the same laws and regulations for preserving discipline as if he were a member of the crew and had signed the seafarers' employment agreement required under the Maritime Labour Convention, 2006.

(4) Subsections (1), (2) and (3) apply to a person who goes to sea or secretes himself for the purpose of going to sea

*(a)* in a Barbados ship going to sea from any port;

*(b)* in a ship other than a Barbados ship going to sea from a port in Barbados; or

*(c)* in a ship other than a Barbados ship going to sea from a port outside Barbados and bound for a port in Barbados.

(5) The master of a Barbados ship arriving at a port within or outside Barbados, and the master of a ship other than a Barbados ship arriving at a port in Barbados, shall, if a person has gone to sea in that ship without consent under subsections (1) and (2), report the fact in writing to the proper officer as soon as practicable after the arrival of the ship.

(6) Nothing in section 1217 shall be taken to limit the jurisdiction of a court in Barbados to deal with an offence under this section that has been committed in a country outside Barbados by a person who is not a Barbados citizen

**Unauthorized presence onboard**

**1236.** Where a Barbados ship or a ship registered in another country is in a port in Barbados and a person who is not in the service of the Government of Barbados or authorized by law to do so

*(a)* goes on board the ship without the consent of the master or of another person authorized to give it; or

*(b)* remains on board the ship after being requested to leave by the master, a police officer, an officer authorized by the Director or an officer of customs and excise,

the person commits an offence and is liable on summary conviction to a fine of $20 000.

**Master's power of arrest**

**1237.** The master of a Barbados ship may cause a person on board the ship to be put under restraint if, and for so long as, it appears to him necessary or expedient in the interest of safety or for the preservation of good order or discipline on board the ship.

**Unauthorized persons: safety-related offences**

**1238.** Where a person goes to sea in a ship without the consent of the master or of another person authorized to give consent or is conveyed in a ship in pursuance of repatriation, concerted disobedience and neglect of duty, as provided for under that Act and conduct endangering ship and persons on ship as provided for under that Act apply as if that person were a seafarer employed in the ship.

**Bribery**

**1239.**(1) No person shall, in respect of a matter relating to this Act,

*(a)* without authority to do so, give or promise to give, directly or indirectly, a reward to an officer or a person who is employed by the Government, or upon whom a duty is imposed or to whom any function is entrusted by or under this Act, in respect of the performance or non-performance by that officer or person of his employment, duty or function; or

*(b)* agree with, or propose to, any such officer or person to do or permit anything in contravention or evasion of this Act.

(2) An officer or a person referred to in paragraph (1)*(a)* shall not

*(a)* demand or receive, except from or through the Government or in accordance with the provisions of this Act, a reward in respect of the performance or non-performance of his employment, duty or function; or

*(b)* by any wilful act, neglect or default, do or permit, or agree to do or permit, anything in contravention or evasion of this Act.

**Certificates**

**1240.** Any person who

*(a)* intentionally alters a certificate issued under this Act;

*(b)* intentionally makes a false certificate issued under this Act;

*(c)* in connection with a survey required by this Act, knowingly or recklessly furnishes false information;

*(d)* with intent to deceive, uses, lends or allows to be used by another person, a certificate issued under this Act or any of its statutory instruments; or

*(e)* fails to surrender a certificate required to be surrendered under this Act or any of its statutory instruments,

commits an offence and is liable on summary conviction to a fine of $20 000.

**Forgery and other fraudulent acts**

**1241.** No person shall

*(a)* forge a document issued under this Act or the regulations;

*(b)* make a false representation for the purpose of procuring the issuance of a document under this Act or the regulations or for the purpose of inducing a person to do any act authorized by this Act or the regulations;

*(c)* produce or otherwise pass off a forged document purporting to be a document issued under this Act or the regulations that he knows to be forged;

*(d)* knowingly produce or otherwise use a document issued under this Act or the regulations that has been cancelled or suspended, that has expired or to which he is not entitled;

*(e)* make in a document produced or delivered to a person authorized to receive it under this Act or the regulations a statement that he knows is untrue in any particular;

*(f)* produce or deliver a document that contains a statement that he knows is untrue in any particular to a person authorized to receive it under this Act or the regulations; or

*(g)* lend to a person who he knows is not entitled to it a document issued under this Act or the regulations or allow such a document to be used by such a person.

**Obstructing administration of this Act**

**1242.**(1) No person shall

*(a)* damage, destroy, conceal or dispose of a vessel or goods to prevent their detention, forfeiture or seizure under this Act;

*(b)* rescue, damage or destroy a vessel or goods detained, forfeited or seized under this Act;

*(c)* knowingly receive or have in his possession a vessel or goods forfeited under this Act;

*(d)* insult, resist, hinder or mislead a person or court upon whom a duty is imposed or a power is conferred or to whom a function is entrusted by or under this Act in the discharge of that duty, the exercise of that power or the performance of that function;

*(e)* refuse or fail to give all reasonable assistance, when called upon to do so, to a person or court referred to in paragraph *(d)* in the discharge or performance of a duty or exercise of a power under this Act, or hinder or prevent any other person from assisting that person or court;

*(f)* hinder or prevent a witness from attending in obedience to any summons issued under this Act; or

*(g)* hinder or prevent the service of a document under this Act.

(2) The owner or master of a vessel that has been detained under this Act, or any other person under the control of either of them, shall not cause or permit the vessel to proceed to sea without the permission of the proper officer.

(3) The master of a vessel shall not wrongfully take to sea an officer authorized to detain the vessel or a surveyor or other officer when on board the vessel in the execution of his duty.

**Obstruction of navigation of ship**

**1243.** No person shall without reasonable excuse do anything to obstruct or damage the equipment of a ship, wherever registered, or obstruct, impede or molest a member of the crew in the navigation and management of the ship or otherwise in the execution of his duties about the ship.

**Penalty upon admission of guilt**

**1244.**(1) If a person

*(a)* admits to the Administration that he has contravened a provision of this Act, or that he has failed to comply with such a provision with which it was his duty to comply;

*(b)* agrees to abide by the decision of the Administration; and

*(c)* deposits with the Administration a sum required by the Administration not exceeding the maximum fine that may be imposed upon a conviction for the contravention or failure in question;

the Administration may, after any enquiry it considers necessary, determine the matter summarily and may, without legal proceedings, order by way of penalty the whole or a part of the deposit to be forfeited.

(2) There shall be a right of appeal to the Minister from a determination or order by the Administration under subsection (1) whereby a penalty exceeding $3 000 is imposed, if that right is exercised within a period of 3 months after the day on which the determination or order is made.

(3) The imposition of a penalty under subsection (1) shall not be deemed to be a conviction of a criminal offence, but no prosecution for an offence related to the same conduct shall subsequently be prosecuted.

(4) Nothing in this section shall affect the liability to forfeiture of a ship, shares in a ship or goods.

**Release from forfeiture or mitigation of penalty**

**1245.**(1) The Administration may, on such conditions as it considers proper,

*(a)* direct that an ship, a share in a ship or goods detained, seized or forfeited under this Act be released or delivered to its owner; or

*(b)* mitigate or remit a penalty incurred under this Act that is not a sentence imposed after conviction by a court of law.

(2) If the owner of a ship, share or goods referred to in subsection (1) accepts any conditions imposed, he shall not subsequently be entitled to institute or maintain an action or other proceedings for damages on account of the detention, seizure or forfeiture.

**Passenger returns**

**1246.**(1) The master of a ship, whether or not a Barbados ship, that carries a passenger to a place in Barbados from a place out of Barbados, or from a place within Barbados to a place outside of Barbados, shall furnish to the Director in such manner as the Director directs a return

*(a)* giving the total number of any passengers carried;

*(b)* distinguishing the total number of any class of passengers carried; and

*(c)* giving any other particulars with respect to passengers required by the Director.

(2) A passenger shall furnish the master of the ship with any information required by him for the purpose of the return.

(3) Where

*(a)* the master of a ship fails to make a return required under subsection (1) or makes a false return; or

*(b)* a passenger refuses to give information required by the master of the ship for the purpose of the return or, for that purpose, gives to the master information that he knows to be false or recklessly gives to him information that is false;

that person commits an offence and is liable on summary conviction to a fine of $5 000, in the case of a failure or refusal, or $10 000, in the case of a false return or false information.

**Returns of births and deaths in ships**

**1247.**(1) In the event of a birth or death on board a Barbados ship, the master of that ship shall

*(a)* make a return to the Director or proper officer of

(i) the birth or death of any person occurring in the ship; and

(ii) the death of any person employed in the ship that occurs outside Barbados;

*(b)* notify any such death to a person the deceased has named to him as his next of kin;

*(c)* where he is the master of a ship not registered in Barbados but calls at a port in Barbados in the course of, or at the end of, a voyage to make a return to the Director of any birth or death of a Barbados citizen that has occurred in the ship during the voyage;

*(d)* requiring the Director to record such information as may be specified in the regulations about a death referred to in paragraph *(a)* where

(i) it appears to him that the master of the ship cannot perform his duty under that paragraph because he has himself died or is incapacitated or missing;

(ii) the death in question has been the subject of an inquest held by a coroner or an inquiry held under section 1076 and the findings of the inquest or inquiry include a finding that the death occurred; or

(iii) the deceased's body has been the subject of a postmortem examination and in consequence the coroner is satisfied that an inquest is unnecessary;

*(e)* requiring the Director to send a certified copy of a return or record made under the regulations to the Registrar of Births and Deaths for Barbados; and

*(f)* authorizing the registration of the following births and deaths occurring outside Barbados in circumstances where no return is required to be made under regulations

(i) the birth or death of a Barbadian citizen that occurs in a ship not registered in Barbados; and

(ii) the death of a Barbadian citizen or other person who has been employed in a ship not registered in Barbados that occurs elsewhere than in the ship.

(2) The Director, pursuant to subsection (1), shall

*(a)* record all relevant information about a death referred to in paragraph *(a)* of subsection (1) where

(i) it appears to him that the master of the ship cannot perform his duty under that paragraph because he has himself died or is incapacitated or missing;

(ii) the death in question has been the subject of an inquest held by a coroner or an inquiry held under section 1076 and the findings of the inquest or inquiry include a finding that the death occurred; or

(iii) the deceased's body has been the subject of a postmortem examination and in consequence the coroner is satisfied that an inquest is unnecessary;

*(b)* send a certified copy of a return or record made in relation to a birth or death to the Registrar of the Supreme Court of Barbados;

*(c)* authorize the registration of the following births and deaths occurring outside Barbados in circumstances where no return is required to be made under regulations or other statutory instrument

(i) the birth or death of a Barbadian citizen that occurs in a ship not registered in Barbados; and

(ii) the death of a Barbadian citizen or other person who has been employed in a ship not registered in Barbados that occurs elsewhere than in the ship.

(3) The Registrar of the Supreme Court of Barbados to whom a certified copy of documentation about a birth or death is sent

*(a)* shall record the information contained in it in the register; and

*(b)* may record in the register such additional information as appears to him desirable for the purpose of ensuring the completeness and correctness of the register.

(4) The registration of births and deaths under subsection (3) shall have the same effect as if the register were a register of births or deaths held in another country and as if certified copies of entries in that register had been transmitted to the Registrar in accordance with those laws.

(5) The Minister may, where it considers it necessary to do so, make regulations relating to births and deaths on ships.

(6) A reference in this section to a death occurring in a ship includes a reference to a death occurring in a ship's boat.

**Nationality of babies born at sea**

**1248.**(1) A baby born in international waters on board a Barbados ship, or on a Barbados-registered aircraft, is a Barbadian citizen.

(2) A baby born to a mother who was air-lifted from a ship on an aircraft in the airspace above Barbados' territorial sea is a Barbadian citizen.

(3) A baby born on an aircraft that is not Barbados-registered in the airspace beyond Barbados' territorial sea takes the nationality of the mother or may choose to take the nationality of the state in which the aircraft is registered.

(4) A baby born on board a foreign ship that is docked in a Barbados port, or on board a foreign ship within the territorial sea of Barbados, is a Barbadian citizen.

**Naming place of birth**

**1249.**(1) The place of birth of a baby born on a foreign ship in international waters shall be listed as "At Sea".

(2) The place of birth of a baby born on a foreign ship in the territorial waters of a country shall be listed as the name of that country.

(3) The place of birth of a baby born on a foreign aircraft in flight in over a region where there are no state claims to sovereignty shall be listed as "In the Air".

(4) The place of birth of a baby born on a foreign aircraft in flight in over a region where a country claims sovereignty shall be listed as the name of that country.

**Reduction of statelessness**

**1250.**(1) A birth onboard a foreign ship or aircraft in international waters, or in the airspace where no state claims sovereignty, may be treated as a birth in the country where the ship or aircraft is registered or in the country of the mother.

(2) A birth onboard a foreign bareboat-chartered ship in international waters where no state claims sovereignty may be treated as a birth in the country of the ship's primary registration or as a birth in the country of the mother.

*Division 3*

*Documentation*

**Definitions**

**1251.** In this Division,

"certificate" means a document issued by the Administration or a recognized organization acting on behalf of the Administration that is used to show compliance with International Maritime Organization requirements or used to describe operating conditions, crewing requirements and ship equipment carriage requirements, but does not include publications, manuals, instructions or ships' logs used to record ongoing operations;

"electronic certificate" means a certificate issued in an electronic format;

"electronic signature" means data in electronic form that is attached to or logically associated with other electronic data to serve as a method of authentication of the issuer and the contents of the electronic data;

"unique tracking number" means a string of numbers, letters or symbols used as an identifier to distinguish an electronic certificate issued by the Administration or its representative from another electronic certificate issued by the Administration or a recognized organization acting on the Administration's behalf; and

"verify" means to use a reliable, secure and continuously available process to confirm the authenticity and validity of an electronic certificate using the unique tracking number.

**Official and other logbooks**

**1252.**(1) Except as provided by regulations made under this section, an official logbook in a form approved by the Director shall be kept in every Barbados ship.

(2) The Minister may make regulations prescribing the particulars to be entered in English in official logbooks, the persons by whom such entries are to be made, signed or witnessed, and the procedure to be followed in making such entries and in their amendment or cancellation.

(3) The regulations may require the production or delivery of official logbooks to such persons, in such circumstances and within such times, specified in the regulations.

(4) Regulations made under this section may exempt ships of a specified description from the requirements of the regulations, either generally or in the circumstances specified in the regulations.

(5) Regulations made under this section may make a contravention of a provision of the regulations an offence punishable on summary conviction with a fine not exceeding $50 000.

(6) All Barbados ships shall, in addition to an official logbook, carry on board a deck logbook and an engine room log book in which shall be recorded particulars relating to the deck watch and the engine room watch respectively.

(7) Subject to subsection (8), the entries in a deck logbook and engine room log book shall be made in English, except where all persons making entries in those logbooks have a common language other than English, in which case the entries may be made in that common language.

(8) The Director may require a logbook or a logbook extract written in a language other than English to be translated officially into English.

(9) A logbook referred to in this section shall be admissible in evidence.

(10) A person who intentionally destroys or mutilates a logbook or renders illegible an entry in a logbook commits an offence and is liable on summary conviction to a fine of $50 000.

**Permission to use electronic certificates**

**1253.** Electronic certificates for ships may be used in place of traditional paper certificates.

**Barbados ships using electronic certificates**

**1254.**(1) An electronic certificate issued in respect of a Barbados ship shall

*(a)* be valid and conform to the format and content required by the applicable international convention or instrument;

*(b)* be protected from edits, modifications or revisions other than those authorized by the issuer or the Administration;

*(c)* have a unique tracking number used for verification; and

*(d)* contain a printable and visible symbol that confirms the source of its issuance.

(2) Instructions for verifying the information contained in a ship's electronic certificate, including confirmation of periodic endorsements, shall be available on board the ship.

(3) The electronic signature on an electronic certificate issued in respect of a Barbados ship shall be in accordance section 8(1) of the *Electronic Transactions Act*, Cap. 308B.

**Electronic certificates by foreign ships**

**1255.**(1) A person referred to in section 1050 may require the production of an electronic certificate by a foreign ship in Barbados waters.

(2) An electronic certificate issued in respect of a foreign registered ship shall not be accepted unless it conforms with the requirements of section 1253(1).

(3) A port state control officer or other authorized officer referred to in section 1050 may request the master of a ship to demonstrate the validity of an electronic certificate.

(4) Where the master of a ship fails to satisfactorily demonstrate that an electronic certificate complies with the requirements of section 1253(1), the ship's flag Administration shall be consulted.

**IMO guidelines for the use of electronic certificates**

**1256.** An electronic certificate shall adhere to the International Maritime Organization Facilitation Committee's Guidelines for the Use of Electronic Certificates.

**Recordable instruments**

**1257.**(1) The following documents shall be recorded at an office maintained for that purpose, when they are presented in the proper form and duly executed:

*(a)* bills of sale and other instruments of conveyance of vessels in conjunction with the re-registration, or change of registered ownership, of a registered vessel;

*(b)* construction contracts;

*(c)* mortgages, hypothecations, financing charters or similar charges upon vessels;

*(d)* assignments, assumptions, amendments, addenda, supplements, subordinations, coordination agreements, discharges, releases and satisfactions of mortgages, and any other instruments of a similar effect; and

*(e)* any other documents relating to vessels that are entitled to be recorded.

(2) A builder's certificate, bills of sale or other instrument of conveyance of a vessel that does not meet the requirements of subsection (1) may also be recorded at the option of the owner.

**Number of copies**

**1258.**(1) The following number of copies are required in respect of the following documents:

*(a)* mortgages, assignments, assumptions, mortgage amendments, addenda, supplements, or subordination or coordination agreements shall be submitted in 4 originals, each duly apostilled, notarized or acknowledged;

*(b)* instruments of satisfaction, release and discharge relating to recorded mortgages shall be submitted in 2 originals, each duly apostilled, notarized, or acknowledged;

*(c)* construction contracts shall be submitted in one certified copy;

*(d)* bills of sale, master carpenter's, or builder's certificates that are to be recorded shall be submitted in one original, duly apostilled, notarized, or acknowledged;

*(e)* one copy of an instrument transferring title to a vessel shall be submitted for the purpose of a vessel's registration; and

*(f)* powers of attorney or other evidence of authorization, such as corporate resolutions, shall be submitted in one original or one certified copy.

(2) If a bill of sale submitted for recording evidences a transfer of ownership for a vessel already registered under this Act, the original bill of sale shall have a copy of the vessel's current certificate of registration of Barbados attached to it.

**Inconsistencies in certification and documentation**

**1259.** Where a physical or virtual port state control inspection discloses inconsistencies, deficiencies or errors in the certificates and documentation specified in the regulations, a physical check of the vessel shall be conducted.

**Electronic ship certificates**

**1260.** Electronic certificates may be issued in respect of any Barbados-registered ship, provided that the certificates comply with the requirements for electronic ship certificates as specified in Division 3 of Part XXXIV.

**Issuance, Renewal, etc. of Maritime Documentation and Instruments**

**1261.** The Administration may issue, renew, approve, extend, endorse, suspend, revoke, modify, vary, refuse to renew, approve, extend or endorse, as the case may be, any maritime documentation or instrument by it in the execution of its functions under this Act or its statutory instruments.

*Division 4*

*Dispensation, Nautical Assessors, Forms and Financials*

**Director's power to dispense**

**1262.** The Director may, upon any conditions as the Director thinks fit, exempt a ship from a specified requirement of, or prescribed under, this Act, or dispense with the observance by a ship of any such requirement, if he is satisfied that

*(a)* the requirement has been substantially complied with by that ship or that compliance with it is unnecessary in the circumstances; and

*(b)* the action taken or provision made as respects the subject-matter of the requirement in relation to the ship is as effective as, or more effective than, actual compliance with the requirement.

**Appointment of nautical assessors**

**1263.**(1) A court may appoint a nautical assessor to advise the court on matters of nautical skill and seamanship in admiralty proceedings.

(2) Remuneration to an assessor appointed under this Act shall be paid out of money provided by the Consolidated Fund.

**Returns to Director**

**1264.** All consular officers of Barbados shall make and send to the Director such reports on any matter relating to Barbados seafarers as the Director may require.

**Forms**

**1265.**(1) The Director may prepare and approve forms for any book, instrument or paper required under this Act and may amend such forms as he thinks fit.

(2) The Director shall cause every such form to be marked with the distinguishing mark of the Administration and, before finally issuing a form or making an alteration to a form, shall give public notice of it in such manner as he thinks requisite in order to avoid inconvenience.

(3) The Director shall cause such forms to be available from the Administration.

(4) Every book, instrument or paper shall be made in the form, if any, approved by the Director, or as near as circumstances permit, and shall otherwise not be admissible in evidence in civil proceedings on the part of the owner or master of any ship.

(5) A book, instrument or paper made in a form purporting to be the proper form and to be marked in accordance with subsection (2) shall be presumed to be in the form required by this Act.

(6) Subsections (4) and (5) apply only if a different form is not prescribed under this Act.

(7) Where a person prints, sells or uses a document purporting to be a form approved by the Director knowing that the document is not the approved form or that the document has not been prepared or issued by the Director, that person commits an offence and is liable on summary conviction to a fine of $7 000.

**Fees and fines**

**1266.**(1) The Minister may make regulations prescribing fees to be charged in respect of

*(a)* the issuance or recording under this Act of a certificate, license or other document; or

*(b)* the doing of anything under this Act and the regulations.

(2) Fees for the measurement of a ship's tonnage may be prescribed as maximum fees.

(3) Other than monies identified for payment into the Marine Heritage Fund under Part XXVIII, all fees and fines payable under this Act shall be paid into the Consolidated Fund, unless expressly directed in writing by the Minister to be paid into another specially constituted fund.

**Expenses charged against Consolidated Fund**

**1267.** The following expenses and other amounts shall be payable out of the Consolidated Fund:

*(a)* the expenses incurred by the Director under this Act;

*(b)* the expenses of obtaining depositions, reports and returns respecting wrecks and casualties;

*(c)* such sums as the Director may, in his discretion, think fit to pay in respect of claims on account of the proceeds of wreck;

*(d)* the expenses incurred in respect of Receiver of Wreck in the performance of his duties;

*(e)* such expenses as the Director directs for affording assistance towards the preservation of life and property in cases of shipwreck and distress at sea, or rewarding the preservation of life in such cases; and

*(f)* any other amounts that are by virtue of this Act payable out of money provided out of the Consolidated Fund or any other specially constituted fund.

**Application of Act to certain ships**

**1268.**(1) The Minister may make regulations directing that specified provisions of this Act and of instruments made under this Act shall extend to foreign registered ships of a specified description and to masters and seafarers employed in them, in such circumstances and with any modifications as may be specified.

(2) Regulations under this section may contain such transitional, supplementary and consequential provisions as appear to the Minister to be expedient.

**Application of Act to Government ships**

**1269.**(1) Except as otherwise provided in this Act, nothing in this Act shall apply to

*(a)* Barbados Government ships, irrespective of purpose of operation; or

*(b)* ships or aircraft of the Defence Force.

(2) The Minister may make regulations prescribing the manner and extent to which the provisions of this Act shall apply to Barbados government ships operated for non-commercial purposes.

**International conventions**

**1270.**(1) Sections 1237 and 1238 apply in respect of international conventions and other international instruments, including amendments to them and replacements for them.

(2) The Minister shall from time to time by Marine Notice publish

*(a)* the international conventions relating to ships and shipping, including amendments to them and replacements for them, and other international instruments that apply to Barbados;

*(b)* the reservations if any, entered on them by Barbados; and

*(c)* the international conventions, including amendments to them and replacements for them, and other international instruments that cease to apply to Barbados.

(3) The Director shall keep in his office a copy of

*(a)* all the instruments referred to in subsection (2) that have application in Barbados; and

*(b)* all regulations and notices made under this Act.

(4) The Director shall make copies of the documents referred to in subsection (3) available for inspection or, upon payment of a prescribed fee, provide copies of them to members of the public, seafarers or persons concerned with or having an interest in ships or merchant shipping.

**Implementation of treaties**

**1271.**(1) For the purpose of giving effect to an international agreement or other international treaty instrument relating to shipping or the prevention of pollution of the marine environment to which Barbados is a party, the Minister may

*(a)* by order amend any provision of this Act; or

*(b)* make such regulations as appear to him to be necessary.

(2) An order or regulation under subsection (1) shall be subject to affirmative resolution.

**Conventions prevail**

**1272.** Where an international convention or other international instrument applies to Barbados and a provision of that convention or instrument and a provision of this Act conflict in any manner, the provision of the convention or instrument shall prevail, unless the Minister otherwise provides.

**Travaux préparatoires of international conventions**

**1273.** Where there is any need for further clarity in respect of International Maritime Organization conventions incorporated under this Act and the regulations, the travaux préparatoires of those instruments shall be consulted.

**Contravention of international conventions**

**1274.** Where, in respect of a Barbados ship, there is any contravention of a requirement of an international convention or other international instrument that applies to Barbados, the Director may suspend the certificate of registration of the ship until the contravention is rectified.

*Division 5*

*Prohibition on Transfer of Ship by Court*

**Power of Court to prohibit transfer of ship**

**1275.**(1) Except as otherwise provided in this Act, the High Court, may, if it thinks fit and without prejudice to the exercise of any other power of the Court, on a demand by writ of summons of a person claiming a right in or over a ship,

*(a)* make an order prohibiting, for a specified time of not more than one year, any dealing with the ship or a share in it, on any terms and conditions it thinks just, including the imposition of an obligation to provide appropriate security for damages, interests and costs;

*(b)* refuse to make the order or discharge an order when made, with or without costs; and

*(c)* generally act in the case as the justice of the case requires.

(2) Every registrar, without being made a party to the proceedings, shall, on being served with or given notice of the order, obey the same and enter a note of the order and any applicable expiry date in the register of the ship.

(3) A writ of summons shall, on pain of nullity, indicate a sum in Barbadian or foreign currency that shall, for the purposes of this section, be deemed to be the amount of the claim.

(4) The Court shall not issue an order under subsection (1), and shall discharge any such order when made, if it is satisfied that the rights of the plaintiff are already otherwise secured.

(5) Where the respondent deposits in court the amount of the claim in the currency indicated in the claim or gives security, satisfactory to the Court, for the claim, the Court shall not issue an order under subsection (1) or, if the Court has issued such an order, it shall revoke it with respect to the ship or share in the ship.

(6) The Court shall appoint the writ for hearing within 20 days of its filing.

(7) The Court may, on the application of the plaintiff, make a provisional order prohibiting any dealings with the ship or a share in it until the Court decides definitely on the merits of the writ or until the Court revokes the provisional order.

(8) If an order, other than a provisional order, is issued in order to secure a claim that has not yet been judicially verified, unless proceedings on the merits of the claim are already pending in a Barbados court, another competent court or in arbitration, the plaintiff obtaining the order shall prosecute the claim in that court or in arbitration within 8 working days after the issuance of the order.

(9) If the plaintiff does not comply with subsection (8), the court issuing the order shall, on the application of the owner or any other interested party, revoke it.

(10) Where the Court has issued a provisional order, the plaintiff shall prosecute the claim within 30 days after the issuance of the provisional order or 8 days after the issuance of the definite order, whichever is earlier.

(11) Notwithstanding any provision of the *Supreme Court (Civil Procedure) Rules*, a definite or provisional order given under this section shall be immediately enforceable.

(12) An order issued under this section may be extended by the Court on the application of the plaintiff for a further period or periods of not more than one year, if the plaintiff confirms that the order is still required and the application is filed at least 30 days prior to the lapse of the then current term of the order.

(13) On an application under subsection (12), the Court shall extend the order and the extension shall be notified to the defendant and served on the Registrar, who shall enter the new expiry date in the register of the ship.

(14) An order issued under of this section shall not affect

*(a)* the rights of the holder of a mortgage registered over the ship or recognized under this Act, including the rights specified in section 1276;

*(b)* the ability of the Registrar to delete a ship or to issue a deletion certificate under this Act or any statutory instrument made under it;

*(c)* the sale of the ship pursuant to an order or with the approval of a competent court within whose jurisdiction the ship was at the time of the sale; or

*(d)* the bareboat charter registration of the ship in a foreign registry under Part VII.

(15) For the purposes of this section,

*(a)* a right in or over a ship or a part of a ship shall be a claim

(i) based on a right of ownership;

(ii) secured by a mortgage;

(iii) secured by a registered encumbrance;

(iv) secured by a privilege or a lien over the ship arising by operation of Barbados law or the law applicable to the claim; or

(v) that gives rise to a claim *in rem* against a vessel under Barbados law;

*(b)* a discharge of, or an amendment for the purpose of reducing the amount secured by, a mortgage shall not be deemed to constitute a dealing with a ship or share of one;

*(c)* a guarantee by a Barbados bank or by a foreign bank of repute in the currency of the claim shall qualify as satisfactory security; and

*(d)* where a guarantee is deposited in the registry of the courts, a foreign bank issuing the guarantee shall unconditionally submit to the jurisdiction of the Barbados courts in so far as its obligations under the guarantee are concerned.

**Rights of mortgagee**

**1276.**(1) In the event of default of a term or condition of a registered mortgage or of a document or agreement referred to in one, the mortgagee, upon giving notice in writing to the mortgagor,

*(a)* shall be entitled to take possession of the ship or share in it in respect of which he is registered;

*(b)* subject to subsection (2), may to sell the ship or share in respect of which he is registered; and

*(c)* may apply for an extension, pay fees, receive certificates and do anything in the name of the owner that is required in order to maintain the status and validity of the registration of the ship.

(2) Where more than one person is registered as a mortgagee of the same ship or share, a subsequent mortgagee shall not, except under the order of a court of

competent jurisdiction, sell the ship or share without the concurrence of every prior mortgagee.

(3) If the proceeds of the sale of the ship or share exceed the cost of discharging the mortgage debt, the mortgagee shall deposit the surplus for the benefit of other creditors and of the mortgagor.

(4) Except so far as may be necessary for making a mortgaged ship or share available as a security for the mortgage debt, the mortgagee shall not by reason of the mortgage be deemed to be the owner of the ship or share, nor shall the mortgagor be deemed to have ceased to be its owner.

(5) This section applies to all registered mortgages that secure debts resulting from an account current or overdraft or other credit facility.

(6) In connection with the enforcement of a mortgage, for the purpose of determining the amount certain liquidated and due in connection with a judicial sale of a ship, the mortgagee shall specify the sum due at the time of enforcement by means of an affidavit served on the mortgagor, without prejudice to the right of any interested party to contest that amount according to law.

(7) For the purpose of the proceedings referred to in this section, the debtor shall be deemed to be duly served if the application or other act is served on

*(a)* the master of the vessel;

*(b)* if the master is absent from Barbados, on the local agent appointed for the vessel by the owners or their agent; or

*(c)* in the absence of a local agent, on a curator appointed by the court to represent the debtor and the ship.

**Protection from personal liability**

**1277.** No liability shall lie personally against an authorized public officer, authorized person or entity who, acting in good faith and with reasonable care, does or omits to do anything in the execution or purported execution of a function

under this Act or under any other enactment on shipping, or any statutory instruments under this Act or under any other shipping enactments.

**Application of Act by order to foreign ships**

**1278.** Where the Minister is informed that the government of a foreign country desires that any of the provisions of this Act or the regulations that do not apply to the ships of that country should so apply and there are no provisions in this Act for that application, the Minister may order that the provisions specified in the order apply, subject to any limitations specified in the order, to the ships of that country, and to the owners, masters, seafarers and apprentices of those ships, when not located within the jurisdiction of the government of that country, in the same manner as if those ships were Barbados ships.

**Application of other Acts by order to foreign ships**

**1279.**(1) Where the Minister is informed that the government of a foreign country desires that any of the provisions of the Barbados Acts referred to in subsection (2), or the regulations made under them, that do not apply to the ships of that country should so apply and there are no provisions in this Act for that application, the Minister may order that the provisions specified in the order apply, subject to any limitations specified in the order, to the ships of that country, and to the owners, masters, seafarers and apprentices of those ships, when not located within the jurisdiction of the government of that country, in the same manner as if those ships were Barbados ships.

(2) An order under subsection (1) may make applicable any other shipping-specific enactment.

*Division 6*

*Marriages at Sea*

**Officiating of marriage ceremonies on ships**

**1280.**(1) No master shall officiate a marriage ceremony on board a Barbados ship, irrespective where the ship may be, except in accordance with the *Merchant Shipping (Maritime Marriage) Act, 2024* (Act 2024- ).

(2) No master shall officiate a marriage ceremony on board a foreign ship in Barbados waters, except in accordance with the *Merchant Shipping (Maritime Marriage) Act, 2024*.

**Marriage ceremonies in port**

**1281.**(1) A marriage ceremony on board a ship docked in a seaport in Barbados may be conducted only in accordance with the port's requirements for in-port-shipboard marriage ceremonies.

(2) The port authority for each port shall publish a Marine Notice, expressly outlining its requirements for marriage ceremonies on board docked ships in ports.

**Renewing vows on Barbados ships**

**1282.** Proof of a valid marriage certificate shall be shown to a ship's master licensed to officiate maritime marriages under the *Merchant Shipping (Maritime Marriage) Act 2024* (Act 2024- ) in order to renew any marriage vows on board a Barbados ship.

*Division 7*

*Commitments to Foreign Governments*

**Approval for commitments to foreign governments**

**1283.**(1) An owner, with the approval in writing of the Director or of an official who is authorized to act on behalf of the Director, may make, enter into or execute any commitment, agreement or arrangement whereby a vessel registered under this Act may be made available for the use of, to be chartered or sold to, or requisitioned by, another country.

(2) The granting of an approval under subsection (1) shall also constitute approval for making the vessel available under the terms of the commitment, agreement or arrangement.

**Copies to be filed**

**1284.**(1) Copies of a proposed commitment, agreement or arrangement referred to in section 1282 shall be submitted to the Administration, together with an application for approval.

(2) If the application is approved, a copy of the commitment, agreement or arrangement shall be filed with the Director within 30 days after its formal execution.

**Normal commercial carriage excluded**

**1285.** Section 1282 does not apply to day-to-day current commercial transactions providing for the carriage of cargo under booking contracts, contracts of affreightment, voyage charters or time charters.

**Offence**

**1286.** If an owner contravenes section 1282, the certificate of registration of his vessel may be cancelled, in addition to any other penalty provided by this Act or the regulations.

*Division 8*

*Arrest of Vessels*

**Definitions**

**1287.** In this Division

"arrest" means the detention or restriction on removal of a vessel by an order of a court to secure a maritime claim, but does not include

*(a)* the seizure of a vessel in execution or satisfaction of a judgment or other enforceable instrument; or

*(b)* detention as part of port state control inspection lawfully carried out under this Act or the regulations;

"claimant" means a person asserting a maritime claim;

"court" means

*(a)* the Admiralty Division of the High Court of Barbados; or

*(b)* a competent judicial authority of a state in which a Barbados vessel has been arrested;

"maritime claim" in relation to a vessel, means a claim arising out of

*(a)* loss or damage caused by the operation of the vessel;

*(b)* loss of life or personal injury occurring, whether on land or on water, in direct connection with the operation of the vessel;

*(c)* salvage operations or a salvage agreement, including any applicable compensation relating to salvage operations in respect of the vessel or its cargo that threatens damage to the environment;

*(d)* damage, or a threat of damage, caused by the vessel to the environment, coastline or related interests, including

(i) measures taken to prevent, minimize, or remove such damage;

(ii) compensation for such damage;

(iii) costs of reasonable measures of reinstatement of the environment undertaken or to be undertaken;

(iv) loss incurred or likely to be incurred by third parties in connection with such damage; and

(v) damage, costs, or loss of a similar nature;

*(e)* costs or expenses relating to the raising, removal, recovery, destruction or the rendering harmless of a vessel that is sunk, wrecked, stranded or abandoned, including anything that is or has been on board such a vessel, and costs or expenses relating to the preservation of an abandoned ship and maintenance of its crew;

*(f)* an agreement relating to the use or hire of the vessel, whether contained in a charter party or otherwise;

*(g)* an agreement relating to the carriage of goods or passengers on board the vessel, whether contained in a charter party or otherwise;

*(h)* loss of or damage to, or in connection with, goods, including luggage, carried on board the vessel;

*(i)* general average;

*(j)* towage;

*(k)* pilotage;

*(l)* goods, materials, provisions, bunkers, equipment or containers supplied, or services rendered, to the vessel for her operation, management, preservation or maintenance;

*(m)* the construction, reconstruction, repair, converting or equipping of the vessel;

*(n)* port, canal, dock, harbour and other waterway dues and charges;

*(o)* wages and other sums due to the master, officers and other members of the vessel's complement in respect of their employment on the ship, including costs of repatriation and social insurance contributions payable on their behalf;

*(p)* disbursements incurred on behalf of the vessel or her owners;

*(q)* insurance premiums, including mutual insurance calls, in respect of the vessel, payable by or on behalf of the shipowner or demise charterer;

*(r)* commissions, brokerages or agency fees payable in respect of the ship by or on behalf of the vessel owner or demise charterer;

*(s)* a dispute as to ownership or possession of the vessel;

*(t)* a dispute between co-owners of the ship as to the employment or earnings of the vessel;

*(u)* a mortgage or a hypothèque, or a charge of the same nature on the vessel; or

*(v)* a dispute arising out of a contract for the sale of the vessel; and

"person" means an individual or partnership or a public or private body, whether corporate or not, and includes a state and any of its constituent subdivisions.

**Application**

**1288.**(1) This Division applies to

*(a)* every vessel within the jurisdiction of Barbados, whether not that vessel is flying the flag of Barbados;

*(b)* Barbados vessels within the jurisdiction of a foreign state; and

*(c)* vessels that are not seagoing, including domestically operating vessels.

(2) This Division does not apply to a warship, naval auxiliary ship or other ship owned or operated by a state and used only on governmental non-commercial service.

**Powers of arrest**

**1289.**(1) A vessel may be arrested only under the authority of a court or released from arrest only under the authority of the court that authorized the arrest.

(2) A vessel may be arrested only in respect of a maritime claim and in respect of no other claim.

(3) A vessel may be arrested for the purpose of obtaining security notwithstanding that, by virtue of a jurisdiction clause or arbitration clause in any applicable contract or otherwise, the maritime claim in respect of which the arrest is effected is to be adjudicated in a state other than the state where the arrest is effected, or is to be arbitrated or adjudicated subject to the law of another state.

(4) Except as otherwise provided in this Division, the procedure relating to the arrest of a vessel or her release shall be governed by the law of the state in which the arrest was effected or applied for.

**Exercise of right of arrest**

**1290.**(1) A vessel in respect of which a maritime claim is asserted may be arrested if

*(a)* the person who owned the vessel at the time when the maritime claim arose is liable for the claim and is owner of the vessel when the arrest is made;

*(b)* the demise charterer of the vessel at the time when the maritime claim arose is liable for the claim and is demise charterer or owner of the ship when the arrest is made;

*(c)* the claim is based upon a mortgage, hypothèque or a charge of the same nature on the vessel;

*(d)* the claim relates to the ownership or possession of the vessel; or

*(e)* the claim is against the owner, demise charterer, manager or operator of the vessel and is secured by a maritime lien that is granted or arises under the law of the state where the arrest is applied for.

(2) A vessel may be arrested if the vessel is owned by the person who is liable for the maritime claim when the arrest is made and who was, when the claim arose

*(a)* owner of the vessel in respect of which the maritime claim arose; or

*(b)* a demise charterer, time charterer or voyage charterer of that vessel.

(3) Subsection (2) does not apply to claims in respect of ownership or possession of a vessel.

(4) Notwithstanding subsections (1) and (2), the arrest of a vessel that is not owned by the person liable for the claim may be made only if, under the law of the state where the arrest is applied for, a judgment in respect of that claim can be enforced against that vessel by a judicial or forced sale of the vessel.

**Release from arrest**

**1291.**(1) A vessel that has been arrested shall be released when sufficient security has been provided in a satisfactory form, except where a ship has been arrested in respect of a

*(a)* a dispute as to ownership or possession of the vessel; or

*(b)* a dispute between co-owners of the ship as to the employment or earnings of the vessel.

(2) In respect of a maritime claim referred to in paragraph (1)*(a)* or *(b)*, the court may permit the person in possession of the ship to continue trading the ship if the person provides sufficient security, or may otherwise deal with the operation of the ship during the period of the arrest.

(3) In the absence of agreement between the parties as to the sufficiency and form of the security, the court shall determine the nature and amount of the security, in an amount not exceeding the value of the arrested vessel.

(4) A request for the vessel to be released upon security being provided shall not be construed as an acknowledgement of liability or as a waiver of any defence or any right to limit liability.

(5) If a Barbados vessel has been arrested in a jurisdiction outside of Barbados and is not released after security in respect of that ship has been provided in that foreign jurisdiction in respect of the claim, that security shall be ordered to be released on application to the court in the foreign jurisdiction.

(6) If in a foreign jurisdiction the vessel is released after satisfactory security in respect of that vessel has been provided, any security provided in the foreign jurisdiction in respect of the claim shall be ordered to be released to the extent that the total amount of security provided in that state exceeds the lower of

*(a)* the claim for which the vessel has been arrested; and

*(b)* the value of the vessel.

(7) A release of security under subsection (6) release shall not be ordered unless the security provided in the foreign jurisdiction will be available to the claimant and will be freely transferable.

(8) Where security has been provided under subsection (1), the person providing the security may at any time apply to the Court to have that security reduced, modified or cancelled.

**Right of re-arrest and multiple arrest**

**1292.**(1) Where in any state a Barbados vessel has been arrested and released or security in respect of that ship has been provided to secure a maritime claim, that ship shall not subsequently be re-arrested or arrested in respect of the same maritime claim unless

*(a)* the nature or amount of the security in respect of that ship provided in respect of the claim is inadequate, if the aggregate amount of security does not exceed the value of the vessel;

*(b)* the person who has provided the security is not, or is unlikely to be, able to fulfil some or all of that person's obligations; or

*(c)* the vessel arrested or the security previously provided was released

(i) upon the application or with the consent of the claimant acting on reasonable grounds, or

(ii) because the claimant could not by taking reasonable steps prevent the release.

(2) Any other vessel that would otherwise be subject to arrest in respect of the same maritime claim shall not be arrested unless

*(a)* the nature or amount of the security already provided in respect of the claim is inadequate; or

*(b)* paragraph (1)*(b)* or *(c)* applies.

(3) For the purposes of this section, "release" does not include an unlawful release or escape from arrest.

**Protection of owners and demised charterers of arrested vessels**

**1293.**(1) A court may, as a condition of the arrest of a vessel or of permitting an arrest already made to be maintained, require a claimant who seeks to arrest or who has procured the arrest of the vessel to provide security of a kind and for an amount, and upon such terms, as may be determined by that court for any loss that may be incurred by the defendant as a result of the arrest, and for which the claimant may be found liable, including any loss or damage that may be incurred by that defendant as a result of

*(a)* the arrest having been wrongful or unjustified; or

*(b)* excessive security having been demanded and provided.

(2) Any liability of a claimant in accordance with subsection (2) shall be determined by application of the law of the state where the arrest was made.

(3) If a court in another state or an arbitral tribunal is to determine the merits of the case in accordance with section 1294, proceedings relating to the liability of the claimant under subsection (1) may be stayed pending that decision.

(4) Where security has been provided under subsection (1), the person providing the security may at any time apply to the Court to have that security reduced, modified or cancelled.

**Jurisdiction on the merits of the case**

**1294.**(1) A court of the state in which an arrest has been effected or security provided to obtain the release of the vessel shall have jurisdiction to determine the case upon its merits, unless the parties agree to submit the dispute to a court of another state that accepts jurisdiction or to arbitration.

(2) Notwithstanding subsection (1), a court of the state in which an arrest has been made, or security provided to obtain the release of the ship, may refuse to exercise that jurisdiction where that refusal is permitted by the law of that state and a court of another state accepts jurisdiction.

(3) Where a court of the state where an arrest has been made or security provided to obtain the release of a vessel

*(a)* does not have jurisdiction to determine the case upon its merits; or

*(b)* has refused to exercise jurisdiction in accordance with subsection (2), the court may, and upon request shall, order a period of time within which the claimant may bring proceedings before a competent court or arbitral tribunal.

(4) If proceedings are not brought within the period of time ordered in accordance with subsection (3), the vessel arrested or the security provided shall, upon request, be ordered to be released.

(5) If proceedings are brought within the period of time ordered in accordance with subsection (3), or if proceedings before a competent court or arbitral tribunal in another state are brought in the absence of such order, any final decision

resulting from them shall be recognized and given effect with respect to the arrested ship or to the security provided in order to obtain its release, if

*(a)* the defendant has been given reasonable notice of the proceedings and a reasonable opportunity to present the case for the defence; and

*(b)* that recognition is not against public policy.

(6) Subsection (5) shall restrict any further effect given to a foreign judgment or arbitral award under the law of the state where the arrest of the vessel was made or security provided to obtain her release.

**Non-Application**

**1295.**(1) This Division does not affect the rights or powers vested in any government or government department, public authority, or dock or harbour authority, under an international convention or domestic law or regulation to detain or otherwise prevent from sailing a ship within its jurisdiction.

(2) This Division shall not affect the power of a state or court to make orders affecting a debtor's assets.

(3) Nothing in this Division shall affect the application of international conventions providing for the limitation of liability, or domestic law giving effect to them, in the state where an arrest is effected.

(4) Nothing in this Division shall modify or affect the rules of law in force in the state parties to any instrument relating to the arrest of a ship of its flag physically within the jurisdiction of the state procured by a person whose habitual residence or principal place of business is in that state, or by any other person who has acquired a claim from such a person by subrogation, assignment or otherwise.

**Non-creation of maritime liens**

**1296.** Nothing in this Division or any statutory instrument made under this Act shall be construed as creating a maritime lien.

*Division 9*

*Judicial Sale of Ships*

**Objectives of this Part**

**1297.** The objectives of this Division are to

*(a)* govern the international effects of a judicial sale of a ship that confers clean title on the purchaser;

*(b)* provide adequate legal protection to purchasers of ships; and

*(c)* give international effects of judicial sales of ships sold free and clear of any mortgage or hypothequé and of any charge, including for ship registration purposes.

**Commencement of this Division**

**1298.** This Division shall commence upon the conclusion of ratification, accession or formal acceptance by Barbados of the United Nations Convention on the International Effects of Judicial Sales of Ships, 2022.

**Definitions**

**1299.** In this Division,

"Competent authority" means a person or entity authorized by the Minister responsible for Legal Affairs to perform specified functions in relation to this Act or any statutory instrument thereunder, including conducting judicial sales of ships;

"Convention" means the United Nations Convention on the International Effects of Judicial Sales of Ships, as may be amended from time to time;

"Court(s)" include any court in Barbados and any court in a non-Barbados Convention State;

"Minister" means Minister responsible for Legal Affairs;

"Non-Barbados Convention State" means a State other than Barbados that is Party to the Convention.

**Application**

**1300.**(1) This Division applies only to the judicial sale of a ship, irrespective of place of registry, if

*(a)* the judicial sale is conducted in Barbados or a non-Barbados Convention State;

*(b)* the ship is physically within Barbados or a non-Barbados Convention State.

(2) This Division shall not apply to warships or naval auxiliaries, or other vessels owned or operated by a State and used, immediately prior to the time of judicial sale, only on government non-commercial service.

*Notification of Judicial Sale*

**Notice of Judicial Sale**

**1301.**(1) The judicial sale shall be conducted in accordance with

*(a)* this Act or any of its statutory instruments; or

*(b)* the law of a non-Barbados Convention State, in the case of a judicial sale being conducted outside of Barbados in respect of a Barbados-registered ship, which shall also provide procedures for challenging the judicial sale prior to its completion and determine the time of the sale for the purposes of this Division.

(2) Notwithstanding paragraph (1), a certificate of judicial sale issued under this Division shall be issued by the Minister responsible for Legal Affairs, only if a notice of judicial sale is given prior to the judicial sale of a ship in accordance with this Division.

(3) The notice of judicial sale shall be given to

*(a)* the registry of ships or equivalent registry with which the ship is registered;

*(b)* all holders of any mortgage or hypothequé and of any registered charge, provided that the register in which it is registered, and any instrument required to be registered under

(i) the laws of Barbados; or

(ii) the laws of a non-Barbados Convention State,

are open to public inspection, and that extracts from the register and copies of such instruments are obtainable from the registry;

*(c)* all holders of any maritime lien, provided that they have notified the court or other public authority conducting the judicial sale of the claim secured by the maritime lien in accordance with this Act and any other applicable enactment;

*(d)* the owner of the ship for the time being;

*(e)* if the ship is granted bareboat charter registration

(i) the person registered as the bareboat charterer of the ship in the bareboat charter register; and

(ii) the bareboat charter registry.

