



BELIZE

**BELIZE PORT AUTHORITY ACT
CHAPTER 233**

**REVISED EDITION 2011
SHOWING THE SUBSTANTIVE LAWS AS AT 31ST
DECEMBER, 2011**

This is a revised edition of the Substantive Laws, prepared by the Law Revision Commissioner under the authority of the Law Revision Act, Chapter 3 of the Substantive Laws of Belize, Revised Edition 2011.

CHAPTER 233

BELIZE PORT AUTHORITY

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CHAPTER 233

BELIZE PORT AUTHORITY

CAP. 189,
 R.E. 1980-1990.
 2 of 1976.
 17 of 1978.
 22 of 1987.
 15 of 1989.
 7 of 1992.
 37 of 2001.
 S.I. 54 of 1976.
 S.I. 1 of 1980.
 S.I. 57 of 2002.
 S.I. 52 of 1980.
 S.I. 91 of 1981.

[18th January, 2002]

PART I

Preliminary

Short Title.

1. This Act may be cited as the Belize Port Authority Act.

Interpretation.

2. In this Act, unless the context otherwise require,

“animal” means any animate thing of any kind except a human being;

“Authority” means the Belize Port Authority established under section 3 of this Act;

“Authority pilot” means a pilot employed by the Authority pursuant to section 54 of this Act;

“authorised officer” means a person authorised by the Ports Commissioner to exercise the powers and perform the duties in respect of which the expression is used;

“beacon” means any light, mark or sign used as an aid to navigation, other than a lighthouse or buoy;

“Board” means the Board of the Authority appointed pursuant to section 4 of this Act;

“buoy” includes any floating light, mark or sign used as an aid to navigation, other than a lighthouse;

“Chairperson” means the Chairperson of the Authority and includes any person for the time being performing the functions of the Chairperson;

“charges” means any charges or rates levied by the Authority under this Act and includes any rent but does not include dues;

“constable” means a constable appointed by the Authority pursuant to section 96 of this Act;

“dues” includes pilotage dues, port dues, and tonnage dues levied under this Act but does not include rates;

“ferry” means any vessel plying from one side of a waterway to the other for the purpose of the carriage of goods or passengers;

“financial year” means such period of twelve months as the Authority, with the approval of the Minister, may determine to be its financial year, so however that the first financial year shall be the period commencing with the commencement of this Act and ending with such day as shall be fixed by the Authority;

“goods” means all kinds of movable property including animals;

“local authority” means the Belize City Council constituted pursuant to the Belize City Council Act, Cap. 85, the Belmopan City Council constituted pursuant to the Belmopan City Council Act, Cap. 86, or any town, village or district council constituted pursuant to the Town Councils Act, Cap. 87 or Village Councils Act, Cap. 88;

“master”, in relation to a ship, means any person (other than an Authority pilot) having charge for the time being of that ship;

“Minister” means the Minister responsible for Ports;

“owner”, when used in relation,

- (a) to goods, includes any consignor, consignee, shipper or agent of the owner for the sale, custody, loading, handling, discharge or delivery of such goods;
- (b) to any ship, includes any part owner, charterer, operator, consignee or mortgagee in possession thereof or any duly authorised agent of such person;

“perishable goods” means goods liable to rapid deterioration and, in particular, includes fish, fruit, vegetables, meat, poultry, small animals or any other things including plants, game, butter, eggs, milk, cheese, and any other thing which the Authority may by notice published in the *Gazette* declare to be perishable goods;

“Pilotage Committee” means the Pilotage Committee appointed under section 55 of this Act;

“ports” means the Belize City Port, Corozal Port, Dangriga Port, Commerce Bight Port, Riversdale Port, and Punta Gorda Port or any place which may be designated as a port by the Minister;

“Ports Commissioner” means the Ports Commissioner of the Authority appointed under section 11 of this Act and includes any person appointed to act as Ports Commissioner;

“port manager” means a port manager appointed under section 11 of this Act, and includes every person appointed to act as port manager;

“premises” includes any immovable property whether open or enclosed, whether built on or not, whether public or private and whether maintained or not under statutory authority;

“Regulations” means the regulations made under this Act;

“ship” includes any ship, vessel, tug or boat of any kind whatsoever whether it is propelled by steam or otherwise or is towed;

“Tariff Book” means the Tariff Book prepared and published under section 52 (4) of this Act;

“vehicle” means any vehicle towed or propelled by any means whatsoever for the portage of goods or persons otherwise than by sea.

