



BARBADOS

MERCHANT SHIPPING (LIABILITY AND COMPENSATION) ACT,
2024-30

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SCHEDULE

**DECLARATIONS AND RESERVATIONS TO THE CONVENTION ON
LIMITATION OF LIABILITY FOR MARITIME CLAIMS 1976, AS
AMENDED**

BARBADOS

I assent
S. MASON
President of Barbados
4th December, 2024.

2024-30

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.

[Commencement: 16th December, 2024]

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

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

(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.

Liability for Nuclear Incidents

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 an 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

(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.

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) the 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, deliver 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

“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.

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.