(4) The notice of judicial sale shall be given in accordance with this Division and shall contain, as a minimum, the information specified in the *Eleventh Schedule*.

(5) The notice of judicial sale shall also be

*(a)* published in the *Official Gazette*; and

*(b)* transmitted to the repository specified in this Division for publication.

(6) For the purpose of communicating the notice to the repository, if the notice of judicial sale is not in a working language of the repository, it shall be

accompanied by a translation of the information mentioned in the *Tenth Schedule* into any such working language.

(7) In determining the identity or address of any person to whom the notice of judicial sale is to be given, it is sufficient to rely on

*(a)* information set forth in the register of ships or equivalent register in which the ship is registered or in the bareboat charter register;

*(b)* information set forth in the register in which the mortgage or hypothequé or the registered charge is registered, if different to the register of ships or equivalent register; and

*(c)* information notified under paragraph 3, subparagraph *(c)*.

**Issuance of Certificate of Judicial Sale**

**1302.**(1) Upon completion of a judicial sale that conferred clean title to the ship under this Division or the law of a non-Barbados Convention State, and was conducted in accordance with the requirements of this Division and the requirements of the Convention, the Minister responsible for Legal Affairs or other competent authority conducting the judicial sale, shall issue a certificate of judicial sale to the purchaser.

(2) The certificate of judicial sale shall be in the form outlined in the *Twelfth Schedule* to this Division, and shall contain

*(a)* a statement that the ship was sold in accordance with this Division and any of its statutory instruments, and consistent with the Convention;

*(b)* a statement that the judicial sale has conferred clean title to the ship on the purchaser;

*(c)* the name of the country of judicial sale;

*(d)* the name, address and contact details of the authority issuing the certificate;

*(e)* the name of the court or other competent authority that conducted the judicial sale and the date of the sale;

*(f)* the name of the ship and the registry of ships or equivalent registry with which the ship is registered;

*(g)* the IMO number of the ship, or if unavailable, other information capable of identifying the ship;

*(h)* the name and address of residence or principal place of business of the owner of the ship immediately prior to the judicial sale;

*(i)* the name and address of residence or principal place of business of the purchaser;

*(j)* the place and date of issuance of the certificate; and

*(k)* the signature or stamp of the authority issuing the certificate or other confirmation of authenticity of the certificate.

(3) The certificate of judicial sale shall be transmitted promptly to the repository referred to in this Division for publication.

(4) The certificate of judicial sale and any translation thereof shall be exempt from legalization or similar formality.

(5) Without prejudice to Instructions 49.5 and 49.6, the certificate of judicial sale shall be sufficient evidence of the matters contained therein.

(6) The certificate of judicial sale may be in the form of an electronic record provided that

*(a)* the information contained therein is accessible so as to be usable for subsequent reference;

*(b)* a reliable method is used to identify the authority issuing the certificate; and

*(c)* a reliable method is used to detect any alteration to the record after the time it was generated, apart from the addition of any endorsement and

any change that arises in the normal course of communication, storage and display.

(7) A certificate of judicial sale shall not be rejected on the sole ground that it is in electronic form.

**International effects of a judicial sale**

**1303.** A judicial sale for which a certificate of judicial sale has been issued shall have the effect in Barbados and every other State Party to the Convention, of conferring clean title to the ship on the purchaser.

*Miscellaneous matters concerning Judicial Sales of Ships*

**Action by the Registry**

**1304.**(1) At the request of the purchaser or subsequent purchaser and upon production of the certificate of judicial sale, the administration in accordance with this Act, its statutory instruments or any other relevant enactment, but without prejudice to Instruction 49.7, shall

*(a)* delete from the register any mortgage or hypothequé and any registered charge attached to the ship that had been registered before completion of the judicial sale;

*(b)* delete the ship from the register and issue a certificate of deletion for the purpose of new registration;

*(c)* register the ship in the name of the purchaser or subsequent purchaser, provided further that the ship and the person in whose name the ship is to be registered meet the requirements of the law of the State of registration;

*(d)* update the register with any other relevant particulars in the certificate of judicial sale.

(2) At the request of the purchaser or subsequent purchaser and upon production of the certificate of judicial sale, the registry in which the ship was

granted bareboat charter registration shall delete the ship from the bareboat charter register and issue a certificate of deletion.

(3) If the certificate of judicial sale is not issued in an official language of the registry, the registry may request the purchaser or subsequent purchaser to produce a certified translation into such an official language.

(4) The registry or other competent authority may also request the purchaser subsequent purchaser to produce a certified copy of the certificate of judicial sale for its records.

(5) Paragraphs 1 and 2 do not apply if a court in the State of the registry or of the other competent authority determines under article 10 of the Convention that the effect of the judicial sale under article 6 of the Convention would be manifestly contrary to the public policy of that State.

**No Ship Arrest**

**1305.**(1) If an application is brought before a court or other judicial authority in Barbados or a non-Barbados Convention State to arrest a ship or to take any other similar measure against a ship for a claim arising prior to a judicial sale of the ship, the court or other judicial authority shall, upon production of the certificate of judicial sale, dismiss the application.

(2) If a ship is arrested or a similar measure is taken against a ship by order of a court or other judicial authority in Barbados or a non-Barbados Convention State for a claim arising prior to a judicial sale of the ship, the court or other judicial authority shall, upon production of the certificate of judicial sale, order the release of the ship.

(3) If the certificate of judicial sale is not issued in an official language of the court or other judicial authority, the court or other judicial authority may request the person producing the certificate to produce a certified translation into such an official language.

(4) Paragraphs 1 and 2 do not apply if the court or other judicial authority determines that dismissing the application or ordering the release of the ship, as

the case may be, would be manifestly contrary to the public policy of Barbados or a non-Barbados Convention State.

**Jurisdiction to avoid and suspend judicial sale**

**1306.**(1) The courts shall have exclusive jurisdiction to hear any claim or application to avoid a judicial sale of a ship conducted in Barbados or a non-Barbados Convention State that confers clean title to the ship or to suspend its effects, which shall extend to any claim or application to challenge the issuance of the certificate of judicial sale.

(2) The courts shall decline jurisdiction in respect of any claim or application to avoid a judicial sale of a ship conducted in another State Party that confers clean title to the ship or to suspend its effects.

(3) Where Barbados is the State of judicial sale it shall require the decision of a court that avoids or suspends the effects of a judicial sale for which a certificate has been issued in accordance with article 5, paragraph 1 of the Convention to be transmitted promptly to the relevant repository for publication.

**Circumstances in which judicial sale has no international effect**

**1307.** A judicial sale of a ship shall not have the effect provided in Instruction 49.7 in Barbados other than the State of judicial sale if a court in Barbados determines that the effect would be manifestly contrary to the public policy of Barbados.

**Repository**

**1308.**(1) The repository shall be the Secretary-General of the International Maritime Organization or an institution named by the United Nations Commission on International Trade Law.

(2) Upon receipt of a notice of judicial sale transmitted in accordance with this Division, certificate of judicial sale transmitted, or decision transmitted under

this Division, the repository shall make it available to the public in a timely manner, in the form and in the language in which it is received.

(3) The repository may also receive a notice of judicial sale emanating from Barbados, provided Barbados has ratified, accepted, approved or acceded to the Convention and for which the Convention has not yet entered into force and may make it available to the public.

**Other bases for giving international effect**

**1309.** Nothing in this Act shall preclude Barbados from giving effect to a judicial sale of a ship conducted in another State under any other international agreement or under applicable law.

**Matters not governed by this Division**

**1310.**(1) Nothing in this Division or any statutory instruments made pursuant to this Division shall affect

*(a)* the procedure for or priority in the distribution of proceeds of a judicial sale; or

*(b)* any personal claim against a person who owned or had proprietary rights in the ship prior to the judicial sale.

(2) Moreover, this Act shall not govern the effects, under applicable law, of a decision by a court exercising jurisdiction under article 9, paragraph 1 of the Convention.

*Division 10*

*General Average*

**Application of the York-Antwerp Rules**

**1311.** Except as otherwise provided by this Division, the York-Antwerp Rules on General Average adopted by the Comité Maritime International in 2016 shall have the force of law in Barbados.

**Authority to order a general average act**

**1312.** The following persons may order a general average act:

*(a)* the master of a ship;

*(b)* a crew member with authority over a vessel;

*(c)* a person outside the common adventure, such as a port authority, if this is required for the common safety; or

*(d)* a third party whose orders are endorsed by the master of a ship.

**Adjustment of general average**

**1313.** In the adjustment of general average, this Division shall apply to the exclusion of any law and practice that is inconsistent with it.

**Reasonability requirement**

**1314.** In no case shall there be any allowance for a sacrifice or expenditure unless it is reasonably made or incurred.

**Integration of York-Antwerp Rules into contractual arrangements**

**1315.** In respect of agreements concerning Barbados vessels, the 2016 York-Antwerp Rules may be integrated into

*(a)* contracts or other forms of shipping agreements;

*(b)* bills of lading;

*(c)* affreightment contracts; or

*(d)* insurance policies.

**Ambulatory reference – York-Antwerp Rules**

**1316.** A reference to the York-Antwerp Rules shall be construed as a reference to those Rules as modified from time to time by the Comité Maritime International.

*Division 11*

*Commercial Shipping Practices and Contracts*

**Contractual framework for commercial shipping business**

**1317.** Contracts for shipping business in or with Barbados, or involving Barbados vessels, shall be consistent with the commercial shipping and contractual standards adopted by the Baltic and International Maritime Council for the purposes of

*(a)* ensuring fair shipping business practices;

*(b)* facilitating harmonization and standardization of commercial shipping practices and shipping contracts; and

*(c)* reducing commercial maritime disputes.

**Agency appointment agreement**

**1318.** An agreement to appoint an agent for a one-off port call shall be consistent with the Baltic and International Maritime Council's Agency Appointment Agreement.

**Autonomous ships**

**1319.** Agreements with respect to the management of autonomous ships shall be consistent with the Baltic and International Maritime Council's AUTOSHIPMAN Agreement.

**Coal charters**

**1320.** Coal charter agreements shall be consistent with the Baltic and International Maritime Council's AMWELSH93 Agreement.

**Gas tanker trade**

**1321.** An agreement in respect of the gas tanker trade shall be consistent with the Baltic and International Maritime Council's ASBAGASBILL or ASBAGASVOY Agreement, as the case may be.

**Charter ASVs agreements**

**1322.** Charter agreements for accommodation support vessels engaged in the offshore oil and gas and renewable energy sectors shall be consistent with the Baltic and International Maritime Council's ASVTIME Agreement.

**Carriage of wheat**

**1323.** Agreements concerning the carriage of wheat shall be consistent with the Baltic and International Maritime Council's AUSTWHEAT Agreement.

**Cargo claims**

**1324.** Agreements concerning the division of responsibility between a shipowner and charterer for the settlement of, or contribution to, cargo claims shall be consistent with the Baltic and International Maritime Council's BALTIME Agreement.

**Bareboat charterparties**

**1325.** Bareboat charterparty arrangements shall be consistent with the Baltic and International Maritime Council's BARECON Agreement.

**Barges**

**1326.** Agreements concerning barge operations shall be consistent with the Baltic and International Maritime Council's BARGEHIRE Agreement.

**Shipment of liquid chemicals in bulk**

**1327.** Agreements concerning the shipment of liquid chemicals in bulk shall be consistent with the Baltic and International Maritime Council's BIMCHEMTIME Agreement.

**Voyage charter for chemical transportation**

**1328.** A voyage charter arrangement for the transportation of chemicals in tanker ships shall be consistent with the Baltic and International Maritime Council's BIMCHEMVOY or BIMCHEMVOYBILL Agreement, as the case may be.

**Purchase and supply of marine fuels**

**1329.** Agreements concerning the purchase and supply of marine fuels to ships shall be consistent with the Baltic and International Maritime Council's BUNKER Terms.

**Transfer of Ownership in a Ship**

**1330.** Agreements concerning the transfer of ownership in a ship from a seller to buyer shall be consistent with the Baltic and International Maritime Council's SALE Agreement.

**Carriage of vegetable and animal oils and fats**

**1331.** Voyage charters concerning the carriage of vegetable and animal oils and fats shall be consistent with the Baltic and International Maritime Council's BISCOILVOY Agreement.

**Black Sea timber charters**

**1332.** An agreement concerning the shipment of timbers from Russia, the Romanian Black Sea or Danube ports shall be consistent with Baltic and International Maritime Council's BLACKSEAWOOD or BLACKSEAWOOD BILL Agreement, as the case may be.

**Shipping line carriage**

**1333.** Agreements concerning the terms and conditions for carriage by a shipping line shall be consistent with Baltic and International Maritime Council's Liner Bill of Lading, Liner Booking Note, and Non-negotiable Liner Waybill Agreements.

**Container inter-change**

**1334.** An agreement concerning container inter-change shall be consistent with the Baltic and International Maritime Council's BOXCHANGE or BOXTIME Agreement, as the case may be.

**Container leasing**

**1335.** Agreements concerning container leasing shall be consistent with the Baltic and International Maritime Council's BOXLEASE Agreement.

**Tanker charters**

**1336.** Agreements concerning tanker charterparties shall be consistent with the Baltic and International Maritime Council's BPTIME Agreement.

**Carriage of cement in bulk**

**1337.** An agreement concerning the carriage of cement in bulk shall be consistent with the Baltic and International Maritime Council's CEMENTVOY or CEMENTVOYBILL Agreement, as the case may be.

**Charterparty guarantee**

**1338.** A time charterer's guarantee for sums payable and liabilities under a time charterparty shall be consistent with the Baltic and International Maritime Council's Charter Party Guarantee Agreement.

**Shipments of chemicals under the CHEMTANKVOY**

**1339.** A charterparty agreement concerning the shipment of chemicals under the CHEMTANKVOY Charterparty shall be consistent with the Baltic and International Maritime Council's CHEMTANKVOYBILL or CHEMTANKWAYBILL Agreement, as the case may be.

**Coal and ore voyages**

**1340.** A voyage charter concerning the shipment of coal and ore shall be consistent with the Baltic and International Maritime Council's COAL-OREVOY or COAL-OREVOYBILL Agreement, as the case may be.

**Combined transport**

**1341.** An agreement involving combined transport shall be consistent with the Baltic and International Maritime Council's COMBICONBILL or COMBICONWAYBILL Agreement, as the case may be.

**Shipment under the GENCON Charterparty**

**1342.** An agreement concerning the shipment of general cargo under the GENCON Charterparty shall be consistent with the Baltic and International Maritime Council's CONGENBILL Agreement.

**Liner bill of lading**

**1343.** An agreement involving liner bills of lading shall be consistent with the Baltic and International Maritime Council's CONLINEBILL Agreement.

**Liner booking**

**1344.** An agreement concerning liner bookings shall be consistent with the Baltic and International Maritime Council's CONLINEBOOKING Agreement.

**Appointment of crew managers as agents**

**1345.** An agreement concerning the appointment by shipowners of crew managers as agents to perform crew management services in respect of a ship on a cost plus fee basis shall be consistent with the Baltic and International Maritime Council's CREWMAN A or CREWMAN A (COST PLUS FEE) Agreement, as the case may be.

**Supply of crew**

**1346.** An agreement concerning the supply of crew by ship managers to ships as principals and employers of the crew on a lump-sum basis shall be consistent with the Baltic and International Maritime Council's CREWMAN B or CREWMAN B (LUMP SUM) Agreement, as the case may be.

**Cruise voyage charters**

**1347.** An agreement concerning a cruise voyage shall be consistent with the Baltic and International Maritime Council's CRUISEVOY Agreement.

**Dangerous goods container trailer packing**

**1348.** An agreement relating to a certificate for the packing of dangerous goods into a container, trailer, or other vehicle for transport at sea shall be consistent with the Baltic and International Maritime Council's Dangerous Goods Container Trailer Packing Certificate.

**Declaration for shipment of dangerous goods**

**1349.** A declaration as to shipments of dangerous goods shall be consistent with the Baltic and International Maritime Council's Dangerous Goods Declaration.

**Demolishing of ships**

**1350.** An agreement concerning the demolition or recycling of ships shall be consistent with the Baltic and International Maritime Council's DEMOLISHCON Agreement.

**Dismantling of offshore structures**

**1351.** An agreement concerning

*(a)* offshore structure dismantling work;

*(b)* transport of dismantled work to a place of delivery;

*(c)* removal of offshore structures ranging from field architecture to entire structures;

shall be consistent with the Baltic and International Maritime Council's DISMANTLECON Agreement.

**Fertilizer voyage charters**

**1352.** A voyage charter concerning the carriage of fertilizer shall be consistent with the Baltic and International Maritime Council's FERTICON, FERTICONBILL or FERTIVOY Agreement, as the case may be.

**Shipments of fertilizers from Russian ports**

**1353.** An agreement concerning the shipment of fertilizers, including muriate of potash and urea, from Russia port shall be consistent with the Baltic and International Maritime Council's FERTISOV or FERTISOVBILL Agreement, as the case may be.

**Appointment of sub-agents on behalf of liner principals**

**1354.** An agreement concerning the appointment by a general agent of a sub-agent on behalf of a liner principal shall be consistent with the Baltic and International Maritime Council's FONASBA SUB-AGENCY Agreement.

**Standard liner and general agency**

**1355.** An agreement between a liner principal and agent shall be consistent with the Baltic and International Maritime Council's FONASBA Standard Liner and General Agency Agreement.

**International broker's commission contracts**

**1356.** An agreement between a shipowner and a broker for the shipowner's payment of commission to the broker shall be consistent with the Baltic and International Maritime Council's FONASBA International Brokers Commission Contract.

**LPG Shipments**

**1357.** An agreement concerning a shipment in the liquefied petroleum gas trade shall be consistent with the Baltic and International Maritime Council's GASTANKWAYBILL Agreement.

**Liquefied gas charterparties**

**1358.** A time charterparty related to a ship carrying liquefied gas shall be consistent with the Baltic and International Maritime Council's GASTIME Agreement.

**LPG voyage charterparties**

**1359.** A voyage charterparty related to the carriage of liquefied petroleum gas, ammonia, or liquefied petro-chemical gas shall be consistent with the Baltic and International Maritime Council's GASVOY Agreement.

**Contracts of affreightment for dry bulk cargoes**

**1360.** An agreement between a shipowner and charterer for the carriage of a certain amount and type of goods between agreed ports over a given period of time shall be consistent with the Baltic and International Maritime Council's GENCOA Agreement.

**General purpose agreements for the services of ships**

**1361.** An agreement for the services of a ship in exchange for freight shall be consistent with the Baltic and International Maritime Council's GENCON or CONGENBILL Agreement, as the case may be.

**General agency**

**1362.** An agreement for the provision of selected agency services over a period of time in a defined territory or area shall be consistent with the Baltic and International Maritime Council's General Agency Agreement.

**Dry cargo under a time charterparty**

**1363.** A time charterparty for the carriage of dry cargo shall be consistent with the Baltic and International Maritime Council's GENTIME Agreement.

**General seaway bills**

**1364.** An agreement in respect of general seaway bills shall be consistent with the Baltic and International Maritime Council's GENWAYBILL Agreement.

**Coal shipments**

**1365.** Shipments of coal under the Baltic and International Maritime Conference German Coal Charter shall be consistent with GERMANCON NORTH Agreement.

**Carriage of grain under a voyage charterparty**

**1366.** An agreement concerning the carriage of grain under a voyage charterparty shall be consistent with the Baltic and International Maritime Council's GRAINCON or GRAINCONBILL Agreement, as the case may be.

**Hire of private maritime security guards**

**1367.** An agreement concerning the hiring of private maritime security guards on ships, either armed or unarmed, shall be consistent with the Baltic and International Maritime Council's GUARDCON Agreement.

**Security escort vessels**

**1368.** An agreement concerning the hiring of security escort vessels to accompany merchant ships in high-risk areas shall be consistent with the Baltic and International Maritime Council's SEV-GUARDCON Agreement.

**Carriage of heavy and voluminous cargoes**

**1369.** A voyage charterparty concerning the carriage of a heavy and voluminous cargo shall be consistent with the Baltic and International Maritime Council's HEAVYCON, HEAVYCONBILL or HEAVYCONRECEIPT Agreement, as the case may be.

**Voyage charterparties for the mid-sized heavy-lift sector**

**1370.** A voyage charterparty for the mid-sized heavy-lift sector carrying specialist cargo shall be consistent with the Baltic and International Maritime Council's HEAVYLIFTVOY or HEAVYLIFTVOYBILL Agreement, as the case may be.

**Norsk hydro agreements**

**1371.** A voyage charterparty under the Norsk Hydro charter system shall be consistent with the Baltic and International Maritime Council's HYDROCHARTER or HYDROBILL Agreement, as the case may be.

**Tanker voyage charterparties**

**1372.** A shipment under a tanker voyage charterparty shall be consistent with the Baltic and International Maritime Council's INTANKBILL Agreement.

**Tanker contracts of affreightment**

**1373.** A tanker contract of affreightment shall be consistent with the Baltic and International Maritime Council's INTERCOA Agreement.

**Consecutive voyages under the TANKERVOY charterparty**

**1374.** An agreement concerning consecutive voyages under the TANKERVOY charterparty shall be consistent with the Baltic and International Maritime Council's INTERCONSEC Agreement.

**Standard tanker time charters**

**1375.** A standard tanker time charterparty shall be consistent with the Baltic and International Maritime Council's INTERTANKTIME Agreement.

**Laytime definitions for charterparties**

**1376.** In effort to reduce disputes about parties' intentions in a market where fixtures are often concluded on the basis of a recap message and listed amendments without exchange or return of draft contracts, definitions for lay-time in charterparties shall be consistent with the Baltic and International Maritime Council's Laytime Definitions for Charterparties.

**Laying up of ships**

**1377.** An agreement concerning the laying up of a ship shall be consistent with the Baltic and International Maritime Council's LAYUPMAN Agreement.

**Deep sea time charters**

**1378.** A deep sea time charterparty shall be consistent with the Baltic and International Maritime Council's LINERTIME Agreement.

**Liner seaway bills**

**1379.** A liner seaway bill shall be consistent with the Baltic and International Maritime Council's LINEWAYBILL Agreement.

**LNG voyage charters**

**1380.** A voyage charterparty for the carriage of liquefied natural gas shall be consistent with the Baltic and International Maritime Council's LNGVOY Agreement.

**Minor afloat repairs at a commercial berth or anchorage**

**1381.**(1) An agreement related to minor afloat repairs at a commercial berth or anchorage shall be consistent with the Baltic and International Maritime Council's MINREPCON Agreement.

(2) For greater certainty, it is not sufficient for an agreement related to minor afloat repairs at a commercial berth or anchorage to be consistent with the Baltic and International Maritime Council's REPAIRCON Agreement.

**Multimodal Transport**

**1382.** A shipment involving several modes of transport shall be consistent with the Baltic and International Maritime Council's MULTIDOC or MULTIWAYBILL Agreement, as the case may be.

**Fertilizer shipments under MUNTAJAT charter system**

**1383.** A shipment of fertilizer under the MUNTAJAT charter system shall be consistent with the Baltic and International Maritime Council's MUNTAJATCHARTER or MUNTAJATBILL Agreement, as the case may be.

**Shipments of apatite ore and apatite concentrate**

**1384.** An agreement concerning shipments of apatite ore and apatite concentrate from Murmansk shall be consistent with the Baltic and International Maritime Council's MURMAPATIT or MURMAPATITBILL Agreement, as the case may be.

**Nanyozal charter systems**

**1385.** A voyage charterparty under the Nanyozal charter system shall be consistent with the Baltic and International Maritime Council's NANYOZAI Agreement.

**Naval exercise agreements**

**1386.** An agreement concerning the short-term charter of a merchant ship to participate in military navigational exercises shall be consistent with the Baltic and International Maritime Council's NAVEXCON Agreement.

**Shipbuilding contracts**

**1387.** An agreement concerning the building of a ship shall be consistent with the Baltic and International Maritime Council's NEWBUILDCON Agreement.

**Nippon coal charter system**

**1388.** A voyage charterparty under the Nippon Coal charter system shall be consistent with the Baltic and International Maritime Council's NIPPONCOAL Agreement.

**Iron ore voyage under Nippon ore charter system**

**1389.** An iron ore voyage charterparty under the Nippon Ore charter system shall be consistent with the Baltic and International Maritime Council's NIPPONORE Agreement.

**Grain charters under the North American grain charter system**

**1390.** A grain charter under the North American Grain charter system shall be consistent with the Baltic and International Maritime Council's NORGRAIN or NORGRAINBILL Agreement, as the case may be.

**Novation agreements - shipbuilding**

**1391.** An agreement between parties to novate a shipbuilding contract from the original buyers to new buyers on terms set out in the agreement shall be consistent with the Baltic and International Maritime Council's Novation Agreement for Shipbuilding Contracts.

**Novation agreements – substitution of time charters**

**1392.** An agreement between parties to novate a time charterparty from the original charterers to new charterers on terms set out in the agreement shall be consistent with the Baltic and International Maritime Council's Novation Agreement for the Substitution of Time Charters.

**Novation agreements – transfer of ownership**

**1393.** An agreement between parties to novate a time charter party from the original owners to new owners on terms set out in the agreement shall be consistent with the Baltic and International Maritime Council's Novation Agreement for the Transfer of Ownership.

**Wood charters**

**1394.** An agreement concerning the wood trade from the Baltic and North Sea, excluding Russian ports, to the United Kingdom and Ireland shall be consistent with the Baltic and International Maritime Council's NUBALTWOOD or NUBALTWOODBILL Agreement, as the case may be.

**Shipments under universal voyage charters**

**1395.** A shipment under a universal voyage charterparty shall be consistent with the Baltic and International Maritime Council's NUVOY or NUVOYBILL Agreement, as the case may be.

**Standard time charters – dry cargo sector**

**1396.** A standard time charterparty in respect of dry cargo shall be consistent with the Baltic and International Maritime Council's New York Produce Exchange Form.

**Stone trade**

**1397.** A stone trade agreement under a voyage charter arrangement for the carriage of stone out of ports in the United Kingdom, Ireland, Channel Islands or the continent between Elbe and Brest shall be consistent with the Baltic and International Maritime Council's PANSTONE Agreement.

**Coal shipments under the Polish charter system**

**1398.** An agreement concerning the shipment of coal under the Polish charter system shall be consistent with the Baltic and International Maritime Council's POLCOALBILL or POLCOALVOY Agreement, as the case may be.

**Tramp pools operating in the dry and liquid bulk trades**

**1399.** An agreement concerning a tramp pool operating in the dry and liquid bulk trades under a contract of affreightment, spot or time charters to a third party

shall be consistent with the Baltic and International Maritime Council's POOLCON A Agreement.

**Pool operations**

**1400.** An agreement concerning the relationship between shipowners pooling their ships and ship managers, and the administrative and procedural matters with respect to pool operations, shall be consistent with the Baltic and International Maritime Council's POOLCON B Agreement.

**Special project charters – tug and barge sector**

**1401.** A charterparty in respect of a special project for the tug and barge sector shall be consistent with the Baltic and International Maritime Council's PROJECTCON Agreement.

**QAFCO charter system**

**1402.** An agreement concerning shipments of fertilizer under the QAFCO charter system shall be consistent with the Baltic and International Maritime Council's

*(a)* MUNTAJATBILL Agreement;

*(b)* MUNTAJATCHARTER Agreement;

*(c)* QAFCOCHARTER Agreement; or

*(d)* QAFCOBILL Agreement;

as the case may be.

**Sale of ships for recycling**

**1403.** An agreement concerning the sale of a Barbados ship for recycling in a safe and environmentally sound manner shall be consistent with the Baltic and International Maritime Council's RECYCLECON Agreement.

**Refund guarantee for shipbuilding contracts**

**1404.** A refund guarantee as part of a shipbuilding project shall be consistent with the Baltic and International Maritime Council's Refund Guarantee for Shipbuilding Contracts Agreement.

**Ship repairs**

**1405.** An agreement concerning the repair of a Barbados ship shall be consistent with the Baltic and International Maritime Council's REPAIRCON Agreement.

**Spill response – oil spills, or other hazardous and noxious substances**

**1406.** An agreement concerning clean-up services and equipment following an oil spill or spill of other hazardous and noxious substances shall be consistent with the Baltic and International Maritime Council's RESPONSECON Agreement.

**RoPAX Trade**

**1407.** A time charterparty for the RoPAX trade, including Ro-Ro ships, shall be consistent with the Baltic and International Maritime Council's ROPAXTIME Agreement.

**Wood trade under the RUSSIAN charter system**

**1408.** An agreement concerning wood trade from the Russian Baltic, White Sea Barents and Kara Sea ports shall be consistent with the Baltic and International Maritime Council's RUSWOOD or RUSWOODBILL Agreement, as the case may be.

**Ship sale and purchase**

**1409.** An agreement concerning a ship sale and purchase shall be consistent with the Baltic and International Maritime Council's SALEFORM Agreement.

**Shipments under the Scandinavian charter system**

**1410.** An agreement related to shipments under the Scandinavian charter system shall be consistent with the Baltic and International Maritime Council's SCANCON or SCANCONBILL Agreement, as the case may be.

**Container transport**

**1411.** An agreement concerning the transport of a minimum number of containers over an agreed period shall be consistent with the Baltic and International Maritime Council's SERVICECON Agreement.

**Ship sale and leaseback transactions**

**1412.** An agreement related to a ship sale and leaseback shall be consistent with the Baltic and International Maritime Council's SHIPLEASE Agreement.

**Ship management**

**1413.** Subject to section 1318, an agreement for the management of a ship shall be consistent with the Baltic and International Maritime Council's SHIPMAN Agreement.

**Third party arrangements**

**1414.** An agreement in respect of third-party arrangements where a ship manager maintains and operates the vessel but has no financial involvement or interest in the vessel's ownership shall be consistent with the Baltic and International Maritime Council's Shipmanagers' Letter of Undertaking Agreement.

**Secured term loan ship financing**

**1415.** An agreement for a secured term loan ship financing transaction shall be consistent with the Baltic and International Maritime Council's SHIPTERM Agreement.

**Syndicated secured term loan ship financing**

**1416.** An agreement for a syndicated secured term loan ship financing transaction shall be consistent with the Baltic and International Maritime Council's SHIPTERMS Agreement.

**Hire of slots or space**

**1417.** An agreement for hire of slots or space on a ship shall be consistent with the Baltic and International Maritime Council's SLOTHIRE Agreement.

**Soviet coal charter system1417**

**1418.** An agreement concerning shipments of coal under the Soviet coal charter system shall be consistent with the Baltic and International Maritime Council's SOVCOAL or SOVCOALBILL Agreement, as the case may be.

**Trading of pulpwood, pitwood, roundwood and logs – Baltic and White Sea ports**

**1419.** An agreement concerning the trading of pulpwood, pitwood, roundwood and logs from Russian Baltic and White Sea ports shall be consistent with the Baltic and International Maritime Council's SOVCONROUND or SOVCONROUNDBILL Agreement, as the case may be.

**Soviet ore charter system**

**1420.** An agreement concerning shipments of ore under the Soviet ore charter system shall be consistent with the Baltic and International Maritime Council's SOVORECON or SOVORECONBILL Agreement, as the case may be.

**Escrow agreements for ship sale and purchase**

**1421.** A standard escrow agreement for ship sale and purchase shall be consistent with the Baltic and International Maritime Council's Standard Deposit Escrow Agreement for Ship Sale and Purchase.

**Escrow agreements for disputes**

**1422.** An agreement concerning a security deposit for a claim in a dispute shall be consistent with the Baltic and International Maritime Council's Standard Escrow Agreement for Disputes.

**Statement of facts**

**1423.** A statement of facts shall be consistent with the Baltic and International Maritime Council's Standard Statement of Facts.

**Statement of facts – oil and chemical tank vessels**

**1424.** A statement of facts in respect of oil and chemical tank vessels shall be consistent with the Baltic and International Maritime Council's Standard Statement of Facts Oil and Chemical Tank Vessels.

**Statement of facts – timing of events and delays during a ship's port**

**1425.** A call statement of facts related to the timing of events and delays during a ship's port call shall be consistent with the Baltic and International Maritime Council's Standard Time Sheet.

**Vessel construction supervision**

**1426.** An agreement for the supervision of vessel construction shall be consistent with the Baltic and International Maritime Council's SUPERMAN Agreement.

**Time charterparties – offshore support vessels**

**1427.** A time charterparty for an offshore support vessel shall be consistent with the Baltic and International Maritime Council's SUPPLYTIME Agreement.

**Grain shipments under French voyage charter system**

**1428.** An agreement concerning a grain shipment under the French voyage charter system shall be consistent with the Baltic and International Maritime Council's SYNACOMEX Agreement.

**Tanker voyage charterparties**

**1429.** A tanker voyage charterparty shall be consistent with the Baltic and International Maritime Council's TANKERVOY or TANKWAYBILL Agreement, as the case may be.

**Towage agreements**

**1430.**(1) An agreement for towage operations shall be consistent with the Baltic and International Maritime Council's TOWCON Agreement.

(2) TOWCON is nn ocean towage agreement on a lump-sum basis, and is, therefore, not applicable to port towing activities.

**Towage – daily hire basis**

**1431.** An agreement concerning daily tow hires shall be consistent with the Baltic and International Maritime Council's TOWHIRE Agreement.

**Spills of hazardous and noxious substances in USA jurisdiction**

**1432.** An agreement for hire and clean-up services and equipment following a spill of oil or other hazardous and noxious substances by a Barbados ship in the jurisdiction of the United States shall be consistent with the Baltic and International Maritime Council's US RESPONSECON Agreement.

**Volume contracts of affreightment for transport of bulk dry cargoes**

**1433.**(1) Subject to subsection (2), a volume contract of affreightment for the transportation of bulk dry cargoes shall be consistent with the Baltic and International Maritime Council's VOLCOA Agreement.

(2) Where contracting parties have chosen Japanese law as the governing law for a volume contract of affreightment for the transportation of bulk dry cargoes, the VOLCOA Japanese Terms, adopted by the Baltic and International Maritime Council, shall replace Clause 21 (Law and Arbitration) of the VOLCOA Agreement and disputes shall be referred to arbitration in Japan.

**Transfer of offshore wind-farm personnel and equipment**

**1434.** A time charterparty in respect of the transfer of wind-farm personnel and equipment to and from an offshore wind-farm installation shall be consistent with the Baltic and International Maritime Council's WINDTIME Agreement.

**UN World Food Transport Program**

**1435.** An agreement concerning shipments under the United Nations World Food Program Voyage Charterparty shall be consistent with the Baltic and International Maritime Council's WORLDFOOD, WORLDFOODWAYBILL or WORLDFOODRECEIPT Agreement, as the case may be.

**Wreck removal and marine services related to wrecks**

**1436.** An agreement for wreck removal and marine services shall be consistent with the Baltic and International Maritime Council's WRECKFIXED, WRECKHIRE or WRECKSTAGE Agreement, as the case may be.

**Shipments under the YARA charter system**

**1437.** An agreement concerning shipments under the YARA charter system shall be consistent with the Baltic and International Maritime Council's

YARACHARTER, YARABILL or YARASEAWAYBILL Agreement, as the case may be.

**Ambulatory reference**

**1438.** A reference to a Baltic and International Maritime Council agreement or statement in this Division shall be construed as a reference to that agreement or statement as modified from time to time by the Baltic and International Maritime Council.

**Future BIMCO Agreements**

**1439.** Any requirements regarding a Baltic and International Maritime Council agreement that is concluded after the entry into force of this Act shall be published in a Marine Notice.

**Pre-existing shipping and maritime agreements**

**1440.** A shipping agreement that is in force prior to the entry into force of this Act is valid for one year after the entry into force of this Act, after which time the agreement shall be consistent with the requirements of this Division.

*Division 12*

*Marine Notices*

**Marine notices system**

**1441.** The Director shall establish and maintain a marine notice system for formulating, issuing, and publicizing important information to

*(a)* Barbados' international shipping industry, including Barbados-flagged and foreign-operating merchant shipping vessels; and

*(b)* Barbados' international fishing industry, including Barbados-flagged and foreign-operating commercial fishing vessels.

**Marine Notices**

**1442.**(1) Marine Notices shall be of 3 kinds

*(a)* merchant shipping notices;

*(b)* marine guidance notes or notices; and

*(c)* marine information notes or notices

which shall where expressly provided otherwise in this Division, be issued by the Minister, after consultation with the Director.

(2) The Administration may, by a Marine Notice issued under subsection (1), list other Recognized Organizations authorized to act on its behalf pursuant to the *First Schedule.*

**Ranking of marine notices**

**1443.** Where a Marine Notice conflicts with national legislation or regulations on shipping, fisheries or any other maritime-related laws, the national legislation, regulations other laws shall prevail over the Marine Notice.

**Merchant shipping notices**

**1444.**(1) The criteria for a merchant shipping notice are as follows:

*(a)* it shall be signed, stamped or sealed by the Minister;

*(b)* it shall be made under an Act or regulations related to shipping or fisheries or other maritime legislation;

*(c)* it shall contain the technical details outlined in relation to the Act or regulations;

*(d)* it shall contain only mandatory requirements to be complied with;

*(e)* it shall have an issuance date; and

*(f)* it shall contain a title that indicates the matter to which the notice relates.

(2) A Marine Notice, when promulgated in accordance with this Act by the Principal Registrar, shall have the force and effect of a regulation.

**Effect of merchant shipping notice**

**1445.**(1) A merchant shipping notice made in accordance with this Act or under any other enactment on shipping is legally enforceable and shall be complied with.

(2) A merchant shipping notice is deemed to be a legislative instrument for the purposes of this Act.

**Form of merchant shipping notice**

**1446.** A merchant shipping notice shall be

*(a)* prefaced with the acronym ‘MSN’;

*(b)* sequenced with a number;

*(c)* suffixed with the letter of the type of vessels to which it relates; and

*(d)* in a form prescribed by the Minister.

**Validity of merchant shipping notice**

**1447.** A merchant shipping notice is valid until

*(a)* revoked or replaced by a subsequent merchant shipping notice;

*(b)* revoked by this Act or by the regulations to which the notice relates;

*(c)* revoked by any other merchant shipping legislation or regulations to which the notice relates; or

*(d)* otherwise revoked by the Minister, after consultation with the Administration and shipping industry stakeholders.

**Sources of information for merchant shipping notices**

**1448.** The technical requirements to be contained in a merchant shipping notice shall be derived from the following sources:

*(a)* international maritime conventions, codes, protocols and resolutions of the International Maritime Organization to which Barbados is a signatory or party;

*(b)* International Association of Classification Societies standards;

*(c)* fisheries-related instruments of the Food and Agriculture Organization of the United Nations;

*(d)* regional maritime conventions, codes, protocols and resolutions to which Barbados is party;

*(e)* information specified in regulations to be contained in a merchant shipping notice; or

*(f)* any other source specified by the Administration.

**Compliance and enforcement**

**1449.**(1) The technical requirements specified in a merchant shipping notice are legally enforceable and shall be complied with.

(2) A person who fails to comply with a requirement in a merchant shipping notice commits an offence and is liable on summary conviction to a fine of $200 000.

**Marine guidance notes**

**1450.** The criteria for a marine guidance note are as follows:

*(a)* it shall be made by an authority specified in section 1464;

*(b)* it shall advisory and guiding in nature;

*(c)* it shall contain only non-mandatory information to be taken into account;

*(d)* it shall have an issuance date; and

*(e)* it shall contain a title that indicates the matter to which the note relates.

**Effect of marine guidance notes**

**1451.**(1) Marine guidance notes are not legally enforceable, as the information contained in them are for advisory and guidance purposes only.

(2) The advisory and guidance information in a marine guidance note shall be user-friendly and current.

(3) The advisory and guidance information shall relate to regulations or a merchant shipping notice.

(4) A marine guidance note is not a legislative instrument.

**Form of marine guidance notes**

**1452.** A marine guidance note shall be

*(a)* prefaced with the acronym ‘MGN’;

*(b)* sequenced with a number;

*(c)* suffixed with the letter of the type of vessels to which it relates; and

*(d)* in the form prescribed by the Director.

**Validity of marine guidance notes**

**1453.** A marine guidance note is valid until

*(a)* it is revoked or replaced by a subsequent marine guidance note;

*(b)* it is revoked or replaced by a merchant shipping notice to which it relates; or

*(c)* it is otherwise revoked by the Director, after consultation with the Administration and shipping industry stakeholders.

**Sources of information for marine guidance notes**

**1454.** The guidance information to be contained in a marine guidance note shall be derived from the following sources:

*(a)* the same sources as those from which merchant shipping notices are derived;

*(b)* guidelines developed by the International Maritime Organization;

*(c)* guidelines developed by the International Labour Organization;

*(d)* guidelines related to regional maritime conventions to which Barbados is signatory;

*(e)* guidelines developed by the Administration, in consultation with maritime industry stakeholders;

*(f)* guidelines developed by the Principal Registrar;

*(g)* rules and standards of the International Organization for Standardization;

*(h)* information specified in regulations to be contained in a marine guidance note; or

*(i)* any other source acceptable to the Administration.

**Marine guidance notes**

**1455.** Marine guidance notes, when issued in accordance with this Act, shall serve as recommendations to shipowners, ship operators, companies and all other parties concerned on subject matters that should be considered for incorporation into management system policies and operational procedures to assure the safety and security of ships and crews and the protection of the marine environment.

**Marine information notes**

**1456.** The criteria for a marine information note are as follows:

*(a)* it shall be made by an authority specified in section 1464;

*(b)* it shall be information-specific for the target audience;

*(c)* it shall contain information that will be useful only for a short period of time;

*(d)* it shall have an issuance date;

*(e)* it shall have a cancellation date; and

*(f)* it shall contain a title that indicates the matter to which the note relates.

**Effect of marine information notes**

**1457.**(1) Marine information notes are not legally enforceable, as they are for informational purposes only to a limited audience for a limited time.

(2) The information contained in a marine information note shall be user-friendly, current and specific to the intended audience.

(3) A marine information note is not a legislative instrument.

**Form of marine information notes**

**1458.** A marine information note shall be

*(a)* prefaced with the acronym ‘MIN’;

*(b)* sequenced with a number;

*(c)* suffixed with the letter of the type of vessels to which it relates; and

*(d)* in the form prescribed by the Director.

**Validity of marine information notes**

**1459.** A marine information note is valid for only 12 months from its publication date.

**Sources of marine information notes**

**1460.** The information to be contained in a marine information note may be from

*(a)* the same sources as those for merchant shipping notices and merchant guidance notices;

*(b)* marine-focused government entities;

*(c)* marine and maritime training institutions;

*(d)* maritime law enforcement; or

*(e)* maritime industry stakeholders to whom the specific information relates.

**Power to issue marine information notes**

**1461.** Principals or directors of local marine educational and training institutions may publish, in accordance with this Act, marine information notes pertaining to marine information concerning the institutions, programs or other marine-related matters of relevance to them that in their determination should be publicized.

**Documentation**

**1462.** Merchant shipping notices, marine guidance notes and marine information notes shall be properly documented and kept on record by the Administration.

**Issuance of merchant shipping notices**

**1463.** The Minister may issue a merchant shipping notice.

**Issuance of other marine notices**

**1464.** The following persons may issue marine guidance notes and marine information notes:

*(a)* directors of Maritime Affairs, the Coastal Zone Management Unit, the Fisheries Division, and the Environmental Protection Department;

*(b)* the Principal Registrar, in respect of vessels registered on Barbados' Register of International Ships;

*(c)* the Registrar of Domestic Vessels, in respect of vessels registered on Barbados' Register of Domestic Vessels;

*(d)* the Chief Marine Surveyor;

*(e)* a senior ship superintendent;

*(f)* the Marine Police Unit of the Barbados Police Service; and

*(g)* officers and soldiers of the Barbados Defence Force serving as members of the Barbados Coast Guard.

**Marine Notices to be sent to Principal Registrar**

**1465.** Marine Notices shall be sent to the Principal Registrar for publication by the Registrar on the registry's site.

**Barbados shipping notices**

**1466.**(1) A Barbados shipping notice is a notice described as such and issued by the senior ship superintendent.

(2) A Barbados shipping notice may be issued by a Senior Ship Superintendent to

*(a)* communicate maritime information concerning the Administration, ships registry or any other relevant maritime information to owners,

managers and surveyors of Barbados ships and masters and seafarers employed on Barbados ships; or

*(b)* convey information required by any shipping regulations to be conveyed in a Barbados shipping notice.

(3) A Barbados shipping notice is valid until

*(a)* revoked or replaced by a subsequent Barbados shipping notice; or

*(b)* otherwise revoked by the senior ship superintendent, consultation with the Administration and shipping industry stakeholders.

(4) A Barbados shipping notice shall

*(a)* be prefaced with the acronym 'BSN';

*(b)* sequenced with a number;

*(c)* contain a title which indicates the matter to which the BSN relates; and

*(d)* be signed by the Senior Ship Superintendent.

*Division 13*

*Other Compliance Requirements*

**Disposal of sand and gravel**

**1467.** Disposal of sand and gravel from offshore dredging activities shall be in compliance with Division 7 of Part XXV.

**Confidentiality**

**1468.**(1) Subject to section 1470, no employee or agent of the Administration shall use, either directly or indirectly, any confidential information obtained as a result of his relationship with the Administration for his own benefit or advantage or disclose confidential information obtained as a result of his relationship with the Administration to any person other than to an authorized official or a duly

authorized representative of the government of another country in connection with the enforcement of this Act or any other law of Barbados.

(2) A person who receives confidential information from a person specified in subsection (1) is subject to the provisions of this section as if he were a person specified in subsection (1).

(3) A person who contravenes this section is guilty of an offence and is liable on summary conviction to a fine of $50 000 or to imprisonment for 5 years or to both.

**Prohibition of publication or disclosure**

**1469.**(1) Subject to section 1470, no person shall, without the consent in writing given by or on behalf of the Administration, publish or disclose to any person other than in the course of his duties, or when lawfully required to do so by any court or under any law, the contents of any document, communication or information whatsoever, which relates to, and which has come to his knowledge in the course of his duties under the Act.

(2) Any person who knowingly contravenes subsection (1) shall be guilty of an offence and shall be liable, on summary conviction, to a fine of $50 000.

(3) Where any person having information which to his knowledge has been published or disclosed in contravention of paragraph (1) unlawfully publishes or communicates any such information to any other person, he shall be guilty of an offence and shall be liable, on summary conviction, to a fine of $30 000.

(4) The consent of the Administration under subsection (1), shall not be unreasonably withheld.

**Sharing of Information**

**1470.** Subject to this Act and any other enactment in respect of shipping, the Administration may disclose information it receives where the Administration is seeking to comply with

*(a)* an enactment requiring such disclosure;

*(b)* an order of the court; or

*(c)* a convention to which Barbados is a party.

**Publication of Information**

**1471.** Subject to sections 1468 to 1470, the Administration may publish in the *Official Gazette* and in a newspaper published and circulating in Barbados and in electronic form or on social media any information which the Administration considers to be of public interest.

*Division 14*

*Miscellaneous Provisions*

**Ownership of shipping agencies established in Barbados**

**1472.**(1) No person may own, operate, manage or control a shipping agency in Barbados that is not majority-owned and controlled by Barbadians.

(2) Where a shipping agency is established in Barbados prior to commencement of this Act, and the agency cannot be classified as being majority owned by Barbadian residents the Minister shall undertake appropriate measures to

*(a)* facilitate mutually beneficial partnerships between the Barbadian shipping interests and the shipping agency that is majority-owned and controlled by a foreign person or entity; or

*(b)* ensure that shipping agencies being established after commencement of this Act, meet the criteria set out in subsection (1).

(3) For the purposes of this section

"overseas principal" includes any principal, ship, vessel or shipping line that is not registered and headquartered in Barbados; and

"shipping agency" includes a business or operation where

*(a)* the interests or business of an overseas principal is represented, conducted or managed by a person in Barbados;

*(b)* an overseas principal has an office in Barbados;

*(c)* a person in Barbados utilizes the marks of an overseas principal or acts as agent for an overseas principal; or

*(d)* monies or freight are collected or handled in Barbados on behalf of an overseas principal.

(4) For the purposes of this section, a shipping agency shall not be classified as being majority-owned by Barbadian residents unless the ultimate beneficial owners of at least 51 per cent or more of it are Barbadian citizens.