PART II

Establishment, Constitution, Management and Staff

3.–(1) There is hereby established for the purposes of this Act a body to be called the Belize Port Authority.

Establishment of the Authority.

(2) The Authority shall be a body corporate with perpetual succession and a common seal and with power as such to enter into contracts, to sue and be sued by law in its corporate name and may for all purposes be described by such name, to acquire, hold, mortgage, lease and dispose of all kinds of property movable and immovable and to do and perform such acts and things as bodies corporate may by law do and perform subject to the provisions of this Act.

4.–(1) The Authority shall be administered by a Board consisting of ten members as follows, one of whom shall be appointed by the Minister as the Chairperson of the Board,

Constitution of the Authority.

37 of 2001.

- (a) Financial Secretary or his representative;
- (b) Chief Executive Officer of the Ministry for the time being responsible for ports, or his representatives;
- (c) eight other members appointed by the Minister from among persons appearing to him to have ability and experience in matters relating to ports, communications, finance, economics and other relevant disciplines.

(2) Every member shall be appointed for a period of two years and shall, upon the expiry of his term of appointment, be eligible for

re-appointment, but where before the expiry of his term of office, any member ceases to be a member for any reason, the Minister may appoint another person, one of the same description under subsection (1) of this section, to serve the unexpired term of the vacating member.

(3) The Minister shall appoint a fit and proper person to be Secretary to the Board.

(4) If any member is unable to attend the meetings of the Board due to illness, or temporary absence from Belize, the Minister may appoint a person to act as member in his place until such member is able to return to his duties.

(5) The Minister may at any time, and without stating any reason, revoke the appointment of any member if he considers it expedient to do so.

(6) The appointment and termination of office of every member shall be published in the *Gazette*.

(7) The quorum of the Board shall be the Chairperson and any five members.

5.-(1) The seal of the Authority shall be kept in the custody of the Chairperson or of the Ports Commissioner and may be affixed to instruments pursuant to a resolution of the Board and in the presence of the Chairperson and one other member and the Ports Commissioner.

(2) The seal of the Authority shall be authenticated by the signatures of the Chairperson or such other person as may be performing the functions of the Chairperson and the Ports Commissioner, and such seal shall be officially and judicially noticed.

(3) All deeds, instruments, contracts and other documents, other than those required by law to be under seal, made by, and all decisions of, the Authority may be signified under the hand of the Chairperson, or such other person as may be performing the functions of the Chairperson or Ports Commissioner.

Seal of the Authority.

6.–(1) Service of any notice, order or other document required or authorised to be served under this Act or any regulations to be served on any person by the Ports Commissioner, any authorised officer or officers may be served,

Service of notice.

- (a) by delivering it to the person;
- (b) by leaving it at the usual or last known place of abode of the person; or
- (c) by sending it by registered post addressed to the person at his usual or last known address.

(2) Service of any notice, order or other document required or authorised to be served under this Act or any regulations on the Ports Commissioner, any authorised officer or officers may be served,

- (a) by delivering the notice or other document to the Ports Commissioner or to the authorised officer;
- (b) by leaving it at the office of the Ports Commissioner; or
- (c) by sending it by registered post addressed to the Ports Commissioner at the office of the Authority.

7.–(1) The Board shall meet at such time as may be necessary or expedient for the transaction of business, and such meetings shall be held at such place and time and on such days as the Board may determine.

Procedure and meeting of the Authority.

- (2) The Board shall meet at least once every month.
- (3) The Chairperson may at any time call a special meeting of the Board.
- (4) The decision of the Board with regard to any question shall be determined by vote of the majority of the members present at the meeting of the Board and in any case when the votes of the members present in

regard to any question shall be equally divided, the Chairperson presiding at the meeting shall have a casting vote in addition to his own vote.

(5) Minutes of the proceedings of each meeting of the Board shall be kept in such manner as the Board may determine and shall be confirmed by the Chairperson as soon as practicable thereafter at a subsequent meeting.

(6) The Board may co-opt any one or more persons to attend any particular meeting of the Board for the purpose of assisting or advising the Board, but no such co-opted person shall have any right to vote.