(5) A person who contravenes subsection (1) is not entitled to recover any amount due to him or his overseas principal, but where the overseas principal duly establishes a shipping agency in accordance with this Act such amounts shall be recoverable by that shipping agency subject to any other applicable law.

**Merchant Shipping Sector Sustainable Economic Initiatives**

**1473.**(1) An individual or group from, or representing, the merchant shipping sector may formulate and submit a written proposal to the Administration for consideration and adoption of one or more sustainable economic development strategies or initiatives.

(2) The proposed strategy or initiative shall be

*(a)* economically viable;

*(b)* environmentally sustainable;

*(c)* beneficial to the collective merchant shipping sector, and

shall not be detrimental to maritime safety and security.

(3) Where the Administration determines that the strategy or initiative meets the requirements of subsection (2), the Administration after consultation with the

Minister, shall coordinate with the individual or group and any other person or entity, as the Administration deems fit, to implement the said strategy or initiative.

(4) Where the proposed strategy or initiative may require imposition of regulatory measures, to ensure proper management, the Administration shall ensure the adoption of such regulatory measures, as may be appropriate.

(5) Where it is considered that the proposed strategy or initiative has a significant positive impact and yields immeasurable benefits, the Minister, upon recommendation of the Administration, may give incentives to the individual or group for their conceptualization and innovation in relation to the strategy or initiative.

**Special permits and licences**

**1474.**(1) The Administration may issue permits or licences for activities in respect of which

*(a)* the activity is of a kind necessitating a permit or licence, as the case may be;

*(b)* no permit or licence is specified in this Act of any enactment which relates to the activity described in paragraph *(a)*.

(2) Where the Administration issues a special permit or licence, it shall be valid for a 3-month period, subject to a written request for extension.

(3) A special permit or licence shall be accompanied by relevant terms and conditions.

**Transfer of Functions outside the Administration**

**1475.**(1) The Administration, with the approval of the Minister, may where it considers it justifiable, authorize an entity or competent person outside Barbados to perform specified regulatory oversight responsibilities on behalf of the Administration.

(2) Any transfer pursuant to subsection (1) shall be executed by way of a transfer agreement.

**Power to make regulations**

**1476.** The Minister may make regulations

*(a)* prescribing anything to be prescribed by this Act; and

*(b)* pertaining to any matters addressed under, or incidental to, this Act.

**Power to amend schedules**

**1477.** The Minister may by order amend the Schedules to this Act.

**Inconsistencies between this Act and international instruments**

**1478.** In the event of any inconsistency between this Act or any other enactment on shipping in which the international maritime instruments are recognized, the international maritime instruments shall prevail to the extent of the inconsistency.

**Powers of the Administration**

**1479.** The Administration may

*(a)* develop policies, programs, codes related to shipping;

*(b)* make guidelines; and

*(c)* adopt any other measures or strategies for continuously ensuring the effective and efficient regulation and governance of shipping.

**Power to classify vessels as domestic vessels**

**1480.**(1) Notwithstanding the *Shipping (Domestic Vessels) Act, 2024* (Act 2024-22), the Minister may, by order, classify as domestic vessels above 150 GT, but not exceeding 300 GT, that are registered under this Act and are operating solely in Barbados' waters.

(2) Vessels classified in accordance with subsection (1) shall adhere to

*(a)* International Maritime Organization conventions to which Barbados is party that are applicable to vessels above 150 GT and not more than 300 GT;

*(b)* the International Maritime Organization Code of Safety for Small Commercial Vessels Operating in the Caribbean; and

*(c)* any other requirements as may be specified from time to time in a Marine Notice.

(3) Except expressly provided otherwise by statutory instrument, where vessels above 150 GT but not more than 300 GT are classified as domestic vessels, in accordance with subsection (1), the following apply to such vessels, in relation to

*(a)* offences and penalties specified in this Act or any of its statutory instruments; and

*(b)* offences and penalties applicable to domestic vessels under the *Shipping (Domestic Vessels) Act, 2024* and its statutory instruments.

(4) The Minister may

*(a)* develop, as he deems appropriate, a licensing and permitting regime for the commercial operation of vessels classified under this Act as domestic vessels; or

*(b)* where practicable to do so, order that vessels classified under this Act as domestic vessels be subject to the same commercial licensing and permitting regime established in respect of vessels 150 GT or below under the *Shipping (Domestic Vessels) Act, 2024*.

**Power to extend certain provisions**

**1481.** The Minister, after consultation with the Director, may by order extend certain provisions to vessels over 24 metres in length and the circumstances in which such provisions will apply.

**Communication of mandatory information to the IMO**

**1482.** The Director shall communicate mandatory information, as specified in the various International Maritime Organization instruments incorporated into this Act and the regulations, to the International Maritime Organization, including

*(a)* texts of laws;

*(b)* decrees and regulations;

*(c)* details of port reception facilities;

*(d)* mandatory reports under the International Convention for the Safety of Life at Sea, the International Convention for the Prevention of Marine Pollution from Ships, 1973, STCW, LL, and the International Maritime Organization Instrument Implementation Code; and

*(e)* any other mandatory information as may be specified by the International Maritime Organization from time to time.

**Reciprocal jurisdiction**

**1483.**(1) Subsections (2) and (3) apply where the law of a foreign country provides, in terms that would extend to ships of the foreign country while they are in Barbados, after they have been in Barbados, or while they are at sea, that a specified body or person in Barbados has the authority or obligation to execute a request, exercise a right or power or perform a function, in relation to those ships or to their owners, masters or crews, as is set out in the law of the foreign country.

(2) In relation to the ships of the foreign country referred to in subsection (1) and to their owners, masters and crews, a court, registrar, customs officer, inspector or other official in, for, or of Barbados as specified in the foreign

country's law may or, as the circumstances require, shall, in the same manner as if the authority's power or duty to do so were conferred or imposed by this Act,

*(a)* execute a request made under the foreign country's law;

*(b)* execute a right or authority arising under the foreign country's law; or

*(c)* perform a function required to be performed under the foreign country's law.

(3) In relation to Barbadian ships and to their owners, masters and crews described in subsection (1) in respect of a foreign country, a court, authority or official in the foreign country that executes a request, exercises a right or authority or performs a function

*(a)* that this Act makes, purports to make, confers, imposes upon or directs to be done by a similar court, authority or functionary; and

*(b)* that can be related to the law of that foreign country,

shall be deemed to have been done by force of the law of the foreign country, if the things done by the court, authority or functionary were done in the form required or authorized under this Act.

**Effect of powers**

**1484.** Where a provision of this Act permits, authorizes, requires or directs a court, authority or functionary to do anything, that thing shall be deemed to have been validly done for all the purposes of this Act.

**Administrative Penalties**

**1485.**(1) A person who contravenes a provision set out in PART I of the *Thirteenth Schedule* is liable to pay to the Director an administrative penalty in the amount specified.

(2) The Director shall issue an administrative penalty notice in the form set out in PART II of the *Thirteenth Schedule*.

(3) In addition to the public interest, where the Director issues a notice pursuant to subsection (2), the Director shall have due regard to the following:

*(a)* the nature, gravity and duration of the contravention, taking into account whether any damage was sustained to the marine environment;

*(b)* any action undertaken to prevent damage, including marine environmental damage;

*(c)* the international or negligent character of the contravention;

*(d)* any relevant previous contraventions by the master, owner of the vessel or other person found in contravention of the Act and its statutory instruments; and

*(e)* any other aggravating or mitigating factor applicable to the circumstances of the case, such as financial benefits gained, or losses avoided directly or indirectly, from the contravention.

(4) An administrative penalty notice issued pursuant to subsection (2) shall specify the nature of the act constituting the contravention, the penalty to be paid and shall require the person to whom it is addressed to pay the penalty within 30 days of the date of the notice.

(5) A person who is in receipt of an administrative penalty notice issued pursuant to subsection (2) shall pay the amount of the penalty set out in the notice on or before the date specified in the notice.

(6) Notwithstanding subsection (5), where the Director is satisfied on grounds of undue hardship or for any other reason that it would be just and equitable to do so, the Director may arrange with the person who is the subject of the penalty notice to pay the penalty set out in the notice in instalments.

(7) Notwithstanding subsections (1) to (6), a person to whom an administrative penalty notice is addressed and who wishes to challenge the alleged contravention, may instead of obtain the amount of administrative penalty, appeal to a judge in chambers who may remit or vary the amount of the penalty and the decision of the judge shall be final.

(8) The amount of an outstanding administrative penalty constitutes a debt to the State and is recoverable in civil proceedings before a magistrate for district "A'.

**Transitional**

**1486.**(1) With effect from the commencement of this Act, a person who immediately before the commencement of this Act was engaged in the operation of a ship to which the Act applies shall, subject to subsection (2), continue to operate such ship after the commencement of this Act.

(2) A person who operated a ship before the commencement of the Act shall be allowed a period of 18 months to comply with this Act.

**Consequential amendments**

**1487.** The enactments set out in Column 1 of the *Fourteenth Schedule* are amended in the manner specified in Column 2 of the *Fourteenth Schedule*.

**Repeal**

**1488.** The

*(a)* *Better Security of Shipping Act*, Cap. 287;

*(b)* *Shipping Act*, Cap. 296;

*(c)* *Shipping (Oil Pollution) Act*, Cap. 296A; and

*(d)* *Vessels (Registration Fee) Act*, Cap. 297A

are repealed.

## FIRST SCHEDULE

*(Sections 3 and 1442(2))*

*Merchant Shipping Act, 2024*
(Act 2024- )

### RECOGNIZED ORGANIZATIONS OF THE ADMINISTRATION

The following Recognized Organizations are agents duly appointed and authorized to perform flag State control functions on behalf of the Administration in accordance with this Act and the regulations, and to measure and survey vessels required to be classed for the issuance of Certificates specified in this Act, the regulations and sister Acts to this Act:

American Bureau of Shipping

Bulgarian Register of Shipping Bureau Veritas

China classification society

Det Norske Veritas

Hravatski Registar Brodova

Indian Register of Shipping

International Naval Surveys Bureau

Korean Register of Shipping

Lloyd's Register

Nippon Kaji Kyokai

Overseas Marine Classification Services

Polish Register of Ships SA

Registro Italiano Navale

Russian Maritime Register of Shipping

## SECOND SCHEDULE

*(Section 15(2))*

Express Provisions Applicable to Vessels Regulated
Under the *Shipping (Domestic Vessels) Act, 2024* (Act 2024-22)

| Section | Description | Notes |
|---|---|---|
| 3 | Definition of Barbados Maritime Transport Administration | Refers to entity regulating both large and small vessels, and water-sports activities |
| 8(2) | Minimum compliance requirements for vessels 150 GT and below | Minimum compliance requirements contained in *Shipping (Domestic Vessels) Act, 2024* (2024-22) |
| 10(2) | Minimum compliance requirements for small ferries 150 GT and below | Minimum compliance requirements for small vessels, which include small ferries contained in *Shipping (Domestic Vessels) Act, 2024* (2024-22) |
| 15 | General provision excluding small vessels from this Act and its statutory instruments | Small vessels are generally excluded from the application of this Act, except as indicated in this Act or any other statutory instrument |
| 16 | When necessary, there may be subsidiary merchant shipping instruments applicable to small vessels. These instruments would specify minimum requirements for small merchant vessels vis-a-vis their larger counterparts | Such minimum requirements would appear in secondary regulations or tertiary shipping notices |

*Second Schedule - (Cont'd)*

| Section | Description | Notes |
|---|---|---|
| 180(1) and (2) | Survey requirements for commercial and pleasure yachts under 24 metres in length | Surveys will be done in accordance with the *Shipping (Domestic Vessels) Act, 2024* (2024-22) |
| 180(4) and (5) | Survey requirements for commercial and pleasure yachts exceeding 24 metres in length, but not exceeding 150 GT | The category of small vessels exceeding 24 metres in length, but not exceeding 150 GT are subject to the *Shipping (Domestic Vessels) Act, 2024* (2024-22) |
| 186(5) | Cruise permit fee for yachts under 24 metres in length and yachts over 24 metres in length but not exceeding 150 GT | Subject to fee regime under *Shipping (Domestic Vessels) Act, 2024* (Act 2024-22) |
| 187*(b)* | Application of PART XIII and XIV to mortgages in respect of small vessels | Provision ensures vessels registered under the *Shipping (Domestic Vessels) Act, 2024* (2024-22) can benefit from the ship mortgage regime in this Act |
| 188 | Power of Minister to delegate responsibility for yacht management to Registrar of Yachts to yachts of any size, including yachts registered under the *Shipping (Domestic Vessels) Act, 2024* (2024-22) | With the establishment of the Barbados Yacht Registry pursuant to this Act, there may be the possibility of all yachts, irrespective of size being managed under the auspices of the said Yacht Registry. Minimum requirements specified in the *Shipping (Domestic Vessels) Act, 2024* (2024-22) will still apply, even if the management arrangements change. |

*Second Schedule - (Cont'd)*

| Section | Description | Notes |
|---|---|---|
| 227(2) | Minister's power to make regulations in respect of small autonomous vessels | Aim is to extend autonomous shipping activities to the small vessel sector |
| 230(1) | Specifies Registrar of Domestic Vessels responsible for registration of autonomous vessels of 150 GT and below | Autonomous vessel regime for small vessels will be guided by autonomous vessels framework in this Act |
| 352(2) | Collision provisions under PART XX of the Act are applicable to small vessels | Aims to ensure safe navigation by all vessels, irrespective of size |
| 598(2) | Provides for the specification of minimum requirements for ballast water and sediment pollution control in respect of small vessels | Such requirements will align with the International Convention for the Control and Management of Ships' Ballast Water and Sediment 2004, as amended, incorporated under Division 9, PART XXV of this Act; but tailored to the realities of small vessels |
| 640(2) | Provides for specification of minimum requirements for artificial light pollution control for small vessels | Apart from oil, chemicals, sewage, garbage, ship-source emissions of air and noise; artificial light pollution is another form of pollution that must be managed, given its impacts on fragile marine ecosystems |
| 953 | Outlines duties of receiver of wreck | The scope of duties of Receiver of wreck is wide, and extends to vessels registered under the *Shipping (Domestic Vessels) Act, 2024* (2024-22) |
| 1086(2) | Empowers Minister of Finance to extend subsidies regime for shipbuilding to boatbuilding | Aim of section is to support the boatbuilding industry |

*Second Schedule - (Concl'd)*

| Section | Description | Notes |
|---|---|---|
| 1205 | Provision pertains to vessels of 150 GT or below, though falling within the purview of the *Shipping (Domestic Vessels) Act, 2024* (2024-22), to be subject to section 1210 on offences not specifically provided for | Relates to acts committed by owners or operators of small vessels that result in injury, loss of life, damage, etc., and there are no specific or equivalent provisions under the *Shipping (Domestic Vessels) Act, 2024* (2024-22), or any of its statutory instruments in relation to such acts. |
| 1210(3) | Provides the general penalty for vessels of 150 GT or below | Relates to offences committed by owners, operators or other persons in relation to small vessels for which no specific or equivalent penalty is provided in any statutory instrument |
| 1480(1) and (2) | Minister's power to classify vessels above 150 GT but not exceeding 300 GT as small vessels<br><br>Provision also outlines the regulatory regime applicable to such vessels | There are instances where vessels ranging between 150 - 300 GT may be classified as small, and thus subjected to lesser requirements than vessels exceeding 300 GT |
| 1480(3) | Minister's power to subject the *Shipping (Domestic Vessels) Act, 2024* (2024-22), vessels between 150 - 300 GT classified as small vessels | Provides opportunity for expansion of small vessel sector to comprise vessels up to 300 GT, while yet ensuring proper regulation of this category of small vessels (if so classified by the Minister) |
| 1488 | Consequential amendments | Consequential amendments to Shipping (Domestic Vessels) Act, 2024 specified in Fourteenth Schedule of this Act |

*Note: Other applicable provisions to vessels regulated under the *Shipping (Domestic Vessels) Act, 2024* (Act 2024-22), may in future be specified in secondary regulations and tertiary shipping notices.

## THIRD SCHEDULE

*(Section 90)*

## CONDITIONS OF SALE - SHIP SUPPLIERS AND PURCHASERS FROM SHIP SUPPLIERS

**Definitions**

"Contract" shall mean any agreement between a Vendor and a Purchaser pursuant to which Goods or Services are supplied or are intended to be supplied;

"Goods" shall mean any and all items ordered by the Purchaser and/or supplied by the Vendor for use on board a Vessel or an offshore oil rig or similar, or incidental to the operation of the aforesaid;

"Purchaser" shall mean the person placing an order in respect of Goods or Services and where such person acts as agent of or otherwise for a third party ("the Principal"), such person and the Principal and the Vessel to which Goods or Services are provided shall jointly and severally be the Purchaser;

"Services" shall mean any and all services ordered by the Purchaser and/or supplied by the Vendor to a Vessel or an offshore oil rig or similar, or incidental to the operation of the aforesaid;

"Vendor" shall mean the International Ship Suppliers Association member contracting to supply Goods or Services; and

"Vessel" shall mean the vessel or vessels to which Goods or Services are supplied or intended to be supplied by the Vendor. The Purchaser will declare the name of the Vessel to the Vendor.

**General**

Unless otherwise expressly agreed in writing the following conditions shall apply to all contracts, orders and deliveries. Any conflicting purchasing conditions (or similar) of the Purchaser shall be deemed to have been rejected by the Vendor unless expressly accepted in writing.

*Third Schedule - (Cont'd)*

**Orders and Deliveries**

2. *(a)* The Purchaser shall communicate as soon as reasonably practicable to the Vendor his order or orders.

*(b)* Provided the prevailing circumstances reasonably permit, the Vendor shall supply and deliver to the Purchaser the Goods or Services as ordered at the time and place stipulated by the Purchaser insofar as the Vendor has agreed to do so and such Goods or Services are available at the agreed port or port-area.

3. *(a)* The Vendor's responsibility for transport of the Goods shall end at the nearest point to the Vessel that the delivery vehicle(s) may, with the necessary authority, reach ("the Point of Delivery"). The cost of transportation of Goods to the Point of Delivery shall be agreed in advance or otherwise charged at cost to the Vendor.

*(b)* Should the Vendor expressly agree to transport/handle the Goods beyond the Point of Delivery as defined in paragraph 3*(a)* the costs of such additional delivery/ handling shall be agreed in advance.

*(c)* If delivery is requested outside the normal hours of the agreed port or port-area or on Saturdays, Sundays or religious or national or legal holidays, expenses incidental to such delivery shall be payable by the Purchaser as additional costs. Transport Costs shall be invoiced and payable by the Purchaser.

*(d)* The Goods shall be deemed delivered on the arrival of the Goods at the stipulated time at the Point of Delivery. The responsibility, cost and risk of unloading the delivery vehicle(s) and delivering on board are for account of the Purchaser. Risk in the Goods (but not property therein) shall, in all respects, pass to the Purchaser upon delivery.

*(e)* The Purchaser shall pay to the Vendor any costs or expenses incidental to any waiting period beyond a reasonable time.

*(f)* All orders and receipt notes will be signed by the master or his authorized representative.

*(g)* Where the Vendor is requested to deliver Goods other than to the Vessel responsibility rests with the Purchaser to ensure that the person responsible for accepting delivery gives a full and proper receipt for the Goods delivered. Signed receipt by that party shall constitute acceptance of delivery by and to the Purchaser.

*Third Schedule - (Cont'd)*

**Prices**

4. *(a)* Subject to the following provisions of this Condition 4, in respect of the Goods or Services supplied by the Vendor, the Vendor shall charge to the Purchaser the prices current at the relative port or port-area at the time of delivery.

*(b)* Where requested to do so the Vendor shall submit a quotation to the Purchaser. Where the Purchaser accepts that quotation, the Vendor shall charge the Purchaser the sum quoted, subject to any necessary adjustment for reasonable variations in the quantities actually delivered.

*(c)* Where the Purchaser seeks to place an order for only some of the items for which Vendor has quoted, the Vendor shall be at liberty to decline the request to supply.

*(d)* The Vendor may, if requested by the Purchaser, send to the Purchaser a list stating the prices of Goods and the period for which such prices are to apply. If such a list has expired and not been renewed, Condition 4*(a)* shall apply. Goods which cannot be offered at a price fixed in advance shall be clearly so marked on any such list and in this case Condition 4*(a)* shall apply.

*(e)* Where the Vendor gives the benefit of a quantified discount (whether in percentage terms, in a stated sum or otherwise) then the Purchaser's entitlement to such discount is strictly conditional upon payment of the Vendor's invoice within the agreed payment period. Where payment is not made within the agreed period the Vendors invoices shall be deemed to be adjusted to exclude any such discount.

**Quality and Packing**

5. The Goods shall be of standard or prime quality as rated at the time and place of delivery. The Goods shall be supplied in the packing customary at the time and place of delivery. At the time of placing his order, the Purchaser shall inform the Vendor of any special packing requirements in view of the destination of the ship and/or Goods. Any additional expenditure incurred in complying with such requirements shall be chargeable to and payable by the Purchaser.

6. *(a)* Returnable packing material and containers supplied by the Vendor shall be clearly marked as such on the receipt-note and shall be returned by the Purchaser to the Vendor as soon as reasonably practicable.

*(b)* Returnable packing material and containers shall be charged separately at the prices current at the time and place of delivery. The amounts so charged shall be refunded by the Vendor to the Purchaser, provided such packing material and containers are returned undamaged within a reasonable period.

*Third Schedule - (Cont'd)*

**Claims and Liability**

7. Subject only to Condition 8 below, by taking delivery of the Goods and signing the accompanying receipt-note, the Purchaser shall be deemed to have approved and accepted the Goods in every respect.

8. Any claims with regard to the conformity or quality of the delivered Goods must be notified in writing to the Vendor within 8 days from delivery and in the absence of such notification the Purchaser shall be deemed to have approved and accepted the Goods in every respect.

   Exception is made in the case of fresh products and perishable Goods, for which claims must be notified in writing at the time of delivery or as soon as practicable thereafter. Where a claim is made in accordance with the provisions of this paragraph and where such claim is accepted by the Vendor the Purchaser shall be entitled to a refund of the price of the affected Goods upon inspection of said goods by the Vendor or as otherwise agreed in writing by the Parties.

9. In the event of a claim pursuant to paragraph 8 the Purchaser shall be required to prove that, since delivery, the Goods were continuously handled, treated and stored by the Purchaser as a prudent administrator in keeping with the nature of the Goods and their propensity to deteriorate and that any alleged deficiency is not attributable to the Purchaser's fault or negligence. The Purchaser shall be required to make the Goods under claim available for inspection.

10. Save for claims for death or personal injury any damages/compensation shall be strictly limited to a refund of the price paid to or charged by the Vendor for the affected Goods or Services. The Vendor shall not under any circumstances whatsoever including the Vendor's negligence be liable for any claim for consequential loss, damage or injury arising out of the supply, or late supply or failure to supply, of any Goods or Services. The Vendor shall not be liable for the financial consequences arising from any delay to the Vessel or any period that the Vessel may be off-hire or otherwise unable to earn.

11. Any complaint by the Purchaser with regard to the Vendor's invoice will be absolutely barred unless lodged in writing by the Purchaser with the Vendor at the Vendor's usual business address within 8 days of delivery of the invoice.

**Payment**

12. *(a)* The Purchaser shall pay, prior to the Vessel's departure the invoiced amount or amounts in the currency stipulated, or by the express agreement of the Vendor at a later stipulated date.

*(b)* Notwithstanding paragraphs 7 to 11 herein the Purchaser shall not be entitled to withhold payment of any sums after they have become due in the ordinary course for payment by reason of any claim, right of set-off or counterclaim which the Purchaser may allege or for any reason whatsoever.

*(c)* If payment is not made within the stipulated period the Purchaser shall pay the Vendor interest on all overdue or unpaid sums at a rate of 1.5 % per month or part thereof, or the equivalent to the commercial prime lending rate customarily charged at the time by the Vendor's bank in the Vendor's country, whichever may be the higher. Interest shall be calculated from the due date until actual date of payment.

*(d)* Regardless of any allocation stipulated by the Purchaser upon making any payment, the Vendor shall be entitled to apply payments received from the Purchaser in any way that it considers appropriate, including allocation firstly to interest that has accrued in accordance with paragraph 12*(c)* or costs incurred in accordance with paragraph 12*(e)*.

*(e)* The Vendor shall be entitled to recover from the Purchaser any and all costs and/or expenses which may be incurred by the Vendor in recovering or seeking to recover from the Purchaser any overdue or unpaid sums whether or not formal legal steps (including but not limited to the arrest of a Vessel) have been undertaken. Such costs include both internal costs and costs and expenses incurred to external advisers, lawyers or debt collectors instructed for such purpose. Such costs shall be payable by the Purchaser to the Vendor upon demand on a full indemnity basis and may be included in the claim for which a Vessel is arrested.

*(f)* Where the Vendor has granted credit to the Purchaser and the Purchaser is in default in payment of any sums due by the Purchaser the Vendor shall be entitled to give immediate notice of the withdrawal of credit, entitling the Vendor to treat all unpaid charges for Goods and Services provided to the Purchaser as due for immediate payment. Interest shall accrue on such sums from the date of the notice, and the Vendor shall be entitled to take immediate legal action to recover the sums due.

*(g)* Notwithstanding delivery and the passing of risk, property in and title to the goods shall remain with the Vendor until the Vendor has received payment of the full price of:

(i) all Goods and/or Services the subject of the Contract; and

(ii) all other Goods and/or Services supplied by the Vendor to the Purchaser under any contract whatsoever.

Payment of the full price shall include, without limitation, the amount of any interest or other sum payable under the terms of this and all other contracts between the seller and the buyer.

**Handling of third-party goods**

13. *(a)* The Vendor may agree to handle Purchaser's own goods (hereafter "Purchaser's Goods"), including arranging custom's clearance, inland or international carriage, storage and delivery to a nominated Vessel. In the absence of any contrary terms agreed between the Vendor and Purchaser in relation to such activity this Condition 13 sets out the terms upon which such Services are provided.

*(b)* When the Vendor instructs any third party in connection with the clearance, handling or movement of Purchaser's Goods it does so strictly as agent for the Purchaser and the Purchaser authorizes the Vendor to act as its agent and to contract on the usual terms of those third parties.

*(c)* The Purchaser is responsible for fully and accurately declaring, describing and documenting the contents of any package or packages passed to the Vendor for handling, such declaration, description and documentation being appropriate for the place at which the Vendor is required to handle the Purchaser's Goods.

*(d)* All Purchaser's Goods shall be properly and adequately packaged for the period of transit and storage envisaged. The Vendor shall not be responsible for inspecting said packaging, or taking any remedial steps in relation to deficiencies. The Vendor shall not be responsible for inspecting the condition of the contents of any packages for loss or damage. The Purchaser shall remain at all times responsible for compliance with the ISPS Code as concerns the acceptance of goods on board vessels.

*(e)* Where the Purchaser's Goods require particular handling or care the Vendor shall only be required to provide such handling and care if it has agreed in writing to do so, in advance of the Goods being consigned to them.

*Third Schedule - (Cont'd)*

*(e)* Where the Purchaser's Goods require particular handling or care the Vendor shall only be required to provide such handling and care if it has agreed in writing to do so, in advance of the Goods being consigned to them.

*(f)* It is envisaged that the Vendors charges shall be agreed in advance of goods being consigned to them. Where no such agreement is in place the Vendor shall be entitled to charge a reasonable sum, consistent with similar work for similar clients.

*(g)* The Purchaser shall insure the Purchaser's Goods for all carriage and storage risks during the period that they are under the custody, care or control of the Vendor on terms that the insurer waives any rights of subrogation or recourse against the Vendor. The Vendor has no obligation or requirement to insure Purchaser's Goods.

*(h)* The Vendor shall not be liable for loss or damage to Purchaser's Goods otherwise than by its own negligence or default. Any claims in respect of Purchaser's Goods lost or damaged whilst in the custody of third parties instructed on behalf of the Purchaser by the Vendor shall be made directly to the relevant third party, whose details the Vendor shall provide.

*(i)* Where the Vendor is liable in respect of Goods lost or damaged then its liability shall be strictly limited to 2 SDRs per kilo of the weight of the Purchaser's Goods lost or damaged, and such limits shall apply in all cases including loss or damage caused by the Vendor's breach of contract or negligence. The Vendor shall not be liable for any other losses, claims or damages and for the avoidance of doubt shall not be liable for losses arising from a failure to deliver or a delay in delivery of the Purchaser's Goods, including losses arising from delay to the vessel, including detention, demurrage or periods off-hire.

*(j)* The Vendor shall have a right of general lien over Purchaser's Goods and any documents related thereto in respect of any sums due from the Purchaser, whether related to the Purchaser's Goods under lien or any other Contract.

*(k)* Where Purchaser's Goods are:

(i) held under lien; or

(ii) held for a period of more than 60 days without sections for their delivery or forwarding;

the Purchaser shall be entitled to sell or dispose them, upon 5 days' notice to the Purchaser of an intention to do so, and may apply the proceeds to any sums due from the Purchaser.

*(l)* The Purchaser shall immediately upon written demand from the Vendor fully indemnify the Vendor for all costs, expenses, penalties, fines, taxes, duties or other dues arising from the handling and delivery of Purchaser's Goods including those arising from the Purchaser's incorrect or false declaration of the content of any package.

**Force Majeure**

14. If the Vendor is unable to make delivery, or to make delivery in good time, owing to force majeure (which shall include all or any circumstances or conditions for which the Vendor cannot be held responsible and as a consequence whereof it is not reasonably possible to make delivery in good time or at all) then the Vendor's obligation to deliver shall cease or if appropriate be suspended for the duration of such force majeure.

**Maritime Lien**

15. Goods are sold and delivered on the credit of the Vessel supplied, as well as the credit of the Purchaser, and the Purchaser agrees and warrants on behalf of the Vessel and its owner that the Vendor shall have and may assert a maritime lien against the Vessel supplied in accordance with the laws of the Southern District of California, USA.

**Law and jurisdiction**

16. *(a)* Subject always to clause 16d any dispute arising out of or in connection with any Contract subject to these Conditions, including any question regarding its existence, validity or termination, shall be referred to and finally resolved by arbitration in England and governed by the Arbitration Act 1996. Any such arbitration proceedings shall be before a sole arbitrator who shall be appointed by the claimant, who shall be a shipping lawyer qualified to practice law in England.

*(b)* Notwithstanding the commencement of arbitration proceedings the Vendor shall be entitled to commence proceedings in any other jurisdiction or before any court in order to obtain security for its claim, including security for interest due and legal costs to be incurred.

*(c)* Notice of arbitration shall be validly served if sent to one or more of the email addresses, fax numbers or physical addresses used or identified by the Party served during the course of their prior business dealings.

*(d)* The Vendor shall be entitled at any time prior to the commencement of arbitration proceedings pursuant to clause 16a to commence substantive proceedings against the Purchaser, its assets including the Vessel or any sister or associated vessel in the court of any jurisdiction where the Purchaser may be located, domiciled or present or where any assets, including its Vessel or sister or associated vessel may be located. In the event that the Vendor exercises that option then neither Party shall be entitled to commence arbitration proceedings and any disputes must be submitted to the court at which the Vendor has commenced proceedings.

*(e)* All contracts entered pursuant to these Conditions shall be subject to the laws of the Southern District of California, USA, The United Nations Convention on Contracts for the International Sale of Goods (Vienna UNCITRAL Convention on International Trade Law, also known as the Vienna Treaty) is excluded from application.

Notwithstanding International Ship Suppliers Association Condition 15 on Maritime Liens, local ship vendors shall have and may assert a maritime lien against the vessel supplied, in accordance with the 1993 International Convention on Maritime Liens and Mortgages, or in accordance with any other applicable national law on maritime liens.

Notwithstanding International Ship Suppliers Association Condition 16*(e)* on contracts entered into pursuant to International Ship Suppliers Association Conditions, parties to a contract made pursuant to the said International Ship Suppliers Association Conditions may be subject to the laws of Barbados, where the ship supplier is based in Barbados and the ship supply contract was entered into in Barbados.

## FOURTH SCHEDULE

*(Section 107)*

*Merchant Shipping Act, 2024*
(Act 2024- )

## CERTIFICATE OF REGISTRATION

| Official No. | Name of Vessel | Type of Vessel | Year and Port of Registry | |
|---|---|---|---|---|
| | | | | |
| Previous Port of Registry | | Where Built | When Built | Name and address of Builders |
| | | | | |
| Particulars of Tonnage | | | | |
| Gross Tonnage<br>Net Tonnage | | | | |
| Particulars of the Vessel | | | | |
| IMO #<br>Number of Decks<br>Number of Masts<br>Framework<br>Bulkheads | | | Length<br><br><br><br>Breadth | |

*Fourth Schedule - (Concl'd)*

| Particulars of the Engines (If any) | | | | | |
|---|---|---|---|---|---|
| Number of Sets | Description of Engines | Number of Cylinders | Diameter (mm) | Length of Stroke (mm) | KW |
| | | | | | |
| Passenger Capacity (# of passengers) (# of crew) | | | Communications Equipment | | |
| Date | Name, Residence and Description of the Owner(s) | | Shares | Recorded | |
| | | | | | |

## FIFTH SCHEDULE

*(Section 113)*

*Merchant Shipping Act, 2024*
(Act 2024- )

## PROVISIONAL CERTIFICATE OF REGISTRATION

Name of Vessel: _____

_____

Previous Port of Registry: _____

_____

Previous Registry (or equivalent) No.: _____

Gross Tonnage: _____ Net Tonnage: _____

Name of Builder: _____

_____

Place of Construction: _____

_____

Registry Dimensions: Length: _____ metres Breadth: _____ metres

Number of Decks: _____ Number of Bulkheads: _____

*Fifth Schedule - (Concl'd)*

Framework and description of Vessel:_____

_____

_____

Name(s) and Address(es) of Owners: _____

_____

_____

_____

_____

No. of Shares: _____

This Provisional Certificate is hereby granted under the authority of the Government of Barbados in respect of the above-described vessel.

_____

*Principal Registrar/Diplomatic Officer/Authorized Person*

Date:_____

*Day/Month/Year*

## SIXTH SCHEDULE

*(Section 139(3))*

*Merchant Shipping Act, 2024*
(Act 2024- )

## VESSEL CONSTRUCTION CERTIFICATE OF REGISTRATION

This Vessel Construction Certificate of Registration is hereby granted under the authority of the Government of Barbados in respect of the above-described vessel to the owner of the vessel.

_____
*Print Owner's Name*

_____
*Principal Registrar/Diplomatic Officer/Authorized Person*

Date:_____
*Day/Month/Year*

*Sixth Schedule - (Concl'd)*

Framework and description of Vessel: _____

_____

_____

Name(s) and Address(es) of Owners: _____

_____

_____

_____

_____

No. of Shares: _____

This Provisional Certificate is hereby granted under the authority of the Government of Barbados in respect of the above-described vessel.

_____
*Principal Registrar/Diplomatic Officer/Authorized Person*

Date: _____
*Day/Month/Year*

## SEVENTH SCHEDULE

*(Section 319(3))*

*Merchant Shipping Act, 2024*
(Act 2024- )

### SAFE CONTAINERS STATEMENT OF COMPLIANCE

Issued under the provisions of the *Merchant Shipping Act, 2024* (Act 2024- ) under the authority of the Government of Barbados

By:_____
*Full designation of officer signing on behalf of the Administration*

Particulars of Container:_____

_____

_____

Particulars of Container Manufacturer: _____

_____

_____

THIS IS TO DECLARE:

1. That the container was inspected in accordance with the provisions of the *Merchant Shipping Act*.
2. The container meets the requirements contained in the International Convention for Safe Containers.

Issued at:_____ Date of issue:_____

_____
*Signature of duly authorized officer issuing the Statement*

## EIGHTH SCHEDULE

*(Section 329(c)*(v)*)*

*Merchant Shipping Act, 2024*
(Act 2024- )

## MARKING OF CONTAINERS BUILT WITH A LIMITED STACKING OR RACKING CAPACITY

**CSC SAFETY APPROVAL**

Date Manufactured: _____

Identification No.: _____

Maximum Operating Gross Mass: _____ kg _____ lb

Allowable Stacking Load for 1.8 kg: _____ kg _____ lb

Transverse Racking Test Force: _____ newtons

_____

_____

_____

_____

## NINTH SCHEDULE

*(Section 1036(2))*

*ESTABLISHMENT OF NATIONAL MARITIME PERFORMANCE AUDIT COMMITTEE*

**Appointment of Members**

**1.**(1) The Committee shall comprise of 15 members as follows:

*(a)* Three representatives from the Administration, namely:

(i) Director of Ocean Affairs;

(ii) a Maritime Officer;

(iii) a representative from the Barbados Maritime Ships' Registry;

*(b)* Two representatives from Barbados Port Inc.;

*(c)* Two representatives from Barbados Coast Guard;

*(d)* Two representatives from Marine Police Unit of The Barbados Police Service;

*(e)* One representative from Coastal Zone Management Unit;

*(f)* One representative from Environmental Protection Department;

*(g)* One representative from the Barbados Meteorological Service;

*(h)* One representative from the Ministry responsible for Labour;

*(i)* Two persons appointed by the Minister as follows:

(i) one person who appears to the Minister to be qualified and experienced in economics, accounts, finance, tax, law, public administration or business or such other area as, in the opinion of the Minister, is required for the discharge of the functions of the Committee; and

(ii) one person who appears to the Minister to be qualified and experienced in the administrative and technical aspects of shipping.

(2) A member shall subject to the provisions of this *Schedule*

*(a)* hold office for a term not exceeding 3 years; and

*(b)* be eligible for reappointment.

(3) The Minister shall, pursuant to subparagraph (2), determine the term of office of a member in such a manner that in any one year the respective terms of office of no more than 3 members expire.

**Chairman and Deputy Chairman**

**2.** The Minister shall appoint a member to be Chairman, and another to be Deputy Chairman, of the Committee.

**Resignation**

**3.**(1) The Chairman may resign his office by instrument in writing addressed to the Minister.

(2) A member, other than the Chairman, may resign his office by instrument in writing addressed to the Chairman, who shall forthwith forward the instrument to the Minister.

(3) A resignation takes effect from the date on which the Minister receives the instrument.

**Temporary Leave of Absence**

**4.** The Minister may, in writing, grant leave of absence to a member.

**Temporary appointment**

**5.** Where a member is, or is likely to be, unable to perform the functions of his office for more than 30 days, whether as a result of absence from Barbados,

illness or other cause, the Minister may appoint a person to act in the place of the member.

**Revocation of appointment**

**6.** The Minister shall revoke the appointment of a member who

*(a)* fails to carry out any of his functions under this Act;

*(b)* becomes of unsound mind or becomes permanently unable to perform his functions by reason of ill health;

*(c)* is convicted of an offence involving fraud or dishonesty or, in the case of any other offence, is sentenced to a term of imprisonment;

*(d)* is guilty of serious misconduct in relation to his functions;

*(e)* is bankrupt or compounds with or suspends payment to his creditors; or

*(f)* fails to declare his interest in a matter before the Committee.

**Vacancies**

**7.**(1) A vacancy in the membership of the Committee arises on

*(a)* the death or resignation of a member;

*(b)* the revocation of the appointment of a member; or

*(c)* the absence of a member from 4 consecutive meetings of the Committee without the approval of the Minister.

(2) A person who is appointed to fill a vacancy referred to in subparagraph (1) shall hold office only for the unexpired portion of the term of the former member concerned.

**Disqualification**

**8.** A person who

*(a)* is a member of Parliament;

*(b)* were he a member, would have to be removed from office pursuant to paragraph (6),

is not eligible to be a member.

**Gazetting of Appointments**

**9.** The appointment, resignation, death or removal of a member of the Committee shall be notified in the *Official Gazette*.

**Seal and Execution of Documents**

**10.**(1) The seal of the Committee shall be

*(a)* kept in the custody of the Chairman, the Deputy Chairman or the person performing the functions of secretary to the Committee and may be affixed to documents or instruments pursuant to a resolution of the Committee, in the presence of any 2 of the persons referred to in this subparagraph; and

*(b)* authenticated by the signature of the Chairman or the Deputy Chairman or the person performing the functions of secretary to the Committee.

(2) All documents or instruments made by the Committee, other than those required by law to be under seal, and all decisions of the Committee shall be signified under the hand of the Chairman or the Deputy Chairman or the person performing the functions of secretary to the Committee.

**Meetings**

**11.**(1) The Committee shall meet quarterly or as often as may be necessary or expedient for the transaction of its business; and such meetings shall be held at such places and times and on such days as the Committee may determine.

(2) The Chairman, or in the event of his absence from Barbados or inability to act as such, the Deputy Chairman, may at any time call a special meeting of the Committee and shall call such a meeting within 7 days of the receipt by him

of a request for the purpose addressed to him in writing and signed by not less than 3 members.

(3) The Chairman, or in his absence, the Deputy Chairman, shall preside at all meetings of the Committee.

(4) Where the Chairman and the Deputy Chairman are absent from a meeting, the members present shall elect a member from among their number to preside at the meeting.

(5) Five members shall constitute a quorum.

(6) The decisions of the Committee shall be by a majority of votes and in a case where the voting is equal, the Chairman or other person presiding at the meeting shall, in addition to an original vote, have a casting vote.

(7) Minutes of each meeting shall be kept by the person performing the functions of secretary to the Committee or by such other officer as the Committee appoints for the purpose and shall be confirmed by the Committee and signed by the Chairman or Deputy Chairman at the next meeting of the Committee.

**Attendance of non-members at Meetings**

**12.** The Committee may invite any person to attend any of its meetings to assist or advise it with respect to any matter under its consideration, but a person so invited does not have a right to vote.

**Committee may regulate proceedings**

**13.** Subject to the provisions of this *Schedule*, the Committee may regulate its own proceedings.

## TENTH SCHEDULE

*(Sections 1127(2) and 1301(6))*

*Merchant Shipping Act, 2024*
(Act 2024- )

## HAZARDOUS SUBSTANCES

1. Corrosive substances
2. Flammable substances
3. Explosives
4. Oxidizing substances
5. Pyrophoric substances
6. Gases under pressure
7. Organic peroxides
8. Self-heating substances
9. Self-reactive substances
10. Substances which in contact with water, emit flammable gases
11. Toxic substances
12. Mutagens
13. Carcinogens
14 Teratogens
15. Sensitizers
16. Irritants
17. Substances hazardous to aquatic environment

## ELEVENTH SCHEDULE

*(Section 1301(4))*

**Minimum information to be contained in the Notice of Judicial Sale**

1. Statement that the notice of judicial sale is given for the purposes of the United Nations Convention on the International Effects of Judicial Sales of Ships;

2. Name of State of judicial sale;

3. Court or other public authority ordering, approving or confirming the judicial sale;

4. Reference number or other identifier for the judicial sale procedure;

5. Name of ship;

6. Registry;

7. IMO number;

8. Other information capable of identifying the ship (If IMO number not available);

9. Name of the owner;

10. Address of residence or principal place of business of the owner;

11. If judicial sale by public auction, anticipated date, time and place of public auction;

12. If judicial sale by private treaty, any relevant details, including time period, for the judicial sale as ordered by the court or other public authority;

13. Statement either confirming that the judicial sale will confer clean title to the ship, or, if it is not known whether the judicial sale will confer clean title, a statement of the circumstances under which the judicial sale would not confer clean title;

14. Other information required by the law of the State of judicial sale, in particular any information deemed necessary to protect the interests of the person receiving the notice.

## TWELFTH SCHEDULE

*(Section 1302(2))*

*Merchant Shipping Act, 2024*
(Act 2024 - )

## CERTIFICATE OF JUDICIAL SALE

Issued in accordance with Part XXXIV, Division 9, section ( ) of the *Merchant Shipping Act, 2024*, (Act 2024 - ).

**This is to certify that:**

*(a)* The ship described below was sold by way of judicial sale in accordance with the requirements of the Judicial Sale of Ships Act of Barbados and the requirements of the United Nations Convention on the International Effects of Judicial Sales of Ships; and

*(b)* The judicial sale has conferred clean title to the ship on the purchaser.

1. State of judicial sale: _____

2. **Authority issuing this certificate**

   2.1 Name: _____

   2.2 Address: _____

   _____

   _____

   2.3 Telephone/fax/email (if available): _____

*Twelfth Schedule - (Cont'd)*

3. **Judicial Sale**

3.1 Name of court or other authority that conducted the judicial sale: _____

_____

_____

3.2 Date of judicial sale: _____
*(Date/Month/Year)*

4. **Ship**

4.1 Name: _____

4.2 Registry: _____

4.3 IMO number: _____

4.4 Other information capable of identifying the ship *(If IMO number is not available):*

_____

_____

_____

_____

(Please attach any photos to the certificate)

**5. Owner immediately prior to the judicial sale**

5.1 Name: _____

5.2 Address of residence or principal place of business: _____

_____

_____

*Twelfth Schedule - (Concl'd)*

**6. Purchaser**

6.1 Name: _____

6.2 Address of residence or principal place of business: _____

_____

_____

## THIRTEENTH SCHEDULE

*(Section 1485)*

### PART I

### Administrative Penalties

| Description of Contravention | Provision | Penalty $ |
|---|---|---|
| Failure to provide report contrary to section 471(10) | 471(11) | 7,000 |
| Failure to make record of transfer of oil cargo contrary to section 471(1) | 477(2) | 7,000 |
| Failure to make notification of transfer of oil cargo contrary to section 478(5) | 478(6) | 7,000 |
| Failure to provide notice of transfer of oil cargo outside Barbados waters contrary to sections 479(1) to (3) | 479(4) | 7,000 |
| Failure to make entries in and sign oil record book contrary to sections 481(5) or (6) | 481(7) | 7,000 |
| Failure to retain oil record book contrary to sections 483(2) and (4) | 483(1) | 7,000 |
| Failure to retain on board copy of Procedures and Arrangements Manual contrary to sections 490(1) and (2) | 490(3) | 7,000 |

*Thirteenth Schedule - (Cont'd)*

| Description of Contravention | Provision | Penalty $ |
|---|---|---|
| Failure to report an incident involving noxious liquid substances in bulk contrary to section 491(11) | 491(12) | 7,000 |
| Failure to make entries in and sign cargo record book contrary to sections 493(5), (6), (7) or (8) | 493(9) | 7,000 |
| Failure to retain each of the ship's cargo record books contrary to section 494(4) | 494(5) | 7,000 |
| Failure to report incidents involving harmful substances contrary to section 501(11) | 501(12) | 7,000 |
| Failure to retain garbage record book contrary to section 510(1) | 510(2) | 7,000 |
| Failure to retain the ship's garbage record book contrary to section 510(4) | 510(5) | 7,000 |
| Failure to retain ship's ballast water records contrary to sections 592(1) and (2) | 592(5) | 7,000 |

*Thirteenth Schedule - (Cont'd)*

| Description of Contravention | Provision | Penalty $ |
|---|---|---|
| Failure of ships participating in Underwater Noise Reduction Ship Survey and Certification Scheme to carry on board Barbados underwater noise reduction certificate contrary to section 636(1) | 636(2) | 7,000 |
| Operating without a maritime security plan contrary to section 688(1) | 688(2) | 10,000 |
| Operating without an offshore security plan contrary to section 745(1) | 745(2) | 10,000 |
| Failure to report a maritime transport or offshore facility security incident contrary to section 845 | 846(1) | 10,000 |
| Failure of master of security-regulated ship or ship regulated as an offshore facility to report a maritime transport or offshore facility security incident contrary to section 847 | 848(1) | 10,000 |

*Thirteenth Schedule - (Cont'd)*

| **Description of Contravention** | **Provision** | **Penalty $** |
|---|---|---|
| Failure of ship operator of security-regulated ship or ship regulated as an offshore facility to report a maritime transport or offshore facility security incident contrary to section 849 | 850(1) | 10,000 |
| Failure of offshore facility operator to report security incident contrary to section 851 | 852(1) | 10,000 |
| Failure of port facility operator to report security incident contrary to section 853 | 854(1) | 10,000 |

*Thirteenth Schedule - (Concl'd)*

*(Section 1485(2))*

*Merchant Shipping Act, 2024*
(Act 2024- )

**PART II**

**Administrative Penalty Notice**

To:_____

On the_____day of_____, 20_____, at_____
*(Time)*

_____, you_____
*(Location)* *(Name of owner/master of vessel)*

*being the owner/master of_____
*(Name and particulars of vessels)*

contravened section____of the *Merchant Shipping Act, 2024* (Act 2024- ). The particulars of the contravention are that you:

_____

_____

_____

_____

Signature of the Director of Ocean Affairs:_____

Dated this____day of_____, 20____.

***delete as appropriate**

## FOURTEENTH SCHEDULE

*(Section 1487)*

*CONSEQUENTIAL AMENDMENTS*

| Column 1<br>*Enactment* | Column 2<br>*Amendment* |
|---|---|
| *Shipping (Domestic Vessels) Act, 2024* (Act 2024-22) | In section 2,<br>*(a)* delete the definition "Barbados Small Vessel Operators' Permit" and substitute the following:<br>" "Barbados Small Vessel Learners Permit" means the provisional licence issued to a person who<br>*(a)* is learning to operate a vessel under the Act; and<br>*(b)* has not satisfied all the requirements to obtain a Barbados Small Vessel Operators' Licence;"; and<br>*(b)* delete the definition "small commercial vessel" and substitute the following definition:<br>" "small commercial vessel"<br>*(a)* means a small vessel that is used to transport passengers or cargo for hire or reward; |

*CONSEQUENTIAL AMENDMENTS* - Concl'd)

| Column 1<br>*Enactment* | Column 2<br>*Amendment* |
|---|---|
| *Shipping (Domestic Vessels) Act, 2024* (Act 2024-22) - (Concl'd) | *(b)* includes<br>(i) jet skis;<br>(ii) pilot boats;<br>(iii) catamarans;<br>(iv) passenger ferries;<br>(v) cabin or coastal cruisers;<br>(vi) water taxis;<br>(vii) water sports craft; or<br>(viii) any similar type vessel; and<br>*(c)* does not include a pleasure vessel;";<br>*(c)* delete section 86(1)*(a)* and substitute the following:<br>"*(a)* a vessel more than 18 metres in length;";<br>*(d)* delete section 116(1)*(a)* and substitute the following:<br>"*(a)* a vessel more than 18 metres in length;". |

Read three times and passed the House of Assembly this day of , 2024.

**Speaker**

Read three times and passed the Senate this day of , 2024.

**President**

MERCHANT SHIPPING (LIABILITY AND COMPENSATION) ACT, 2024

## OBJECTS AND REASONS

This Bill will make provision for the limitation of the liability shipowners in relation to certain maritime claims and ensure that victims are reasonably compensated in relation to maritime claims.

MERCHANT SHIPPING (LIABILITY AND COMPENSATION) ACT, 2024

*Arrangement of Sections*

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*International Convention on Civil Liability for Oil Pollution Damage Liability*

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**9.** Incorporation of the 1992 Convention, as amended

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**11.** Liability for oil pollution in case of tankers

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**13.** Time limit for proceedings against owners or ship

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SCHEDULE

**DECLARATIONS AND RESERVATIONS TO THE CONVENTION ON LIMITATION OF LIABILITY FOR MARITIME CLAIMS 1976, AS AMENDED**

**BARBADOS**

A Bill entitled

An Act to make provision for the limitation of the liability shipowners in relation to certain maritime claims and ensure that victims are reasonably compensated in relation to maritime claims.

ENACTED by the Parliament of Barbados as follows:

PART I

PRELIMINARY

**Short title**

**1.** This Act may be cited as the *Merchant Shipping (Liability and Compensation) Act, 2024*.

**Interpretation**

**2.** In this Act,

"Administration" means the Barbados Maritime Transport Administration;

"authorized officer" means

*(a)* an authorized officer of the port as defined in the *Merchant Shipping Act, 2024* (Act 2024- );

*(b)* a maritime law enforcement officers as defined in that Act; or

*(c)* any other person designated in writing as an authorized officer by the Administration;

"Barbados vessel" has the same meaning as in the *Merchant Shipping Act*, 2024 (Act 2024- );

"financial security" includes a guarantee of a bank or similar financial institution;

"LLMC Convention" means the Convention on Limitation of Liability for Maritime Claims, 1976, concluded at London on November 19th, 1976, as amended;

"officer" means

*(a)* a maritime law enforcement officer within the meaning of the *Merchant Shipping Act, 2024* (Act 2024 - );

*(b)* an officer of customs within the meaning of the *Customs Act (Act 2021-34)*; or

*(c)* an authorized officer under the *Merchant Shipping Act, 2024* (Act 2024 - );

"SDRs" mean Special Drawing Rights and refers to the international reserve asset created by the International Monetary Fund to supplement the official reserves of its member countries, and which is used by the International Monetary Fund and its member countries as a form of currency against which countries' actual monetary currencies may be pegged;

"ship" means a vessel used in navigation, and includes

*(a)* a craft designed, used or capable of being used solely or partly for navigation in, on, through or immediately above water, without regard to method or lack of propulsion;

*(b)* a maritime autonomous surface ship;

*(c)* a lighter, barge or similar vessel, a hovercraft, a hydrofoil, a submersible and a floating craft, however propelled; and

*(d)* a structure, whether completed or in the course of completion, that has been launched and is intended for use in navigation as a ship or part of a ship; and

"vessel"has the same meaning as in the *Merchant Shipping Act*, 2024 (Act 2024- ).

**Purpose**

**3.** The purposes of this Act are to

*(a)* limit the liability of shipowners in respect of certain maritime claims to an amount specified in this Act, irrespective of the total amount of such claims; and

*(b)* ensure that victims are reasonably compensated in relation to maritime claims specified in this Act.

**Act binds the State**

**4.** This Act shall bind the State.

**References to conventions, protocols or codes**

**5.** A reference to a convention, protocol or code given the force of law under this Act or implemented by regulations under this Act is to be construed

*(a)* as a reference to the conventions, protocol or codes as modified from time to time; and

*(b)* if the convention, protocol or code is replaced in whole or in part by another instrument, as a reference to that instrument.

**Interpretation**

**6.** A reference in a convention to a competent authority is to be read as a reference to the Barbados Maritime Transport Administration.

**Administration**

**7.** This Act shall be administered by the Director of Ocean Affairs.

PART II

CIVIL LIABILITY FOR OIL POLLUTION DAMAGE

*Division 1*

*International Convention on Civil Liability for Oil Pollution Damage Liability*

**Definitions-Part II**

**8.** In this Part,

"Convention waters" means the waters of a party to the International Convention on Civil Liability for Oil Pollution Damage, 1992, as amended.

**Incorporation of the 1992 Convention, as amended**

**9.** Except as otherwise provided by this Act, the International Convention on Civil Liability for Oil Pollution Damage, 1992 shall have the force of law in Barbados.

**Incorporation of 1992 Protocol**

**10.** The Protocol to the International Convention on the Establishment of an International Fund for Compensation for Oil Pollution Damage, 1992 shall have the force of law in Barbados.

**Liability for oil pollution in case of tankers**

**11.**(1) This section applies to

*(a)* a ship constructed or adapted solely for carrying oil in bulk as cargo; or

*(b)* a ship capable of carrying oil and other cargoes

(i) while it is carrying oil in bulk as cargo; and

(ii) while it is carrying other cargo, unless it is proved that no residues from the carriage of oil remain in the ship while it is on a voyage following the carriage of oil.

(2) Where, as a result of an occurrence, oil is discharged or escapes from a ship, the registered owner of the ship shall be liable

*(a)* for any damage caused outside the ship in Barbados' waters or Convention waters by contamination resulting from the discharge or escape;

*(b)* for the cost of any measures reasonably taken after the discharge or escape to prevent or minimise any damage caused in Barbados' waters or Convention waters by contamination resulting from the discharge or escape; and

*(c)* for any damage caused in Barbados' waters or Convention waters by such measures.

(3) Where, as a result of an occurrence, there arises a grave and imminent threat of damage being caused outside a ship by contamination that might result if there were a discharge or escape of oil from the ship, the registered owner of the ship shall be liable

*(a)* for the cost of any measures reasonably taken to prevent or minimise such damage in Barbados' waters or Convention waters; and

*(b)* for any damage caused outside the ship in Barbados' waters or Convention waters by such measures.

(4) Where

*(a)* as a result of an occurrence, a liability is incurred under this section by the registered owner of each of 2 or more ships; and

*(b)* the damage or cost for which each of the registered owners would be liable cannot reasonably be separated from that for which the others would be liable,

each of the registered owners shall be liable, jointly with the others, for the whole of the damage or cost for which the registered owners together would be liable under this section.

**Apportionment of liability for damage or loss**

**12.**(1) Where, by the fault of 2 or more ships, damage or loss is caused to one or more of those ships, to their cargoes or freight or to any property on board, the persons referred to in subsection (3) shall be liable for the damage or loss be in proportion to the degree to which each ship was in fault.

(2) If under subsection (1) it is not possible to establish different degrees of fault, the liability shall be apportioned equally.

(3) This section applies to

*(a)* the owners of a ship;

*(b)* any other person who is responsible for the fault of a ship; and

*(c)* where, by virtue of a charter or demise or for any other reason, the owners are not responsible for the navigation and management of the ship, the charterers or other persons responsible the navigation and management of the ship at time of the occurrence.

(4) Nothing in this section shall

*(a)* render a ship liable for any loss or damage to which the fault of the ship has not contributed;

*(b)* affect the liability of a person under a contract of carriage or any other contract;

*(c)* impose a liability upon a person from which he is exempted by contract or by law; or

*(d)* affect the right of a person to limit his liability in the manner provided by law.

(5) In this section, “freight” includes passage money and hire.

(6) In this section, references to damage or loss caused by the fault of a ship include references to any salvage or other expenses, consequent upon that fault, that are recoverable at law by way of damages.

**Time limit for proceedings against owners or ship**

**13.**(1) This section applies to any proceedings to enforce a claim or lien against a ship or her owners

*(a)* in respect of damage or loss caused, by the fault of that ship, to another ship, its cargo or freight or property on board it; or

*(b)* for damages for loss of life or personal injury caused by the fault of that ship to a person on board another ship.

(2) The extent of the fault is immaterial for the purposes of this section.

(3) Subject to subsections (5) and (6), no proceedings to which this section applies shall be brought more than 2 years after the day when

*(a)* the damage or loss was caused; or

*(b)* the loss of life or injury was suffered.

(4) Subject to subsections (5) and (6), no proceedings under section 12 to enforce a contribution in respect of an overpaid proportion of any damages for loss of life or personal injury shall be brought more than 1 year after the day on which the payment was made.

(5) A court having jurisdiction in such proceedings may, in accordance with rules of the court, extend the period allowed for bringing proceedings to an extent and on such conditions as it thinks fit.

(6) Such a court, if satisfied that there has not been during the period allowed for bringing proceedings a reasonable opportunity to arrest the defendant ship within

*(a)* the jurisdiction of the court; or

*(b)* the territorial sea of the country to which the plaintiff's ship belongs or in which the plaintiff resides or has his principal place of business,

shall extend the period allowed for bringing proceedings to an extent sufficient to give a reasonable opportunity to arrest the ship.

**Limitation of liability**

**14.**(1) This section applies in relation to a harbour authority, a conservancy authority and the owners of a dock or canal.

(2) The liability of an authority or person for a loss or damage caused to a ship, or to any goods, merchandise or other things on board a ship, shall be limited in accordance with subsection (5) by reference to the tonnage of the largest Barbados ship that, at the time of the loss or damage is, or within the preceding 5 years has been, within the area over which the authority or person discharges any functions.

(3) The limitation of liability under this section relates to the whole of any losses and damage that may arise on any one occasion, including losses or damage sustained by more than one person, and applies whether the liability arises at common law or under national legislation, and notwithstanding anything contained in that legislation.

(4) This section does not exclude the liability of an authority or person for a loss or damage resulting from a personal act or omission of the authority or person mentioned in Article 4 of the Convention on Limitation of Liability for Maritime Claims 1976, as amended.

(5) The limit of liability of a ship shall be ascertained by applying to the ship the method of calculation specified in paragraph 1*(b)* of Article 6 of the Convention on Limitation of Liability for Maritime Claims 1976, as amended, except that in its application to a ship with a tonnage less than 300 GT

*(a)* the amount in paragraph 1*(a)*(i) shall be read as 1,000,000 Units of Account; and

*(b)* the amount in paragraph 1*(b)*(i) shall be read as 500,000 Units of Account.

(6) Articles 11 and 12 of that Convention on Limitation of Liability for Maritime Claims 1976, as amended, shall apply for the purposes of this section, with the following modifications:

*(a)* the Finance Minister may, in consultation with the Shipping Minister, by order, prescribe the rate of interest to be applied for the purposes of paragraph 1 of article 11;

*(b)* an order under paragraph *(a)* shall be laid before Parliament after being made;

*(c)* where a fund is constituted with the court in accordance with article 11 for the payment of claims arising out of an occurrence, the court may stay proceedings relating to a claim arising out of that occurrence that are pending against the person by whom the fund has been constituted; and

*(d)* no lien or other right in respect of a ship or property shall affect the proportions in which under article 12 the fund is distributed among several claimants.

(7) For the purposes of subsection (2), a ship shall not be treated as having been within the area over which a harbour authority or conservancy authority discharges functions by reason only that it has been built or fitted out within the area, that it has taken shelter within or passed through the area on a voyage between two places both situated outside that area, or that it has loaded or unloaded mail or passengers within the area.

(8) Nothing in this section imposes any liability for loss or damage where no liability exists apart from this section.

(9) In this section,

"dock" includes wet docks and basins, tidal docks and basins, locks, cuts, entrances, dry docks, graving docks, gridirons, slips, quays, wharves, piers, stages, landing places and jetties; and

"owner" in relation to a dock or canal, includes an authority or person that has control and management of the dock or canal.

**Application to Government and its ships**

**15.**(1) Sections 12 and 13(1) to (5) and (7) to (9) apply in the case of Barbados Government ships as they apply in relation to other ships and section 14 applies to the Government in its capacity as an authority or person specified in section 14(1).

(2) In this section,

"Barbados Government ships" means

*(a)* ships of which the beneficial interest is vested in Barbados;

*(b)* ships that are registered as Government ships; or

*(c)* ships that are demised or sub-demised to, or in the exclusive possession of, the Government, other than any ship in which the Government is interested otherwise than in right of the Government, unless that ship is for the time being demised or sub-demised to the Government or in the exclusive possession of the Government in that right.

*Division 2*

*International Convention on Civil Liability for Oil Pollution Damage*

**Application**

**16.**(1) This Part, the International Convention on Civil Liability for Oil Pollution Damage, 1992, as amended and regulations made under section 20 do not apply in relation to a ship that is not a Barbados vessel, when the vessel is in the territory territorial sea of a foreign state, so far as a law of that state gives

effect to the provisions of the International Convention on Civil Liability for Oil Pollution Damage, 1992, as amended in relation to that vessel.

(2) Subsection (1) does not apply in relation to an incident that occurs in Barbados waters to which Article IV of the Convention applies that involves

*(a)* a ship that is a Barbados vessel; and

*(b)* a foreign-flagged vessel.

**Claims for compensation**

**17.** The Supreme Court of Barbados is invested with compulsory jurisdiction to hear and determine claims for compensation under the International Convention on Civil Liability for Oil Pollution Damage, 1992, as amended in respect of incidents involving Barbados vessels wherever they may be and foreign vessels in Barbados waters

*(a)* that have caused pollution damage in a place to which the Convention applies;

*(b)* in relation to which preventive measures have been taken to prevent or minimize pollution damage in a place to which the Convention applies.

**Applications to determine limit of liability**

**18.**(1) Where a claim for compensation under the International Convention on Civil Liability for Oil Pollution Damage, 1992, as amended is made in the Supreme Court of Barbados against, or is apprehended by, the owner of a ship, or the insurer or other person providing financial security for the liability of the owner of a ship for pollution damage, the owner, insurer or other person, as the case may be, may apply

*(a)* where a claim for compensation under Convention has been made in the Supreme Court of Barbados, to that Court; or

*(b)* in any other case, to the Supreme Court of any state party to the Convention, where the oil pollution incident occurred in respect of a Barbados ship,

to determine whether he may limit his liability under the Convention and, if so, the limit of that liability.

(2) Where the Court referred to in subsection (1) determines that a person may limit his liability under the International Convention on Civil Liability for Oil Pollution Damage, 1992, as amended, the Court may make such orders as it thinks fit with respect to the apportionment and distribution, in accordance with that Convention, of a fund for the payment of claims.

(3) The Courts referred to in subsection (1) are vested with compulsory jurisdiction to hear and determine proceedings under this section.

**Transfer of proceedings**

**19.**(1) A Court referred to in section 18(1) in which a claim for compensation has been made under the International Convention on Civil Liability for Oil Pollution Damage, 1992, as amended, or in which proceedings under section 18 have been instituted, may, if the Court thinks fit, at any stage in the proceedings, upon application or of its own motion, by order, transfer the proceedings to another Supreme Court.

(2) Where proceedings are transferred from a Court under subsection (1)

*(a)* all documents filed, and moneys or guarantees lodged, in that Court in those proceedings shall be transmitted by the Registrar or other proper officer of that Court to the Registrar or other proper officer of the court to which the proceedings are transferred; and

*(b)* the court to which the proceedings are transferred shall proceed as if the proceedings had been originally instituted in that court and as if the same proceedings had been taken in that court as had been taken in the court from which the proceedings were transferred.

**Regulations**

**20.**(1) The Minister may by regulation prescribe matters for the purpose of carrying out or giving effect to the International Convention on Civil Liability for Oil Pollution Damage, 1992, as amended, including

*(a)* the conversion of the amounts referred to in the 1992 Convention, as amended into amounts expressed in the currency of Barbados;

*(b)* the kinds of guarantees that are acceptable for the purposes of the 1992 Convention, as amended;

*(c)* the extent to which the right of subrogation provided for in the 1992 Convention, as amended may be exercised by a person other than a person referred to in that paragraph; and

*(d)* the ascertainment of the tonnage of a ship, including the estimation of the tonnage of a ship in circumstances where it is not possible or reasonably practicable to measure its tonnage.

(2) Subsection (1) shall not be construed to limit the power of judges of the Supreme Court of Barbados to make rules of court with respect to a matter that is not provided for in the International Convention on Civil Liability for Oil Pollution Damage, 1992, as amended or in regulations made under that subsection.

*Division 3*

*Insurance Certificates relating to Liability for Oil Pollution Damage*

**Definitions**

**21.**(1) In this Part,

"government ship" means a ship, including a warship, owned by a country or a ship owned by Barbados.

(2) In this Part,

*(a)* a reference to a contract of insurance, or other financial security, in respect of a ship shall be construed as a reference to a contract of insurance, or other financial security, covering the liability of the owner of the ship under the International Convention on Civil Liability for Oil Pollution Damage, 1992, as amended for pollution damage caused in Barbados or in the territorial sea of a country to which the Convention applies;

*(b)* reference to the limits of the liability prescribed by paragraph 1 of Article V of the Convention in relation to a ship shall be construed as a reference to the amount to which the owner of the ship is entitled under that paragraph to limit his liability under the Convention in respect of any one incident; and

*(c)* a reference to a state shall be construed as including a reference to a state party to the Convention.

**Application**

**22.**(1) Subject to subsection (2), this Part applies to every ship that is carrying more than 2,000 tons of oil in bulk as cargo and, where such a ship is unregistered, this Part applies to the ship as if it were registered in the country whose flag the ship is flying.

(2) This Part does not apply to a government ship, other than a government ship that is being used for commercial purposes.

**Insurance certificates to be carried**

**23.**(1) Where a ship enters or leaves, or attempts to enter or leave, a port in Barbados, or arrives at, leaves, or attempts to arrive at or leave, a terminal in the territorial sea of Barbados without carrying on board the ship a relevant insurance

certificate in respect of the ship that is in force, the master and owner of the ship each commit an offence and are liable on summary conviction to a fine

*(a)* in the case of the master, of $10 000;

*(b)* in the case of an owner that is not a body corporate, of $15 000; and

*(c)* in the case of an owner that is a body corporate, of $20 000.

(2) Where a ship to which this Part applies that is registered in Barbados enters or leaves, or attempts to enter or leave, a port in a country other than Barbados, or arrives at, leaves, or attempts to arrive at or leave, a terminal in the territorial sea of a country other than Barbados without carrying on board the ship a relevant insurance certificate in respect of the ship that is in force, the master and owner of the ship each commit an offence and are liable on summary conviction to a fine

*(a)* in the case of the master, of $10 000;

*(b)* in the case of an owner who is not a body corporate, of $15 000; and

*(c)* in the case of an owner that is a body corporate, $20 000.

(3) Where, other than in circumstances to which subsection (1) or (2) applies, at any time a relevant insurance certificate is in force in respect of a ship and is not carried on board the ship, the master and owner of the ship each commit an offence and are liable on summary conviction to a fine

*(a)* in the case of the master, of $15 000;

*(b)* in the case of an owner who is not a body corporate, of $20 000; and

*(c)* in the case of an owner that is a body corporate, of $25 000.

(4) An officer may require the master or other person in charge of a ship to produce a relevant insurance certificate in force in respect of the ship and, if he fails to produce the certificate, he commits an offence and is liable on summary conviction to a fine of $25 000.

(5) An offence under any of subsections (1) to (4) is a strict liability offence.

(6) Where an officer has reasonable grounds to believe that the master or other person in charge of a ship is attempting to take the ship out of a port in Barbados at a time when a relevant insurance certificate in force in respect of the ship is not being carried on board the ship, the officer may detain the ship until such time as such a certificate is obtained or produced to the officer.

(7) This section does not exclude or limit the concurrent operation of a law of a state giving effect to paragraphs 1, 2 and 3 of Article VII of the International Convention on Civil Liability for Oil Pollution Damage, 1969 in relation to a ship that is not a Barbados vessel.

(8) For the purposes of this section, a relevant insurance certificate in respect of a ship is

*(a)* if the ship is registered in Barbados and is not a government ship

(i) in the case of a foreign-going Barbados vessel carrying more than 2,000 tons of oil in bulk as cargo, a certificate issued under section 20 in respect of the ship; or

(ii) in the case of a Barbados vessel operating within the Caribbean Trading Area, as defined in the *Shipping (Domestic Vessels) Act, 2024* (Act 2024-22), and carrying more than 2,000 tons of oil in bulk as cargo, a certificate issued under section 24 in respect of the ship;

(iii) in the case of a foreign vessel operating within the Caribbean Trading Area, as defined in the *Shipping (Domestic Vessels) Act, 2024* (Act 2024-22), and carrying more than 2,000 tons of oil in bulk as cargo, a certificate issued under section 24 in respect of the ship under a law of a state that gives effect to paragraphs 1, 2 and 3 of Article VII of the International Convention on Civil Liability for Oil Pollution Damage, 1969 in relation to that ship, or gives effect to the 1992 International Convention on Civil Liability for Oil Pollution Damage.

*(b)* if the ship is registered in a country

(i) to which the 1992 Convention, as amended applies and is not a government ship, a certificate issued, for the purposes of the Convention, by or under the authority of the government of that country;

(ii) to which the 1969 Convention applies and is not a government ship, a certificate issued, for the purposes of Article VII of the Convention, by or under the authority of the government of that country;

*(c)* if the ship is registered in a country that is not a country to which the 1992 Convention as amended applies and is not a government ship, a certificate issued under section 24 or a certificate that is, under the regulations, to be taken to be a relevant insurance certificate in respect of the ship for the purposes of this section;

*(d)* if the ship is owned by Barbados, a certificate issued under section 24 in respect of the ship;

*(e)* if the ship is owned by the Government of Barbados

(i) a certificate issued under section 26 in respect of the ship; or

(ii) a certificate issued under the law of the state in relation to ships owned by the state that corresponds with section 26 in relation to ships owned by Barbados; or

*(f)* if the ship is owned by the government of a country other than Barbados, a certificate referred to in section 24 issued by the government of that country.

**Issuance of insurance certificates**

**24.**(1) The owner, master or agent of a ship to which this Part applies that is registered in Barbados or in a country to which the International Convention on Civil Liability for Oil Pollution Damage, 1992, as amended, does not apply may,

on payment of the prescribed fee, apply to the Administration for the issuance of an insurance certificate in respect of the ship.

(2) An application under subsection (1)

*(a)* shall be in the prescribed form; and

*(b)* shall be lodged with a prescribed person.

(3) Where an application is made under subsection (1) in respect of a ship, the Administration shall issue to the applicant an insurance certificate in respect of the ship, if he is satisfied that the owner of the ship is maintaining insurance or other equivalent financial security in respect of the ship in an amount that will cover the limits of liability prescribed under the International Convention on Civil Liability for Oil Pollution Damage, 1992, as amended.

(4) An insurance certificate issued under subsection (3) in respect of a ship

*(a)* shall be in the prescribed form and include the particulars specified under the International Convention on Civil Liability for Oil Pollution Damage, 1992, as amended;

*(b)* comes into force on the day specified in the certificate; and

*(c)* shall specify that the certificate expires on the earlier of

(i) the last day in the period of 12 months commencing on the day on which the certificate comes into force; and

(ii) the day that the Administration is satisfied is the last day in the balance of the period during which the insurance or other financial security in respect of the ship is to remain in force.

(5) Where an insurance certificate is issued under this section in respect of a ship registered in Barbados, the Administration shall forward a copy of the certificate a person prescribed for the purposes of this section.

**Extension, cancellation and lapsing of insurance certificates**

**25.**(1) Where

*(a)* a ship in respect of which an insurance certificate has been issued under section 24 is not at a port in Barbados at the time when the certificate expires or is about to expire; and

*(b)* the Administration is satisfied that, after the expiration day specified in the certificate, there will be in force a contract of insurance or other financial security in respect of the ship in an amount that will cover the limits of liability prescribed under the Convention, as amended, in relation to the ship,

the Administration may extend the certificate for a period that expires on or before the day that the Administration is satisfied is the last day in the balance of the period during which that contract of insurance or other equivalent financial security is to remain in force, or a period that does not exceed one month from the day referred to in paragraph *(b)*, whichever is the earlier.

(2) An extension of an insurance certificate under subsection (1) is of no further force or effect after the arrival of the ship at a port in Barbados.

(3) The Administration may cancel an insurance certificate issued under section 24 that is in force in respect of a ship, if he is satisfied that, by reason of a modification to the contract of insurance or variation of other financial security in respect of the ship, the owner of the ship will not be covered for an amount that satisfies the limits of liability prescribed under the 1992 Convention, as amended, in relation to the ship.

(4) If, while an insurance certificate issued under section 24 in respect of a ship registered in Barbados or in a country to which the International Convention on Civil Liability for Oil Pollution Damage, 1992, as amended, does not apply is in force, the ship ceases to be registered in Barbados or in that country, as the case may be, the certificate ceases to be in force.

(5) Where an insurance certificate issued under section 24 in respect of a ship is cancelled under subsection (3) or ceases to be in force by virtue of subsection (4), the master of the ship shall lodge the certificate with the Administration without delay.

(6) The owner, master or agent of a ship referred to in section 24 who operates the ship without an insurance certificate that is in force commits an offence and is liable on summary conviction to a fine of $20 000.

**Government ships**

**26.**(1) In relation to a ship owned by Barbados, the Administration may issue a certificate certifying that the ship is owned by Barbados and that any liability for pollution damage up to the limits of liability applicable in relation to the ship prescribed by under the International Convention on Civil Liability for Oil Pollution Damage, 1992, as amended, will be met by Barbados.

(2) At the request of a state party to the 1992 Convention, as amended, the Administration may issue a certificate in relation to a ship owned by the state certifying

*(a)* that the ship is owned by the state; and

*(b)* if the Administration is satisfied that any liability for pollution damage up to the limits of liability prescribed under the 1992 Convention, as amended, will be met by the state party, that any such liability will be met by the state party.

(3) Subject to subsection (4), a certificate issued under subsection (1) or (2) remains in force for the period specified in the certificate.

(4) If, while a certificate issued under subsection (1) or (2) in respect of a ship owned by Barbados or by a state party to the 1992 Convention, as amended, is in force, the ship ceases to be owned by Barbados or the state party, the certificate ceases to be in force.

(5) A country to which the 1992 Convention, as amended, applies shall, in any proceedings brought in a court in Barbados to enforce a claim in respect of

a liability incurred under provisions, be deemed to have submitted to the jurisdiction of that court and to have waived any defence based on its status as a sovereign country, but nothing in this subsection shall permit the levy of execution against the property of such a country.

## PART III

## PROOF OF POSSESSION OF ADEQUATE INSURANCE COVER

### Definitions - Part III

**27.** In this Part,

"government ship" means a ship, including a warship, owned by a country, and includes a ship owned by Barbados or by a state party to the International Convention on Civil Liability for Oil Pollution Damage, 1992, as amended;

"owner" has the same meaning as in the International Convention on Civil Liability for Oil Pollution Damage, 1992, as amended; and

"relevant insurance certificate" in relation to a ship, means a document that contains prescribed information relevant to establishing that the owner of the ship is maintaining insurance or other equivalent financial security in respect of the ship that covers the liability of the owner for pollution damage caused in Barbados for an amount that is not less than the prescribed amount.

### Application

**28.**(1) Subject to subsection (2), this Part applies to a ship

*(a)* that carries oil as cargo or bunker;

*(b)* that has a gross tonnage of 400 GT or more; and

*(c)* that is otherwise required to have insurance certificates in accordance with the regulations.

(2) The International Convention on Civil Liability for Bunker Oil Pollution Damage, 2001, as amended, does not apply to pollution damage as defined in the International Convention on Civil Liability for Oil Pollution Damage, 1992, as amended, whether or not compensation is payable in respect of it under that Convention.

(3) This Part does not apply to a government ship, other than a government ship that is being used for commercial purposes.

**Insurance certificates to be carried**

**29.**(1) If a ship enters or leaves, or attempts to enter or leave, a port in Barbados without carrying on board a relevant insurance certificate in respect of the ship, the master and the owner of the ship each commit an offence and are liable on summary conviction to a fine of $10 000.

(2) An authorized officer may require the master or other person in charge of a ship to produce a relevant insurance certificate in respect of the ship and, if the master or other person fails to produce such a certificate to the officer, he commits an offence and is liable on summary conviction to a fine of $20 000.

(3) If an authorized officer has reasonable grounds to believe that the master or other person in charge of a ship is attempting to take the ship out of a port in Barbados at a time when the ship is not carrying on board a relevant insurance certificate in respect of the ship, the officer may detain the ship until such a certificate is obtained or produced to the officer.

(4) The master of a ship detained at a port under subsection (3), and the owner of such a ship, each commit an offence and are liable on summary conviction to a fine of $10 000 if the ship leaves the port before it has been released from detention.

(5) An offence under subsection (1), (2) or (4) is a strict liability offence.

PART IV

RECOVERY OF EXPENSES

**Expenses incurred by authorized officers**

**30.**(1) Subject to this section, where an authorized officer incurs an expense or other liability in, or by reason of, the exercise of the authorized officer's powers in respect of an incident, the amount of that expense or other liability is

*(a)* if that expense or other liability was incurred in, or by reason of, the exercise of those powers in relation to a single ship, a debt due to the Government of Barbados by the owner of that ship; or

*(b)* if that expense or other liability was incurred in, or by reason of, the exercise of those powers in relation to two or more ships, a debt due to the Government of Barbados jointly and severally by the owners of those ships.

(2) Subsection (1) does not apply in relation to the owner of a ship in respect of an incident referred to in that subsection, where the owner proves that the incident

*(a)* resulted from an act of war, hostilities, civil war, insurrection or a natural phenomenon of an exceptional, inevitable and irresistible character;

*(b)* was wholly caused by an act or omission done by a third party with intent to cause damage; or

*(c)* was wholly caused by the negligence or other wrongful act of a government, or other authority, responsible for the maintenance of lights or other navigational aids.

(3) Where an incident referred to in subsection (1) did not occur as a result of the fault of the owner of a ship, the liability of the owner of the ship under subsection (1) in respect of the incident shall not exceed the limit of any liability

in respect of the incident that applies to the incident under an international convention in force in relation to Barbados.

(4) A debt due to Barbados by a person by virtue of this section may be recovered from the person in a court of competent jurisdiction.

**Expenses incurred by the Administration**

**31.** The amount

*(a)* that the owner of a ship is liable, or the owners of 2 or more ships are jointly and severally liable, under any international Convention concerning liability and compensation to which Barbados is Party, to pay to Barbados by way of compensation for an expense or other liability incurred by the Administration in, or by reason of, the exercise of the Administration's powers under the *Merchant Shipping Act, 2024* (Act 2024- ); or

*(b)* that the owner of a ship is liable, or the owners of 2 or more ships are jointly and severally liable, to pay to Barbados under section 30,

is a charge on that ship, or on each of those ships, as the case may be.

**Detention of ships**

**32.**(1) Subject to subsection (2), where an amount is, by virtue of section 31, a charge on a ship, the ship may be detained by a person authorized in writing by the Minister for the purposes of this section until the amount is paid or security for the payment of the amount is provided to the satisfaction of the Minister.

(2) If a ship is detained under this section, the person authorised to detain the ship may escort her to a port in Barbados.

(3) Subsection (1) does not apply in relation to a foreign ship unless the ship is in Barbados waters or in its exclusive economic zone.

(4) Where a ship that has been detained under this section goes to sea before she is released from detention, the master and owner of the ship each commit an offence and are liable on summary conviction

*(a)* in the case of the master, to a fine of $75 000 or imprisonment for a term of 2 years, or both;

*(b)* in the case of the owner who is not a body corporate, to a fine of $100 000 or imprisonment for a term of 2 years, or both; and

*(c)* in the case of the owner that is a body corporate, to a fine of $150 000.

(5) An offence under subsection (4) is a strict liability offence.

**Recovery of loss by the Administration**

**33.**(1) This section applies to a loss or damage suffered, or cost or expense incurred, by the Administration in preventing, mitigating or attempting to prevent or mitigate any pollution damage that occurred because of

*(a)* a discharge or disposal made in contravention of the *Merchant Shipping Act, 2024*(Act 2024- ); or

*(b)* an action taken by the Administration, directly or indirectly, to combat pollution in the marine environment caused by a discharge or disposal from a ship, or to combat a threat of pollution in the marine environment caused by a threat of a discharge or disposal from a ship.

(2) The Administration may recover, as a debt in a court of competent jurisdiction, the amount of the loss, damage, cost or expense referred to in subsection (1) from

*(a)* the owner or the master of the ship from which the discharge or disposal occurred, or from which there was the threat of a discharge or disposal; or

*(b)* any person whose act caused the discharge or disposal, or who made the threat of a discharge or disposal.

PART V

CIVIL LIABILITY FOR NUCLEAR DAMAGE

**Convention to have force of law**

**34.** The Convention relating to Civil Liability in the Field of Maritime Carriage of Nuclear Material, 1971 shall have the force of law in Barbados.

**Application**

**35.**(1) This Part applies to

*(a)* ships carrying nuclear material, and to nuclear pollution incidents arising from maritime carriage of nuclear material; and

*(b)* operators of nuclear installations and operators of nuclear ships.

(2) For the purposes of subsection (1)*(b)*, operators of nuclear ships include shipowners.

**Exceptions**

**36.**(1) This Part does not apply to a nuclear incident that results from an act of war, hostilities, a civil war or an insurrection.

(2) This Part does not apply to damage to the nuclear installation of an operator who is responsible for that damage or to any property at the installation that is used in connection with the installation, including property under construction.

**Limitation on operator's liability**

**37.** Except as provided for under this Part, the operator of a nuclear installation is not liable for damage that is caused by a nuclear incident involving the maritime carriage of nuclear material.

**Liability**

**38.**(1) An operator is exclusively liable for damage caused by a nuclear incident occurring in the course of the maritime carriage of nuclear material by a ship carrying such material in Barbados waters, irrespective of the flag under which the ship is operating.

(2) In respect of a Barbados ship carrying nuclear material and operating in the territory of a Convention relating to Civil Liability in the Field of Maritime Carriage of Nuclear Material, 1971 contracting state, an operator is exclusively liable for damage caused by a nuclear incident occurring in the course of maritime carriage of nuclear material on board the ship in the territory of that state.

**Exoneration of liability**

**39.**(1) An operator held liable for damage caused by a nuclear incident that occurred in the course of maritime carriage of nuclear material shall be exonerated from such liability if

*(a)* the operator is liable for the damage under either the Paris Convention on Third Party Liability in the Field of Nuclear Energy or the Vienna Convention on Civil Liability for Nuclear Damage; or

*(b)* the operator is liable for the damage by virtue of a national law, if the law is in all respects as favourable to persons who may suffer damage as under either of those Conventions.

(2) The exoneration under subsection (1) shall also apply in respect of damage caused by a nuclear incident

*(a)* to the nuclear installation itself or to property on the site of that installation that is used or to be used in connection with that installation; or

*(b)* to the means of transport upon which the nuclear material involved was at the time of the nuclear incident,

for which liability of the operator of the installation has been excluded pursuant to the Paris or the Vienna Convention or, in cases referred to in Article 1*(b)* of the Convention relating to Civil Liability in the Field of Maritime Carriage of Nuclear Material, 1971, by equivalent provisions of the national law referred to in that Article.

(3) Subsection (1) does not affect the liability of an individual who has caused nuclear damage by an act or omission done with intent to cause damage.

**Preventive measure – liability in Barbados**

**40.** An operator is exclusively liable for damage caused by a nuclear incident occurring in the course of maritime carriage of nuclear material that is caused within Barbados, its territorial sea or its exclusive economic zone, if the damage is caused by a preventive measure in relation to the operator's nuclear installation or in relation to any transportation for which the operator is responsible.

**Preventive measure – liability in Convention contracting state**

**41.** An operator is exclusively liable for any damage that is caused within a Convention relating to Civil Liability in the Field of Maritime Carriage of Nuclear Material, 1971 contracting state other than Barbados, or within that state's exclusive economic zone, if the damage is caused by a preventive measure in relation to the installation or in relation to any transportation for which the operator is responsible.

**Strict liability**

**42.** The liability of an operator for damage caused by the maritime carriage of nuclear material is strict liability.

**Liability – joint and several or solidarily**

**43.** If liability under this Part is incurred by two or more operators, each operator is jointly and severally, or solidarily, liable to the extent that it cannot reasonably be determined what portion of the liability is attributable to each operator.

**Person responsible for nuclear incident**

**44.** An operator is not liable for damage arising from the maritime carriage of nuclear material that is suffered by a person if that person intentionally caused the nuclear incident, wholly or partly, by an act or omission, or under circumstances, amounting to gross negligence.

**No recourse**

**45.** Where damage is caused by a nuclear incident arising from the maritime carriage of nuclear material, an operator has no right of recourse against any person other than an individual who intentionally caused the nuclear incident by an act or omission.

*Compensable Damage*

**Bodily injury or damage to property**

**46.** Bodily injury or death and damage to property that are caused by a nuclear incident arising from the maritime carriage of nuclear material are compensable.

**Psychological trauma**

**47.** Psychological trauma that is suffered by a person is compensable if it results from bodily injury to that person that was caused by a nuclear incident arising from the maritime carriage of nuclear material.

**Liability for economic loss**

**48.** Economic loss that is incurred by a person as a result of their bodily injury or damage to his property and that is caused by a nuclear incident arising from the maritime carriage of nuclear material, or psychological trauma that results from that bodily injury, is compensable.

**Costs and wages**

**49.** Costs that are incurred by a person who loses the use of property as a result of a nuclear incident arising from the maritime carriage of nuclear material and the resulting wage loss by that person's employees are compensable.

**Power failure**

**50.** If a nuclear incident arising from the maritime carriage of nuclear material occurs at an offshore, shore-side or shipboard nuclear installation that generates electricity, the costs resulting from a failure of the installation to provide electricity are not compensable.

**Environmental damage - Barbados**

**51.** Reasonable costs of remedial measures that are taken to repair, reduce or mitigate environmental damage that is caused by a nuclear incident arising from the maritime carriage of nuclear material are compensable.

**Environmental damage – other Convention contracting state**

**52.** Reasonable costs of remedial measures that are taken to repair, reduce or mitigate any significant environmental damage that is caused by a nuclear

incident arising from the maritime carriage of nuclear material are compensable if the measures are ordered by an authority of a Convention relating to Civil Liability in the Field of Maritime Carriage of Nuclear Material, 1971 contracting state other than Barbados acting under the laws of that state relating to environmental protection.

*Additional Safety Compliance Requirements*

**Nuclear cargo ship safety certificate**

**53.**(1) A Barbados ship carrying nuclear material shall hold a valid nuclear cargo ship safety certificate or nuclear passenger ship safety certificate, as the case may be, in accordance with International Convention for the Safety of Life at Sea, 1974, Regulation VIII/10.

(2) Nuclear safety certificates shall be in a form prescribed by the Administration, and published in a Merchant Shipping Notice.

**INF Code compliance**

**54.** Ships carrying packaged irradiated nuclear fuel, plutonium or high-level radioactive wastes shall strictly comply with the International Code for the Safe Carriage of Packaged Irradiated Nuclear Fuel, Plutonium and High-Level Radioactive Wastes on Board Ships.

PART VI

CIVIL LIABILITY FOR CARRIAGE OF HAZARDOUS AND NOXIOUS SUBSTANCES

**Definitions - Part VI**

**55.**(1) In this Part,

"Administration" has the same meaning as in the *Merchant Shipping Act,2024* (Act 2024- );

"contributing cargo" has the meaning assigned to it in the HNS Convention;

"general account" means the account referred to in the HNS Convention;

"HNS Convention" means International Convention on Liability and Compensation for Damage in Connection with the Carriage of Hazardous and Noxious Substances by Sea, as amended; and

"HNS Protocol" means the 2010 Protocol to the International Convention on Liability and Compensation for Damage in Connection with the Carriage of Hazardous and Noxious Substances by Sea.

(2) Except as otherwise defined, words used in this Part and in the HNS Protocol have the same meaning as in the HNS Protocol.

**Incorporation of Protocol**

**56.** Except as provided in this Part, International Convention on Liability and Compensation for Damage in Connection with the Carriage of Hazardous and Noxious Substances by Sea, as modified by the 2010 Protocol to the International Convention on Liability and Compensation for Damage in Connection with the Carriage of Hazardous and Noxious Substances by Sea, shall have the force of law in Barbados.

**Exception**

**57.** The HNS Convention and HNS Protocol shall not apply to vessels engaged on voyages between ports or facilities in Barbados

*(a)* that do not exceed 200 GT; and

*(b)* that carry hazardous and noxious substances only in packaged form.

**General obligations**

**58.** The Administration shall give effect to the provisions of the HNS Protocol and the HNS Convention, as amended by the Protocol.

**Requirement to carry certificate**

**59.**(1) A certificate of insurance or other financial security in respect of liability for damage caused by hazardous and noxious substances, in the form set out in Annex I of the HNS Protocol, shall be carried on board all Barbados-registered vessels carrying hazardous and noxious substances by sea.

(2) A foreign-registered vessel carrying hazardous and noxious substances by sea, when in Barbados waters, shall have on board the certificate referred to in subsection (1) and shall produce the certificate as part of a port state control inspection.

**Compliance and enforcement**

**60.**(1) A Barbados-registered vessel shall maintain insurance or another form of financial security in respect of liability for damage caused by hazardous and noxious substances that conforms to the compulsory insurance requirements of the HNS Convention and HNS Protocol.

(2) The owner of a Barbados-registered vessel that contravenes subsection (1) commits and offence and is liable on summary conviction to a fine of $100 000.

**Offence**

**61.**(1) The owner of a vessel, irrespective of place of registry, that intentionally discharges hazardous and noxious substances in Barbados' waters commits an offence and is liable on summary conviction to a fine of $1 000 000.

(2) Where an owner is convicted of an offence under subsection (1), the court may order the owner to carry out marine environmental restoration and rehabilitation activities, including clean-up activities.

**HNS reporting**

**62.**(1) Hazardous and noxious substances reporting shall be done in accordance with the Guidelines on Reporting of HNS Contributing Cargo, adopted during the hazardous and noxious substances workshop held at the International Maritime Organization Headquarters in London on 12th and 13th November, 2012 and endorsed by the International Maritime Organization Legal Committee at its 100th session on 19th April 2013, as amended from time to time.

(2) The Administration shall communicate in writing all hazardous and noxious substances reports submitted to it to the Director of the HNS Fund, in accordance with the HNS Convention and those Guidelines.

**Reporting of HNS contributing cargo**

**63.**(1) Persons who receive hazardous and noxious substances contributing cargo in Barbados in a given calendar year shall submit a report to the Administration if

*(a)* the total amount of substances covered under the general account received during that year exceeds 20,000 tonnes;

*(b)* the total amount of persistent oil received during that year exceeds 150,000 tonnes;

*(c)* the total amount of non-persistent oil received exceeds during that year 20,000 tonnes;

*(d)* the total amount of liquefied petroleum gas received during that year exceeds 20,000 tonnes; or

*(e)* any amount of liquefied natural gas is received during that year.

(2) A person who contravenes subsection (1) commits an offence and is liable on summary conviction to a fine of $100 000.

PART VII

LIMITATION OF LIABILITY FOR MARITIME CLAIMS

**Definitions - Part VII**

**64.** In this Part,

"1996 Limitation of Liability Protocol" means the Protocol of 1996 to amend the Convention on Limitation of Liability for Maritime Claims, 1976, as amended, concluded at London on May 2nd, 1996, and also means the 1996 Protocol as subsequently amended by the IMO;

"dock" includes wet docks and basins, tidal-docks and basins, locks, cuts, entrances, dry docks, graving docks, gridirons, slips, quays, wharfs, piers, stages, landing places, jetties and synchro-lifts;

"maritime claim" means a claim described in Article 2 of the LLMC Convention, as amended, excluding claims specified under Article 2(1)*(d)* and *(e)* of the Convention, and extends to claims against

*(a)* shipowners, including charterers, managers or operators of ships;

*(b)* salvors;

*(c)* the vessel;

*(d)* any person for whose act, neglect or default the shipowner or salvor is responsible;

*(e)* the insurer of liability; and

"owner" in relation to a dock, canal or port, includes a person or authority having control or management of the dock, canal or port and a ship repairer using the dock, canal or port.

**Force of law**

**65.**(1) Except as otherwise provided in this Part, the LLMC Convention, as amended, have the force of law in Barbados.

(2) The declarations and reservations specified in the *Schedule* shall heave effect in relation to the Convention specified at section 65(1).

**Liability for vessels above and under 300 GT**

**66.**(1) The maximum liability for a maritime claim that arises on a distinct occasion involving a vessel with a gross tonnage above 300 GT is as specified in the 1996 Protocol, as amended.

(2) The maximum liability for a maritime claim that arises on a distinct occasion involving a vessel with a gross tonnage of 300 GT or below is

*(a)* 1,000,000 SDRs in respect of a claim for loss of life or personal injury; and

*(b)* 500,000 SDRs in respect of any other claim.

(3) For the purposes of subsection (1), a vessel's gross tonnage shall be calculated in accordance with the tonnage measurement rules contained in Annex I of the International Convention on Tonnage Measurement of Ships, 1969, concluded at London on June 23rd, 1969, including any amendments to the Annexes or Appendix to that Convention.

**Liability for vessels 150 GT and below**

**67.**(1) The maximum liability for a maritime claim that arises on a distinct occasion involving a fishing vessel, or a vessel registered under the *Shipping (Domestic Vessels) Act, 2024* (Act 2024-22), with a gross tonnage 150 GT or below is

*(a)* 500,000 SDRs in respect of a claim for loss of life or personal injury; and

*(b)* 250,000 SDRs in respect of any other claim.

(2) For the purposes of subsection (1), a vessel's gross tonnage shall be calculated in accordance with regulations made under the *Merchant Shipping Act, 2024* (Act 2024- ).

**Compulsory insurance requirements for shipowners**

**68.** The limits of liability specified in this Part apply only to shipowners, other than owners of fishing vessels, who have complied with the compulsory insurance requirements specified in this Act and the regulations.

**Compulsory insurance requirements for fishing vessel owners**

**69.** The limits of liability specified in this Part apply only to fishing vessel owners who have complied with the compulsory insurance requirements stipulated in the regulations.

**Limitation of liability for passenger claims**

**70.** The limit of liability of a shipowner in respect of a claim arising from the loss of life or personal injury to passengers of the ship is an amount of 250,000 units of account multiplied by the number of passengers that the ship is authorized to carry according to the ship's certificate.