(7) Subject to this section, the Board shall have power to regulate its own proceedings.

(8) If member appointed under paragraph section 4 (1) (c) of this Act, is absent from three consecutive meetings of the Board without reasonable cause, he shall be deemed to have vacated his seat.

8.-(1) It shall be the duty of a member of the Board who is in any way, whether directly or indirectly, interested in an application to the Authority for a contract or proposed contract with the Authority, to declare the nature of his interest at the first meeting of the Board at which it is practicable for him to do so.

(2) A member of the Board shall not vote in respect of any contract or proposed contract with the Authority in which he is in any way interested, whether directly or indirectly.

(3) Where any member of the Board who is in any way whether directly or indirectly interested in an application to the Authority for a contract or proposed contract with the Authority fails to declare the matter of his interest at the first meeting of the Board at which it is practicable for him to do so, or where such a member votes on any decision relating to such a contract or proposed contract, such contract shall, if entered into thereafter by the Board in ignorance of the interest of the member in the contract, be voidable at the discretion of the Board and, where such determination renders the Authority liable to a claim in

37 of 2001.

Disclosure of interest and abstaining from voting.

damages, the member concerned shall indemnify the Authority against any such claim.

9.—(1) The Board may appoint a committee to examine and report to it on any matter whatsoever arising out of or connected with any of its functions under this Act.

Appointment of committee.

(2) Any such committee shall consist of at least one member together with such other persons, whether members or not, whose assistance or service the Authority may desire.

(3) Where persons, other than members of the Board, are members of a committee appointed under this section, or where any person is co-opted under section 7 (6) of this Act, the Board may declare the remuneration and allowances of such persons, and such sums shall properly be payable out of the funds and resources of the Authority.

(4) The Board may by resolution reject the report of any such committee or adopt it either wholly or with such modifications, additions or adaptations as the Board may think fit.

10. Subject to this Act, the Board may delegate to any member or committee of the Board the power and authority to carry out on its behalf such duties as the Board may determine.

Power to delegate.

11.—(1) The Board shall, at such salary and upon such terms and conditions as it may determine, appoint,

(a) a Ports Commissioner;

(b) such number of port managers as it thinks fit.

Appointment of Ports Commissioner and port managers.

(2) The Ports Commissioner shall be the chief executive officer of the Authority and shall exercise all the functions entrusted to him by this Act and any regulations, and (whether or not he is a member), shall be present at all meetings of the Board unless he has obtained leave of absence from the Chairperson or is incapacitated by illness or other causes from attendance of such meetings.

(3) In the event of the absence of the Ports Commissioner, the Board may, by instrument in writing, appoint any person to act as Ports Commissioner during the period of such absence upon such terms and conditions as it may determine. The person so appointed may exercise all powers and all the duties under this Act to be performed by the Ports Commissioner or as many of such powers and duties as may be specified in such instrument.

Appointment of officers and servants.

12.—(1) The Board may appoint and employ, at such remuneration and on such terms and conditions as it thinks fit, such officers and servants as it deems necessary for the proper carrying out of its functions under this Act.

(2) The persons so engaged shall perform such duties as may be assigned to them by the Ports Commissioner.

Public servants.

13. The officers and servants of every description employed by the Authority shall be deemed to be public servants within the meaning of the Criminal Code, Cap.101.

Establishment and maintenance of superannuation schemes.

14.—(1) The Authority may provide for the establishment and maintenance of a Pension Scheme, a Social Security Scheme or a Provident Fund Scheme for the benefit of the officers and employees of the Authority.

(2) Without prejudice to the generality of subsection (1) of this section, the Pension Scheme, Social Security Scheme, or the Provident Fund Scheme may enable the Authority to,

- (a) grant gratuities, pensions or superannuation allowances to, or to the widows, families, or dependants of, its employees;
- (b) establish contributory and superannuation schemes and establish and contribute to superannuation funds for the benefit of its employees;
- (c) enter into and carry into effect agreements with any insurance company or other association or company

for securing to any such employee, widow, family or dependant such gratuities, pensions or allowances as are by this section authorized to be granted.

15. The validity of any act done or proceedings taken under this Act shall not be questioned on the ground of,

Protection of the Authority.

- (a) the existence of any vacancy in the membership of the Board or any defect in the constitution of the Authority;
- (b) the contravention by a member of the Board of section 8 of this Act; or
- (c) any omission, defect or irregularity not affecting the merits of the case.

16. No personal liability shall attach to any member of the Board in respect of anything done or suffered in good faith under the provisions of this Act, and any sums of money, damages or costs which may be recovered against any such member in respect of any act or thing done bona fide for the purpose of carrying this Act into effect shall be paid out of the funds and resources of the Authority.

Protection of members.

17.-(1) The Board may give to the Ports Commissioner directions of a general character as to the policy to be followed in the performance of his functions in relation to matters appearing to him to concern the public interest.

Policy.

(2) The Ports Commissioner shall furnish the Board with such returns, accounts and other information as it may require with respect to the property and activities of the Authority, and shall afford to it facilities for verifying such information in such manner and at such times as the Board may reasonably require.

18.-(1) The Board may make regulations providing for the establishment of a consultative body,

Consultative body.

- (a) to represent the interests of persons using facilities under the control of the Authority;
- (b) for holding of consultations between the body and the Authority;
- (c) enabling the body to make representations to the Authority, or to any particular officer of the Authority, with a view to safeguarding those interests.

(2) Regulations made under this section may contain such incidental and supplemental provisions (excluding provisions for the making of payments) to persons serving on that body as the Board considers expedient for the purposes of the regulations.

PART III

Duties and General Powers, Provisions relating to Land, Property and Undertakings of the Authority

19.—(1) Subject to this Act, the Authority is hereby empowered to provide, in accordance with this Act and any regulations made thereunder, a coordinated and integrated system of ports, lighthouses and port services.

(2) Subject to this Act, the Authority may, for the purpose of performing any of its functions under this Act, do any act and enter into any transaction which, in the opinion of the Authority, is necessary to ensure the performance of its functions.

(3) In particular and without prejudice to the generality of the provisions of subsections (1) and (2) of this section, it shall be the duty of the Authority,

- (a) to operate the ports as appears to it best calculated to serve the public interest;

Powers and duties.

- (b) to regulate and control navigation within the limits of such ports and their approaches;
- (c) to maintain, improve and regulate the use of such ports and services and facilities therein as it considers necessary or desirable;
- (d) to provide for such ports and the approaches thereto such pilotage services, beacons, buoys and other navigational services and aids as it considers necessary or desirable;
- (e) to exercise the duties and functions relating to shipping and navigation exercisable under the provisions of any other law.

20.—(1) The Minister may, by Order published in the *Gazette*, designate any place, not already included under the definition of the term “port” herein, a port for the purposes of this Act.

Designation of ports.

(2) The Minister shall, by Order published in the *Gazette*, define the limits of the ports named in this Act and any other place designated as a port by him under subsection (1) of this section.

21.—(1) Any wharf, dock, and other public work constructed by the Government along, across, or extending out from the foreshore, within the limits of any port, and the land on which it is constructed, any land reclaimed from the sea, and any part of the foreshore, situate within the limits aforesaid, may be vested in the Authority upon such terms and conditions as the Minister responsible therefor may determine.

Power to vest reclamations in Authority.

(2) Nothing in this section shall be taken to derogate from or interfere with the use of private rights and the payment of adequate compensation under any enactment providing for compensation.

22. When any apparatus, fixture or fitting owned by or in the custody of the Authority is placed in or upon any premises not being in the possession of the Authority for the purposes of carrying out the functions

Apparatus, etc., not subject to distress, etc.

of the Authority, such apparatus, fixture or fitting shall not be subject to distress or be taken in execution under process of any court or any proceedings in bankruptcy against the person in whose possession it is.

23.–(1) Notwithstanding anything contained in this Act, the Minister may, after consultation with the Authority, grant in writing a licence to any person, corporation or other body to construct and operate a private port subject to such terms, conditions and restrictions and on the payment of such fees as the Minister may consider appropriate.

(2) A licence granted under subsection (1) of this section shall be for a period not exceeding thirty years, but may be renewed from time to time.

(3) Every licence granted under this section shall,

- (a) define the limits of the private port;
- (b) make provision for tariffs, charges and other fees (by whatever name expressed) to be levied and collected at such a port.

(4) The Minister may, after consultation with the Authority, make regulations either generally for the governance of private ports or specifically for a private port licensed under subsection (1) of this section.