**Limitation of liability – docks, canals and ports**

**71.**(1) The maximum liability of an owner of a dock, canal or port for a claim that arises on a distinct occasion for loss caused to a ship, or to cargo or other property on board a ship, is the greater of

*(a)* $2 000 000; and

*(b)* the amount calculated by multiplying 1,000 by the number of tons of the gross tonnage of the largest ship that was at the time of the loss, or had been within a period of 5 years before that time, within the area of the dock, canal or port over which the owner had control or management.

(2) The maximum liability specified in subsection (1) also applies to any person for whose act or omission the owner is responsible.

**Exclusion of wrecks and cargo removal**

**72.** The limitations of liability under this Act or the Convention on Limitation of Liability for Maritime Claims, 1976, as amended, do not extend to

*(a)* claims in respect of the raising, removal, destruction or rendering harmless of a ship that is sunk, wrecked, stranded or abandoned; or

*(b)* claims in respect of the removal, destruction or the rendering harmless of the cargo or any other thing that is or has been on board such a ship.

**Exclusion of claims relating to hazardous and noxious substances**

**73.** The limitations of liability under this Act or the Convention on Limitation of Liability for Maritime Claims, 1976, as amended, do not extend to claims for damage within the meaning of the International Convention on Liability and Compensation for Damage in Connection with the Carriage of Hazardous and Noxious Substances by Sea, 1996, as amended, that arise from occurrences that take place after the entry into force of that Convention.

**Tonnage calculation**

**74.** For the purpose of section 27, a vessel's gross tonnage shall be calculated in accordance with section 66(3).

**Conduct barring limitation**

**75.** The limitations of liability in this Part do not apply to the liability of a person if it is proved that the loss resulted from an act or omission of that person committed with intent to cause the loss or recklessly and with knowledge that the loss would probably result.

**Amendment of maximum liability**

**76.**(1) Amendments to the maximum liability limits specified in the 1996 Protocol, as amended, shall enter into force for Barbados as at the date specified by the International Maritime Organization, unless before that date, the Minister responsible for Foreign Affairs at the request of the Minister responsible for Shipping, objects to the amendment and communicates such objection to the International Maritime Organization.

(2) Subsection (1) applies *mutatis mutandis* to amendments of maximum limits of liability in relation to any other maritime liability instrument to which Barbados is Party.

## PART VIII

## JURISDICTION OF ADMIRALTY COURT

**Definitions - Part VIII**

**77.** In this Part,

"Admiralty Court" means the Admiralty Division of the Supreme Court of Barbados.

**Admiralty jurisdiction**

**78.**(1) The Admiralty Court has exclusive jurisdiction with respect to any matter relating to the constitution and distribution of a limitation fund under Articles 11 to 13 of the Convention on Limitation of Liability for Maritime Claims, 1976, as amended.

(2) Pursuant to Article 10 of the Convention on Limitation of Liability for Maritime Claims 1976, as amended, limitation of liability may be invoked notwithstanding that a limitation fund has not been constituted.

(3) Where an action is brought in the Admiralty Court to enforce a maritime claim subject to limitation, and in the court's determination, the circumstances warrant that a limitation fund be constituted before limitation of liability may be invoked, a person liable may only invoke the right to limit liability if a limitation fund has been constituted

*(a)* in accordance with Article 11 of the Convention on Limitation of Liability for Maritime Claims, 1976, as amended; or

*(b)* is constituted when the right to limit liability is invoked.

**Right to assert limitation defence**

**79.** Where a claim is made or apprehended against a person in respect of liability that is limited by section 66, 67 or 71 or by paragraph 1 of Article 6 or paragraph 1 of Article 7 of the Convention on Limitation of Liability for Maritime Claims, 1976, as amended, the person may assert the right to a limitation of liability in a defence filed, or by way of action or counterclaim for declaratory relief made, in any court of competent jurisdiction in Barbados.

**Powers of the Admiralty Court**

**80.** Where a claim is made or apprehended against a person in respect of liability that is limited by section 66 or 67, or by paragraph 1 of Article 6 or paragraph 1 of Article 7 of the Convention on Limitation of Liability for Maritime Claims, 1976, as amended, the Admiralty Court, on application by that person or any other interested person, including a person who is a party to proceedings in relation to the same subject-matter before another court, tribunal or authority, may take any steps it considers appropriate, including

*(a)* determining the amount of the liability and providing for the constitution and distribution of a fund under Articles 11 and 12 of the Convention on Limitation of Liability for Maritime Claims, 1976, as amended;

*(b)* joining interested persons as parties to the proceedings;

*(c)* excluding any claimants who do not make a claim within a certain time;

*(d)* requiring security from the person claiming limitation of liability or from any other interested person;

*(e)* requiring the payment of any costs; and

*(f)* enjoining any person from commencing or continuing proceedings in any court, tribunal or authority other than the Admiralty Court in relation to the same subject-matter.

**Postponement of distribution**

**81.** In providing for the distribution of a fund under section 80(1)*(a)* in relation to a liability, the Admiralty Court may, having regard to any claim that may subsequently be established before a court, tribunal or other authority outside Barbados in respect of that liability, postpone the distribution of any part of the fund that it considers appropriate.

**Liens and other rights**

**82.** No lien or other right in respect of a ship or other property affects the proportions in which a fund is distributed by the Admiralty Court.

**Procedural matters**

**83.** The Admiralty Court may

*(a)* make rules of procedure with respect to proceedings before it under this Part; and

*(b)* determine what form of guarantee it considers to be adequate for the purposes of paragraph 2 of Article 11 of the Convention on Limitation of Liability for Maritime Claims, 1976, as amended.

**Interest**

**84.** For the purposes of Article 11 of the Convention on Limitation of Liability for Maritime Claims, 1976, as amended, interest on an award of

damages or costs is payable at the rate prescribed under the *Income Tax Act*, Cap. 73, and the regulations made under it, for amounts payable by the Minister of Finance as refunds of overpayments of tax under that Act.

**Release of ships or property**

**85.** Where a ship or other property is released under paragraph 2 of Article 13 of the Convention on Limitation of Liability for Maritime Claims, 1976, as amended, in any case other than one in which a fund has been constituted in a place described in paragraphs *(a)* to *(d)* of that Article, the person who applied for the release is deemed to have submitted to the jurisdiction of the court that ordered the release for the purpose of determining the claim.

**Limitation fund in a state other than Barbados**

**86.** In considering whether to release a ship or other property referred to in section 85, the court shall not have regard to a limitation fund constituted in a country other than Barbados unless the court is satisfied that the country is a state party to the Convention on Limitation of Liability for Maritime Claims, 1976, as amended.

## PART IX

## GENERAL MATTERS RELATING TO PART VII AND VIII

**Prosecution of offences under sections 23(1), (2) and (3) and 32(3)**

**87.**(1) Subject to subsection (2), an offence against section 23(1) or (2) or 32(3) is an indictable offence.

(2) A court of summary jurisdiction may hear and determine proceedings in respect of an offence referred to in subsection (1) if the court is satisfied that it is proper to do so and the defendant and the prosecutor consent.

(3) Where, under subsection (2), a court of summary jurisdiction convicts a person of an offence referred to in subsection (1), the penalty that the court may impose is a fine of

*(a)* in the case of a person who is not a body corporate, $25 000; and

*(b)* in the case of a person that is a body corporate, $50 000.

(4) Where, in proceedings for an offence under sections 23(1), (2) or (3) or 32(3) in respect of conduct engaged in by a corporation it is necessary to establish the state of mind of the corporation, it is sufficient to show that a director, servant or agent of the corporation who engaged in the conduct within the scope of his actual or apparent authority had that state of mind.

(5) Conduct engaged in on behalf of a corporation

*(a)* by a director, servant or agent of the corporation within the scope of his actual or apparent authority; or

*(b)* by any other person at the direction or with the express or implied consent or agreement of a director, servant or agent of the corporation, given within the scope of the actual or apparent authority of the director, servant or agent,

is deemed, for the purposes of an offence under this Act, to have been engaged in by the corporation.

(6) A reference in subsection (4) to the state of mind of a person includes a reference to the knowledge, intention, opinion, belief or purpose of the person and the person's reasons for the intention, opinion, belief or purpose.

**No time limit for prosecution**

**88.** A prosecution for an offence against this Act may be brought at any time.

**Regulations**

**89.**(1) The Minister may make regulations to give effect to Article X of the International Convention on Civil Liability for Oil Pollution Damage, 1969 and all other liability and compensation conventions incorporated under this Act, including regulations

*(a)* vesting the Supreme Court of Barbados with compulsory jurisdiction, and conferring, to the extent that the Constitution permits, jurisdiction on the Supreme Court of Barbados with respect to matters arising under the regulations; and

*(b)* fixing fees to be paid in respect of any matters provided for in the regulations.

(2) Subsection (1) shall not be construed to limit the power of a judge of the Supreme Court of Barbados to make rules of court with respect to a matter that is not provided for in regulations made under that subsection.

**Delegation**

**90.**(1) The Minister may, either generally or as otherwise provided by an instrument of delegation in writing and signed by the Minister, delegate to a person any of his powers under this Act, other than this power of delegation.

(2) A power exercised by a delegate under subsection (1) is deemed to have been exercised by the Minister.

(3) A delegation under this section does not prevent the exercise of a power by the Minister.

**Implementing Article 6(2) of LLMC**

**91.** Where the amount calculated in accordance with Article 6(1)*(a)* is insufficient to pay the claims mentioned therein full, the amount calculated in accordance with Article 6(1)*(b)* shall be available for payment of the unpaid

balance of claims under Article 6(1)*(a)* and such unpaid balance shall rank ratably with claims under Article 6(1)*(b)*, if any.

**Implementing Article 6(3) 1996 Protocol to the LLMC**

**92.** Without prejudice to any claims for loss of life or personal injury referred to in section 91, claims under Article 6(3) of the LLMC, as amended, in respect of damage to harbour works, basins and waterways, and aids to navigation have priority over other claims under Article 6(1)*(b)* of that Convention.

**Place where fund constituted**

**93.**(1) Where a fund is constituted to deal with liability claims in relation to Part II and the fund is available and freely transferrable in respect of that claim, a claimant may bring a claim against the fund before the court administering it.

(2) A person who has a claim against a fund is barred from exercising any rights against other assets of a party seeking to limit its liability under this Act, and if a ship or other property of that party has already been arrested or attached within the jurisdiction of a state party to the LLMC, as amended, a court of competent jurisdiction may order it to be released.

(3) A ship or other property referred to in subsection (2) shall be released if the fund has been constituted in

*(a)* he port where the occurrence took place;

*(b)* if the occurrence took place out of port, at the next port of call;

*(c)* in respect of loss of life or personal injury, the port of disembarkation;

*(d)* in respect of damage to cargo, the port of discharge; or

*(e)* the state where the arrest is made.

**Currency in which fund to be constituted**

**94.** Where a fund is constituted in Barbados, it shall be constituted in Barbados currency.

**Mechanics of constituting fund**

**95.**(1) In order to constitute a fund in Barbados, the claimant shall

*(a)* pay into court the Barbados dollar equivalent of the number of SDRs to which he claims to be entitled to limit his liability, together with interest at the prescribed rate on that amount from the date of the occurrence to the date of the payment into court; or

*(b)* offer security in that amount in the form of insurance, a bank guarantee or any other form of security that the court considers appropriate.

(2) A party constituting a limitation fund shall give notice in writing to every other party to the claim, specifying

*(a)* the date of payment into court;

*(b)* the amount paid into court; and

*(c)* the amount of interest, together with the rate at which, and period in respect of which, the interest is calculated.

(3) If the Barbados dollar equivalent of the SDRs on the date of payment is not known, amounts paid into court may be calculated based upon the latest available published information and, when more current figures are available, the party constituting a limitation fund shall add any additional amounts necessary or may apply to the court for repayment of any excess amount contributed.

(4) Additional amounts added to a fund within 14 days after the original payment into court shall be treated as if the payment had been made on the date of the original payment into court, except as regards the accrual of interest.

(5) An application for repayment of an excess amount may be made *ex parte*, supported by evidence proving the Barbados dollar equivalent of the appropriate number of SDRs on the date of payment into court.

(6) If a repayment is made on an application made under subsection (5), notice in writing shall be given to every other party to the claim of the excess amount and the amount of interest on that amount that has been paid out.

## PART X

## LIABILITY FOR MARITIME CARRIAGE OF PASSENGERS AND LUGGAGE

### Definitions-Part X

**96.** In this Part,

"insurance" means insurance or other financial security satisfying the requirements of Article 4bis of the Athens Convention relating to the Carriage of Passengers and their Luggage by Sea;

"proper officer" has the same meaning as in the *Merchant Shipping Act, 2024* (Act 2024- ); and

"state party" means a country in respect of which the Athens Convention relating to the Carriage of Passengers and their Luggage by Sea is in force.

### Force of law

**97.** The Athens Convention relating to the Carriage of Passengers and their Luggage by Sea, as amended by the 2002 Protocol to the Athens Convention relating to the Carriage of Passengers and their Luggage by Sea, shall have the force of law in Barbados.

### Application

**98.** This Part applies to ships and persons engaged in the carriage of passengers by sea other than

*(a)* warships, auxiliary warships or other state-owned or state-operated ships used for non-commercial public service; and

*(b)* ships licensed under the *Shipping (Domestic Vessels) Act, 2024* (Act 2024-22) and engaged in the carriage of passengers by sea solely within Barbados waters.

**Insurance requirement**

**99.**(1) A ship shall not enter or leave a port in Barbados, and a ship that is a Barbados ship shall not enter or leave a port in any other country, unless there is insurance in force in respect of that ship and a certificate complying with section 100.

(2) Subsection (1) does not apply to a ship that is not licensed to carry more than 12 passengers.

**Insurance certificates**

**100.**(1) The existence of the insurance required under section 99 is to be proved by a certificate

*(a)* in the form prescribed in the Annex to the Athens Convention relating to the Carriage of Passengers and their Luggage by Sea; or

*(b)* showing that there is in force in respect of the ship insurance satisfying the requirements of that Convention.

(2) A ship's certificate shall be

*(a)* if the ship is a Barbados ship, a certificate issued by the Administration;

*(b)* if the ship is registered in a state party other than Barbados, a certificate issued by or under the authority of the government of that state party;

*(c)* if the ship is registered in a country that is not a state party or a member state, a certificate issued by the Administration or under the authority of a state party; or

*(d)* if the ship is registered in a country that is not a state party but is a member state, a certificate issued by or under the authority of that member state.

(3) A ship's certificate shall

*(a)* be carried onboard the ship; and

*(b)* be produced on demand by the ship's master to

(i) the Administration or to any other proper officer, where the ship is a Barbados ship; or

(ii) the Administration, in the case of any other ship.

**Issuance of certificates**

**101.**(1) On the application by a carrier or performing carrier, the Administration may issue a certificate under section 100(2)*(a)* or *(c)* if he is satisfied that

*(a)* there will be insurance in force throughout the period for which the certificate is to be issued; and

*(b)* the person providing the insurance will be able to meet his obligations under it.

(2) Where, at any time while a certificate is in force, the person to whom the certificate has been issued ceases to be the performing carrier in relation to the ship to which the certificate relates, the certificate shall be delivered without delay to the Administration or to a proper officer.

(3) The Administration shall cancel a certificate delivered under subsection (2).

(4) Where, at any time while a certificate is in force, it is established that the contract of insurance in respect of which the certificate is issued is or may be treated as invalid, the certificate may be cancelled by the Administration.

(5) Where at any time while a certificate is in force circumstances arise in relation to a insurer or guarantor named in the certificate that gives rise to a doubt whether that person will be able to meet his obligations under it, the certificate may be cancelled by the Administration.

(6) Where a certificate is cancelled under subsection (4) or (5), the person to whom it was issued shall, on demand, delivered it to the Administration.

(7) The Administration shall send a copy of any certificate issued under this section in respect of a Barbados ship to the Principal Registrar of International Ships and the Registrar shall make the copy available for public inspection.

**Offences**

**102.**(1) A carrier or performing carrier of a ship commits an offence if

*(a)* the ship enters or leaves a port in contravention of section 99; or

*(b)* anyone attempts to navigate that ship into or out of a port in contravention of that section.

(2) A person convicted of an offence under subsection (1) is liable

*(a)* on summary conviction, to a fine of $20 000; or

*(b)* on conviction on indictment, to a fine of $50 000 or to imprisonment for a term of 2 years or to both.

(3) A master who fails to comply with section 100(3) commits an offence and is liable on summary conviction to a fine of $10 000.

(4) A person required by section 101(6) to deliver up a certificate who fails to do so is liable on summary conviction to a fine of $20 000.

(5) A document required or authorized under a statutory provision to be served on a foreign company for the purposes of, or in connection with the institution of, proceedings for an offence under section 100 against a company as owner of the ship is to be treated as served on the company if the document is served on the master of the ship.

**Power to detain**

**103.**(1) A ship may be detained if a person attempts to navigate it out of port in contravention of section 99.

(2) The *Merchant Shipping Act, 2024* (Act 2024- ) applies in relation to a ship detained under this Act, with a reference to "owner" being read as a reference to "carrier or performing carrier".

(3) An officer detaining a ship shall serve on the master of the ship a detention notice that

*(a)* states the reason for the detention; and

*(b)* requires the ship to comply with the terms of the detention notice until it is released by a competent authority.

(4) Where a ship that is not a Barbados ship is detained, the Minister shall immediately notify in writing the ship's flag state administration or, if this is not possible,

*(a)* the consul of the state of the flag administration; or

*(b)* in the consul's absence, the nearest diplomatic representative of the state of the flag administration.

(5) A notice under subsection (4) shall set out all the circumstances of the decision to detain the ship.

(6) Where a notice is issued under subsection (4), the Minister shall notify all relevant nominated surveyors or recognized organizations responsible for the issuance of classification certificates.

(7) In this section,

"competent authority" means

*(a)* the Director;

*(b)* a surveyor of ships authorized by the Director for the purpose;

*(c)* an officer of customs;

*(d)* a Barbados consular officer;

*(e)* a commissioned naval or military officer;

*(f)* an officer designated by the Administration as a port state control officer; and

*(g)* any other person authorized in writing by the Minister.

**Arbitration**

**104.**(1) The master of a ship or its carrier or performing carrier may, by notice given to the officer who has detained the ship within 21 days from the service of the detention notice, refer any question as to whether the matters specified in relation to a ship in a detention notice constituted a valid basis for the officer's opinion to a single arbitrator appointed by agreement between the parties.

(2) The giving of a notice under subsection (1) does not suspend operation of the detention notice.

(3) An arbitrator may have regard to any matter not specified in the detention notice that appears to the arbitrator to be relevant as to whether or not the ship was liable to be detained.

(4) Where an arbitrator decides that in all the circumstances a matter referred to him did not constitute a valid basis for the officer's opinion, the arbitrator shall

*(a)* cancel the detention notice; or

*(b)* affirm it with such modifications as the arbitrator may in the circumstances think fit.

(5) In any case other than one described in subsection (4), the arbitrator shall affirm the detention notice in its original form.

(6) The decision of the arbitrator shall include a finding whether there was a valid basis for the detention of the ship.

(7) To be appointed as an arbitrator under this section, a person shall be

*(a)* a person holding a certificate of competency as a master mariner or as a marine engineer officer class 1, or a person holding an equivalent certificate;

*(b)* a naval architect; or

*(c)* a person with experience of shipping matters, or of activities carried on within ports.

**Compensation for unjustified detention**

**105.**(1) If, on a reference under section 104 relating to a detention notice, an arbitrator decides that the person making the reference has proved that

*(a)* the matter complained of did not constitute a valid basis for the officer's opinion; and

*(b)* there were no reasonable grounds for the issuance of the detention notice,

the arbitrator shall award the owner of the ship such compensation in respect of any loss suffered in consequence of the detention of the ship as the arbitrator thinks fit.

(2) Any compensation awarded under this section is payable by the Minister.

## PART XI

## CIVIL LIABILITY FOR BUNKER OIL POLLUTION DAMAGE

**Definitions-Part XI**

**106.**(1) In this Part,

"Bunker Convention" means the International Convention on Civil Liability for Bunker Oil Pollution Damage, 2001, as amended;

"Bunker Convention certificate" means a certificate issued under section 112;

"bunker oil" means a hydrocarbon mineral oil, including lubricating oil, used or intended to be used for the operation or propulsion of the ship, and any residues of that oil;

"gross tonnage" means gross tonnage calculated in accordance with the tonnage measurement regulations contained in Annex 1 of the International Convention on Tonnage Measurement of Ships, 1969, as amended;

"incident" means an occurrence or series of occurrences, having the same origin, that causes pollution damage or creates a grave and imminent threat of causing such damage;

"person" means an individual or partnership or a public or private body, whether corporate or not, and includes a state or a subdivision of a state;

"pollution damage" means

*(a)* loss or damage caused outside a ship by contamination resulting from the escape or discharge of bunker oil from the ship; or

*(b)* the costs of preventive measures and any further loss or damage caused by preventive measures;

"preventive measures" means reasonable measures taken by any person after an incident has occurred to prevent or minimize pollution damage;

"registered owner" in relation to a ship, means a person registered as the owner of the ship or, in the absence of registration, a person who owns the ship;

"ship" has the same meaning as in the *Merchant Shipping Act, 2024* (Act 2024- ); and

"shipowner" has the same meaning as in the *Merchant Shipping Act, 2024* (Act 2024- ).

(2) Except as otherwise defined, words used in this Part and in the International Convention on Civil Liability for Bunker Oil Pollution Damage, 2001, as amended, have the same meaning as in that Convention.

**Application**

**107.** This Part applies to

*(a)* pollution damage caused by a Barbados vessel in the territory territorial sea of a state part;

*(b)* pollution damage caused by a Barbados vessel in 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, in an area beyond and adjacent to the territorial sea of the 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;

*(c)* pollution damage caused in the territory or territorial sea of Barbados, or in the exclusive economic zone of Barbados extending not more than 200 nautical miles from the baselines from which the breadth of the territorial sea is measured; and

*(d)* preventive measures, wherever taken, to prevent or minimize such damage in Barbados.

**Force of law**

**108.**(1) Subject to subsection (2), the International Convention on Civil Liability for Bunker Oil Pollution Damage, 2001, as amended, shall have the force of law in Barbados.

(2) The Convention does not apply to pollution damage as defined in the International Convention on Civil Liability for Oil Pollution Damage, 1992, whether or not compensation is payable in respect of it under that Convention.

**Compulsory insurance or financial security**

**109.**(1) The owner of a Barbados-registered ship with a gross tonnage more than 1000 GT that enters or leaves a port in Barbados, or that arrives at or leaves

an offshore facility in Barbados or the territory of a state party, shall maintain insurance or other financial security to cover the liability of the registered owner for pollution damage in an amount equal to the limits of liability under an applicable national or international limitation regime, but not exceeding an amount calculated in accordance with the Convention on Limitation of Liability for Maritime Claims, 1976.

(2) Each ship referred to in subsection (1) shall carry a certificate attesting that insurance or other financial security is in force in accordance with the provisions of the Bunker Convention.

**Liability of the shipowner**

**110.**(1) Except as provided otherwise in Article 3 of the Bunker Convention, the shipowner at the time of an incident shall be liable for any pollution damage caused by bunker oil on board or originating from the ship.

(2) If an incident consists of a series of occurrences having the same origin, liability shall attach to the shipowner at the time of the first occurrence.

(3) Where more than one person is liable under subsection (1), their liability shall be joint and several.

(4) When an incident involving 2 or more ships occurs and pollution damage results from it, the shipowners of all the ships concerned, unless exonerated under Article 3 of the Bunker Convention, shall be jointly and severally liable for all damage that is not reasonably separable.

(5) A claim for compensation for pollution damage may be brought directly against the insurer or other person providing financial security for the registered shipowner’s liability for pollution damage.

(6) An insurer or other person providing financial security may invoke defences that the shipowner would have been entitled to invoke, subject to the rights and limitations enumerated in paragraph 10 of Article 7 of the Bunker Convention.

(7) An insurer or other person providing financial security may require the shipowner to be joined in any proceedings under subsection (5).

**Limitation of liability**

**111.**(1) Nothing in the Bunker Convention affects the right of a shipowner or person providing insurance or other financial security to limit liability under any applicable national or international regime to which Barbados is a state party, including the Convention on the Limitation of Liability for Maritime Claims, 1976.

(2) Compensation for impairment of the environment, other than loss of profit from that impairment, shall be limited to costs of reasonable measures of reinstatement actually undertaken or to be undertaken.

**Certification requirements**

**112.**(1) A certificate of insurance or other financial security in respect of the Bunker Convention shall be issued by the Administration, or an official agent who is authorized to act on behalf of the Administration, upon receipt and approval of proof of liability insurance or other financial security submitted by the registered owner.

(2) Proof of coverage referred to in subsection (1) may be in the form of

*(a)* a cover note Blue Card or similar confirmation; or

*(b)* where a registered owner is self-insured, a duly acknowledged statement with an attached auditor's report, setting forth the type and amount of the vessel's liability reserve, and the nature of the security provided.

(3) Proof of coverage shall include the following:

*(a)* protection and indemnity coverage in force with respect to the vessel and issued by

(i) a member club of the International Group of P & I Clubs;

(ii) a non-member club of the International Group of P & I Clubs with a contractual agreement for re-insurance with a member of the International Group of P & I Clubs;

(iii) a publicly traded insurer with verifiable reserves that fulfill the obligations required under the international conventions to which Barbados is a party; or

(iv) a non-member club of the International Group of P & I Clubs with verifiable financial reserves that fulfill the obligations required under the international conventions to which Barbados is a party;

*(b)* in the case of a pleasure yacht, third party liability and hull and machinery insurance issued by an underwriter in policy form acceptable to the Administration; or

*(c)* in the case of a self-insurer, the nature, amount and security of the liability reserve.

(4) Proof of coverage may be sent by mail, email or facsimile to the Administration.

(5) A Bunker Convention certificate shall in the form prescribed by the Administration and shall contain the following particulars:

*(a)* the name of the ship;

*(b)* any distinctive numbers or letters;

*(c)* its port of registry;

*(d)* the International Maritime Organization ship identification number;

*(e)* the name and principal place of business of the registered owner;

*(f)* the name and principal place of business of the insurer or other person giving security, and where appropriate, the place of business where the insurance or security is established; and

*(g)* the period of validity of the certificate.

(6) The period of validity of a Bunker Convention certificate shall not be longer than the period of validity of the insurance or other security.

(7) A Bunker Convention certificate shall be issued to each vessel at registration or shortly afterwards and shall be renewed annually by the registered owner by the first day of February of each year.

(8) A Bunker Convention certificate shall be carried on board the ship at all times.

(9) The Administration shall not permit a ship under Barbados' flag to which the Bunker Convention applies to operate at any time, unless a Bunker Convention certificate has been issued.

(10) Unless expressly permitted by the Bunker Convention or the International Convention on Civil Liability for Oil Pollution Damage, 1992, a Bunker Convention certificate shall not be combined with an insurance certificate issued under the International Convention on Civil Liability for Oil Pollution Damage, 1992.

## PART XII

## LIMITATION OF TIME

**Definitions-Part XII**

**113.** In this Part,

"owner" in relation to a ship, includes a person responsible for the navigation and management of the ship or any other person responsible for the fault or neglect of the ship.

**Limitation period for claim or lien**

**114.** No action may be commenced in respect of a loss, injury or damage, or in respect of pollution damage, later than 2 years after the loss, injury, damage or pollution damage arose to enforce a claim or lien against a ship that was in a collision or other maritime accident or incident caused, in whole or in part, by the fault or negligence of the ship, or against its owners, in respect of

*(a)* a loss or damage to another ship, its cargo or other property on board;

*(b)* any loss of earnings of that other ship;

*(c)* for damages for loss of life or personal injury suffered by any person on board that other ship; or

*(d)* pollution damage caused by the ship.

**Extension of time**

**115.** A court that has jurisdiction to deal with an action referred to in section 114

*(a)* may, in accordance with the rules of court, extend the period referred to in section 114 to the extent and on any conditions that it thinks fit; and

*(b)* shall, if satisfied that there has not during that period been a reasonable opportunity of arresting the ship within the jurisdiction of the court, or within the territorial waters of the country to which the claimant's ship belongs or in which the claimant resides or has his principal place of business, extend that period to an extent sufficient to provide such an opportunity.

## PART XIII

## MISCELLANEOUS

### Regulations

**116.** The Minister may make regulations

*(a)* prescribing anything to be prescribed under this Act; and

*(b)* pertaining to any other matters addressed under, or incidental to, this Act.

### Power to amend schedules

**117.** The Minister may, by order, amend any schedules to this Act.

### Denunciations

**118.** The following conventions are denounced

*(a)* the Convention on Limitation of Liability for Maritime Claims, 1976;

*(b)* the 1974 Protocol to the Athens Convention relating to the Carriage of Passengers and their Luggage by Sea; and

*(c)* the 1976 Protocol to the Athens Convention relating to the Carriage of Passengers and their Luggage by Sea.

## SCHEDULE

*(Section 65(2))*

## DECLARATIONS AND RESERVATIONS TO THE CONVENTION ON LIMITATION OF LIABILITY FOR MARITIME CLAIMS 1976, AS AMENDED

**1.** Barbados, pursuant to Article 6, paragraph 3 of the Convention, declares that claims in respect of damage to harbour works, basins, waterways and aids to navigations shall have priority over other claims under Article 6, paragraph 1*(b)* of the Convention.

**2.** Barbados declares that for the purposes of Article 15(2)*(b)* of the Convention, limitation of liability for ships of 300 gross tonnes and below, the limit of liability calculated in accordance with Article 6, paragraph 1*(a)* and *(b)* of the Convention, shall be half of the limit of liability applicable to a ship not exceeding 2,000 gross tonnes.

**3.** Barbados declares that it intends to make use of the option provided for in Article 15(3) bis of the Convention to regulate by specific provisions of national law the system of liability to be applied to claims for loss of life or personal injury to passengers of a ship.

**4.** Pursuant to Article 18(1)*(a)* and *(b)* of the Convention, Barbados hereby excludes the application of Article 2, paragraphs 1*(d)* and *(e)*, and excludes claims for damage within the meaning of the International Convention on Liability and Compensation for Damage in Connection with the Carriage of Hazardous and Noxious Substances by Sea, 1996, as amended, that arise from occurrences that take place after the entry into force of that Convention.

Read three times and passed the House of Assembly this day of , 2024.

**Speaker**

Read three times and passed the Senate this day of , 2024.

**President**

MERCHANT SHIPPING (LINER CONFERENCES) ACT, 2024

## OBJECTS AND REASONS

This Bill will make provision for

*(a)* advancement of the liner conference trade; and

*(b)* facilitation of the orderly expansion of liner shipping in Barbados.

MERCHANT SHIPPING (LINER CONFERENCES) ACT, 2024

*Arrangement of Sections*

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**BARBADOS**

A Bill entitled

An Act to establish a regulatory environment for advancement of the liner conference system and facilitate the orderly expansion of liner shipping in Barbados;

ENACTED by the Parliament of Barbados as follows:

PART I

PRELIMINARY

**Short title**

**1.** This Act may be cited as the *Merchant Shipping (Liner Conferences) Act, 2024*.

**Definitions**

**2.**(1) In this Act,

"Administration" means the Barbados Maritime Transport Administration;

"Article" means an article of the Code;

"Code" means the United Nations Convention on a Code of Conduct for Liner Conferences, 1974;

"conciliation" means international mandatory conciliation under Chapter VI of the Code;

"conference" has the meaning given by Chapter I of the Code;

"judgment" in relation to proceedings arising out of the Code, means a judgment, decree, order, award, recommendation or determination given or made in those proceedings;

"liner conference" has the meaning given by Chapter I of the Code;

"Minister" means Minister responsible for Shipping;

"National shipping line" has the meaning given by Chapter I of the Code.

"prescribed" means prescribed by regulations made under section 39(1);

"proceedings" in relation to the Code, means legal proceedings, conciliation proceedings, arbitration proceedings or any other proceedings for the determination or resolution of a dispute arising out of the Code;

"Register of National Shipping Lines" means the register referred to in section 12;

"Shipping alliances" refer to commercial agreements between shipping lines operating in the container shipping industry to enable:

*(a)* route and service sharing;

*(b)* sharing of vessel fleets;

*(c)* terminal sharing;

*(d)* cooperation in operations and logistics;

*(e)* resources and knowledge sharing; and

*(f)* the sharing of other benefits deriving from shipping alliances;

"slot charterer" means a shipping line that

*(a)* functions as an independent shipping line;

*(b)* belongs to a consortium or service; and

*(c)* buys or leases slots from the principal operators of a vessel; and

"trade" has the same meaning as in the Code.

(2) For the purposes of this Act, conciliation proceedings relating to a dispute are instituted when a party to the dispute requests that it be referred to conciliation and are completed when the conciliator notifies the parties of his recommendations.

**Purpose**

**3.** The purposes of this Act are to

*(a)* give effect to the United Nations Convention on a Code of Conduct for Liner Conferences, 1974;

*(b)* create the enabling regulatory environment for advancement of the liner conference system in Barbados;

*(c)* ensure the rights of participation in trade of national shipping lines to entitle them to carry a substantial share of Barbados' foreign trade in the international market;

*(d)* balance the interests shippers and shipowners and to facilitate the orderly expansion of the liner trade;

*(e)* attain more significant participation by Barbados in liner shipping, consistent with the International Development Strategy, and Sustainable Development Goals of the United Nations; and

*(f)* provide for matters related thereto.

**Application**

**4.** The Act applies to conference trades serving Barbados, and applies to all commercial parties concerned, irrespective of nationality.

**Act binds the State**

**5.** This Act shall bind the State.

**Code to have force of law**

**6.** The Code shall have the force of law in Barbados.

**Conference trades**

**7.** Conference trades shall be conducted in accordance with the Code.

**Publication**

**8.** The Administration, upon the written request of the Minister, shall publish, in any appropriate format, the names of conferences that the Government of Barbados considers to fall within the scope of the Code.

**Administration**

**9.**(1) This Act shall be administered by the Barbados Maritime Transport Administration, in consultation with the Ministry responsible for Commerce.

(2) The Minister shall perform his functions under this Act, in consultation with the Minister responsible for Commerce and other relevant stakeholders.

## PART II

## DESIGNATION OF AUTHORITIES

**Authority for shippers' councils**

**10.** The Ministry responsible for Shipping is the appropriate authority in respect of matters concerning shippers' councils and shall perform the functions related to shippers' councils specified in the Code, and may take such administrative actions as are necessary to effectively implement the matters pertaining to shipper's councils.

**Authority for national shipping lines**

**11.** The Administration shall perform the functions specified in the Code related to national shipping lines, and may take such administrative actions as are necessary to effectively implement the matters pertaining to national shipping lines.

**Register of national shipping lines**

**12.** The Administration shall maintain an electronic Register of National Shipping Lines, in which it shall register

*(a)* any vessel-operating carrier that has its ownership and head office in Barbados and is designated under section 13 as a national shipping line or recognized as one under section 14;

*(b)* any lines belonging to, and operated by, a joint venture involving Barbados and another country if

(i) a majority share of the equity is held by public or private Barbadian shipping industry stakeholders; and

(ii) its head office of management and effective control is in Barbados or the other country; and

*(c)* any other national shipping line designated by order, published in the *Official Gazette*, by the Minister.

## PART III

## DESIGNATION OF NATIONAL SHIPPING LINES

**National shipping line criteria**

**13.** In order for a shipping line to be designated as a national shipping line, it shall meet the following criteria:

*(a)* have its head office in Barbados;

*(b)* if it is part of a joint venture, have its head office in Barbados or in a country participating in the joint venture;

*(c)* be registered

(i) in accordance with the *Companies Act*, Cap. 308;

(ii) vessels comprising the line be registered in accordance with the *Merchant Shipping Act, 2024* (Act 2024- );

*(d)* be majority-owned and operated by

(i) nationals of Barbados;

(ii) permanent residents of Barbados; or

(iii) a statutory corporation in Barbados;

*(e)* have insurance or other equivalent form of financial security;

*(f)* carry a complement of Barbadian seafarers, including the ship's master, of which not less than three-fourths are nationals of Barbados;

*(g)* employ, if part of a joint venture, Barbadian seafarers in equal percentages to seafarers from the other countries participating in the joint venture;

*(h)* serve the trade of Barbados;

*(i)* be plying trade on major shipping routes;

*(j)* be listed in the Register of National Shipping Lines; and

*(k)* meet such other criteria as may be specified from time to time in a Maritime Trade Facilitation Directive issued under section

**Recognition of slot charters**

**14.**(1) Subject to subsection (2), shipping lines operating only as slot charters and not entire vessels shall be entitled to be recognized as national shipping lines for the purposes of the Code.

(2) The Minister, in consultation with the relevant conferences, may prescribe criteria for slot charters to be recognized as national shipping lines.

## PART IV

## DESIGNATION OF SHIPPERS' ORGANIZATIONS AND SHIPPERS

**Recognition of shippers' organizations and shippers**

**15.**(1) The Minister may designate by regulation the shippers' organizations and individual shippers that will have the right to consult with conferences.

(2) The Minister shall ensure administrative arrangements are put in place to reconcile any differences that may arise between different shippers' interests.

(3) Where it is decided that individual shippers and representative shipper bodies should be designated for the purposes of consultation under Article 11 of the Code, the criteria to be adopted for that purpose may be set out by the Minister in regulations made under section 36(1).

(4) Freight-forwarders may become members of locally based shippers' organizations.

(5) Associations of freight-forwarders may participate in liner conferences.

(6) Where shippers' organizations have set up a regional body for the purpose of consultations with conferences on a regional basis, the regional body may act on their behalf in consultations with conferences under Article 11 of the Code.

(7) Agreements reached by regional bodies with conferences are binding on national shippers' organizations.

**Establishment of regional inter-governmental committees**

**16.** The Prime Minister, in consultation with the Ministers responsible for Shipping may facilitate the establishment of regional inter-governmental committees representing a number of governments, including Barbados, to participate in consultations with conferences on a regional basis.

## PART V

## FILING OF CONFERENCE AGREEMENTS

**Compliance with the Code**

**17.**(1) In accordance with Article 6 of the Code, the following documents shall be made available upon request by the Administration:

*(a)* conference agreements;

*(b)* pooling agreements;

*(c)* berthing agreements;

*(d)* sailing agreements;

*(e)* amendments to agreements referred to in paragraphs *(a)* to *(d)*;

*(f)* trade participation and loyalty arrangements; and

*(g)* other documents directly related to, or that affect, the documents listed in paragraphs *(a)* to *(f)*.

(2) The documents referred to in subsection (1) shall be filed annually with the Administration by members of a conference whose shipping lines serve Barbados.

(3) Where a shipping line of Barbados is a third country member of a conference serving the foreign trade between two other countries that are contracting parties to the Code, an agreement may be sought with the conference for regular submissions to it of the relevant conference agreements.

**Non-compliant conference agreements**

**18.** Conference agreements that do not comply with the requirements of the Code are void to the extent that they are inconsistent with the Code.

## PART VI

## FILING OF ANNUAL REPORTS

**Filing of annual reports**

**19.**(1) In accordance with Article 10 of the Code, conferences serving Barbados shall provide locally based shippers' organizations with annual reports of their activities.

(2) Such annual reports shall be submitted, on request, to the Barbados Maritime Transport Administration.

## PART VII

## LEGAL CAPACITY OF CONFERENCES AND SHIPPERS' ORGANIZATIONS

### Legal capacity of conferences and shippers' organizations

**20.**(1) A conference or shippers' organization may institute proceedings as a party, or be named as a party, to legal proceedings in its collective capacity.

(2) Any notification to a conference or shippers' organization in its collective capacity shall also constitute a notification to each member of the conference or shipper's organization.

(3) Shippers' organizations that have a corporate legal status may participate in legal proceedings in that capacity.

### Information on conferences

**21.**(1) Conferences operating in trades between Barbados and other contracting parties shall register, with the Administration, their names and addresses, a list of their members and the names of conference office bearers.

(2) The Administration shall make publicly available the information provided under subsection (1).

## PART VIII

## PRECEDENCE OF CONCILIATION PROCEEDINGS OVER OTHER REMEDIES

**International mandatory conciliation**

**22.** International mandatory conciliation invoked pursuant to Article 25, paragraph 3 of the Code shall have precedence over other remedies available in national law.

**Recommendations made by conciliators**

**23.**(1) Where a recommendation has been made by a conciliator in the resolution of a dispute and the recommendation has been accepted by the parties concerned, an application may be made to the High Court for enforcement of the recommendation.

(2) The Minister may make regulations setting out the procedures to be followed in an application under subsection (1).

**Conciliation award against a conference**

**24.** Where a conciliation award is made against a conference, the award shall be enforced against all conference lines, in proportion to their individual responsibilities, irrespective of whether any particular member line is a national entity of a contracting party.

## PART IX

## SETTLEMENT OF DISPUTES AT THE NATIONAL LEVEL

**National-level dispute settlements**

**25.**(1) Disputes between shipping lines of Barbados, or between organizations belonging to Barbados, shall be settled within the dispute settlement framework of Barbados, unless this would be inconsistent with the requirements of the Code.

(2) The following shall have access to national courts for the settlement of disputes:

*(a)* shipping lines;

*(b)* shippers organizations; and

*(c)* shippers.

## PART X

## PROCEEDINGS ARISING OUT OF THE CODE

**Liability of members of conference**

**26.**(1) Where proceedings arising out of the Code are brought against a member of a conference in respect of damage or loss suffered by any person and other members of the conference are liable, jointly or otherwise, in respect of the same damage or loss, the liability of that member to make good that damage or loss shall be in proportion to its responsibility.

(2) For the purposes of subsection (1), the liability of other members of the conference is the liability that has been, or could be, established in proceedings brought before the same court or tribunal by or on behalf of the person suffering

the damage or loss, irrespective of under what law the issue of liability was or would be determined.

(3) In ascertaining the responsibility of a member of a conference for the purposes of subsection (1), regard shall be had not only to the member's part, if any, in the matters giving rise to the proceedings but also to its general involvement in the affairs of the conference, as indicated by its share of the conference trade, the nature of pooling arrangements to which it is a party and the extent to which it contributes to the administrative expenses of the conference.

(4) Subsections (1) to (3) apply to any proceedings in Barbados and to proceedings elsewhere in which the extent of the liability of a member of a conference falls to be determined by reference to the law of Barbados.

(5) Where in proceedings arising out of the Code

*(a)* judgment is given against a member of a conference in respect of damage or loss caused to any person; and

*(b)* the extent of the member's liability is not determined by reference to subsections (1) to (3),

the member shall not, if it is sought to enforce the judgment in Barbados, be liable to make good any greater proportion of that damage or loss than if the extent of its liability had been determined by reference to those subsections.

(6) A member of an unincorporated conference against which judgment is given, whether in Barbados or elsewhere, in proceedings arising out of the Code in respect of damage or loss caused by a breach of duty by the conference, shall not, by virtue of section 27(3), be liable to make good any greater proportion of that damage or loss than it would have had to pay if the proceedings had been brought against it and the other members of the conference in respect of a duty owed by all the members of the conference and the extent of its liability had been determined by reference to subsections (1) to (3).

(7) Subsections (5) and (6) shall not affect the enforcement in Barbados of a judgment required to be enforced there by virtue of any enactment on the enforcement of foreign judgments.

**Proceedings by or against unincorporated conferences**

**27.**(1) A conference that is not a body corporate may sue and be sued in its own name in proceedings arising out of the Code.

(2) Subsection (1) applies to any proceedings in Barbados and to proceedings elsewhere in which the capacity of a conference to sue and be sued in its own name falls to be determined by reference to the law of Barbados.

(3) A judgment given for or against an unincorporated conference in proceedings brought against the conference in its own name, whether in Barbados or elsewhere, is binding on the members of the conference, and such a judgment is enforceable

*(a)* against any property held in trust for the purposes of the conference, to the same extent and in the same manner as if the conference were a body corporate; and

*(b)* against any member of the conference, subject to section 26(5).

(4) Subsection (3) applies to judgments given by a court in Barbados or that are enforceable or entitled to recognition in Barbados.

**Restrictions on legal proceedings**

**28.**(1) Legal proceedings arising out of a dispute relating to the application or operation of the Code may be brought in Barbados only in the High Court.

(2) Proceedings arising out of a dispute to be resolved within the framework of the national jurisdiction concerned in accordance with Article 23, paragraph 2 of the Code shall not be entertained by the High Court except as permitted by that paragraph.

(3) The High Court shall stay proceedings before it if, on the application of a party to the proceedings made after entering an appearance but before delivering any pleadings or taking any other steps in the proceedings, it is shown that the

proceedings arise out of a dispute to which Article 23, paragraph 4 of the Code applies and that

*(a)* the dispute has not been referred to conciliation in accordance with that paragraph or conciliation proceedings are still in progress; or

*(b)* the parties to the dispute have made an agreement on procedures *in lieu* of conciliation to which Article 25, paragraph 1 applies that is capable of being, or has been, performed.

(4) The High Court may attach to a stay granted under subsection (3) such conditions as appear to it appropriate, including conditions with respect to the institution or prosecution of conciliation or other proceedings.

(5) The High Court may remove a stay granted under subsection (3) if any attached condition is not complied with or if at any time it appears to the Court that the circumstances are such that a new application for the stay would not be granted.

(6) Subsections (3) to (5) apply to an arbitration agreement referred to in Article 25, paragraph 1, in place of section 6 of the *Arbitration Act*, Cap. 110.

**Time for bringing legal proceedings**

**29.** No legal proceedings arising out of a dispute relating to the application or operation of the Code shall be brought in Barbados more than 2 years after the date on which the cause of action accrued or 6 months after the date on which conciliation proceedings relating to the dispute were completed or abandoned, whichever is the later.

**Recommendations of conciliators**

**30.**(1) Where a recommendation of conciliators has become binding as between two or more parties to a dispute in accordance with Article 37 of the Code, subject to subsection (2)

*(a)* it shall be recognized in Barbados as conclusive as between the parties to which it relates; and

*(b)* a party may apply to have the recommendation registered for enforcement in the High Court.

(2) A recommendation shall not be recognized or enforced under subsection (1) if any of the circumstances mentioned in subparagraphs *(a)* to *(d)* of Article 39, paragraph 2 of the Code apply, unless the affected part of the recommendation can be severed in accordance with Article 39, paragraph 3 of the Code and the remainder of the recommendation can be recognized and enforced.

(3) Where the conciliation and administration costs to be borne by a party to conciliation proceedings in accordance with Article 43, paragraph 1 of the Code have been determined, the person to whom those costs are to be paid may apply to have the determination registered for enforcement in the High Court.

(4) A party in whose favour an award of costs for vexatious or frivolous proceedings has been made by conciliators under Article 43, paragraph 3 of the Code may apply to have the award registered for enforcement in the High Court.

(5) The rules of the Court may provide for

*(a)* the manner in which an application is to be made for registration of a recommendation, determination or award under this section;

*(b)* the documents to be produced and the matters to be proved by a person seeking recognition of a recommendation or enforcement of a recommendation, determination or award;

*(c)* the manner in which a recommendation, determination or award is to be registered under this section; and

*(d)* the manner in which, and the conditions subject to which, such a recommendation, determination or award may be enforced.

(6) Subject to paragraph (5)*(d)*

*(a)* a recommendation, determination or award registered under this section shall, for the purposes of its enforcement, have the same force and effect;

*(b)* the registering court shall have the same powers in relation to its enforcement; and

*(c)* the same proceedings for or with respect to its enforcement may be taken,

as if the recommendation, determination or award had been a judgment or decree originally given in the High Court and had been entered in that Court.

(7) Where a recommendation, determination or award is registered under this section, the reasonable costs or expenses of, and incidental to, its registration are recoverable as if they were sums recoverable under it, and carry interest as if they were the subject of an order for the payment of costs or expenses made by the High Court on the date of registration.

## PART XI

## MISCELLANEOUS

### Local representation by conferences

**31.** In accordance with Article 21 of the Code, conferences shall establish local representation in Barbados or, where there are practical reasons to the contrary, regional representation.

### Exclusion of shippers' councils

**32.** A shippers' council shall not be regarded as an appropriate authority for the purposes of this Act.

### Non-conference members

**33.**(1) Nothing in this Act shall be construed so as to deny shippers an option in the choice between conference shipping lines and non-conference shipping lines.

(2) Non-conference shipping lines competing with a conference shall adhere to the principle of fair competition on a commercial basis.

(3) In the interest of the sound development of liner shipping service, non-conference shipping lines shall not be prevented from operating as long as they comply with the requirements of subsection (2).