(5) Without prejudice to the generality of the foregoing, a licence granted under subsection (1) or regulations made under subsection (4) of this section, may authorise the person, corporation or other body to whom such licence is granted to make by-laws, subject to the approval of the Minister, for all matters connected with or incidental to the control and regulation of a private port.

(6) The Minister may, if satisfied that there has been a breach of the terms and conditions of a licence granted under subsection (1) of this section or any contravention of the provisions of this section or the regulations made thereunder, revoke such licence.

Private ports.

15 of 1989.

PART IV

Finances, etc., of the Authority

24.-(1) The revenue of the Authority shall consist of,

Revenue of the Authority.

- (a) the sums received by the Authority in respect of dues and charges levied and payable in pursuance of this Act and any regulations;
- (b) such sums as the Authority may borrow for meeting any of its obligations or discharging its functions;
- (c) all other sums that may become payable to or vested in the Authority in respect of any matter incidental to its powers and duties.

(2) All sums referred to in subsection (1) of this section, shall be paid into and placed to the credit of an account to be maintained in the name of the Authority at a bank approved by the Minister.

25. The revenue of the Authority in any financial year shall be applied in payment of the following charges,

Application of revenue of Authority.

- (a) the interest and sinking fund contribution on any loan payable by the Authority;
- (b) the sums required to be paid to the Government towards the repayment of any loans made by the Government to the Authority;
- (c) the salaries, remuneration, allowances, pensions, gratuities, provident fund and other superannuation benefits of the officers and servants, employed in or in connection with the activities carried on by the Authority;

- (d) the working and establishment expenses of, and the expenditure on, or provision for the maintenance of the property and installations of, the Authority, and the discharge of the functions of the Authority properly chargeable to revenue accounts;
- (e) such sums as the Authority may consider appropriate to set aside in respect of obsolescence and depreciation or renewal of the property or installations of the Authority, having regard to the amounts set aside out of revenue under paragraphs (a) and (b) of this subsection;
- (f) the cost, or any portion thereof, of any new works, plant or appliances not being a renewal of property of the Authority which the Authority may determine to charge to revenue;
- (g) sums to be appropriated to the Reserve Fund;
- (h) any other expenditure authorized by the Authority and properly chargeable to revenue.

Temporary investment of funds.

15 of 1989.

26.—(1) The Authority may from time to time invest, with the approval of the Minister responsible for Finance, any of its funds not immediately required to be expended in the meeting of its obligations or in the discharge of its functions.

(2) All interest from such investment shall be paid to the credit of the Authority's account as provided in section 24 (2) of this Act.

Power to borrow.

27.—(1) Subject to this Act, the Authority may from time to time for the purposes of this Act raise loans,

- (a) from the Government; or
- (b) with the consent of the Board, from any other source.

- (2) The power to borrow under this section may be exercised,
- (a) to borrow and re-borrow moneys by the issue and sale of debentures or debenture stock or other security for the purpose of raising the funds of the Authority for the effectual exercise by it of the powers conferred by this Act;
 - (b) to create and issue debentures or debenture stock or other security for any debentures or debenture stock respectively issued in respect of moneys previously borrowed by the Authority, and not repaid;
 - (c) to create, issue and sell debentures or debenture stock or other security for the purpose of borrowing money for redeeming any loans owing by the Authority and for paying the expenses incurred in the issue and creation of debentures or debenture stock or other security and otherwise carrying out the provisions of this Act;
 - (d) to effect any conversion authorised by this section either by arrangement with the holders of the existing debentures or debenture stock or other security, or by the purchase of debentures or debenture stock or other security out of money raised by the sale of the debentures or debenture stock or other security, or partly in the one way and partly in the other.

(3) Without prejudice to the next following section, the power of the Authority to borrow under this section shall not be exercised unless a proposal in writing showing,

- (a) the amount and particulars of the proposed loan;
- (b) the rate of interest to be paid on the loan;
- (c) the source or sources from which the loan is to be obtained;

- (d) the purposes to which the money proposed to be borrowed is to be applied; and
- (e) the manner in which the loan is to be repaid, is first submitted for the approval of the Minister of Finance.

Temporary borrowing.