**Nomination of conciliators**

**34.** In accordance with Article 30 of the Code, the Minister may appoint up to 12 members to a panel of conciliators, and shall ensure a record of their names are kept.

**Operation within commercial framework under Merchant Shipping Act, 2024**

**35.** To the extent practicable, parties to a liner conference shall operate within the commercial and contractual framework outlined under Division 10 of Part 35 of the *Merchant Shipping Act, 2024* (Act 2024- ).

**Maritime Trade Facilitation Directives**

**36.** The Minister may by notice published in the *Official Gazette* issue a maritime trade facilitation directive in respect of advancing liner trade and seaborne trade concerning national shipping lines.

**Maritime Compliance Obligations of National Shipping Lines**

**37.** National shipping lines shall comply with the relevant

*(a)* vessel registration conditions, maritime safety, security and marine environmental protection requirements, contained in the *Merchant Shipping Act, 2024* (Act 2024- ) and statutory instruments thereunder;

*(b)* atmospheric pollution prevention requirements, contained in the *Marine Transport (Emissions Control) Act, 2024* (Act 2024-2) and statutory instruments thereunder;

*(c)* maritime labour protection requirements, contained in national seafaring laws;

*(d)* general and operational requirements for vessels engaged on domestic voyages, in the case of smaller vessels participating in conference trades within the Caribbean Trading Area, as contained in the *Shipping (Domestic Vessels) Act, 2024* (Act 2024-22) and statutory instruments thereto; and

*(e)* any other applicable maritime operational requirements, specified in any other enactment on shipping or a Merchant Shipping Notice.

**Shipping Alliances**

**38.**(1) To facilitate maritime commerce and trade through shipping alliances and derive benefits from such alliances, the Minister may by regulations or Maritime Trade Facilitation Directive develop the enabling framework for maritime commerce and trade through shipping alliances.

(2) Container ships participating in shipping alliances shall comply with

*(a)* international maritime safety, security, environmental protection and maritime labour protection standards; and

*(b)* any other applicable maritime operational requirements, specified in any other enactment on shipping or a Merchant Shipping Notice.

**Power to make regulations**

**39.**(1) The Minister may make regulations pertaining to any or all of the matters addressed under, or incidental to, this Act.

(2) The Minister may make regulations designating the shippers' organizations and individual shippers that would have the right to consultation with conferences and the criteria to be adopted for that purpose.

**Power to amend schedules**

**40.** The Minister may by order amend the schedules to regulations made under this Act.

**Revocation**

**41.** The *Liner Conferences Act*, Cap. 290 is repealed.

Read three times and passed the House of Assembly this day of , 2024.

**Speaker**

Read three times and passed the Senate this day of , 2024.

**President**

MERCHANT SHIPPING (MARITIME MARRIAGE) ACT, 2024

# OBJECTS AND REASONS

This Bill will make provision for

*(a)* the conduct and formalities of marriages on board ships, irrespective of where those ships may be operating;

*(b)* the licensing of ship captains to function as marriage officers and marry persons on board Barbados ships;

*(c)* the recognition of marriages on board Barbados ships as having taken place in Barbados; and

*(d)* a regulatory framework to support obtaining a legally recognized marriage in the maritime context.

MERCHANT SHIPPING (MARITIME MARRIAGE) ACT, 2024

*Arrangement of Sections*

**1.** Short title

**2.** Interpretation

**3.** Act binds the State

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**6.** List of marriage officers

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**8.** Notice of marriage

**9.** Issuance of marriage certificate

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**14.** Void marriages

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**17.** Registrar may require information

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**20.** Solemnization of marriages on foreign ships

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**22.** Declaration by parties and witnesses

**23.** Place and form of solemnization

**24.** Certificate of marriage

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**29.** Publication of notice

**30.** Objection to marriage

**31.** Solemnization of marriage where no objection made

**32.** Procedure on receipt of objection

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**33.** Registration of foreign marriages

**34.** Recognition of foreign maritime marriages

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**37.** Correction of errors

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**42.** Register as evidence of marriage

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**50.** Marriage ceremonies on yachts

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**52.** Application of Act to marriages involving seafarers

**53.** Rules

**54.** Power to make regulations

SCHEDULE

*Certificate for the Solemnization of a Marriage in extremis*

**BARBADOS**

A Bill entitled

An Act to provide for the conduct and formalities of marriages on board ships.

ENACTED by the Parliament of Barbados as follows:

**Short title**

**1.** This Act may be cited as the *Merchant Shipping (Maritime Marriage) Act, 2024*.

**Interpretation**

**2.** In this Act,

"Barbados Maritime Transport Administration" has the same meaning as in the *Merchant Shipping Act, 2024* (Act 2024- );

"Barbados ship" means a ship registered in Barbados under the *Merchant Shipping Act, 2024* (Act 2024- );

"Barbados waters" has the meaning assigned to it in the *Shipping (Domestic Vessels) Act, 2024* (Act 2024-22);

"certificate for marriage" means a certificate issued by the Registrar under section 9;

"high seas" means all parts of the sea that are not included in the territorial sea or internal waters of a state or territory;

"master" has the meaning assigned to it in the *Merchant Shipping Act, 2024* (Act 2024- );

"Maritime Marriage Notice Book" means the book referred to in section 8(2);

"Maritime Marriage Log Book" means the book referred to in section 15(1);

"marriage officer" means the master of a Barbados ship licensed under section 4 or a second marriage officer licensed under section 5;

"Minister" means Minister responsible for marital affairs;

"prescribed form" means a form prescribed in a Marine Notice;

""Register of Maritime Marriages" means the register referred to in section 15(1);

"Registrar" means the Registrar of the Supreme Court referred to in the *Marriage Act*, Cap. 218A;

"Special Licence" means the licence issued by the Minister under section 10.

**Act binds the State**

**3.** This Act shall bind the State.

PART II

MARRIAGES ON BARBADOS SHIPS IN THE HIGH SEAS

**Licensing of ship masters to be principal marriage officers**

**4.**(1) The Minister may grant a licence in writing to

*(a)* the master of a Barbados ship; or

*(b)* an officer on board a Barbados ship, where such officer is second in command to the master, and is nominated in writing by the master

to be a marriage officer for the purposes of the Act.

(2) An application for the grant to a master of a licence to be a marriage officer shall

*(a)* be made in writing to the Minister;

*(b)* state the applicant's full name, address and date of birth; and

*(c)* contain such other particulars as may be required by the Minister.

(3) An application shall be forwarded to the Registrar of International Ships, accompanied by a certificate of the applicant's qualifications to be a master of a Barbados ship and a letter of his appointment to serve on board a Barbados ship.

(4) The Registrar of International Ships, on being satisfied that the application contains sufficient information to enable it to be considered by the Minister, shall forward the application to the Minister with his recommendation on the application.

(5) A licence granted by the Minister under this section has effect as of the date the licence was issued and is valid for the period specified in the licence.

(6) The terms of a licence may limit it to any particular ship or ships or limit the functions for which the master is licensed.

(7) A licence granted by the Minister under this section shall be in the prescribed form.

(8) The Minister shall cause a notice of the grant of the licence to be published in the *Official Gazette* as soon as possible after the licence is granted.

(9) The Minister may at any time revoke a licence granted under this section.

(10) A marriage officer may at any time, by notice in writing to the Minister, surrender his licence.

(11) The Minister shall cause a notice to be published in the *Official Gazette* of every revocation of a licence under subsection (8) or surrender of licence under subsection (9).

**Licensing of second marriage officer**

**5.**(1) The Minister may grant to a person who is the second in command to the master of a Barbados ship a licence to be a marriage officer for the purposes of this Act.

(2) The making of an application for a licence under subsection (1) and the way the application is dealt with shall be the same as an application for a licence under sections 4(2) to (4).

(3) Sections 4(5) to (10) apply, with necessary modifications, to a licence granted under subsection (1).

(4) Notwithstanding subsections (2) and (3), a license granted under subsection (1) may also be granted to a person who is second in command to the master of a Barbados ship for the purposes of this Act.

**List of marriage officers**

**6.** The Registrar shall maintain affixed in a conspicuous place in his office a list showing the names of all marriage officers licensed under this Act and the names of the ships on which they are serving.

**General marriage prerequisites**

**7.**(1) Subject to the requirements of this Act relating to notice of a marriage, a marriage may be contracted before a marriage officer on the high seas under the authority of a Certificate for Marriage.

(2) A marriage may be contracted before a marriage officer on the high seas without a notice of marriage or the issuance of a Certificate for Marriage under the authority of a Special Licence.

(3) A marriage in *extremis* may be contracted on the high seas before a marriage officer in accordance with section 13.

**Notice of marriage**

**8.**(1) One of the parties to an intended marriage shall give to the Registrar notice of the intended marriage in the prescribed form, including the declarations set out in that form.

(2) The Registrar, on receiving notice of an intended marriage, shall without delay enter the particulars contained in the notice and the date of the receipt of the notice in the Maritime Marriage Notice Book, and shall

*(a)* keep the notice posted in a conspicuous place in his office for a period of not less than 14 days from the date of its receipt; and

*(b)* publish the notice on the internet.

(3) The Registrar shall also, within 3 days of the receipt of the notice of intended marriage, publish a notice of the intended marriage in the prescribed form once in any 2 newspapers published and circulated in Barbados.

(4) Any expenses incurred by the Registrar in the publication of the advertisement of a notice of intended marriage shall be paid to the Registrar by the person who gave the notice.

**Issuance of marriage certificate**

**9.** Not later than 3 months or earlier than 14 days after the receipt of the notice of intended marriage, on the application of either of the parties to the intended marriage, the Registrar shall issue to the applicant a Certificate for Marriage in the prescribed form if

*(a)* the Registrar is satisfied that no lawful impediment has been shown why a Certificate for Marriage should not be issued;

*(b)* no caveat has been entered against the issuance of a Certificate for Marriage or, if a caveat has been entered, it has been removed; and

*(c)* the expenses of the advertisement have been paid as required by section 8(4).

**Special licenses**

**10.**(1) Notwithstanding sections 8 and 9, the Minister may dispense with the giving of notice of an intended marriage and with the issuance of a Certificate for Marriage by the Registrar, and may grant a Special Licence in the prescribed form, authorizing the contracting of the marriage before a marriage officer.

(2) A party to the intended marriage may apply to the Minister for a Special Licence by submitting an application to the Registrar together with the affidavit referred to in subsection (5).

(3) The Registrar shall, if satisfied that there is sufficient information for the consideration of the Minister, forward the application and all other relevant documents to the Minister together with his recommendation.

(4) The Minister shall not grant a Special Licence under subsection (1) unless

*(a)* it appears that the intended marriage is a proper one;

*(b)* there are special circumstances justifying the grant of a Special Licence; and

*(c)* the application is accompanied by an affidavit referred to in subsection (5).

(5) A party to the intended marriage shall make an affidavit deposing to the following matters:

*(a)* that there is no impediment of consanguinity or affinity or any other lawful hindrance to the intended marriage; and

*(b)* that each of the parties is at least 18 years of age.

**Lapsing of Marriage Certificate or Special License within 3 months**

**11.** Where an intended marriage does not take place within 3 months after the date of the issuance of any Certificate for Marriage or Special Licence relating to the intended marriage, the Certificate for Marriage or Special Licence is void, and the marriage shall not be contracted before a marriage officer under the authority of that Certificate for Marriage or Special Licence.

**Contracting of marriage before marriage officer**

**12.**(1) On the delivery to a marriage officer of a Certificate for Marriage or of a Special Licence, the parties specified in the Certificate for Marriage or Special Licence may contract a marriage on board a Barbados ship on the high seas, subject to the following conditions:

*(a)* the marriage shall be contracted in the presence of the marriage officer and of 2 or more witnesses between hours specified by the master of a Barbados ship;

*(b)* the marriage ceremony shall not take place on embarkation day or before dawn of the following day;

*(c)* on delivery of the Certificate for Marriage or Special Licence, the marriage officer shall enquire of the parties whether they wish to become man and wife, and if the parties answer in the affirmative he shall ask them: “Do you or either of you know of any lawful impediment why you should not be joined together in matrimony?”;

*(d)* in response to the question posed under paragraph *(c)*, each of the parties shall declare in the presence of the witnesses: "I do solemnly declare that I do not know of any lawful impediment why I [name of party] should not be joined in matrimony to [name of other party] here present."; and

*(e)* each of the parties shall then say to the other in the presence of the witnesses: "I call upon these persons here present to witness that I [name of party] do take you [name of other party] to be my lawful wedded wife [or husband]."

(2) A marriage officer shall not permit a marriage to be contracted before him if he knows or has reason to believe that there is any lawful impediment to the marriage or an objection to the marriage has been recorded.

(3) All marriages contracted in accordance with this Act on board Barbados ships on the high seas shall be as valid in law as if the same had been contracted in Barbados.

**Marriage in *extremis***

**13.**(1) Notwithstanding section 8, a marriage may be contracted before a marriage officer without giving notice of the intended marriage, without the issuance of a Certificate for Marriage, without the grant of a special licence, or

more than 3 months after the date of issuance of a Certificate for Marriage or Special Licence if

*(a)* the parties to the intended marriage are legally competent to marry and are at least 18 years of age;

*(b)* the marriage is contracted before a marriage officer in the presence of 2 or more witnesses; and

*(c)* either

(i) at least one of the parties to the intended marriage is, in the opinion of a medical practitioner, very ill or likely to die but still able to understand the material parts of the marriage contract; or

(ii) if there is no medical practitioner present to offer a medical opinion on the party and no time to obtain a certificate from a medical practitioner, the marriage officer hears from his observation and clearly hears the party declare before the marriage is solemnized that he or she believes that he or she will likely die before a marriage can be solemnized in accordance with sections 8 to 12; and

*(d)* the marriage ceremony does not take place on embarkation day.

(2) A marriage contracted under this section shall not operate as a revocation of any will.

**Void marriages**

**14.**(1) Without prejudice to the effect of any other law under which a marriage is void or voidable, a marriage is null and void if

*(a)* it is contracted before a person other than a marriage officer;

*(b)* the parties to the marriage are within the prohibited degrees of consanguinity or affinity under section 3 of the *Marriage Act*, Cap. 218A;

*(c)* at the time of the marriage, either party to the marriage is suffering from a mental disorder within the meaning of the *Mental Health Act, Cap. 45*;

*(d)* at the time of the marriage, either party to the marriage is under the age of 18 years;

*(e)* both parties to the marriage knowingly and wilfully acquiesce in the contracting of the marriage under a false name or names;

*(f)* both parties to the marriage knowingly and wilfully acquiesce in the contracting of the marriage without any notice being given of the marriage (where such notice is required by this Act) or without the authority of a Certificate for Marriage or Special Licence;

*(g)* the marriage is contracted in *extremis*, and both parties to the marriage knowingly and wilfully acquiesce in its being contracted without fulfilment of the conditions specified in section 13;

*(h)* either party is already legally married to another person; or

*(i)* the consent to the marriage of either person is not a legitimate consent because

(i) it was obtained by duress or fraud;

(ii) one person was mistaken as to the identity of the other person or as to the nature of the ceremony performed; or

(iii) if either party was unclear about the nature of the ceremony being performed.

(2) Subject to subsection (1), no marriage after it has been contracted is deemed to be invalid by reason of a failure to comply with any of the provisions of this Act.

**Registration of marriages**

**15.**(1) Immediately after a marriage has taken place before a marriage officer, the marriage officer shall enter in a Maritime Marriage Log Book a statement of the marriage in the prescribed form, in duplicate, signed by the marriage officer, by the parties to the marriage and by 2 witnesses of the marriage.

(2) A marriage officer shall, within the first 10 days in every month in which a marriage was solemnized, transmit all duplicate original registers made during the preceding month by him to the Registrar, who shall register the same in accordance with the *Vital Statistics Registration Act*, Cap. 192A.

(3) In the case of a marriage contracted in *extremis* under section 13(1)*(g)*

*(a)* the requirement as to the signing of the statement and the duplicate by the parties to the marriage shall be waived so far as regards any party unable to sign;

*(b)* there shall be endorsed on the statement and on the duplicate a certificate in the prescribed form, signed by the marriage officer and by any party to the marriage able to sign and by 2 witnesses of the marriage;

*(c)* the Registrar shall insert the words "in *extremis*" in the entry to be made in the Register of Maritime Marriages; and

*(d)* the relevant form set out in the *Schedule* shall be used by both parties.

(4) Any marriage officer who, without reasonable cause, fails to comply with subsection (1) is guilty of an offence and liable on summary conviction to a fine of $3 000.

**Search of Register and obtaining copies of particulars**

**16.** Any person may at any reasonable time search the entries in the Register of Maritime Marriages and may have true copies, certified by the Registrar, of all particulars recorded in any such entry.

**Registrar may require information**

**17.**(1) The Registrar may, for the purpose of completing or rectifying the registration of a marriage, require any person who is required by this Act to give a notice or statement relating to the marriage, or who may reasonably be expected to have knowledge of the facts relating to the marriage, to make any written declaration or to give any information within his knowledge relating to the marriage.

(2) The Registrar may require any such declaration or information to be made or given on oath.

**Alterations and amendments**

**18.**(1) No alteration in the Register of Maritime Marriages shall be made except as authorized by this section.

(2) A clerical error that is discovered in the Register may be corrected by the Registrar or by any person authorized by him to do so and, where a correction is made, a note to that effect shall be inserted in the Register and signed by the Registrar.

(3) Where a person applies for the correction of an error of fact or substance, the Registrar, if satisfied as to the truth of the correction, and upon payment of the prescribed fee, may make the correction in the manner set out in subsection (6).

(4) An application under subsection (3) shall be accompanied by a sworn declaration in writing setting forth the nature of the error and the facts of the case, made and signed by

*(a)* a person required to make a statement under this Act relating to the marriage to which the application relates; or

*(b)* 2 persons having knowledge of the truth of the case.

(5) Any error of form or substance in the Register may be corrected by the Registrar if he is satisfied as to the truth of the correction.

(6) A correction of fact or substance shall be made by an entry in the Register without any alteration in the original entry, and a note to that effect shall be inserted in the Register and signed by the Registrar.

## PART III

## MARRIAGE OF BARBADIAN CITIZENS ON FOREIGN SHIPS

### Definitions

**19.** For the purposes of this Part,

"diplomatic or consular officer" means an ambassador, envoy, minister, high commissioner, charged' affairs or other diplomatic representative, or a counsellor or secretary of an embassy, legation or high commission;

"foreign ship" means a ship registered in a country other than Barbados;

"marriage officer" means

*(a)* the master of a foreign ship who is licensed as a marriage officer;

*(b)* the second in command of a foreign ship who is licensed as a second or marriage officer; or

*(c)* a diplomatic or consular officer appointed by the Government of Barbados to be a marriage officer for a foreign country;

*(d)* a captain who is an appointed Justice of the Peace or a minister of religion, or otherwise authorized by statute to perform marriages at sea, and has documentation to that effect; or

*(e)* officially recognized officiant, including a notary public;

"official house" in relation to a marriage officer, means the prescribed place on a ship where the marriage officer may conduct a marriage.

**Solemnization of marriages on foreign ships**

**20.** A maritime marriage between parties one of whom is a citizen of Barbados may be solemnized before a marriage officer on a foreign ship irrespective of where that ship may be, if at the time of the marriage

*(a)* neither party to the intended marriage is legally married to another person;

*(b)* both parties are of sound mind;

*(c)* both parties are at least 18 years of age; and

*(d)* the parties are not within the degrees of prohibited relationship.

**Compliance with laws of the foreign country**

**21.**(1) A marriage referred to in section 20 shall comply with the laws of the foreign country.

(2) The marriage officer of a foreign ship may, for reasons to be recorded in writing, refuse to solemnize a marriage under this Act if

*(a)* the intended marriage is prohibited by a law in force in the foreign country where it is to be solemnized; or

*(b)* in his opinion, the solemnization of the marriage would be inconsistent with international law or the comity of nations.

**Declaration by parties and witnesses**

**22.** Before a marriage is solemnized under section 20, the parties and 2 witnesses shall, in the presence of the marriage officer, sign a declaration in the prescribed form specified and countersigned by the marriage officer.

**Place and form of solemnization**

**23.**(1) A marriage before a marriage officer under section 20 shall be solemnized at the official house of the marriage officer between the hours prescribed by the ship master and in the presence of at least 2 witnesses.

(2) A marriage may be solemnized in any form that the parties may choose to adopt, provided that it shall not be complete and binding on the parties unless each party declares to the other in the presence of the Marriage Officer and the 2 witnesses, and in a language understood by the parties, that "I, (name of party) take (name of other party), to be my lawful wife (or husband)".

(3) Where the declaration referred to in subsection (2) is made in any language that is not understood by the marriage officer or by any of the witnesses, either of the parties or another person shall interpret the declaration in a language that the marriage officer or witness understands.

**Certificate of marriage**

**24.**(1) Whenever a marriage is solemnized under this Act, the marriage officer shall enter a certificate of the marriage, in the prescribed form and signed by the parties to the marriage and the 2 witnesses, in a Marriage Certificate Book to be kept by him for that purpose.

(2) A certificate entered in the Marriage Certificate Book by the marriage officer is deemed to be conclusive evidence of the fact that a marriage under this Act has been solemnized, and that all formalities respecting the residence of the parties to the marriage and the signatures of witnesses have been complied with.

**Validity of foreign marriages in Barbados**

**25.** A marriage solemnized under section 20 is good and valid in law.

**New notice when marriage not solemnized within 3 months**

**26.** If a marriage under section 20 is not solemnized within 3 months after

*(a)* the date on which notice of it has been given to the marriage officer as required under section 27;

*(b)* where the record of a case has been transmitted to the Government of Barbados under section 38(2), the date of decision of the Government of Barbados in the case; or

*(c)* where an appeal has been preferred to the Government of Barbados under section 39, the date of decision of the Government of Barbados in the appeal,

the notice and all other proceedings arising from it is deemed to have lapsed, and no marriage officer shall solemnize the marriage until a new notice has been given in accordance with section 27.

**Notice of intended marriage**

**27.** When a marriage is intended to be solemnized under this Act, the parties to the marriage shall give notice of it in writing, in the prescribed form, to the marriage officer of a ship registered in the place in which at least one of the parties to the marriage has resided and on which the marriage is intended to take place for a period of not less than 30 days immediately preceding the date on which the notice is given, and the notice shall state that the party has so resided.

**Marriage Notice Book**

**28.**(1) The marriage officer shall keep all notices given under section 27 with the records of his office, and without delay enter a copy of every such notice in a Marriage Notice Book prescribed for that purpose.

(2) A Marriage Notice Book shall be open for inspection by any person at all reasonable times, without fee.

**Publication of notice**

**29.** Where a notice under section 27 is given to a marriage officer, he shall publish it

*(a)* in his own office, by affixing a copy of it in a conspicuous place and on the internet; and

*(b)* in Barbados and in the country or countries in which the parties are ordinarily resident, in the prescribed manner.

**Objection to marriage**

**30.**(1) Any person may, within 30 days from the date of publication of a notice under section 29, object to the marriage on the ground that it would contravene one or more of the conditions specified in section 20.

(2) An objection under subsection (1) shall be in writing and signed by the person making it, or by any person duly authorized to sign on his behalf, and shall state the ground for the objection.

(3) The Marriage Officer shall record the nature of any such objection in his Marriage Notice Book.

**Solemnization of marriage where no objection made**

**31.** If no objection to an intended marriage is made within the period specified in section 30, the marriage may be solemnized on the expiry of that period.

**Procedure on receipt of objection**

**32.**(1) If an objection to an intended marriage is made under section 30, the marriage officer shall not solemnize the marriage until he has inquired into the matter of the objection and is satisfied that it should not prevent the solemnization of the marriage or until the objection is withdrawn by the person making it.

(2) Where a marriage officer, after making an inquiry, entertains a doubt in respect of an objection, he shall transmit the record, together with any such statement respecting the matter as he thinks fit, to the Minister responsible for Marital Affairs.

(3) The Minister, after making such further inquiry into the matter, shall give his decision on it in writing to the marriage officer, who shall act in conformity with that decision.

## PART IV

## REGISTRATION OF FOREIGN MARRIAGES

### Registration of foreign marriages

**33.**(1) A marriage officer may, upon payment of the prescribed fee, register a marriage between parties one of whom is a citizen of Barbados that was solemnized on a ship in a foreign country if

*(a)* the marriage officer is satisfied that the marriage was duly solemnized in accordance with the law of that country; and

*(b)* a party to the marriage informs the marriage officer in writing that he or she desires the marriage to be registered under this section.

(2) No marriage shall be registered under this section unless at the time of registration it satisfies the conditions referred to in section 20.

(3) A marriage officer may, for reasons recorded in writing, refuse to register a marriage under this section on the ground that in his opinion the marriage is inconsistent with international law or the comity of nations.

(4) Where a marriage officer refuses to register a marriage under this section, the party applying for registration may appeal to the Minister in the prescribed manner within a period of 30 days from the date of the refusal.

(5) On receipt of the decision of the Barbados Government on such an appeal, the marriage officer shall act in conformity with the decision.

(6) A marriage officer shall register a marriage under this section by entering a certificate of the marriage signed by the parties to the marriage and by 2 witnesses, in the prescribed form and in the prescribed manner in the Marriage Certificate Book.

(7) A marriage registered under this section shall, as of the date of registration, be deemed to have been solemnized under this Act.

**Recognition of foreign maritime marriages**

**34.** If the Barbados Government is satisfied that the law for the solemnization of marriages in force in a foreign country in whose waters a marriage occurred on board a ship contains provisions similar to, or compatible with those contained in the Act, it may, by notification in the *Official Gazette*, declare that marriage solemnized under the law in force in that foreign country shall be recognized by courts in Barbados as valid.

**Certification of documents of foreign maritime marriages**

**35.**(1) Where

*(a)* a marriage between parties of whom at least one is a citizen of Barbados is solemnized in accordance with the law of a foreign country on a ship in that country specified by the Minister by notification in the *Official Gazette*; and

*(b)* a party to the marriage who is such a citizen produces to a marriage officer in the country in which the marriage was solemnized

(i) a copy of the entry in respect of the marriage in the marriage register of that country certified by the appropriate authority in that country to be a true copy of that entry; and

(ii) if the copy of that entry is not in the English language, a notarized translation into English of that copy; and

*(c)* the marriage officer is satisfied that the copy of the entry in the marriage register is a true copy and that any translation is a true translation,

the marriage officer, upon the payment of the prescribed fee, shall certify upon the copy that he is satisfied that it is a true copy of the entry in the marriage register and upon the translation that he is satisfied that the translation is a true translation of the copy and shall issue the copy and the translation to that party.

(2) A document relating to a marriage in a foreign country issued under subsection (1) shall be admitted in evidence in any proceedings as if it were a certificate duly issued by the appropriate authority of that country.

**Certified copies to be evidence**

**36.** A certified copy purporting to be signed by a marriage officer of an entry of a marriage in the Marriage Certificate Book shall be received in evidence without production or proof of the original.

**Correction of errors**

**37.**(1) A marriage officer who discovers an error in the form or substance of an entry in the Marriage Certificate Book may, within one month after the discovery of the error, in the presence of the persons married or, in case of their death or absence, in the presence of 2 other witnesses, correct the error by an entry in the margin, without any alteration of the original entry, and add to it the date of the correction.

(2) Every correction made under this section shall be attested to by the witnesses in whose presence it was made.

**Act not to affect validity of marriages outside it**

**38.** Nothing in this Act shall in any way affect the validity of a marriage solemnized in a foreign country otherwise than under this Act.

**Marriages on board foreign ships in Barbados waters**

**39.**(1) The provisions applicable to marriages of Barbados citizens on board ships in the waters of a foreign country apply to marriages on board foreign ships in Barbados waters, irrespective of nationality of the parties to the marriage, except where expressly provided otherwise in regulations made under this Act.

(2) Where the master or his second in command is not licensed to officiate marriages in accordance with this Act, an intended couple wishing to have a marriage ceremony on board ship shall leave the ship, have their marriage formalized in a magistrate court in Barbados or by a duly appointed marriage officer, and then rejoin the ship for the ceremony.

(3) A marriage ceremony in a Barbados seaport shall take place in accordance with any specific requirements of the port, as specified in a Marine Notice issued by the port authority.

**Marriage not to contravene the laws of Barbados**

**40.**(1) A marriage referred to in section 39 shall be conducted in accordance with the laws of Barbados.

(2) The marriage officer of a foreign ship may, for reasons to be recorded in writing, refuse to solemnize a marriage under this Act if

*(a)* the intended marriage is prohibited by any law in force in Barbados;

*(b)* in his opinion, the solemnization of the marriage would be inconsistent with international law or the comity of nations.

PART V

OFFENCES

**Offences**

**41.**(1) A person commits an offence if the person

*(a)* knowingly and wilfully authorizes or conducts the contracting of a marriage on a ship and is not a licensed marriage officer or otherwise authorized in law to perform a marriage; or

*(b)* authorizes or conducts the contracting of a marriage, knowing that the marriage is void on any ground or knowing that it is an irregular marriage.

(2) A person who is a party to a marriage commits an offence if the person knows that the marriage is void on any ground and that the other party to the marriage believes it to be valid.

(3) A person commits an offence if the person

*(a)* impersonates another person in marriage or marries under a false name or description, with intent to deceive the other party to the marriage;

*(b)* in any declaration, notice, statement, certificate, entry, licence or document required by this Act to be made, given or issued for the purposes of a marriage, declares, states or certifies any material matter that he knows to be false; or

*(c)* aids in the commission of any offence under this section.

(4) A person who commits an offence under any of subsections (1) to (3) is liable on conviction on indictment to imprisonment for 4 years.

(5) Without prejudice to the effect of subsections (2) or (3)*(a)*, a person

*(a)* who is a party to a marriage knowing that it is void on any ground or knowing that it is an irregular marriage;

*(b)* who marries under a false name or description; or

*(c)* who aids another person to do so,

is guilty of an offence and liable on conviction on indictment to imprisonment for 2 years or to a fine of $20 000, or to both.

(6) Without prejudice to subsection (3)*(b)*, any person who in any declaration, notice, statement, certificate, entry, licence or document required by this Act to be made, given or issued for the purposes of a marriage, declares, states or certifies a material matter that is false without having reasonable grounds for believing it to be true is guilty of an offence and liable on conviction on indictment to imprisonment for one year or a fine of $10 000, or to both.

(7) Any person who attempts to prevent a marriage by a pretence that

*(a)* his assent to it is required by law;

*(b)* a person whose consent is so required does not consent; or

*(c)* there is a legal impediment to the marriage,

if he does so knowing that the pretence is false or has no reason to believe that it is true, is guilty of an offence and liable on conviction on indictment to imprisonment for 2 years or a fine of $20 000, or to both.

(8) For the purpose of this section,

"irregular marriage" means a marriage, other than a void marriage or a marriage in *extremis*, that is contracted

*(a)* without any notice required by this Act having been given of the marriage;

*(b)* without the authority of a Certificate for Marriage or a Special Licence;

*(c)* after the expiration of 3 months from the date of the issuance of a Certificate for Marriage or the grant of a Special Licence;

*(d)* before the removal of a caveat entered against the issuance of a Certificate for Marriage; or

*(e)* without consent to the marriage of either party to the marriage.

(9) A prosecution under this section shall not be instituted without the written consent of the Director of Public Prosecutions.

## PART VI

## MISCELLANEOUS

### Register as evidence of marriage

**42.** Every entry in the Register of Maritime Marriages, and every copy of any such entry purporting to be certified as a true copy by the Registrar, shall be received in all courts and in all proceedings as evidence of the marriage to which the entry relates.

### Use of foreign language

**43.** Where a party to a marriage does not speak English, the statements and declarations required by this Act to be used in contracting the marriage shall, so far as they affect or are to be used by him or her, be made in the language that he or she commonly uses.

### Oaths

**44.** For the purposes of this Act,

*(a)* the Registrar is authorized to administer any oath;

*(b)* a declaration may be sworn in Barbados before, and subscribed by, a Justice of the Peace, a Commissioner for taking affidavits in the Supreme Court; or any person authorized to administer oaths in Barbados;

*(c)* where a declaration is sworn or an oath is made outside Barbados, it may be sworn before, and subscribed by, a magistrate, notary public or other person or authority authorized to administer oaths.

**Electronic recording of information**

**45.** The information contained in any register, book or other document required to be kept by the Registrar may be recorded and kept in electronic form or such other form as he thinks fit, so long as it is possible to inspect the information and to produce a copy of it in legible form.

**Fees**

**46.**(1) There shall be payable to the Registrar such fees as may be prescribed by the Minister in relation to the performance by the Registrar of any function under this Act or any matter incidental to the performance of any such function.

(2) There shall be payable to the Minister such fees as may be prescribed by him in relation to the performance by him of any function under this Act or any matter incidental to the performance of any such function.

**Licensing of foreign ship captains as marriage officers**

**47.**(1) A captain or the second in command of a foreign ship may apply to the Ministry of Home Affairs for a license issued pursuant to sections 4 or 5.

(2) The license may be used to conduct marriages aboard the foreign ship anywhere in Barbados waters.

**Varying, suspension or revocation of license**

**48.** The Minister may vary, suspend or revoke any license issued pursuant to this Act.

**License terms and conditions**

**49.** A license issued under this Act may be accompanied by such terms and conditions as may be specified by the Minister.

**Marriage ceremonies on yachts**

**50.** The provisions in this Act applicable to marriages on board ships, apply *mutatis mutandis* to marriages on board yachts.

**Marriage ceremonies on vessels registered under the Shipping (Domestic Vessels) Act**

**51.** Except where expressly provided otherwise by statutory instrument, the provisions in this Act apply *mutatis mutandis* to marriages on board vessels registered under the *Shipping (Domestic Vessels) Act, 2024* (Act 2024-22).

**Application of Act to marriages involving seafarers**

**52.** Except where expressly provided otherwise by statutory instrument, the provisions in this Act apply to marriages in which one or both of the parties are seafarers on board a Barbados ship or seafarers on board a foreign ship in Barbados waters.

**Rules**

**53.** The Minister may make rules for carrying into effect the provisions of this Act.

**Power to make regulations**

**54.** The Minister may make regulations generally to give effect to this Act.

**SCHEDULE**

*(Section 15(3)(d))*

*Merchant Shipping (Maritime Marriage) Act, 2024*
(Act 2024- )

FORM S

Part A

*Certificate for the Solemnization of a Marriage in extremis*

I, _____ Registered Medical Practitioner having been in attendance on _____ of _____ in the parish of _____ hereby certify that the said _____ is very ill and likely to die.

Dated this _____ day of _____, 20 ____.

_____
*Registered Medical Practitioner*

*Schedule - (Concl'd)*

*Merchant Shipping (Maritime Marriage) Act, 2024*
(Act 2024- )

Part B

*Certificate for the Solemnization of a Marriage in extremis*

I, _____ , Marriage Officer/Magistrate being of the opinion that it is impossible to obtain a medical certificate from the medical practitioner who has been in attendance on, _____*/_____there having been no medical practitioner in attendance on,_____* from my own observation being of the opinion that _____ of _____ in the parish of_____ is very ill and likely to die, and he/she having declared that he/she believes that he/she is at the point of death do solemnize a marriage between the said_____ and_____ of_____ in the parish of_____.

_____
*Marriage Officer/Magistrate for District ( )*

*Delete where inappropriate.

Read three times and passed the House of Assembly this day of , 2024.

**Speaker**

Read three times and passed the Senate this day of , 2024.

**President**

MERCHANT SHIPPING (MULTIMODAL TRANSPORT) ACT, 2024

## OBJECTS AND REASONS

This Bill will make provision for

*(a)* the regulation of the carriage of goods by sea when combined with other modes of transport; and

*(b)* the support and promotion of maritime-connected multimodal transport.

# MERCHANT SHIPPING (MULTIMODAL TRANSPORT) ACT, 2024

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**BARBADOS**

A Bill entitled

An Act to regulate the carriage of goods by sea when combined with other modes of transport and to support and promote maritime-connected multimodal transport;

ENACTED by the Parliament of Barbados as follows:

PART I

PRELIMINARY

**Short title**

**1.** This Act may be cited as the *Merchant Shipping (Multimodal Transport) Act, 2024*.

**Interpretation**

**2.** In this Act,

"Barbados Maritime Single Window" has the meaning assigned to it under the *Facilitation of International Maritime Traffic Act, 2024* (Act 2024-2);

"Barbados Port Inc." means the company incorporated under the *Companies Act* and referred to in the *Barbados Port Inc. (Transfer of Management and Vesting of Assets) Act*, Cap. 285B;

"carrier" means a person who enters into a contract of carriage with a shipper;

"Chief Executive Officer" means the Chief Executive Officer of the Barbados Port Inc.;

"competent court" means a court in the jurisdiction of the parties to a multi-modal transport contract that may exercise jurisdiction over the dispute according to the rules on the internal allocation of jurisdiction among the courts of those states;

"consignee" means a person entitled to delivery of goods under a contract of carriage, transport document or electronic transport record;

"container" includes a transportable tank or flat, swap-body, or a similar unit load used to consolidate goods, and any equipment ancillary to such a unit load;

"contract of carriage" means a contract in which a carrier, against the payment of freight, undertakes to carry goods from one place to another by sea, or by sea and any additional mode of transport;

"contract particulars"means information relating to the contract of carriage or to the goods (including terms, notations, signatures and endorsements) that is in a transport document or an electronic transport record;

"contracting party" means a party to a multimodal transport contract of carriage;

"controlling party" means a person identified in section 61 who is entitled to exercise the right of control under section 60;

"delivery" means

*(a)* in the case of a negotiable transport document, delivering of the consignment to, or placing the consignment at the disposal of, the consignee or any other person entitled to receive it;

*(b)* in the case of a non-negotiable transport document, delivering of the consignment to, or placing the consignment at the disposal of, the consignee or any person authorised by the consignee to accept delivery of the consignment on his behalf;

"documentary shipper" means a person, other than the shipper, who accepts to be named as a shipper in a transport document or electronic transport record;

"domicile" means

*(a)* the place where a company or other legal person or association of natural or legal persons has its

(i) statutory seat, place of incorporation or central registered office;

(ii) central administration; or

(iii) principal place of business; or

*(b)* the habitual residence of a natural person;

"electronic communication" means communication generated, sent, received or stored by electronic, optical, digital or similar means that is accessible or retrievable for subsequent reference;

"electronic transport record" means information in one or more messages issued by electronic communication under a contract of carriage by a carrier, including information logically associated with the electronic transport record by attachments or otherwise linked to the electronic transport record contemporaneously with or subsequent to its issuance by the carrier, that

*(a)* evidences the carrier's or a performing party's receipt of goods under a contract of carriage;

*(b)* evidences or contains a contract of carriage;

"endorsee" means the person in whose favour an endorsement is made, and in the case of successive endorsements, the person in whose favour the last endorsement is made;

"endorsement" means the signing by the consignee or the endorsee after adding a direction on a negotiable transport document to pass the property in the goods mentioned in such document to a specified person;

"freight" means the remuneration payable to the carrier for the carriage of goods under a contract of carriage;

"goods" means the wares, merchandise and other articles that a carrier undertakes to carry under a contract of carriage, and includes the packing and any equipment or container not supplied by or on behalf of the carrier;

"Hague Rules" means the International Convention for the Unification of Certain Rules of Law relating to Bills of Lading, 1924;

"Hague-Visby Rules" means the International Convention for the Unification of Certain Rules of Law relating to Bills of Lading, 1924, as amended by the Brussels Protocols of 1968 and 1979, respectively;

"Hamburg Rules" means the United Nations Convention on the Carriage of Goods by Sea, 1978;

"holder" means

*(a)* a person who is in possession of a negotiable transport document and

(i) if the document is an order document, is identified in it as the shipper or the consignee or is the person to whom the document is duly endorsed; or

(ii) if the document is a blank endorsed order document or bearer document, is the bearer of it; or

*(b)* a person to whom a negotiable electronic transport record has been issued or transferred in accordance with the procedures referred to in section 19;

"issuance" in relation to a negotiable electronic transport record, means the issuance of the record in accordance with procedures that ensure that the record is subject to exclusive control from its creation until it ceases to have any effect or validity;

"liner transportation" means a transportation service that is offered to the public through publication, and includes transportation by ships operating on a regular schedule between specified ports in accordance with publicly available timetables of sailing dates;

"maritime multimodal logistic park" means a freight-handling facility or group of freight-handling facilities with maritime and other modes of transport access, which operate to improve the freight logistics sector by

*(a)* lowering overall freight costs and time;

*(b)* reducing warehouse costs;

*(c)* reducing vehicular pollution and congestion; and

*(d)* enhancing tracking and traceability of consignments through infrastructural, procedural, and information technology interventions;

"maritime performing party" means a performing party that performs, or undertakes to perform, any of the carrier's obligations during the period

between the arrival of goods at the port of loading of a ship and their departure from the port of discharge of a ship, and includes an inland carrier that performs, or undertakes to perform, its services exclusively within a port area;

"Minister" means Minister responsible for Shipping;

"mode of transport" means carriage of goods by road, rail, air, inland waterways or sea;

"multimodal transport" means the transport of goods under a single contract, but performed with more than one mode of transport, one of which includes transport by sea;

"multimodal transport operator" means any person who

*(a)* concludes a multimodal transport contract on his own behalf or through another person acting on his behalf;

*(b)* acts as principal, and not as an agent either of the sender or consignee or of the carrier participating in the multimodal transportation, and who assumes responsibility for the performance of the said contract; and

*(c)* is otherwise generally engaged in multimodal transport activities; or

*(d)* is a person falling under paragraph *(a)*, *(b)* or *(c)*, and is also registered in the Register of Multimodal Transport Operators;

"negotiable electronic transport record" means an electronic transport record

*(a)* that indicates, by wording such as "to order", "negotiable" or other wording recognized as having the same effect by the law applicable to the record, that the goods have been consigned to the order of a shipper or consignee, and is not explicitly stated as being "non-negotiable" or "not negotiable"; and

*(b)* the use of which meets the requirements of section 19;

"negotiable transport document" means a transport document that indicates, by wording such as "to order", "negotiable" or other wording recognized as

having the same effect by the law applicable to the document, that the goods have been consigned to the order of the shipper, to the order of the consignee, or to bearer, and is not explicitly stated as being "non-negotiable" or "not negotiable";

"non-liner transportation" means transportation that is not liner transportation;

"non-negotiable electronic transport record" means an electronic transport record that is not a negotiable electronic transport record;

"non-negotiable transport document" means a transport document that is not a negotiable transport document;

"performing party" means a person, other than a carrier, who performs or undertakes to perform a carrier's obligations under a contract of carriage with respect to the receipt, loading, handling, stowage, carriage, keeping, care, unloading or delivery of goods, if the person acts, directly or indirectly, at the carrier's request or under the carrier's supervision or control, but does not include a person who is retained, directly or indirectly, by a shipper or documentary shipper, by the controlling party or by a consignee instead of by the carrier;

"right of control" in relation to goods, means the right under a contract of carriage of the goods to give the carrier instructions in respect of the goods in accordance with section 60;

"sender" means the party sending a shipment to be delivered whether by land, sea or air;

"ship" means a vessel used to carry goods by sea;

"shipper" means a person who enters into a contract of carriage with a carrier;

"transfer" in relation to a negotiable electronic transport record, means the transfer of exclusive control over the record;

"transport document" means a document issued by a carrier under a contract of carriage that

*(a)* evidences the carrier's or a performing party's receipt of goods under the contract of carriage; or

*(b)* evidences or contains a contract of carriage;

"vehicle" means a road or railroad cargo vehicle; and

"volume contract" means a contract of carriage that provides for the carriage of a specified quantity of goods, a minimum or maximum quantity, or a quantity within a specified range, in a series of shipments during an agreed period of time.

**Purpose**

**3.** The purpose of this Act is to provide the regulatory environment for the carriage of goods wholly or partly by sea, and to support and promote maritime-connected multimodal transport.

**Conditions where delay in delivery applies**

**4.** For the purposes of this Act, a delay in delivery is deemed to occur when goods have not been delivered within the agreed time-limit or when, failing an agreed time limit, the actual duration of the carriage having regard to the circumstances of the case and, in the case of partial loads, the time required for making up a complete load in the normal way, exceeds the time it would be reasonable to allow a diligent carrier.

**Time limit as evidence of loss of goods**

**5.** For the purposes of this Act, the fact goods have not been delivered within 30 days following the expiry of an agreed time limit or, if there is no agreed time limit, within 60 days from the time when the carrier took over the goods, is conclusive evidence of the loss of the goods, and the person entitled to make a claim may then treat them as lost.

**Act binds the State**

**6.** This Act shall bind the State.

**Application**

**7.**(1) Except where expressly provided otherwise, this Act applies to contracts of carriage in which the place of receipt and the place of delivery are in different states, and the port of loading of a sea carriage and the port of discharge of the same sea carriage are in different states, if, according to the contract of carriage, any one of the following places is located in a state of the contracting party:

*(a)* the place of receipt;

*(b)* the port of loading;

*(c)* the place of delivery; or

*(d)* the port of discharge.

(2) This Act applies without regard to the nationality of the vessel, the carrier, the performing parties, the shipper, the consignee or any other interested parties.

**Application of CMI multimodal transport rules**

**8.** Subject to any regulations or orders made under this Act, the multimodal transport rules adopted by the Comité Maritime International shall apply and shall be complied with as far as reasonably practical.

**Application of UNCTAD and UNCITRAL multimodal transport rules**

**9.** Subject to any regulations or orders made under this Act

*(a)* the multimodal transport rules adopted by the United Nations Conference on Trade and Development shall apply and shall be complied with as far as reasonably practical; and

*(b)* any multimodal transport rules adopted by the United Nations Commission on International Trade Law shall apply and shall be complied with as far as reasonably practicable.

**Application of the Carriage of Goods by Sea Act**

**10.**(1) The *Hague Rules*, as implemented by the *Carriage of Goods by Sea Act*, Cap. 307 are applicable only to contracts of carriage covered by a bill of lading or another similar document of title insofar as the document relates to the carriage of goods by sea.

(2) The *Carriage of Goods by Sea Act*, Cap. 307 shall not apply to multimodal transport contractual agreements, as the *Hague Rules* as incorporated into that Act do not support multimodal carriage.

**Specific exclusions**

**11.**(1) This Act does not apply to the following contracts in liner transportation:

*(a)* charter parties; and

*(b)* other contracts for the use of a ship or of any space on it.

(2) This Act does not apply to contracts of carriage in non-liner transportation, except when

*(a)* there is no charter-party or other contract between the parties for the use of a ship or of any space on it; and

*(b)* a transport document or an electronic transport record is issued.

**Application to certain parties**

**12.**(1) Notwithstanding section 11, this Act applies to a carrier, consignee, controlling party or holder that is not an original party to a charter-party or other contract of carriage that is excluded from the application of this Act.

(2) This Act does not apply to the original parties to a contract of carriage that is excluded under section 11.

**Administration and the Multimodal Transport Plan**

**13.**(1) This Act shall be administered by Barbados Port Inc.

(2) The Barbados Port Inc. shall develop and implement a Multimodal Transport Plan to ensure

*(a)* smooth and efficient carriage of goods by sea when combined with other modes of transport;

*(b)* proper regulation and management of the multimodal transportation of goods, from any place in Barbados to a place outside Barbados, on the basis of a multimodal transport contract;

*(c)* the facilitation of importers and exporters and enhanced security in transport of their goods by different modes of transport;

*(d)* the support and promotion of maritime-connected multimodal transport; and

*(e)* effective management of multimodal transport related matters.

(3) The multimodal transport plan shall be developed based on

*(a)* the best available multimodal transport sector data;

*(b)* international best practices in the realm of maritime- connected maritime transport; and

*(c)* inputs from stakeholders.

(4) The multimodal transport plan

*(a)* shall be developed and implemented, subject to the approval of the Minister within 2 years after the entry into force of this Act;

*(b)* shall not take effect unless notice of the approval of the plan is published in the *Official Gazette*;

*(c)* shall be reviewed no later than 5 years after notice of its approval is published in the *Official Gazette*;

*(d)* may be withdrawn where the Minister, after consultation with the Chief Executive Officer, considers it necessary to do so and the plan shall cease to have effect when the notice of its withdrawal is published in the *Official Gazette*;

*(e)* shall, where withdrawn under paragraph *(d)*, be replaced with a new plan subject to the approval of the Minister and to publication in the *Official Gazette.*

## PART II

## TRADE AND MULTIMODAL TRANSPORT

### Trade Liberalization and Multimodal Transport

**14.**(1) Article 109 of the CARIFORUM-EU EPA shall be applied in respect of international maritime transport activities, including multimodal transport.