28. The Authority may with the consent of the Minister of Finance, from time to time borrow, by way of a temporary loan or overdraft from a bank or otherwise, any sum which it may temporarily require,

- (a) for the purpose of defraying expenses, pending the receipt of revenue recoverable by it in respect of the period of account in which those expenses are chargeable;
- (b) for the purpose of defraying, pending the receipt of money due in respect of any loan authorised to be raised under section 27 (1) of this Act, expenses intended to be defrayed by any such loan;
- (c) for any other purpose approved by the Board.

Guarantee of borrowing of Authority.

29.—(1) With the approval of the National Assembly, the Minister of Finance may guarantee, in such manner and on such conditions as he may think fit, the payments of the principal and interest of any authorized borrowing of the Authority.

(2) Where the Minister of Finance is satisfied that there has been default in the payment of any principal moneys or interest guaranteed under this section, he shall direct the repayment out of the Consolidated Revenue Fund of the amount in respect of which there has been such default.

(3) The Authority shall make to the Accountant General, at such times and in such manner as the Minister of Finance may direct, any payments of such amounts as may be so directed in or towards repayment of any sums issued in fulfilment of any guarantee given under this section, and payment of interest on what is outstanding for the time being in respect

of any sums so issued at such rates as the Minister of Finance may direct, and different rates of interest may be directed as regards different sums and as regards interest for different periods.

30. The Authority shall establish a Reserve Fund which shall be dealt with and applied in accordance with any direction which may from time to time be given to the Authority by the Minister of Finance.

Reserve Fund.

31.—(1) The Board shall cause to be prepared every year, in such form as may be prescribed by the Financial Secretary, estimates of expenditure and revenue in respect of the ensuing financial year, and shall adopt such estimates in respect of that year.

Estimates in respect of financial year.
15 of 1989.

(2) Supplementary estimates may be adopted at any meeting of the Board.

(3) The estimates of revenue and expenditure in respect of the financial year and all supplementary estimates in respect of that year shall, upon adoption by the Authority, be sent to the Minister responsible for Finance through the Minister responsible for the Authority, and the Minister responsible for Finance shall present the said estimates to the National Assembly with such amendments, if any, as he may consider necessary.

15 of 1989.

32.—(1) The Authority shall keep proper accounts of all its transactions and a statement of accounts shall be kept and made up in respect of each financial year.

Accounts.

(2) The statement of accounts in respect of each financial year shall present a true picture and fair view of the financial position of the Authority and of the results, for the financial year to which it relates, of the operations of the Authority.

33.—(1) The accounts of the Authority shall be audited in each financial year by the Auditor-General or such other auditor as the Minister of Finance may appoint.

Audit.

(2) The Board, officers and servants of the Authority shall grant access to the Auditor-General or such other auditor as shall have been appointed by the Minister of Finance to all books, deeds, contracts, accounts, vouchers, or other documents which he may think necessary to call for, and the Auditor-General or such other auditor may require any person holding or accountable for any such document to appear before him and make a signed statement in relation thereto and may require from such person such information as he thinks necessary.

(3) Any person to whom a request to produce a document or to enter an appearance and make and sign a statement or furnish information is made, who fails without reasonable excuse to comply with such requisition, commits an offence and is liable on summary conviction to a fine not exceeding five hundred dollars or to a term of imprisonment not exceeding three months.

Auditor's report.

34. The Auditor-General or any auditor appointed by the Minister of Finance shall, as soon as practicable and not later than three months after the accounts have been submitted for audit, send an audited statement of accounts and his report in respect of his audit for the financial year to the Authority.

Report.

35.—(1) The Authority shall, as soon as practicable and not later than three months after the receipt of such accounts and report as provided in section 34, submit a report to the Minister of Finance containing,

- (a) a statement of such accounts of the Authority; and
- (b) an account of the activities of the Authority during the preceding financial year in such form as the Minister of Finance may direct.

(2) The Minister shall cause a copy of the report, together with a copy of the audited statement of the accounts and the auditor's report thereon, to be laid on the table of the House of Representatives within one month of receipt thereof.

PART V

*Warehousing, Dues, Charges and
Tariff book keeping etc., by the Authority*

36. Subject to this Act or any regulations or any contract, the Authority shall not be liable for the loss, misdelivery, detention of or damage to goods,

Liability for loss,
etc., of goods.

- (a) delivered to or in the possession of the Authority, otherwise than for the purposes of carriage and warehouse except where such loss, misdelivery, detention or damage is caused by negligence on the part of any person employed by or on behalf of the Authority;
- (b) accepted by the Authority for carriage or warehousing where such loss, misdelivery, detention or damage occurs otherwise than while the goods are in transit or being warehoused and is not caused by negligence on the part of any person employed by or on behalf of the Authority,

Provided that the Authority shall in no case be liable for such loss, misdelivery, detention or damage arising from,

- (i) an act of God;
- (ii) an act of war or the State's enemies;
- (iii) an arrest or restraint of princes or rulers, or seizure under legal process;
- (iv) an act or omission of the consignor, consignee, or depositor, or of the servant or agent of any such person;
- (v) fire, flood, tempest, riots, civil commotion, strikes, lock outs, stoppage or restraint of labour from whatever cause, whether partial or general;

- (vi) inherent liability to wastage in bulk or weight, latent, or inherent defect, inherent vice or natural deterioration;
- (vii) deficiency in the contents of unbroken packages;
- (viii) insufficiency or improper packing or leakage from defective drums, containers or packages,

Provided further that where such loss, misdelivery, detention or damage occurs in relation to goods accepted by the Authority for carriage or for warehousing, the limitation contained in section 37 of this Act, shall apply.

Limitation of liability for loss, etc., where false account is given.

37. The liability of the Authority in respect of any goods accepted by the Authority for carriage or warehousing, and in relation to which an account false in any material particular has been given under section 47 of this Act, shall not in any case exceed the value of the goods as calculated by the Authority in accordance with the description contained in such false account.

Dues and charges when due.

38. All dues and charges payable under this Part shall be paid at the time specified in the regulations in relation thereto, and where no such time is specified, any dues and charges shall be paid on demand. All dues and charges shall be deemed to have been demanded when they fall due in accordance with the regulations.

Dues and charges in respect of ship.

39. Subject to this Act and the regulations made thereunder, every ship which,

- (a) enters a port for the purpose of loading or discharging cargo or embarking or disembarking passengers; or
- (b) occupies an anchorage or berth within the port;

shall pay to the Authority the dues and charges in respect of such ship and for any service performed or facility provided in respect of such ship in accordance with the regulations under this Part.

40. Every ship shall appoint an agent who shall be responsible for the payment of the dues and charges, without prejudice to the recovery by the agent from the Master or owner of the ship of such sums paid on behalf of any such ship.

Appointment of agent.

41. An agent who intends to incur a liability in respect of any of the sums mentioned in section 39 of this Act, may deposit with the Authority or guarantee such sums as are, in the opinion of the Authority, reasonable, having regard to the amount or probable amount of the sums which such agent shall be liable to pay to the Authority.

Security for Charges.

42.—(1) Where any sums are owing in respect of any ship, any authorised officer may, with such assistance as he thinks necessary, enter the ship and may arrest the ship and the tackle, apparel and furniture thereof, and may detain it until the said sums are paid.

Detention by authorised officer.

(2) Where after pursuant to subsection (1) of this section an arrest is made, such sums remain unpaid for a period of seven days, the authorized officer may cause the ship and the tackle, apparel and furniture thereof, to be sold; and may detain it until the said ship, tackle, apparel and furniture is sold. Out of the proceeds of such sale he shall retain the amount necessary to meet the expenses of the detention and sale thereof and shall, after paying the amount of any sums which are owing to the Authority, deliver the balance to the Agent.

(3) Where any ship, in respect of which any sums are owing and have not been secured as provided in section 41 of this Act, leaves the port and enters or is in any other port, then such ship may be dealt with as if such sums so owing and not secured as aforesaid were sums owing in respect of such other port.

43. Before the master of any ship in a port obtains outward clearance from that port, he shall first obtain from an authorised officer a certificate stating that,

Master required to obtain certificate of authorised officer before requesting clearance.

- (a) all dues and charges in respect of the ship and all penalties and expenses to which the ship and her master are liable under this Act or regulations have been paid or secured to the satisfaction of the authorised officer;

- (b) he has complied with the provisions of this Act and the regulations.

44. The Authority may, subject to this Act and any regulations,

- (a) determine the conditions upon which goods shall be carried or warehoused, and different conditions may be determined in different cases;
- (b) determine the charges for the carriages or warehousing of goods by the Authority and for any other service or facility performed or provided by the Authority.