(2) The Minister may by notice published in the *Official Gazette* issue a maritime trade facilitation directive in relation to affairs concerning international maritime transport services, to ensure continued and effective regulation of such services, as well as to ensure liberalization of such services, in accordance with Article 109 CARIFORUM-EU EPA.

(3) "CARIFORUM-EU EPA" means the economic partnership agreement between CARIFORUM and the European Union, signed in Barbados on October 15, 2008 and ratified on July 27, 2015.

**Maritime Multimodal Logistics Park Scheme**

**15.**(1) There is established a Maritime Multimodal Logistics Parks Scheme to improve shipping and logistics in Barbados in the domains of

*(a)* economy;

*(b)* trade facilitation;

*(c)* efficiency, technology and innovation;

*(d)* environment; and

*(e)* people development and opportunity creation.

(2) The Maritime Multimodal Logistics Parks Scheme shall be managed by Barbados Port Inc.

(3) A Maritime Multimodal Logistics Park may be established as

*(a)* a freight-handling facility, with

(i) various modes of transport access;

(ii) mechanized warehouses;

(iii) specialized cargo storage solutions;

(iv) facilities mechanized for material handling;

(v) intermodal transfer container terminals;

(vi) bulk and break-bulk cargo terminals;

(vii) other amenities to support shipping and logistics; or

*(b)* a series of frieght-handling facilities working as a group to collectively provide the services specified at subsection (3)*(a)* to various stakeholders in the multimodal transport value chain.

**Multimodal Transport Operators**

**16.**(1) Barbados-based companies providing transportation services for goods using multiple modes of transportation, as part of a multimodal transport contract, shall register in accordance with section 17 in order to participate in, and benefit from, the Maritime Multimodal Logistics Parks Scheme.

(2) Registration fees paid by multimodal transport operators shall be allocated towards maintaining the Maritime Multimodal Logistics Parks Scheme.

(3) Nothing in this section shall be construed to mean that a person not registered in the Maritime Multimodal Logistics Parks Scheme is prohibited from engaging in multimodal transport activities.

**Registration of Multimodal Transport Operators**

**17.**(1) A person may apply for registration to the Chief Executive Officer to join the Maritime Multimodal Logistics Parks Scheme.

(2) An application under subsection (1) shall be made in such form as may be specified by the Chief Executive Officer and shall be accompanied by

*(a)* a fee specified by Barbados Port Inc.; and

*(b)* any other information as may be requested by the Chief Executive Officer.

(3) On receipt of application for registration in the Register of Multimodal Transport Operators, the Chief Executive Officer shall ensure that the applicant satisfies the following conditions:

*(a)* that the applicant is a company engaged either in the business of shipping, or freight forwarding in Barbados or a country other than Barbados;

*(b)* that the applicant is a company which does not fall into the category of shipping company or freight-forwarding company, but is desirous of engaging in the business of multimodal transport;

*(c)* the applicant has offices, agents or representatives in not less than two other countries besides Barbados.

(4) Where the conditions set out in subsection (3) are satisfied, the Chief Executive Officer shall register the applicant in the Register of Multimodal Transport Operators.

(5) An applicant who is not a resident of Barbados shall not be granted registration unless

*(a)* he has a place of business in Barbados; or

*(b)* he has an agent based in Barbados acting on his behalf.

(6) Multimodal Transport Operator Certificate of Registration shall be issued to an applicant upon registration by the Chief Executive Officer.

(7) The Multimodal Transport Operator Certificate of Registration is valid throughout its lifetime, subject to payment of annual Maritime Multimodal Logistics Parks Scheme participant fees, as specified by Barbados Port Inc.

(8) In setting fees pursuant to subsection (7), Barbados Port Inc. shall

*(a)* take into account the purpose of the fees; and

*(b)* consult with relevant stakeholders.

(9) Barbados Port Inc. shall not vary fees referred to in subsection (7) without consultation with participants in the Maritime Multimodal Logistics Parks Scheme.

(10) The Chief Executive Officer shall renew the Multimodal Transport Operator Certificate of Registration if the applicant continues to fulfil the registration conditions.

(11) The Chief Executive Officer may where

*(a)* any statement in, or in relation to, any application for registration under this section or its renewal is incorrect or false in any material particular;

*(b)* any of the provisions of this Act or statutory instruments made thereunder has been contravened by the multimodal transport operator; or

*(c)* the multimodal transport operator has not entered into any multimodal transport contract during the preceeding 2 years after his registration, cancel the certificate of registration and shall inform the multimodal transport operator in writing of his decision.

(12) Where the Chief Executive Officer has cancelled the registration of a multimodal transport operator under subsection (11), he shall remove the particulars of that operator from the Register of Multimodal Transport Operators.

(13) A person who is aggrieved by a decision made by the Chief Executive Officer under subsection (11) may appeal to a judge in chamber within 14 days of receipt of the decision.

(14) The Minister may by regulations or a maritime trade facilitation directive provide for further matters in respect of maritime multimodal logistics parks.

## PART III

## ELECTRONIC TRANSPORT RECORDS

**Use and effect of electronic transport records**

**18.** Subject to the requirements set out in this Act

*(a)* anything that is required by this Act to be in a transport document may be recorded in an electronic transport record, if the issuance and subsequent use of an electronic transport record by persons not acting in an official governmental or similar capacity is with the consent of the carrier and the shipper; and

*(b)* the issuance, exclusive control or transfer of an electronic transport record has the same effect as the issuance, possession or transfer of a transport document.

**Procedures for use of negotiable electronic transport records**

**19.** The use of a negotiable electronic transport record shall be subject to procedures, set out in the contract, that provide for

*(a)* the method for the issuance and the transfer of the record to an intended holder;

*(b)* an assurance that the negotiable electronic transport record retains its integrity;

*(c)* the manner in which the holder is able to demonstrate that he is the holder; and

*(d)* the manner of providing confirmation that delivery to the holder has been effected.

**Replacement of negotiable transport document or electronic transport record**

**20.**(1) If a negotiable transport document has been issued and the carrier and the holder agree to replace that document by a negotiable electronic transport record

*(a)* the holder shall surrender the negotiable transport document, or all of them if more than one has been issued, to the carrier;

*(b)* the carrier shall issue to the holder a negotiable electronic transport record that includes a statement that it replaces the negotiable transport document; and

*(c)* the negotiable transport document then ceases to have any effect or validity.

(2) If a negotiable electronic transport record has been issued and the carrier and the holder agree to replace that electronic transport record by a negotiable transport document

*(a)* the carrier shall issue to the holder, in place of the electronic transport record, a negotiable transport document that includes a statement that it replaces the negotiable electronic transport record; and

*(b)* the electronic transport record then ceases to have any effect or validity.

## PART IV

## OBLIGATIONS OF THE CARRIER

### Carriage and delivery of the goods

**21.** A carrier shall, subject to this Act and in accordance with the terms of the contract of carriage, carry the goods to the place of destination and deliver them to the consignee.

### Period of responsibility of the carrier

**22.**(1) Subject to subsections (2) and (3), the period of responsibility of the carrier for goods under this Act begins when the carrier or a performing party receives the goods for carriage and ends when the goods are delivered.

(2) If the law of the place of receipt of goods requires the goods to be handed over to an authority or other third party from which the carrier may collect them, the period of responsibility of the carrier begins when the carrier collects the goods from the authority or other third party.

(3) If the law of the place of delivery of goods requires the carrier to hand over the goods to an authority or other third party from which the consignee may collect them, the period of responsibility of the carrier ends when the carrier hands the goods over to the authority or other third party.

(4) For the purpose of determining the carrier's period of responsibility, the parties may agree on the time and location of receipt and delivery of the goods, but a provision in a contract of carriage is void to the extent that it provides that

*(a)* the time of receipt of the goods is subsequent to the beginning of their initial loading under the contract of carriage; or

*(b)* the time of delivery of the goods is prior to the completion of their final unloading under the contract of carriage.

**Specific obligations**

**23.**(1) A carrier of goods shall, during the period of its responsibility specified in section 22 and subject to section 36, properly and carefully receive, load, handle, stow, carry, keep, care for, unload and deliver the goods.

(2) Notwithstanding subsection (1), and without prejudice to the other provisions in this Part and Parts V to VII, a carrier and a shipper may agree, by contract, that the loading, handling, stowing or unloading of goods is to be performed by the shipper, a documentary shipper or a consignee.

**Specific obligations applicable to the voyage by sea**

**24.** A carrier is bound before, at the beginning of, and during a voyage by sea to exercise due diligence to

*(a)* make and keep the carrier's ship seaworthy;

*(b)* properly crew, equip and supply the ship and keep the ship properly crewed, equipped and supplied throughout the voyage; and

*(c)* make and keep the holds and all other parts of the ship in which the goods are carried, and any containers supplied by the carrier in or upon which the goods are carried, fit and safe for their reception, carriage and preservation.

**Goods that may become a danger**

**25.** Notwithstanding sections 16 and 18, a carrier or a performing party may decline to receive or load goods, and may take such other measures as are reasonable, including unloading, destroying or rendering goods harmless, if the goods are, or reasonably appear likely to become during the carrier's period of responsibility, a danger to persons, property or the environment.

**Sacrifice of the goods during the voyage by sea**

**26.** Notwithstanding sections 16, 18 and 19, a carrier or a performing party may sacrifice goods at sea when the sacrifice is reasonably made for the common safety or for the purpose of preserving from peril human life or other property involved in the common adventure.

## PART V

## LIABILITY OF THE CARRIER FOR LOSS, DAMAGE OR DELAY

**Basis of liability**

**27.**(1) A carrier of goods is liable for loss of or damage to the goods, or for a delay in delivery, if the claimant proves that the loss, damage or delay, or the event or circumstance that caused or contributed to it, took place during the period of the carrier's responsibility as defined in Part IV.

(2) A carrier is relieved of all or part of its liability under subsection (1) if

*(a)* it proves that the cause, or one of the causes, of the loss, damage or delay is not attributable to its fault or to the fault of any person referred to in section 28; or

*(b)* it proves that one or more of the following events or circumstances caused or contributed to the loss, damage or delay:

(i) an act of God;

(ii) perils, dangers or accidents of the sea or other navigable waters;

(iii) war, hostilities, armed conflict, piracy, terrorism, riots or civil commotions;

(iv) quarantine, public health or governmental restrictions;

(v) interference by, or impediments created by, governments, public authorities, rulers or other persons, including public health emergencies, detention, arrest or seizure not attributable to the carrier or any person referred to in section 28;

(vi) strikes, lockouts, stoppages or restraints of labour;

(vii) fire on the ship;

(viii) latent defects not discoverable by due diligence;

(ix) an act or omission of the shipper, documentary shipper or controlling party, or any other person for whose acts the shipper or documentary shipper is liable under section 43 or 44;

(x) loading, handling, stowing or unloading of the goods performed pursuant to an agreement in accordance with section 28, unless the carrier or a performing party performs that activity on behalf of the shipper, documentary shipper or consignee;

(xi) wastage in bulk or weight, or any other loss or damage arising from an inherent defect, quality or vice of the goods;

(xii) an insufficiency or defective condition of packing or marking not performed by or on behalf of the carrier;

(xiii) saving or attempting to save life at sea;

(xiv) reasonable measures to save or attempt to save property at sea;

(xv) reasonable measures to avoid or attempt to avoid damage to the environment; or

(xvi) acts of the carrier under the powers conferred by sections 25 and 26.

(3) Notwithstanding subsection (2), a carrier is liable for all or part of the loss, damage, or delay

*(a)* if the claimant proves that the fault of the carrier or of a person referred to in section 28 caused or contributed to the event or circumstance on which the carrier relies; or

*(b)* if the claimant proves that an event or circumstance not listed in subsection (2)*(b)* contributed to the loss, damage or delay, and the carrier cannot prove that this event or circumstance is not attributable to its fault or to the fault of any person referred to in section 28.

(4) The carrier is also liable, notwithstanding subsection (2), for all or part of the loss, damage, or delay if

*(a)* the claimant proves that the loss, damage, or delay was or was probably caused by or contributed to by

(i) the unseaworthiness of the ship;

(ii) the improper crewing, equipping and supplying of the ship; or

(iii) the fact that the holds or other parts of the ship in which the goods were carried, or any containers supplied by the carrier in or upon which the goods were carried, were not fit and safe for the reception, carriage and preservation of the goods; and

*(b)* the carrier is unable to prove either that

(i) none of the events or circumstances referred to in paragraph *(a)* caused the loss, damage, or delay; or

(ii) it complied with its obligation to exercise due diligence pursuant to section 24.

(5) When a carrier is relieved of part of its liability under this Part, the carrier is liable only for that part of the loss, damage or delay that is attributable to the event or circumstance for which it is liable pursuant to this Part.

**Liability of the carrier for other persons**

**28.** A carrier is liable for a breach of its obligations under this Act caused by the acts or omissions of

*(a)* a performing party;

*(b)* the master or crew of the ship;

*(c)* employees of the carrier or of a performing party; or

*(d)* any other person who performed or undertook to perform, any of the carrier's obligations under the contract of carriage, to the extent that the person acted, either directly or indirectly, at the carrier's request or under the carrier's supervision or control.

**Liability of maritime performing parties**

**29.**(1) A maritime performing party is subject to the obligations and liabilities imposed on a carrier under this Act and is entitled to the carrier's defences and limits of liability as provided for in this Act, if

*(a)* the maritime performing party received the goods for carriage in the state of the contracting party, delivered them in the state of the contracting party, or performed its activities with respect to the goods in a port in the state of a contracting party; and

*(b)* the occurrence that caused the loss, damage or delay took place

(i) during the period between the arrival of the goods at the port of loading of the ship and their departure from the port of discharge from the ship;

(ii) while the maritime performing party had custody of the goods; or

(iii) at any other time the maritime performing party was participating in the performance of any of the activities contemplated by the contract of carriage.

(2) If a carrier agrees to assume obligations other than those imposed on the carrier under this Act, or agrees that the limits of its liability are higher than the limits specified under this Act, a maritime performing party is not bound by that agreement unless it expressly agrees to accept those obligations or higher limits.

(3) A maritime performing party is liable for the breach of its obligations under this Act caused by the acts or omissions of any person to whom it has entrusted the performance of any of the carrier's obligations under the contract of carriage under the conditions set out in subsection (1).

(4) Nothing in this Act imposes liability on the master or crew of a ship or on an employee of a carrier or of a maritime performing party.

**Joint and several liability**

**30.**(1) If a carrier and one or more maritime performing parties are liable for the loss of, damage to or delay in delivery of goods, their liability is joint and several up to the limits provided for under this Act.

(2) Without prejudice to section 71, the aggregate liability of all such persons shall not exceed the overall limits of liability under this Act.

**Delay**

**31.** Delay in delivery occurs when goods are not delivered at the place of destination provided for in the contract of carriage within the time agreed.

**Calculation of compensation**

**32.**(1) Subject to section 69 the compensation payable by a carrier for loss of or damage to goods is calculated by reference to the value of the goods at the place and time of delivery established in accordance with section 53.

(2) The value of goods is fixed

*(a)* according to the commodity exchange price;

*(b)* if there is no commodity exchange price, according to their market price; or,

*(c)* if there is no commodity exchange price or market price, by reference to the normal value of goods of the same kind and quality at the place of delivery.

(3) In case of loss of or damage to goods, the carrier is not liable for payment of any compensation beyond what is provided for in section 32(1) and (2), except when the carrier and the shipper have agreed to calculate compensation in a different manner within the limits of Part XVI.

**Notice in case of loss, damage or delay**

**33.**(1) A carrier is presumed, in absence of proof to the contrary, to have delivered goods according to their description in the contract particulars, unless notice of loss of or damage to the goods, indicating the general nature of the loss or damage, was given to the carrier or the performing party that delivered the goods before or at the time of the delivery or, if the loss or damage is not apparent, within 7 working days after the delivery of the goods.

(2) A failure to provide a notice referred to in subsection (1) to the carrier or the performing party shall not affect the right to claim compensation for loss of or damage to the goods under this Act or affect the allocation of the burden of proof set out in section 27.

(3) A notice referred to in subsection (1) is not required in respect of loss or damage that is ascertained in a joint inspection of the goods by the person to whom they have been delivered and the carrier or maritime performing party against whom liability is being asserted.

(4) No compensation in respect of delay is payable unless notice of the loss due to the delay was given to the carrier within 21 days of delivery of the goods.

(5) When a notice referred to in this section is given to a performing party who delivered the goods, it has the same effect as if that notice was given to the carrier, and a notice given to the carrier has the same effect as a notice given to a maritime performing party.

(6) In the case of any actual or apprehended loss or damage to goods, the parties to the dispute shall give all reasonable facilities to each other for inspecting and tallying the goods and shall provide access to records and documents relevant to the carriage of the goods.

## PART VI

## PARTICULAR STAGES OF CARRIAGE

### Deviation

**34.** When under the applicable law a deviation constitutes a breach of the carrier's obligations, the deviation shall not deprive the carrier or a maritime performing party of any defence or limitation of this Act, except to the extent provided in section 71.

### Deck cargo on ships

**35.**(1) Goods may be carried on the deck of a ship only if

*(a)* the carriage is required by law;

*(b)* they are carried in or on containers or vehicles that are fit for deck carriage, and the decks are specially fitted to carry such containers or vehicles; or

*(c)* the carriage on deck is in accordance with the contract of carriage, or the customs, usages or practices of the trade in question.

(2) The provisions of this Act relating to the liability of the carrier apply to the loss of, damage to or delay in the delivery of goods carried on deck in

accordance with subsection (1), but the carrier is not liable for loss of or damage to the goods, or for any delay in their delivery, caused by the special risks involved in their carriage on deck in the circumstances referred to in paragraphs (1)*(a)* or *(c)*.

(3) If the goods have been carried on deck in a manner other than that permitted under subsection (1), the carrier is liable for any loss of or damage to the goods or any delay in their delivery that is exclusively caused by their carriage on deck, and is not entitled to the defences provided for in section 27.

(4) A carrier is not entitled to invoke paragraph (1)*(c)* against a third party that has acquired a negotiable transport document or a negotiable electronic transport record in good faith, unless the contract particulars state that the goods may be carried on deck.

(5) If a carrier and shipper expressly agreed that the goods would be carried under deck, the carrier is not entitled to the benefit of the limitation of liability for any loss of, damage to or delay in the delivery of the goods to the extent that such loss, damage or delay resulted from their carriage on deck.

**Carriage preceding or subsequent to sea carriage**

**36.** When loss of or damage to goods, or a circumstance causing a delay in their delivery, occurs during the carrier's period of responsibility but before their loading onto the ship or after their discharge from the ship, the provisions of this Act do not prevail over the provisions of another international instrument that, at the time of the loss, damage or event or circumstance causing delay, if the provisions of the international instrument

*(a)* would have applied to all or any of the carrier's activities if the shipper had made a separate and direct contract with the carrier in respect of the particular stage of carriage where the loss of, or damage to goods, or an event or circumstance causing delay in their delivery occurred;

*(b)* specifically provide for the carrier's liability, limitation of liability or time for suit; and

*(c)* cannot be departed from by contract either at all or to the detriment of the shipper under that instrument.

## PART VII

## OBLIGATIONS OF THE SHIPPER TO THE CARRIER

### Delivery for carriage

**37.**(1) A shipper shall deliver goods in such a condition that

*(a)* they will withstand the intended carriage, including their loading, handling, stowing, lashing, securing and unloading; and

*(b)* they will not cause harm to persons or property.

(2) Unless otherwise agreed in the contract of carriage, a shipper shall deliver goods ready for carriage.

(3) A shipper shall properly and carefully perform any obligation assumed under an agreement made under section 23(2).

(4) When a container is packed or a vehicle is loaded by a shipper, the shipper shall properly and carefully stow, lash and secure the contents in or on the container or vehicle in such a way that they will not cause harm to persons or property.

### Cooperation in providing information and instructions

**38.** A carrier and a shipper shall respond to requests from each other to provide information and instructions required for the proper handling and carriage of goods, if the information is in the requested party's possession or the instructions are within the requested party's reasonable ability to provide and they are not otherwise reasonably available to the requesting party.

**Shipper's obligation to provide information, instructions and documents**

**39.**(1) A shipper shall provide to the carrier in a timely manner any information, instructions and documents relating to the goods that are not otherwise reasonably available to the carrier, and that are necessary

*(a)* for the proper handling and carriage of the goods, including precautions to be taken by the carrier or a performing party; and

*(b)* for the carrier to comply with laws, regulations or other requirements of public authorities in connection with the intended carriage,

if the carrier notifies the shipper in a timely manner of the information, instructions and documents it requires.

(2) Nothing in this Part affects any obligation to provide information, instructions or documents related to goods pursuant to a law, regulations or other requirements of public authorities in connection with the intended carriage.

**Basis of shipper's liability to carrier**

**40.**(1) A shipper is liable for loss or damage sustained by the carrier, if the carrier proves that the loss or damage was caused by a breach of the shipper's obligations under this Act.

(2) Except in respect of loss or damage caused by a breach by the shipper of its obligations pursuant to section 40(2) and section 42, a shipper is relieved of all or part of its liability if the cause, or one of the causes, of the loss or damage is not attributable to its fault or to the fault of any person referred to in section 44.

(3) When a shipper is relieved of part of its liability under this section the shipper is liable only for that part of the loss or damage that is attributable to its fault or to the fault of a person referred to in section 44.

**Information for compilation of contract particulars**

**41.**(1) A shipper shall provide to the carrier, in a timely manner, accurate information required for the compilation of the contract particulars and the issuance of the transport documents or electronic transport records, including

*(a)* the particulars referred to in section 46(1);

*(b)* the name of the party to be identified as the shipper in the contract;

*(c)* the name of the consignee, if any; and

*(d)* the name of any person to whose order the transport document or electronic transport record is to be issued.

(2) A shipper is deemed to have guaranteed the accuracy, at the time of receipt by the carrier, of the information that is provided under subsection (1), and shall indemnify the carrier against loss or damage resulting from the inaccuracy of that information.

**Special rules on dangerous goods**

**42.**(1) When goods by their nature are, or reasonably appear likely to become, a danger to persons, property or the environment, the shipper shall inform the carrier of the dangerous nature of the goods in a timely manner before they are delivered to the carrier or a performing party.

(2) If the shipper fails to do so and the carrier or performing party does not otherwise have knowledge of the dangerous nature of the goods, the shipper is liable to the carrier for loss or damage resulting from the failure.

(3) A shipper shall mark or label dangerous goods in accordance with any laws, regulations or other requirements of public authorities that apply during any stage of the intended carriage of the goods.

(4) If the shipper fails to do so, it is liable to the carrier for loss or damage resulting from the failure.

**Assumption of shipper's rights and obligations by a documentary shipper**

**43.**(1) A documentary shipper is subject to the obligations and liabilities imposed on the shipper under this Part and under section 65, and is entitled to the shipper's rights and defences provided by this Part and by Part XIII.

(2) Subsection (1) does not affect the obligations, liabilities, rights or defences of the shipper.

**Liability of the shipper for other persons**

**44.** A shipper is liable for the breach of its obligations under this Act caused by the acts or omissions of any person, including employees, agents and sub-contractors, to whom it has entrusted the performance of any of its obligations, but the shipper is not liable for the acts or omissions of a carrier, or of a performing party acting on behalf of a carrier, to which the shipper has entrusted the performance of its obligations.

## PART VIII

## TRANSPORT DOCUMENTS AND ELECTRONIC TRANSPORT RECORDS

**Issuance of a transport document or electronic transport record**

**45.** Unless a shipper and a carrier have agreed not to use a transport document or an electronic transport record, or it is the custom, usage or practice of the trade not to use one, upon delivery of the goods for carriage to the carrier or performing party, the shipper or, if the shipper consents, the documentary shipper, is entitled to obtain from the carrier, at the shipper's option

*(a)* a non-negotiable transport document or, subject to section 18*(a)*, a non-negotiable electronic transport record; or

*(b)* an appropriate negotiable transport document or, subject to section 18*(a)*, a negotiable electronic transport record, unless the shipper and the carrier have agreed not to use a negotiable transport document or negotiable electronic transport record, or it is the custom, usage or practice of the trade not to use one.

**Contract particulars**

**46.**(1) The contract particulars in the transport document or electronic transport record referred to in section 45 shall include the following information, as furnished by the shipper:

*(a)* a description of the goods appropriate for the transport;

*(b)* the leading marks necessary for identification of the goods;

*(c)* the number of packages or pieces, or the quantity of goods; and

*(d)* the weight of the goods, if furnished by the shipper.

(2) The contract particulars in the transport document or electronic transport record referred to in section 45 shall also include

*(a)* a statement of the apparent order and condition of the goods at the time the carrier or a performing party receives them for carriage;

*(b)* the name and address of the carrier;

*(c)* the date on which the carrier or a performing party received the goods, on which the goods were loaded on board the ship, or on which the transport document or electronic transport record was issued;

*(d)* if the transport document is negotiable and more than one original is issued, the number of originals of the negotiable transport document;

*(e)* the name and address of the consignee, if named by the shipper;

*(f)* the name of a ship, if specified in the contract of carriage;

*(g)* the place of receipt and, if known to the carrier, the place of delivery;

*(h)* the port of loading and the port of discharge, if specified in the contract of carriage;

*(i)* the intended journey route, modes of transport and places of transshipment, if known;

*(j)* any other particulars which the parties have agreed to.

(3) For the purposes of subsection (2)*(a)*,

"apparent order and condition of the goods" means the order and condition of the goods based on

*(a)* a reasonable external inspection of the goods, as packaged at the time the shipper delivers them to the carrier or a performing party; and

*(b)* any additional inspection that the carrier or a performing party performs before issuing the transport document or electronic transport record.

**Identity of the carrier**

**47.**(1) If a carrier is identified by name in a contract, any other information in the transport document or electronic transport record relating to the identity of the carrier shall have no effect to the extent that it is inconsistent with that identification.

(2) If no person is identified in a contract as the carrier, as required under section 46(2)*(b)*, but the contract particulars indicate that the goods have been loaded on board a named ship, the registered owner of that ship is presumed to be the carrier, unless it proves that the ship was under a bareboat charter at the time of the carriage and it identifies the bareboat charterer and indicates its address, in which case the bareboat charterer is presumed to be the carrier.

(3) A registered owner may rebut the presumption of being the carrier by identifying the carrier and indicating its address, and a bareboat charterer may rebut a presumption of being the carrier in the same manner.

(4) Nothing in this section prevents a claimant from proving that a person other than a person identified in the contract particulars or under subsection (2) or (3) is the carrier.

**Signature**

**48.**(1) A transport document shall be signed by the carrier or a person acting on its behalf.

(2) An electronic transport record shall include the electronic signature of the carrier or a person acting on its behalf.

(3) An electronic signature shall identify the signatory in relation to the electronic transport record and indicate the carrier's authorization of the electronic transport record.

**Deficiencies in the contract particulars**

**49.**(1) The absence or inaccuracy of a contract particular referred to in section 46 does not affect the legal character or validity of the transport document or of the electronic transport record.

(2) If contract particulars include a date but fail to indicate its significance, the date is deemed to be

*(a)* if the contract particulars indicate that the goods have been loaded on board a ship, the date on which all of the goods indicated in the transport document or electronic transport record were loaded on board the ship; or

*(b)* if the contract particulars do not indicate that the goods have been loaded on board a ship, the date on which the carrier or a performing party received the goods.

(3) If contract particulars fail to state the apparent order and condition of the goods at the time the carrier or a performing party receives them, the contract particulars are deemed to have stated that the goods were in apparent good order and condition at the time the carrier or performing party received them.

**Qualifying the information relating to the goods in the contract particulars**

**50.**(1) A carrier shall qualify the information referred to in section 46(1) to indicate that the carrier does not assume responsibility for the accuracy of the information furnished by the shipper if the carrier has knowledge, or reasonable grounds to believe, that any material statement in the transport document or electronic transport record is false or misleading.

(2) Without prejudice to subsection (1), a carrier may qualify the information referred to in section 46(1), in the circumstances and in the manner set out in sections 46(3) and (4), to indicate that the carrier does not assume responsibility for the accuracy of the information furnished by the shipper.

(3) When goods are not delivered for carriage to a carrier or a performing party in a closed container or vehicle, or when they are delivered in a closed container or vehicle and a carrier or performing party inspects them, the carrier may qualify the information referred to in section 46(1), if

*(a)* the carrier had no physically practicable or commercially reasonable means of checking the information furnished by the shipper, in which case it may indicate which information it was unable to check; or

*(b)* the carrier has reasonable grounds to believe the information furnished by the shipper to be inaccurate, in which case it may include a clause providing what it reasonably considers to be accurate information.

(4) When goods are delivered for carriage to a carrier or a performing party in a closed container or vehicle

*(a)* the carrier may qualify the information referred to in section 46(1) *(a)*, *(b)* or *(c)*, if

(i) the goods inside the container or vehicle have not been inspected by the carrier or a performing party; and

(ii) neither the carrier nor a performing party otherwise has knowledge of its contents before issuing the transport document or the electronic transport record; and

*(b)* the carrier may qualify the information referred to in section 46(1)*(d)*, if

(i) neither the carrier nor a performing party weighed the container or vehicle, and the shipper and the carrier had not agreed prior to the shipment that the container or vehicle would be weighed and the weight would be included in the contract particulars; or

(ii) here was no physically practicable or commercially reasonable means of checking the weight of the container or vehicle.

**Evidentiary effect of the contract particulars**

**51.** Except to the extent that contract particulars have been qualified in the circumstances and in the manner set out in section 50

*(a)* a transport document or an electronic transport record is *prima facie* evidence of the carrier's receipt of the goods as stated in the contract particulars;

*(b)* proof to the contrary by the carrier in respect of any contract particulars shall not be admissible, when the contract particulars are included in

(i) a negotiable transport document or a negotiable electronic transport record that is transferred to a third party acting in good faith; or

(ii) a non-negotiable transport document that indicates that it shall be surrendered in order to obtain delivery of the goods and that is transferred to the consignee acting in good faith; and

*(c)* proof to the contrary by the carrier shall not be admissible against a consignee who in good faith has acted in reliance on any of the

following contract particulars included in a non-negotiable transport document or a non-negotiable electronic transport record:

(i) the contract particulars referred to in section 46(1), when the contract particulars are furnished by the carrier;

(ii) the number, type and identifying numbers of the containers, but not the identifying numbers of the container seals; or

(iii) the contract particulars referred to in section 46(2).

**Freight prepaid**

**52.** If contract particulars contain the statement "freight prepaid" or a statement of a similar nature, the carrier cannot assert against a holder or the consignee who is not the shipper the allegation that the freight has not been paid.

## PART IX

## DELIVERY OF GOODS

**Obligation to accept delivery**

**53.** When goods have arrived at their destination, a consignee who demands delivery of the goods under the contract of carriage shall accept delivery of the goods at the time, or within the time period, and at the location, agreed in the contract of carriage or, in the absence of such an agreement, at the time and location at which, having regard to the terms of the contract, the customs, usages or practices of the trade and the circumstances of the carriage, delivery could reasonably be expected.

**Obligation to acknowledge receipt**

**54.**(1) On the request of a carrier or performing party who delivers the goods, the consignee shall acknowledge receipt of the goods from the carrier or performing party in the manner that is customary at the place of delivery.

(2) A carrier may refuse delivery if the consignee refuses to acknowledge that receipt.

**Negotiable transport document or negotiable electronic transport record not issued**

**55.** When no negotiable transport document or negotiable electronic transport record has been issued

*(a)* the carrier shall deliver the goods to the consignee at the time and location referred to in section 53;

*(b)* if the name and address of the consignee are not referred to in the contract, the controlling party shall, prior to or upon the arrival of the goods at the place of destination, advise the carrier of the consignee's name and address;

*(c)* without prejudice to section 58(1), if the goods are not deliverable because

(i) the consignee, after having received a notice of arrival, does not, at the time or within the time period referred to in section 53, claim delivery of the goods from the carrier after their arrival at the place of destination;

(ii) the carrier refuses delivery because the person claiming to be the consignee does not provide proper identification; or

(iii) the carrier is, after reasonable effort, unable to locate the consignee in order to request delivery instructions,

the carrier may so advise the controlling party and request instructions in respect of the delivery of the goods;

*(d)* a carrier who delivers the goods at the instruction of the controlling party, the shipper or the documentary shipper under paragraph *(c)* is discharged from any obligation to deliver the goods under the contract of carriage;

*(e)* a carrier may refuse delivery if a person claiming to be the consignee does not provide proper identification on the request of the carrier;

*(f)* if, after a reasonable effort, a carrier is unable to locate the controlling party, the carrier may so advise the shipper and request instructions in respect of the delivery of the goods; and

*(g)* if, after a reasonable effort, the carrier is unable to locate the shipper, the carrier may so advise the documentary shipper and request instructions in respect of the delivery of the goods.

**Delivery when a non-negotiable transport document requiring surrender is issued**

**56.** When a non-negotiable transport document has been issued that indicates that it shall be surrendered in order to obtain delivery of the goods

*(a)* the carrier shall deliver the goods at the time and location referred to in section 53 to the consignee who provides proper identification, on the request of the carrier and on the surrender of the non-negotiable document;

*(b)* the carrier may refuse delivery, if the person claiming to be the consignee fails to provide proper identification on the request of the carrier;

*(c)* the carrier shall refuse delivery if the non-negotiable document is not surrendered;

*(d)* if more than one original of the non-negotiable document has been issued, the surrender of one original will suffice and the other originals cease to have any effect or validity;

*(e)* without prejudice to section 58(1), if the goods are not deliverable because

(i) the consignee, after having received a notice of arrival, does not, at the time or within the time period referred to in section 53,

claim delivery of the goods from the carrier after their arrival at the place of destination;

(ii) the carrier refuses delivery because the person claiming to be the consignee does not provide proper identification or does not surrender the document; or

(iii) the carrier is, after a reasonable effort, unable to locate the consignee in order to request delivery instructions,

the carrier may so advise the shipper and request instructions in respect of the delivery of the goods or, if after a reasonable effort the carrier is unable to locate the shipper, the carrier may so advise the documentary shipper and request instructions in respect of the delivery of the goods; and

*(f)* the carrier that delivers the goods upon instruction of the shipper or the documentary shipper under paragraph *(b)* is discharged from its obligation to deliver the goods under the contract of carriage, irrespective of whether the non-negotiable transport document has been surrendered.

**Delivery when a negotiable transport document or a negotiable electronic transport record is issued**

**57.**(1) When a negotiable transport document or a negotiable electronic transport record has been issued

*(a)* the holder of the negotiable transport document or negotiable electronic transport record is entitled to claim delivery of the goods from the carrier after they have arrived at the place of destination, in which event the carrier shall deliver the goods to the holder at the time and location referred to in section 53.

(i) upon surrender of the negotiable transport document and, if the holder is the shipper, the consignee or a person to whom the document was duly endorsed, upon the holder providing proper identification; or

(ii) upon demonstration by the holder, in accordance with the procedures referred to in section 19(1), that it is the holder of the negotiable electronic transport record;

*(b)* the carrier shall refuse delivery if the requirements of paragraph *(a)*(i) or (ii) are not met;

*(c)* if more than one original of the negotiable transport document has been issued, and the number of originals is stated in that document, the surrender of one original will suffice and the other originals cease to have any effect or validity; and

*(d)* when a negotiable electronic transport record has been used, the record ceases to have any effect or validity upon delivery to the holder in accordance with the procedures required by section 19(1).

(2) Without prejudice to section 58(1), if a negotiable transport document or the negotiable electronic transport record expressly states that goods may be delivered without the surrender of the transport document or the electronic transport record, the following rules apply:

*(a)* if the goods are not deliverable because

(i) the holder, after having received a notice of arrival, does not, at the time or within the time period referred to in section 48, claim delivery of the goods from the carrier after their arrival at the place of destination;

(ii) the carrier refuses delivery because the person claiming to be a holder does not properly identify himself as the shipper, the consignee or a person to whom the document was duly endorsed; or

(iii) the carrier is, after reasonable effort, unable to locate the holder in order to request delivery instructions,

the carrier may so advise the shipper and request instructions in respect of the delivery of the goods or, if after a reasonable effort the carrier is unable to locate

the shipper, the carrier may so advise the documentary shipper and request instructions in respect of the delivery of the goods;

*(b)* a carrier that delivers goods upon instruction of the shipper or the documentary shipper in accordance with paragraph *(a)* is discharged from its obligation to deliver the goods under the contract of carriage to the holder, irrespective of whether the negotiable transport document has been surrendered to it or the person claiming delivery under a negotiable electronic transport record has demonstrated, in accordance with the procedures referred to in section 19(1), that he is the holder;

*(c)* the person giving instructions under subsection (2)*(a)* shall indemnify the carrier against any loss arising from its being held liable to the holder under subsection (2)*(e)* and the carrier may refuse to follow those instructions if the person fails to provide such adequate security as the carrier may reasonably request;

*(d)* a person who becomes a holder of the negotiable transport document or the negotiable electronic transport record after the carrier has delivered the goods pursuant to contractual or other arrangements acquires rights against the carrier under the contract of carriage, other than the right to claim delivery of the goods, if the contractual or other arrangements were made prior to the delivery of the goods; and

*(e)* notwithstanding paragraphs *(b)* and *(d)*, a holder that becomes a holder after delivery of the goods, and who did not have, and could not reasonably have had, knowledge of the delivery at the time of becoming a holder, acquires the rights incorporated in the negotiable transport document or negotiable electronic transport record.

(3) For the purpose of subsection (2)*(e)*, when a contract states the expected time of arrival of goods, or indicates how to obtain information as to whether the goods have been delivered, it is presumed that the holder at the time of becoming a holder had, or could reasonably have had, knowledge of the delivery of the goods.

**Goods remaining undelivered**

**58.**(1) For the purposes of this section, goods are deemed to have remained undelivered only if, after their arrival at the place of destination

*(a)* the consignee does not accept delivery of the goods under this Part at the time and location referred to in section 53;

*(b)* the controlling party, the holder, the shipper or the documentary shipper cannot be found or does not give the carrier adequate instructions under section 55, 56 or 57;

*(c)* the carrier is entitled or required to refuse delivery under section 54, 55, 56 or 57;

*(d)* the carrier is not allowed to deliver the goods to the consignee under the laws of the place at which delivery is requested; or

*(e)* the goods are otherwise undeliverable by the carrier.

(2) Without prejudice to any other rights that a carrier may have against a shipper, controlling party or consignee, if goods remain undelivered, the carrier may, at the risk and expense of the person entitled to the goods, take such action in respect of the goods as circumstances may reasonably require, including

*(a)* storing the goods at any suitable place;

*(b)* unpacking or moving the goods; or

*(c)* selling or destroying the goods in accordance with the practices, laws of the place where the goods are located at the time.

(3) A carrier may exercise the rights under subsection (2) only after it has given reasonable notice of the intended action under that subsection to

*(a)* the person stated in the contract as the person, if any, to be notified of the arrival of the goods at the place of destination; and

*(b)* the consignee, the controlling party or the shipper, if known to the carrier, in that order.

(4) If goods are sold under subsection (2)*(c)*, the carrier shall hold the proceeds of the sale for the benefit of the person entitled to the goods, but may deduct any costs incurred by the carrier and any other amounts that are due to the carrier in connection with the carriage of those goods.

(5) A carrier shall not be liable for loss of or damage to goods that occurs during the time that they remain undelivered under this section, unless the claimant proves that the loss or damage resulted from a failure by the carrier to take steps that would have been reasonable in the circumstances to preserve the goods and that the carrier knew, or ought to have known, that the loss or damage to the goods would result from its failure to take such steps.

**Retention of goods**

**59.** Nothing in this Act affects a right of the carrier or a performing party that may exist, pursuant to the contract of carriage or the applicable law, to retain the goods to secure the payment of sums due.

## PART X

## RIGHTS OF THE CONTROLLING PARTY

**Exercise and extent of right of control**

**60.**(1) A right of control may be exercised only by a controlling party and is limited to

*(a)* the right to give or modify instructions, in respect of the goods, that do not constitute a variation of the contract of carriage;

*(b)* the right to obtain delivery of goods at a scheduled port of call or, in respect of inland carriage, at any place *en route*; and

*(c)* the right to replace a consignee by any other person, including the controlling party.

(2) A right of control exists during the entire period of responsibility of the carrier provided in section 22, and ceases when that period expires.

**Identity of the controlling party and transfer of the right of control**

**61.**(1) Subject to subsections (2) to (4),

*(a)* the shipper is the controlling party unless the shipper, when the contract of carriage is concluded, designates a consignee, documentary shipper or other person as the controlling party;

*(b)* the controlling party is entitled to transfer the right of control to another person, which becomes effective with respect to the carrier when it is notified of the transfer by the transferor, at which time the transferee becomes the controlling party; and

*(c)* the controlling party shall properly identify itself when it exercises the right of control.

(2) When a non-negotiable transport document has been issued that indicates that it shall be surrendered in order to obtain delivery of the goods,

*(a)* the shipper is the controlling party and may transfer the right of control to a consignee named in the transport document by transferring the document to that person without endorsement and, if more than one original of the document was issued, by transferring all originals to that person; and

*(b)* in order to exercise its right of control, a controlling party shall produce the document and properly identify itself and, if more than one original of the document was issued, shall produce all originals.

(3) When a negotiable transport document is issued,

*(a)* the holder or, if more than one original of the negotiable transport document is issued, the holder of all originals, is the controlling party;

*(b)* the holder may transfer the right of control by transferring the negotiable transport document to another person in accordance with

section 67 and, if more than one original of that document was issued, by transferring all originals to that person; and

*(c)* in order to exercise the right of control, the holder shall produce the negotiable transport document to the carrier and

(i) if the holder is the shipper, consignee or a person to whom the document was duly endorsed, shall provide proper identification; and

(ii) if more than one original of the document was issued, shall produce all originals.

(4) When a negotiable electronic transport record is issued,

*(a)* the holder is the controlling party;

*(b)* the holder may transfer the right of control to another person by transferring the negotiable electronic transport record in accordance with the procedures referred to in section 19(1); and

*(c)* in order to exercise the right of control, the holder shall demonstrate that it is the holder, in accordance with the procedures referred to in section 19(1).

**Carrier's execution of instructions**

**62.**(1) Subject to subsections (3) and (4), a carrier shall execute the instructions referred to in section 60 if

*(a)* the person giving the instructions is entitled to exercise the right of control;

*(b)* the instructions can reasonably be executed according to their terms when they reach the carrier; and

*(c)* the instructions will not interfere with the normal operations of the carrier, including its delivery practices.

(2) The controlling party shall reimburse the carrier for any reasonable expense that the carrier has incurred and shall indemnify the carrier against loss or damage that the carrier suffers as a result of diligently executing any instruction under this section, including compensation that the carrier becomes liable to pay for loss of or damage to other goods being carried.

(3) The carrier is entitled to obtain security from the controlling party for the amount of any expense, loss or damage that the carrier reasonably expects will arise in connection with the execution of an instruction under this Part, and the carrier may refuse to carry out the instructions if no such security is provided.

(4) The carrier's liability for loss of or damage to the goods or for delay in delivery resulting from its failure to comply with the instructions of the controlling party in breach of its obligation under subsection (1) is subject to sections 27 to 33, and the amount of the compensation payable by the carrier is subject to sections 69 to 71.

**Deemed delivery**

**63.** Goods that are delivered under an instruction in accordance with section 60(1) are deemed to be delivered at the place of destination, and Part IX applies to the delivery of those goods.

**Variations to the contract of carriage**

**64.**(1) A controlling party is the only person who may agree with the carrier to variations to the contract of carriage other than those referred to in sections 60(1)*(b)* and *(c)*.

(2) Variations to a contract of carriage, including those referred to in sections 60(1)*(b)* and *(c)*, shall be stated in a negotiable transport document or in a non-negotiable transport document that requires it be surrendered, incorporated in a negotiable electronic transport record or, upon the request of the controlling party, stated in a non-negotiable transport document or incorporated in a non-negotiable electronic transport record.

(3) If variations are incorporated in a negotiable electronic transport record, the variations shall be signed in accordance with section 48.

**Providing additional information, instructions or documents to carrier**

**65.**(1) A controlling party, on the request of a carrier or performing party, shall provide in a timely manner information, instructions or documents relating to the goods not yet provided by the shipper and not otherwise reasonably available to the carrier that the carrier may reasonably need to perform its obligations under the contract of carriage.

(2) If a carrier, after a reasonable effort, is unable to locate the controlling party or the controlling party is unable to provide adequate information, instructions or documents to the carrier, the shipper shall provide them.

(3) If the carrier, after reasonable effort, is unable to locate the shipper, the documentary shipper shall provide the information, instructions or documents.

**Variation by agreement**

**66.** The parties to the contract of carriage may vary the effect of section 60(1)*(b)*,*(c)*,(2) or section 62 or restrict or exclude the transferability of the right of control referred to in section 61(1)*(b)*.

PART XI

TRANSFER OF RIGHTS

**Issuance of negotiable transport document or negotiable electronic transport record**

**67.**(1) When a negotiable transport document is issued, the holder may transfer the rights incorporated in the document by transferring it to another person

*(a)* duly endorsed either to the other person or in blank, if it is an order document; or

*(b)* without endorsement, if it is

(i) a bearer document or a blank endorsed document; or

(ii) a document made out to the order of a named person and the transfer is between the first holder and the named person.

(2) When a negotiable electronic transport record is issued, its holder may transfer the rights incorporated in it, whether it is made out to order or to the order of a named person, by transferring the electronic transport record in accordance with the procedures referred to in section 19(1).

**Liability of holder**

**68.**(1) Without prejudice to section 65, a holder that is not the shipper and that does not exercise any right under a contract of carriage does not assume any liability under the contract of carriage solely by reason of being a holder.

(2) A holder that is not the shipper and that exercises any right under the contract of carriage assumes any liabilities imposed on it under the contract of carriage to the extent that those liabilities are incorporated in, or ascertainable from, the negotiable transport document or the negotiable electronic transport record.

(3) For the purposes of subsections (1) and (2), a holder that is not the shipper does not exercise any right under a contract of carriage solely because

*(a)* it agrees with the carrier, under section 20, to replace a negotiable transport document by a negotiable electronic transport record or to replace a negotiable electronic transport record by a negotiable transport document; or

*(b)* it transfers its rights under section 67.

## PART XII

## LIMITS OF LIABILITY

### Limits of liability

**69.**(1) Subject to sections 70 and 71(1), a carrier's liability for breaches of its obligations under this Act is limited to 875 units of account per package or other shipping unit, or 3 units of account per kilogram of the gross weight of the goods that are the subject of the claim or dispute, whichever amount is higher, except when the value of the goods has been declared by the shipper and included in the contract particulars, or when a higher limitation of liability has been agreed upon between the carrier and the shipper.

(2) When goods are carried in or on a container, pallet or similar article of transport used to consolidate goods, or in or on a vehicle, the packages or shipping units enumerated in the contract particulars as packed in or on that article of transport or vehicle are deemed to be packages or shipping units.

(3) If goods referred to in subsection (2) are not so enumerated, the goods in or on the article of transport or vehicle are deemed to be one shipping unit.

(4) The amounts referred to in this Part are to be converted into the national currency of a state according to the value of the currency at the date of judgement or award or the date agreed upon by the parties.

(5) In determining a special drawing right, the value of a national currency of a contracting party that is a member of the International Monetary Fund is to be calculated in accordance with the method of valuation applied by the International Monetary Fund for its operations and transactions in effect at the date in question.

(6) In determining a special drawing right, the value of a national currency of a contracting party that is not a member of the International Monetary Fund is to be calculated in a manner to be determined by that party.

(7) In this section,

"unit of account" means a special drawing right defined by the International Monetary Fund.

**Limits of liability for loss caused by delay**

**70.**(1) Subject to subsection (2), compensation for loss of or damage to goods due to delay shall be calculated in accordance with section 32 and liability for economic loss due to delay is limited to an amount equivalent to two and one-half times the freight payable on the goods delayed.

(2) The total amount payable under this section and section 69(1) shall not exceed the limit established under section 69(1) in respect of the total loss of the goods.

**Loss of the benefit of limitation of liability**

**71.**(1) Neither the carrier nor a person referred to in section 28 is entitled to the benefit of the limitation of liability provided in section 69, or as provided in the contract of carriage, if the claimant proves that the loss resulting from the breach of the carrier's obligation under this Act was attributable to a personal act or omission of the person claiming the benefit that was done with the intent to cause the loss or was done recklessly and with knowledge that the loss would probably result.

(2) Neither the carrier nor a person referred to in section 28 is entitled to the benefit of the limitation of liability provided in section 70 if the claimant proves that the delay in delivery resulted from a personal act or omission of the person claiming the benefit that was done with the intent to cause the loss due to delay or that was done recklessly and with knowledge that the loss would probably result.

## PART XIII

## TIME FOR SUIT

### Period of time for suit

**72.**(1) No judicial or arbitral proceedings in respect of claims or disputes arising from a breach of an obligation under this Act may be instituted after the expiration of a period of 2 years after the day on which the carrier delivered the goods or, where no goods were delivered or only part of the goods were delivered, on the last day on which the goods should have been delivered.

(2) Notwithstanding the expiration of the period set out in subsection (1), a party may rely on its claim as a defence or for the purpose of set-off against a claim asserted by the other party.

### Extension of time for suit

**73.**(1) The period provided in section 72 shall not be subject to suspension or interruption, but the person against whom a claim is made may at any time during the running of the period extend, or further extend, that period by a declaration to the claimant.

(2) A declaration under subsection (1) is deemed to be given where an unequivocal statement is made or published in a written form, including in electronic or digital form or by facsimile, by the party against which the claimant was entitled to access the goods or obtain them by lawful means.

**Action for indemnity**

**74.** An action for indemnity by a person held liable may be instituted after the expiration of the period provided in section 72, if the indemnity action is instituted within the later of

*(a)* the time allowed by the applicable law in the jurisdiction where the proceedings are instituted; and

*(b)* 90 days after the day when the person instituting the action for indemnity has either settled the claim or been served with process in the action against itself, whichever is earlier.

**Actions against the person identified as the carrier**

**75.** An action against a bareboat charterer or a person identified as a carrier under section 47(2), may be instituted after the expiration of the period provided in section 72 if the action is instituted within the later of

*(a)* the time allowed by the applicable law in the jurisdiction where proceedings are instituted; and

*(b)* 90 days after the day when the carrier was identified, or the registered owner or bareboat charterer rebutted the presumption that it is the carrier, under section 47(2).

## PART XIV

## JURISDICTION

**Actions against the carrier**

**76.** Unless the contract of carriage contains an exclusive choice of court agreement or arbitration agreement that complies with section 77 or 82, a

claimant has the right to institute judicial proceedings under this Act against a carrier

*(a)* in a competent court within the jurisdiction in which one of the following is situated:

(i) the domicile of the carrier;

(ii) the place of receipt agreed in the contract of carriage;

(iii) the place of delivery agreed in the contract of carriage;

(iv) the port where the goods are initially loaded on a ship; or

(v) the port where the goods are finally discharged from a ship; or

*(b)* in a competent court designated by an agreement between the shipper and the carrier for the purpose of deciding claims against the carrier that may arise under this Act.

**Choice of court agreements**

**77.**(1) The jurisdiction of a court chosen in accordance with section 76*(b)* is exclusive for disputes between the parties to the contract only if the parties so agree and the agreement conferring jurisdiction

*(a)* is contained in a volume contract that clearly states the names and addresses of the parties and

(i) is individually negotiated; or

(ii) contains a prominent statement that there is an exclusive choice of court agreement and specifies the sections of the volume contract containing that agreement; and

*(b)* clearly designates the courts of one contracting party or one or more specific courts of one contracting party.

(2) A person who is not a party to a volume contract is bound by an exclusive choice of court agreement concluded in accordance with subsection (1) only if

*(a)* the court is in one of the places designated in section 76*(a)*;

*(b)* that agreement is contained in the transport document or electronic transport record;

*(c)* that person is given timely and adequate notice of the court where the action is to be brought and that the jurisdiction of that court is exclusive; and

*(d)* the law of that place recognizes that that person may be bound by the exclusive choice of court agreement.

**Actions against the maritime performing party**

**78.** A plaintiff has the right to institute judicial proceedings under this Act against a maritime performing party in a competent court within the jurisdiction in which one of the following is situated:

*(a)* the domicile of the maritime performing party;

*(b)* the port where the goods are received by the maritime performing party;

*(c)* the port where the goods are delivered by the maritime performing party; or

*(d)* the port in which the maritime performing party performs its activities with respect to the goods.

**No additional bases of jurisdiction**

**79.** Subject to sections 76 and 77, no judicial proceedings under this Act against the carrier or a maritime performing party may be instituted in a court not designated under section 71 or 73.

**Arrest and provisional or protective measures**

**80.**(1) Nothing in this Act affects jurisdiction with regard to provisional or protective measures, including arrest.

(2) A court in a state in which a provisional or protective measure was taken does not have jurisdiction to determine the case upon its merits unless

*(a)* the requirements of this Part are fulfilled; or

*(b)* an international convention that applies in that state so provides.

**Consolidation and removal of actions**

**81.**(1) Except when there is an exclusive choice of court agreement that is binding under section 77 or 82 , if a single action is brought against both the carrier and the maritime performing party arising out of a single occurrence, the action may be instituted only in a court designated under both sections 76 and 78 or, if there is no such court, in a court designated under section 73*(b)*, if there is such a court.

(2) Except when there is an exclusive choice of court agreement that is binding under section 77 or 82, a carrier or a maritime performing party that institutes an action seeking a declaration of non-liability or any other action that would deprive a person of his right to select the forum under section 76 or 78 shall, at the request of the defendant, withdraw that action once the defendant has chosen a court designated under section 76 or 78 where the action may be recommenced.

**Other competent courts**

**82.**(1) After a dispute has arisen, the parties to the dispute may agree to resolve it in any competent court.

(2) A competent court before which a defendant appears without contesting jurisdiction in accordance with the rules of that court has jurisdiction.

**Recognition and enforcement**

**83.**(1) A decision made in the state of one contracting party by a court having jurisdiction under this Act shall be recognized and enforced in the state of the other contracting party in accordance with the law of the other contracting party, when both parties have made a declaration in accordance with section 86.

(2) A court may refuse recognition and enforcement based on the grounds for the refusal of recognition and enforcement available under its law.

(3) This Part shall not affect the application of the rules of a regional economic integration organization that is a party to the

*(a)* *Hague Rules*;

*(b)* *Hague-Visby Rules*;

*(c)* *Hamburg Rules*; or

*(d)* any other regionally or internationally transport rules in force,

as concerns the recognition or enforcement of judgments between member states of the regional economic integration organization, whether adopted prior to or after the entry into force of this Act.

## PART XV

## ARBITRATION

**Arbitration agreements**

**84.**(1) Subject to this Part and notwithstanding Part XIV, parties may agree that any dispute that may arise relating to the carriage of goods under this Act shall be referred to arbitration.

(2) Arbitration proceedings shall, at the option of the person asserting a claim against the carrier, take place at

*(a)* a place designated for that purpose in the arbitration agreement; or

*(b)* any other place situated in a state in which any of the following is located:

(i) the domicile of the carrier;

(ii) the place of receipt agreed in the contract of carriage;

(iii) the place of delivery agreed in the contract of carriage;

(iv) the port where the goods are initially loaded on a ship; or

(v) the port where the goods are finally discharged from a ship.

(3) The designation of the place of arbitration in an agreement is binding for disputes between the parties to the agreement, if the agreement is contained in a volume contract that clearly states the names and addresses of the parties and

*(a)* is individually negotiated; or

*(b)* contains a prominent statement that there is an arbitration agreement and specifies the sections of the volume contract containing the arbitration agreement.

(4) When an arbitration agreement has been concluded in accordance with subsection (3), a person who is not a party to the volume contract is bound by the designation of the place of arbitration in that agreement only if

*(a)* the place of arbitration designated in the agreement is situated in one of the places referred to in subsection (2)*(b)*;

*(b)* the agreement is contained in the transport document or electronic transport record;

*(c)* the person to be bound is given timely and adequate notice of the place of arbitration; and

*(d)* applicable law permits that person to be bound by the arbitration agreement.

(5) Subsections (1) to (4) are deemed to be part of every arbitration clause or agreement, and any term of a clause or agreement that is inconsistent with them is void to the extent of the inconsistency.

(6) Where the parties in a dispute subject to an arbitration clause are members of the Shipping Association of Barbados or another Barbados-based private sector shipping organization, the parties have been unable to agree on an arbitrator and the arbitration clause or agreement does not otherwise provide for the selection or appointment of the arbitrator, either party may request the Shipping Association of Barbados or other private sector shipping organization to appoint an arbitrator, and any arbitrator so selected shall be taken as the arbitrator for the dispute between the parties.

**Arbitration agreement in non-liner transportation**

**85.**(1) Nothing in this Act affects the enforceability of an arbitration agreement in a contract of carriage in non-liner transportation to which this Act applies by reason of

*(a)* the application of section 12; or

*(b)* the parties' voluntary incorporation of the provisions of this Act in a contract of carriage that would not otherwise be subject to this Act.

(2) Notwithstanding subsection (1), an arbitration agreement in a transport document or electronic transport record to which this Act applies by reason of the application of section 12 is subject to this Part, unless the transport document or electronic transport record

*(a)* identifies the parties to, and the date of, the charter party or other contract excluded from the application of this Act by reason of the application of section 11; and

*(b)* incorporates by reference the clause in the charter party or other contract that contains the terms of the arbitration agreement.

**Agreement to arbitrate after a dispute has arisen**

**86.** Notwithstanding the provisions of this Part and Part XIV, after a dispute has arisen, the parties to the dispute may agree to resolve it by arbitration in any place.

## PART XVI

## VALIDITY OF CONTRACTUAL TERMS

**General provisions**

**87.**(1) Unless otherwise provided in this Act, a term in a contract of carriage is void to the extent that it

*(a)* directly or indirectly excludes or limits the obligations of the carrier or a maritime performing party under this Act;

*(b)* directly or indirectly excludes or limits the liability of the carrier or a maritime performing party for breach of an obligation under this Act;

*(c)* assigns a benefit of insurance of goods in favour of the carrier or a person referred to in section 28;

*(d)* directly or indirectly excludes, limits or increases the obligations under this Act of the shipper, consignee, controlling party, holder or documentary shipper; or

*(e)* directly or indirectly excludes, limits or increases the liability of the shipper, consignee, controlling party, holder or documentary shipper for breach of any of its obligations under this Act.

**Special rules for volume contracts**

**88.**(1) Notwithstanding section 87, a volume contract to which this Act applies may provide for greater or lesser rights, obligations and liabilities as between the carrier and the shipper than those imposed by this Act.

(2) This section applies only when

*(a)* the volume contract contains a prominent statement that it derogates from this Act;

*(b)* the volume contract is

(i) individually negotiated; or

(ii) prominently specifies the sections of the volume contract containing the derogations;

*(c)* the shipper is given an opportunity, and notice of the opportunity, to conclude a contract of carriage on terms and conditions that comply with this Act without any derogation under subsection (1); and

*(d)* the derogation is neither

(i) incorporated by reference from another document; nor

(ii) included in a contract of adhesion that is not subject to negotiation.

(3) A carrier's public schedule of prices and services, transport document, electronic transport record or similar document is not a volume contract under section 86(1), but a volume contract may incorporate such documents by reference as terms of the contract.

(4) Section 86(1) does not apply to rights and obligations provided in section 24*(a)* or *(b)*, section 39 or 42, or to liability arising from their breach or any liability arising from an act or omission referred to in section 71.

(5) The terms of a volume contract that derogate from this Act, if the volume contract satisfies the requirements of subsection (2), apply between the carrier and any person other than the shipper if

*(a)* the person received information that prominently states that the volume contract derogates from this Act and gave his express consent to be bound by the derogations; and

*(b)* the consent is not solely set forth in the carrier's public schedule of prices and services, transport document or electronic transport record.

(6) A party claiming the benefit of a derogation bears the burden of proof that the conditions for derogation have been fulfilled.

**Special rules for live animals and certain other goods**

**89.**(1) Notwithstanding section 87 and without prejudice to section 88, a contract of carriage may exclude or limit the obligations or the liability of both the carrier and a maritime performing party if

*(a)* the goods are live animals; or

*(b)* the character or condition of the goods, or the circumstances and terms and conditions under which the carriage is to be performed, reasonably justify a special agreement, if the contract of carriage is not related to ordinary commercial shipments made in the ordinary course of trade and no negotiable transport document or negotiable electronic transport record is issued for the carriage of the goods.

(2) Any such exclusion or limitation in relation to live animals will not be effective if the claimant proves that the loss of or damage to the goods, or delay in delivery, resulted from an act or omission of the carrier or of a person referred to in section 28

*(a)* done with the intent to cause the loss of or damage to the goods or a loss due to delay; or

*(b)* done recklessly and with knowledge that such a loss or damage would probably result.

## PART XVII

## MATTERS NOT GOVERNED BY THE ACT

### Global limitation of liability

**90.** Nothing in this Act affects the application of any international convention regulating the global limitation of liability of vessel owners or the limits of liability under the *Merchant Shipping (Liability and Compensation) Act, 2024* (Act 2024- ).

### General average

**91.** Nothing in this Act affects the application of terms in a contract of carriage or provisions of national law regarding the adjustment of general average.

### Passengers luggage

**92.** The Act does not apply to a contract of carriage for passengers and their luggage.

### Damage caused by nuclear incident

**93.** No liability arises under this Act for damage caused by a nuclear incident, if the operator of a nuclear installation is liable for such damage under

*(a)* the Paris Convention on Third Party Liability in the Field of Nuclear Energy of 29th July, 1960, as amended by the Additional Protocol of 28th January 1964 and by the Protocols of 16th November, 1982 and 12th February, 2004, or any future amendment;

*(b)* the Vienna Convention on Civil Liability for Nuclear Damage of 21st May, 1963, as amended by the Joint Protocol Relating to the Application of the Vienna Convention and the Paris Convention of 21st September, 1988 and the Protocol to Amend the 1963 Vienna Convention on Civil Liability for Nuclear Damage of 12th September, 1997, or any future amendment;

*(c)* the Convention on Supplementary Compensation for Nuclear Damage of 12th September, 1997, or any future amendment;

*(d)* any future convention in respect of the liability of the operator of a nuclear installation for damage caused by a nuclear incident; or

*(e)* national law applicable to the liability for such damage, provided that the law is in all respects as favourable to persons that may suffer damage as either the Paris or Vienna Conventions or the Convention on Supplementary Compensation for Nuclear Damage.

## PART XVIII

## CARRIAGE OF GOODS BEYOND THE SEA: BY ROAD

### Application - Part XVIII

**94.**(1) The provisions of this Act specific to the carriage of goods by road shall apply to every contract for the carriage of goods by road in vehicles for reward, when the place of taking over of the goods and the place designated for delivery, as specified in the contract, are situated in two different countries, of which at least one is a contracting country, irrespective of the place of residence and the nationality of the parties, and includes carriage carried out by states or by governmental institutions or organizations.

(2) This Part shall not apply to

*(a)* carriage performed under the terms of an international postal convention;

*(b)* funeral consignments; or

*(c)* furniture removal.

**Definitions - Part XVIII**

**95.** For the purposes of this Part,

"consignment note" means a document regarding the carriage of goods by road that declares the contract of carriage, includes the instructions given to the carrier and proves the contract of carriage;

"successive carrier" means a carrier

*(a)* that is subject to a single contract, entered into between the principal carrier and the shipper; and

*(b)* that has accepted goods and a consignment note; and

"vehicle" means a motor vehicle, articulated vehicle, trailer or semi-trailer as defined in Article 4 or the Convention on Road Traffic, 1949.

**Vehicles containing goods**

**96.**(1) Subject to subsection (2) and section 108, where a vehicle containing goods is carried over part of the journey by sea, rail, inland waterways or air and the goods are not unloaded from the vehicle, this Act shall apply to the whole of the carriage.

(2) If it is proved that any loss, damage or delay in delivery of the goods that occurs during the carriage by a means of transport other than road was not caused by an act or omission of the carrier by road, but by some event that could have occurred only in the course of and by reason of the carriage by that other means of transport, the liability of the carrier by road shall be determined not by this Act but in the manner in which the liability of the carrier by the other means of transport would have been determined if a contract for the carriage of the goods had been made by the sender with the carrier by the other means of transport

alone in accordance with the conditions prescribed by law for the carriage of goods by that means of transport.

(3) If, however, there are no such prescribed conditions, the liability of the carrier by road shall be determined by this Act.

(4) If the carrier by road is also the carrier by the other means of transport, liability shall be determined in accordance with subsections (1) to (3), but as if, in its capacities as carrier by road and as carrier by the other means of transport, it were two separate entities.

*Persons for whom the Carrier is Responsible*

**Persons for whom the Carrier is Responsible Carrier's responsibility**

**97.** A carrier is responsible for the acts and omissions of its agents and servants and of any other persons of whose services it makes use for the performance of the carriage, when those agents, servants or other persons are acting within the scope of their employment, as if such acts or omissions were the carrier's own.

*Conclusion and Performance of Contract of Carriage*

**Consignment note**

**98.**(1) A contract of carriage shall be confirmed by the making out of a consignment note.

(2) The absence, irregularity or loss of a consignment note shall not affect the existence or the validity of the contract of carriage, which shall remain subject to this Act.

**Issuance of confinement note**

**99.**(1) A consignment note shall be made out in three original copies signed by the sender and by the carrier.

(2) A signature may be printed or replaced by the stamp of a sender or carrier if the law of the country in which the consignment note has been made out so permits.

(3) One copy of the consignment shall be handed to the sender, one shall accompany the goods and one shall be retained by the carrier.

(4) When goods that are to be carried have to be loaded in different vehicles, or are of different kinds or divided into different lots, the sender or the carrier may require a separate consignment note to be made out for each vehicle used, or for each kind or lot of goods.

**Particulars of confinement note**

**100.**(1) A consignment note shall contain

*(a)* the date of the consignment note and the place at which it is made out;

*(b)* the name and address of the sender;

*(c)* the name and address of the carrier;

*(d)* the place and the date of taking over of the goods and the place designated for delivery;

*(e)* the name and address of the consignee;

*(f)* the description of the nature of the goods, the method of packing and, in the case of dangerous goods, their generally recognized description;

*(g)* the number of packages and their special marks and numbers;

*(h)* the gross weight of the goods or their quantity otherwise expressed;

*(i)* charges relating to the carriage, including carriage charges, supplementary charges, customs duties and other charges incurred from the making of the contract to the time of delivery;

*(j)* the requisite instructions for customs and other formalities; and

*(k)* a statement that the carriage is subject, notwithstanding any clause to the contrary, to this Act.

(2) Where applicable, a consignment note shall also contain

*(a)* a statement that trans-shipment is not allowed;

*(b)* the charges that the sender undertakes to pay;

*(c)* the amount of cash-on-delivery charges;

*(d)* a declaration of the value of the goods and the amount representing special interest in delivery;

*(e)* the sender's instructions to the carrier regarding insurance of the goods;

*(f)* the agreed time limit within which the carriage is to be carried out; and

*(g)* a list of the documents handed to the carrier.

(3) The parties may enter in a consignment note any other particulars that they consider useful.

**Sender's responsibility**

**101.**(1) The sender shall be responsible for all expenses, loss and damage sustained by a carrier by reason of the inaccuracy or inadequacy of

*(a)* the particulars specified in section 100(1), *(b), (d), (e), (f), (g), (h)* and *(j)* or (2); or

*(b)* any other particulars or instructions given by him to enable the consignment note to be made out or to be entered in it.

(2) If, at the request of the sender, a carrier enters in a consignment note the particulars referred to in subsection (1), it is presumed to have done so on behalf of the sender.

(3) If a consignment note does not contain the statement specified in section 100(1)*(k)*, the carrier is liable for all expenses, loss and damage sustained by the person entitled to dispose of the goods through that omission.

**Duty of carrier to validate goods**

**102.**(1) On taking over goods, the carrier shall check

*(a)* the accuracy of the statements in the consignment note as to the number of packages and their marks and numbers; and

*(b)* the apparent condition of the goods and their packaging.

(2) Where a carrier has no reasonable means of checking the accuracy of the statements referred to in paragraph (1)*(a)*, it shall enter its reservations in the consignment note together with the grounds on which they are based and specify the grounds for any reservations with regard to the apparent condition of the goods and their packaging.

(3) Such reservations shall not bind the sender unless the sender has expressly agreed to be bound by them in the consignment note.

(4) The sender may require the carrier to check the gross weight of the goods or their quantity otherwise expressed, and may require the contents of the packages to be checked.

(5) The result of any such checks shall be entered in the consignment note.

(6) The carrier may claim the cost of any checking done at the request of the sender.

**Validity of the consignment note**

**103.**(1) A consignment note is *prima facie* evidence of the making of the contract of carriage, the conditions of the contract and the receipt of the goods by the carrier.

(2) If a consignment note contains no specific reservations by the carrier, it is presumed that the goods and their packaging appeared to be in good condition when the carrier took them over and that the number of packages, their marks and numbers corresponded with the statements in the consignment note.

**Liability of the sender**

**104.** The sender of goods is liable to the carrier for damage to persons, equipment or other goods, and for any expenses due to defective packing of the goods, unless the defect was apparent or known to the carrier at the time when it took over the goods and it made no reservations concerning it.

**Sender's requirements in the delivery of goods**

**105.**(1) For the purposes of customs or other formalities to be completed before delivery of the goods, the sender shall attach the necessary documents to the consignment note or place them at the disposal of the carrier and shall furnish it with all the information that it requires.

(2) The carrier shall not be under any duty to enquire into the accuracy or the adequacy of such documents and information.

(3) The sender is liable to the carrier for any damage caused by the absence, inadequacy or irregularity of such documents and information that is not caused by a wrongful act or neglect on the part of the carrier.

(4) The liability of the carrier for consequences arising from a loss, inadequacy or irregularity of the documents accompanying the consignment note or deposited with the carrier shall be that of an agent.

(5) Compensation payable by the carrier under subsection (4) shall not exceed that payable in the event of loss of the goods.

**Sender's and consignee's rights of disposal of goods**

**106.**(1) A sender has the right to

*(a)* dispose of goods, including by asking the carrier to stop the goods in transit;

*(b)* change the place at which delivery is to take place; or

*(c)* deliver the goods to a consignee other than the consignee indicated in the consignment note.

(2) A right of the sender under subsection (1) shall cease to exist when the second copy of the consignment note is handed to a consignee or when a consignee exercises a right under section 107(1), from which time onwards the carrier shall obey the orders of the consignee.

(3) A consignee shall, however, have a right of disposal from the time when the consignment note is drawn up, if the sender makes an entry to that effect in the consignment note.

(4) If, in exercising a right of disposal, a consignee has ordered the delivery of the goods to another person, that other person shall not be entitled to name other consignees.

(5) A right of disposal may be exercised if

*(a)* the sender or, in the circumstances referred to in subsection (3), a consignee who wishes to exercise the right produces the first copy of the consignment note on which the new instructions to the carrier have been entered and indemnifies the carrier against all expenses, loss and damage involved in carrying out such instructions;

*(b)* the carrying out of such instructions is possible at the time when the instructions reach the person who is to carry them out and does not interfere with the normal working of the carrier's undertaking or prejudice the senders or consignees of other consignments; and

*(c)* the instructions do not result in a division of the consignment.

(6) When a carrier cannot carry out the instructions that it receives in the circumstances referred to in subsection (5)*(b)*, the carrier shall immediately notify the person who gave the instructions.

(7) A carrier that has not carried out instructions in accordance with subsection (5), or that has carried them out without requiring the first copy of the

consignment note to be produced, is liable to the person entitled to make a claim for any loss or damage caused by that failure.

**Requirement of carrier to the consignee upon delivery**

**107.**(1) After arrival of goods at the place designated for delivery, a consignee may require the carrier to deliver to him, against a receipt, the second copy of the consignment note and the goods.

(2) If a loss of goods is established or if goods have not arrived after the expiry of the period provided for in **section 0,** a consignee may enforce in his own name against the carrier any rights arising from the contract of carriage

(3) A consignee who exercises the rights granted under subsection (1) shall pay the charges shown to be due on the consignment note.

(4) If there is a dispute regarding the charges due, the carrier is not required to deliver the goods unless security has been furnished by the consignee.

**Where terms of contract cannot be fulfilled**

**108.**(1) If it is or becomes impossible to carry out the contract in accordance with the terms laid down in the consignment note before the goods reach the place designated for delivery, the carrier shall ask for instructions from the person entitled to dispose of the goods in accordance with section 106.

(2) If the carriage can be carried out under conditions differing from those laid down in the consignment note and if the carrier has been unable to obtain instructions in a reasonable time from the person entitled to dispose of the goods in accordance with section 106, the carrier shall take such steps as seem to it to be in the best interests of the person entitled to dispose of the goods.

**Where goods cannot be delivered after arrival**

**109.**(1) Where circumstances prevent the delivery of goods after their arrival at the place designated for delivery, the carrier shall ask the sender for his instructions.

(2) If a consignee refuses the goods, the sender may dispose of them without being obliged to produce the first copy of the consignment note.

(3) If a consignee has refused the goods, the consignee may nevertheless require their delivery so long as the carrier has not received instructions to the contrary from the sender.

(4) When circumstances preventing delivery of the goods arise after the consignee, in the exercise of a right under section 106(3), has given an order for the goods to be delivered to another person, subsections (1) to (3) shall apply as if the consignee were the sender and that other person were the consignee.

**Carrier's entitlement to recover cost pertaining to instructions**

**110.**(1) A carrier is entitled to recover the cost of a request for instructions and any expenses entailed in carrying out such instructions, unless the expenses were caused by the wrongful act or neglect of the carrier.

(2) In the circumstances referred to in section 108(1) or section 109, a carrier may immediately unload the goods for account of the person entitled to dispose of them, at which time the carriage is deemed to be at an end.

(3) A carrier who does so shall then hold the goods on behalf of the person entitled to dispose of them or entrust them to a third party, in which case the carrier shall not be under any liability except for the exercise of reasonable care in the choice of the third party.

(4) In the circumstances referred to in subsections (2) and (3), the charges due under the consignment note and all other expenses shall remain chargeable against the goods.

(5) A carrier may sell the goods, without awaiting instructions from a person entitled to dispose of them, if

*(a)* the goods are perishable or their condition warrants it; or

*(b)* when the storage expenses would be out of proportion to the value of the goods,

and, after the expiry of a reasonable period, it has not received from the person entitled to dispose of the goods instructions to the contrary that can reasonably be carried out.

(6) If goods have been sold under this section, the proceeds of sale, after deduction of the expenses chargeable against the goods, shall be placed at the disposal of the person entitled to dispose of the goods.

(7) If these charges exceed the proceeds of sale, the carrier is entitled to the difference.

(8) The procedure for the sale of goods shall be determined by the law or custom of the place where the goods are situated.

*Liability of the Carrier*

**Liability of total or partial loss of goods in the carrier's care**

**111.**(1) Subject to subsection (2), a carrier is liable for a total or partial loss of goods and for damage to them that occurred between the time when the carrier took over the goods and the time of delivery, as well as for any delay in delivery.

(2) A carrier is not liable if the loss, damage or delay was caused by

*(a)* the wrongful act or neglect of the claimant;

*(b)* the instructions of the claimant given otherwise than as the result of a wrongful act or neglect on the part of the carrier;

*(c)* an inherent vice of the goods; or

*(d)* circumstances that the carrier could not avoid and the consequences of which it was unable to prevent.

(3) A carrier shall not be relieved of liability by reason of

*(a)* the defective condition of the vehicle used in order to perform the carriage; or

*(b)* the wrongful act or neglect of a person from whom the carrier hired the vehicle or of the agents or servants of that person.

(4) Subject to sections 112(2) to (5), a carrier is relieved of liability when the loss or damage arises from the risks inherent in

*(a)* the use of open un-sheeted vehicles, when their use has been expressly agreed and specified in the consignment note;

*(b)* the lack of, or defective condition of, packing of goods that, by their nature, are liable to wastage or to be damaged when not packed or properly packed;

*(c)* handling, loading, stowage or unloading of the goods by the sender, the consignee or persons acting on behalf of the sender or the consignee;

*(d)* goods whose nature particularly exposes them to total or partial loss or to damage, especially through breakage, rust, decay, desiccation, leakage, normal wastage or the action of moth or vermin;

*(e)* insufficiency or inadequacy of marks or numbers on the packages; or

*(f)* the carriage of livestock.

(5) A carrier is liable only to the extent that the factors for which it is liable under this section have contributed to the loss, damage or delay.

**Burden of proof**

**112.**(1) The burden of proving that a loss, damage or delay was due to one of the causes specified in section 111(2) shall rest upon the carrier.

(2) If a carrier establishes that a loss or damage could be attributed to a risks referred to in section 111(4), it shall, subject to subsection (3), be presumed that it was so caused unless the claimant proves that the loss or damage was not, in fact, attributable either wholly or partly to one of those risks.

(3) The presumption referred to in subsection (2) shall not apply in the circumstances set out in section 111(4)*(b)*, if there has been an abnormal shortage of packing, or a loss of any package.

(4) If the carriage is performed in vehicles specially equipped to protect the goods from the effects of heat, cold, variations in temperature or the humidity of the air, the carrier shall not be entitled to claim the benefit of section 111(4)*(a)*, unless it proves that all steps incumbent on it in the circumstances with respect to the choice, maintenance and use of such equipment were taken and that it complied with any instructions issued to it.

(5) A carrier shall not be entitled to claim the benefit of section 111(4)*(f)*, unless it proves that all steps normally incumbent on it in the circumstances were taken and that it complied with any instructions issued to it.

**Recovery of lost goods**

**113.**(1) A claimant may, on receipt of compensation for missing goods, request in writing that he shall be notified immediately if the goods are recovered in the course of the year following the payment of compensation.

(2) A request under subsection (1) shall be acknowledged in writing by the person to whom the claimant made the request.

(3) Within the 30 days following receipt of notification that goods have been recovered, the claimant may require the goods to be delivered to him against payment of the charges shown to be due on the consignment note and the refund of the compensation received, less those charges, but without prejudice to any claim to compensation for delay in delivery under section 116 or 119.

(4) In the absence of a request mentioned in subsection (1) or of any instructions given within the period of 30 days specified in subsection (3), or if the goods are not recovered until more than one year after the payment of compensation, the carrier is entitled to deal with them in accordance with the law of the place where the goods are situated.

**Carrier liable to sender if cash on delivery not collected**

**114.** If goods have been delivered to the consignee without collection of a cash-on-delivery charge that should have been collected by the carrier under the terms of the contract of carriage, the carrier is liable to the sender for compensation not exceeding the amount of that charge without prejudice to its right of action against the consignee.

**Sender's obligation to inform carrier of dangerous goods**

**115.**(1) When a sender hands goods of a dangerous nature to a carrier, he shall inform the carrier of the exact nature of the danger and indicate, if necessary, the precautions to be taken.

(2) If this information has not been entered in the consignment note, the burden of proving, by some other means, that the carrier knew the exact nature of the danger constituted by the carriage of the goods shall rest upon the sender or the consignee.

(3) Goods of a dangerous nature that were not entered in the consignment note and that the carrier did not know were dangerous may, at any time or place, be unloaded, destroyed or rendered harmless by the carrier without compensation to the sender and the sender is liable for all expenses, loss or damage arising out of their handing over for carriage or of their carriage.

**Calculation of compensation for the carrier**

**116.**(1) When a carrier is liable under this Act for compensation in respect of a total or partial loss of goods, the compensation shall, subject to subsection (3), be calculated by reference to the value of the goods at the place and time at which they were accepted for carriage.

(2) The value of goods shall be fixed according to

*(a)* the commodity exchange price;

*(b)* if there is no commodity exchange price, the current market price; or

*(c)* if there is no commodity exchange price or current market price, the normal value of goods of the same kind and quality.

(3) Compensation shall not exceed 25 francs per kilogram of gross weight short.

(4) In subsection (3),

"franc" means a gold franc weighing 10/31 of a gramme and being of millesimal fineness 900.

(5) Carriage charges, customs duties and other charges incurred in respect of the carriage of the goods shall be refunded in full in the case of a total loss, and in proportion to the loss sustained in the case of a partial loss.

(6) In the case of a delay in delivery, if the claimant proves that damage has resulted from the delay, the carrier shall pay compensation for that damage in an amount not exceeding the carriage charges.

(7) Compensation higher than that provided by this section may be claimed only where the value of the goods or a special interest in delivery has been declared in accordance with sections 117 and 119.

**Payment of surcharged for goods exceeding limit**

**117.** A sender may, on payment of a surcharge to be agreed upon, declare in the consignment note a value for the goods exceeding the limit laid down in section 116(3), in which case the amount of the declared value shall be substituted for that limit.

**Carrier's liability where goods have been diminished in value**

**118.**(1) In the case of damage to goods, the carrier is liable for the amount by which the goods have diminished in value, calculated by reference to the value of the goods fixed in accordance with sections 116(1), (2) and (5).

(2) Compensation under subsection (1) may not, however, exceed

*(a)* if the whole consignment has been damaged, the amount payable in the case of a total loss; and

*(b)* if only part of the consignment has been damaged, the amount payable in the case of a loss of that part.

**Sender's obligation on payment of a surcharge in case of loss or damage**

**119.**(1) A sender may, on payment of a surcharge to be agreed upon, fix the amount of a special interest in delivery in the case of loss of or damage to the goods where the agreed time-limit for delivery is exceeded, by entering that amount in the consignment note.

(2) If a declaration of a special interest in delivery has been made, compensation for the loss or damage proved due to delay may be claimed, up to the total amount of the interest declared, in addition to the compensation provided for in sections 116, 117, and 118.

**Claimant's right to claim interest on compensation payable**

**120.**(1) A claimant is entitled to claim interest on compensation payable, calculated at 5 per cent per annum, accruing from the date on which the claim was sent in writing to the carrier or, if no such claim has been made, from the date on which legal proceedings were instituted.

(2) When the amounts on which the calculation of the compensation is based are not expressed in the currency of the country in which payment is claimed, conversion shall be at the rate of exchange applicable on the day and at the place of payment of compensation.

**Circumstances in which carrier can exclude liability**

**121.**(1) Where, under the applicable law, a loss, damage or delay arising out of carriage under this Act gives rise to an extra-contractual claim, the carrier may

avail itself of the provisions of this Act that exclude its liability or fix or limit the compensation due.

(2) Where an extra-contractual liability for loss, damage or delay of a person for whom the carrier is responsible under the terms of section 97 is in issue, that person may avail himself of the provisions of this Act that exclude the liability of the carrier or that fix or limit the compensation due.

**Circumstances in which carrier cannot exclude or limit liability**

**122.**(1) A carrier shall not be entitled to avail itself of the provisions of this Act that exclude or limit its liability or that shift the burden of proof, if the damage was caused by its wilful misconduct or by a default on its part.

(2) Subsection (1) applies to wilful misconduct or default committed by an agent or servant of the carrier, or by any other persons of whose services it makes use of for the performance of the carriage, when that agent, servant or other person is acting within the scope of his employment.

(3) An agent, servant or other person referred to in subsection (2) shall not be entitled to an exclusion or limitation of liability, or a shift in the burden of proof, referred to in subsection (1).

*Claims and Actions*

**Consignee's obligation to check goods**

**123.**(1) If a consignee takes delivery of goods without duly checking their condition with the carrier, or without sending the carrier a reservation giving a general indication of loss or damage, not later than at the time of delivery, in the case of apparent loss or damage, or within 7 days of delivery in the case of loss or damage that is not apparent, the fact of taking delivery shall be *prima facie* evidence that the consignee has received the goods in the condition described in the consignment note.

(2) Where the loss or damage is not apparent, the reservation referred to in subsection (1) shall be made in writing.

(3) If the condition of the goods has been duly checked by the consignee and the carrier, evidence contradicting the result of this check shall be admissible only if the loss or damage is not apparent and if the consignee has duly sent reservations in writing to the carrier within 7 days from the date of checking.

(4) No compensation is payable for a delay in delivery unless a reservation has been sent in writing to the carrier within 21 days from the time that the goods were placed at the disposal of the consignee.

(5) In calculating the time limits provided for in this Part, the date of delivery, the date of checking or the date when the goods were placed at the disposal of the consignee, as the case may be, shall not be included.

(6) The carrier and the consignee shall give each other every reasonable facility for making the required investigations and checks.

**Legal proceedings arising out of carriage**

**124.**(1) In legal proceedings arising out of carriage subject to this Act, the plaintiff may bring an action only in a court or tribunal of a contracting country designated by agreement between the parties or in a court or tribunal of a country within whose territory

*(a)* the defendant is ordinarily resident, or has his principal place of business;

*(b)* the branch or agency through which the contract of carriage was made; or

*(c)* the place where the goods were taken over by the carrier or designated for delivery is situated.

(2) Where in respect of a claim referred to in subsection (1) an action is pending before a court or tribunal referred to in that subsection, or where in respect of such a claim a judgement has been entered by such a court or tribunal,

no new action shall be started between the same parties on the same grounds unless the judgement of the court or tribunal before which the first action was brought is not enforceable in the country in which the fresh proceedings are brought.

(3) When a judgement entered by a court or tribunal of a contracting country in an action referred to in subsection (1) has become enforceable in that country, it shall also become enforceable in each of the other states of the contracting parties, as soon as the formalities required in the country concerned have been complied with.

(4) The formalities referred to in subsection (3) shall not permit the merits of the case to be re-opened.

(5) Subsection (3) applies to judgements after trial, judgements by default, settlements confirmed by an order of the court and costs against a plaintiff who wholly or partly fails in his action, but does not apply to interim judgements or to awards of damages.

(6) Security for costs shall not be required, in proceedings arising out of carriage under this Act, from nationals of contracting countries who are resident or have their place of business in one of those countries.

**Period of limitation for an action arising out of carriage**

**125.**(1) The period of limitation for an action arising out of carriage under this Act shall be one year.

(2) Nevertheless, in the case of wilful misconduct, the period of limitation shall be 3 years.

(3) The period of limitation shall begin to run

*(a)* in the case of a partial loss or damage to goods, or a delay in delivery, from the date of delivery;

*(b)* in the case of a total loss, 30 days after the expiry of the agreed time limit or, where there is no agreed time limit, 60 days from the date on which the goods were taken over by the carrier; and

*(c)* in all other cases, 3 months after the making of the contract of carriage.

(4) A written claim shall suspend the period of limitation until the date that the carrier rejects the claim by notification in writing and returns the documents attached to it.

(5) If a part of the claim is admitted, the period of limitation shall start to run again only in respect of the part of the claim that still in dispute.

(6) The burden of proof of the receipt of a claim, of a reply and of the return of documents shall rest with the party relying upon these facts.

(7) The running of a period of limitation shall not be suspended by further claims having the same object.

(8) Subject to subsection (2), the extension of a period of limitation and the fresh accrual of rights of action shall be governed by the law of the court or tribunal seized of the case.

(9) A right of action that has become barred by the lapse of time may not be exercised by way of a counter-claim or set-off.

**Clause conferring competence within the contract of carriage**

**126.** A contract of carriage may contain a clause conferring competence on an arbitration tribunal, if the clause provides that the tribunal shall apply this Act.

**Single contract performed by successive road carriers**

**127.** If carriage governed by a single contract is performed by successive road carriers

*(a)* each of them shall be responsible for the performance of the whole operation; and

*(b)* the second carrier and each succeeding carrier is deemed to become a party to the contract of carriage, according to the terms of the consignment note, by reason of acceptance of the goods and the consignment note.

**Obligation of carrier accepting goods from a previous carrier**

**128.**(1) A carrier that accepts the goods from a previous carrier shall give the latter a dated and signed receipt.

(2) The carrier accepting goods shall enter its name and address on the second copy of the consignment note.

(3) The carrier shall enter on the second copy of the consignment note and on the receipt any reservations provided for in section 102(2).

(4) Section 103 shall apply to the relations between successive carriers.

**Counter-claim concerning claim on the same contract of carriage**

**129.**(1) Except in the case of a counter-claim or a set-off raised in an action concerning a claim based on the same contract of carriage, legal proceedings in respect of liability for loss, damage or delay may be brought only against the first carrier, the last carrier or the carrier who was performing that portion of the carriage during which the event causing the loss, damage or delay occurred.

(2) An action may nonetheless be brought at the same time against more than one of the carriers referred to in subsection (1).

**Carrier entitled to recover compensation**

**130.** A carrier who has paid compensation under this Act is entitled to recover that compensation, together with interest and all costs and expenses incurred by reason of the claim, from the other carriers who have taken part in the carriage, but

*(a)* only the carrier responsible for the loss or damage is liable to pay the compensation, interest, costs and expenses, whether paid by itself or by another carrier;

*(b)* when the loss or damage has been caused by the action of two or more carriers, each of them shall pay an amount proportionate to its share of liability or, if it is impossible to apportion the liability, each carrier is liable in proportion to the share of the payment for the carriage that is due to it; and

*(c)* if it cannot be ascertained to which carriers liability is attributable for the loss or damage, the amount of the compensation shall be apportioned between all the carriers in proportion to the share of the payment for the carriage that is due to each of them.

**Where carrier is insolvent**

**131.** If one of the carriers is insolvent, the share of the compensation due from it and unpaid by it shall be divided among the other carriers in proportion to the share of the payment for the carriage due to them.

**Where carrier is not entitled to dispute validity of payment**

**132.**(1) No carrier against whom a claim is made under section 130 or section 131 is entitled to dispute the validity of the payment made by the carrier making the claim, if the amount of the compensation was determined by a judicial authority after the carrier against whom the claim was made was given due notice of the proceedings and afforded an opportunity to enter an appearance.

(2) A carrier may enforce its right of recovery by making a claim before a competent court or tribunal of the country in which

*(a)* one of the carriers concerned is ordinarily resident;

*(b)* the carrier has its principal place of business; or

*(c)* the branch or agency through which the contract of carriage was made is situated.

(3) All the carriers concerned may be made defendants in a single action.

(4) Sections 119(3) and (4), shall apply to judgements entered in proceedings referred to in sections 130 and 131.

(5) Section 120 shall apply to claims between carriers, though the period of limitation shall begin to run on the date of the final judicial decision fixing the amount of compensation payable under this Act or, if there is no such judicial decision, from the date of payment.

**Carriers freedom to agree**

**133.** Carriers may agree among themselves on rights and obligations other than those laid down in sections 130 and 131.

*Nullity of Stipulations Contrary to the Act*

**Where provisions are void**

**134.**(1) Subject to section 133, any stipulation in a contract of carriage that would directly or indirectly derogate from the provisions of this Act, including a benefit-of-insurance clause in favour of the carrier or any other similar clause, or any clause shifting the burden of proof, is void.

(2) The nullity of a stipulation under subsection (1) does not nullify any other provisions of the contract.

# PART XIX

# SEAWAY BILLS

**Application - Part XIX**

**135.** This Part applies to contracts of carriage not covered by a bill of lading or similar document of title, whether the contract is in writing or not.

**Definitions - Part XIX**

**136.** In this Part,

"goods" means goods carried or received for carriage under a contract of carriage;

"carrier" means a party named and identifiable as such from a contract of carriage;

"consignee" means a party named in, or identifiable as such from, a contract of carriage, or any person substituted as consignee in accordance with Rule 6(i) of the Comité Maritime International Uniform Rules for Seaway Bills;

"right of control" means the rights and obligations referred to in Rule 6 of the Comité Maritime International Uniform; and

"shipper" means a party named in, and identifiable as such from, a contract of carriage.

**Comité Maritime International Uniform Rules for Seaway Bills**

**137.** The Comité Maritime International Uniform Rules for Seaway Bills shall have the force of law in Barbados.

**Agency**

**138.**(1) A shipper on entering into a contract of carriage does so not only on his own behalf but also as agent of the consignee, and warrants to the carrier that he has authority to do so.

(2) Subsection (1) applies only if it is necessary by the law applicable to the contract of carriage to enable the consignee to sue and be sued on it.

(3) A consignee shall be under no greater liability under a contract of carriage than he would have been had the contract been covered by a bill of lading or similar document of title.

**Rights and responsibilities**

**139.**(1) A contract of carriage shall be subject to the International Carriage of Goods by Sea Rules, any other international convention, or a law of Barbados that is applicable to it, or that would have been applicable to it if the contract of carriage had been covered by a bill of lading or similar document of title, notwithstanding any inconsistent provision in the contract of carriage.

(2) Subject to subsection (1), a contract of carriage is governed by

*(a)* unless otherwise agreed by the parties, the carrier's standard terms and conditions for the trade, if any, including any terms and conditions relating to the non-sea part of the carriage; and

*(b)* any other terms and conditions agreed by the parties.

(3) In the event of an inconsistency between the terms and conditions referred to in paragraphs (2)*(b)* and *(c)* and the Comité Maritime International Uniform Rules for Seaway Bills, the Rules shall prevail.

**Description of the goods**

**140.**(1) A shipper warrants the accuracy of the particulars furnished by him relating to the goods, and shall indemnify the carrier against any loss, damage or expense resulting from any inaccuracy.

(2) In the absence of a reservation by the carrier, a statement in a sea waybill or similar document as to the quantity or condition of the goods shall

*(a)* as between the carrier and the shipper, be *prima facie* evidence of receipt of the goods as so stated; and

*(b)* as between the carrier and the consignee, be conclusive evidence of receipt of the goods as so stated, so long as the consignee has acted in good faith.

**Right of control**

**141.**(1) Unless a shipper has exercised an option under subsection (3), he shall be the only party entitled to give the carrier instructions in relation to the contract of carriage.

(2) Unless prohibited by the applicable law, the shipper is entitled to change the name of the consignee at any time before the consignee claims delivery of the goods after their arrival at destination, if the shipper gives the carrier reasonable notice in writing, or by some other means acceptable to the carrier, and undertakes to indemnify the carrier against any additional expense caused by the change.

(3) The shipper shall have the option, to be exercised not later than the time of receipt of the goods by the carrier, to transfer the right of control to the consignee.

(4) The exercise of such an option shall be noted on the sea waybill or similar document, if any.

(5) Where such an option has been exercised, the consignee shall have the rights referred to in subsection (1) and the shipper shall cease to have those rights.

**Delivery**

**142.**(1) A carrier shall deliver goods to the consignee upon production of proper identification.

(2) A carrier is under no liability for wrong delivery if it can prove that it has exercised reasonable care to ascertain that the party claiming to be the consignee is in fact that party.

**Validity**

**143.** If anything contained in the Comité Maritime International Uniform Rules for Seaway Bills, or in any provisions incorporated into the contract of carriage by virtue of Rule 4 of those Rules, is inconsistent with any other international convention or the laws of Barbados applicable to the contract of carriage, the Comité Maritime International Uniform Rules or those provisions, as the case may be, shall not apply to the extent of the inconsistency.

## PART XX

## MISCELLANEOUS

**Facilitating Multimodal Transport *via* the Maritime Single Window**

**144.** Multimodal transport documents may be submitted to the Chief Executive Officer through the Barbados Maritime Single Window or as otherwise directed pursuant to a Maritime Trade Facilitation Directive issued under section 145 in order to

*(a)* enhance administrative processes related to multimodal transport and support the multimodal transport process; and

*(b)* enable electronic data interchange in respect of multimodal transport documents.

**Maritime Trade Facilitation Directive**

**145.** The Minister may by notice published in the *Official Gazette* issue a maritime trade facilitation directive in respect of advancing multimodal transport and continuously improving the enabling environment to support multimodal transport activities.

**Multimodal transport involving air transport**

**146.** The Minister responsible for Civil Aviation may make regulations governing carriage by air and supporting regulations, that

*(a)* are complementary to this Act;

*(b)* serve to complete the national multimodal transport and trade framework; and

*(c)* generally clarify the regime for multimodal transport operators performing under contracts of carriage in which transport by sea, road and air are involved.

**Contractual requirements for shipments involving several modes of transport**

**147.** Multimodal contractual arrangements shall be consistent with the Baltic and International Maritime Council's MULTIDOC and MULTIWAYBILL Agreements.

**Power to make regulations**

**148.** The Minister responsible for Shipping may make regulations pertaining to the matters addressed under, or incidental to, this Act.

**Power to amend schedules**

**149.** The Minister responsible for Shipping may by order amend any schedules to regulations made under this Act.

Read three times and passed the House of Assembly this day of , 2024.

**Speaker**

Read three times and passed the Senate this day of , 2024.

**President**

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