45.—(1) Where the agent of a ship from which any goods have been landed at a port and accepted by the Authority for carriage or warehousing or for delivery to the consignee, notifies the Ports Commissioner or the port manager in writing that the freight or other charges payable to the agent of the ship to the amount specified in the notice, remain unpaid in respect of the goods, the Ports Commissioner or the port manager, as the case may be, shall retain the goods and refuse delivery of them to the consignee or any other person until,

- (a) the payment of any dues and charges in respect of such ship and the goods and customs duties thereon;
- (b) the production of a receipt for, or a release from the payment of such amount signed, or purporting to be signed, by or on behalf of the agent; or
- (c) the payment of such amount to be signed by the person entitled to take delivery thereof.

(2) Where the Ports Commissioner or the port manager causes to be delivered any goods in respect of which a notice has been given under subsection (1) of this section to a person producing such receipt or release, or making such payment as is referred to in paragraphs (b) or (c) of that subsection, the Authority shall be freed from all liability to any person in respect of the goods.

Power to determine conditions and rates of carriage or warehousing.

Port manager may retain goods until freight is paid.

(3) Nothing in this section shall be construed as requiring any person to take into the custody of the Authority any goods which would not otherwise be receivable by the Authority under the provisions of this Act or any regulations made thereunder or as requiring the Ports Commissioner or the port manager to inquire into the validity of any claim made for freight or any other sums made in any notice given by an agent under subsection (1) of this section.

46. The consignor or the consignee, or the person tendering any goods for carriage or warehousing by the Authority or the consignee of, or person receiving any goods which have been carried or warehoused by the Authority shall be liable in accordance with the regulations under this Part for the charges of such carriage or warehousing and any other services performed or facility provided in respect of the goods by the Authority.

Consignor or consignee liable for payment of carriage or warehousing.

47.-(1) The consignor of, or the person tendering any goods for carriage or warehousing by the Authority and, on request by an authorised officer, the consignee of, or person receiving any goods which have been carried or warehoused by the Authority, shall deliver to the authorised officer the documents as prescribed in the regulations under this Part to enable such officer to determine the charges payable in respect of the carriage or warehousing or any other service performed or facility provided in respect of the goods.

Duty to deliver description of goods.

(2) An authorised officer may, for the purpose of verifying the documents delivered under subsection (1) of this section, require such consignor, person or consignee, as the case may be, to permit him to examine such goods.

(3) If such consignor, person or consignee fails to deliver the documents referred to in subsection (1), or to permit such goods to be examined as required in subsection (2) of this section, an authorised officer may, in respect of the goods which are tendered for carriage or warehousing by the Authority, refuse to accept the goods for such carriage or warehousing unless in respect thereof a charge not exceeding the highest payable for any class of goods is paid.

(4) If, in respect of goods which have been carried or warehoused by the Authority, any document delivered under subsection (1) of this section, is found to be false in any material particular with respect to the description of any goods to which it purports to relate, an authorised officer may refuse to deliver such goods unless in respect of warehousing or carriage of the goods, a charge not exceeding double the highest charge payable for any class of goods is paid.

48. In respect of all goods in the custody of the Authority in pursuance of section 45 of this Act, an authorised officer shall be entitled to levy such charges as may be determined in accordance with the regulations made under this Part and he may do all such reasonable acts and incur such reasonable expenses as are necessary for the proper custody and preservation of the goods, and the Authority shall have a lien on the goods for such charges and any other expenses and shall be entitled to seize and detain the goods until such charges are fully paid.

49.-(1) Subject to this section and without prejudice to the provisions of section 48 where any goods, except perishable goods, in the custody of the Authority or on any premises of the Authority are not removed therefrom within a period of fifteen days from the time when the goods were placed in or on such premises, the Ports Commissioner or the port manager shall cause a notice to be served on the owner or any other person appearing to the Ports Commissioner or port manager to be entitled thereto, requiring him to remove the goods.

(2) Where,

- (a) the owner of any goods in the possession of the Authority is not known and no person appears to be entitled thereto;
- (b) the notice referred to in subsection (1) of this section cannot for any reason be served; or
- (c) there has been a non-compliance with the provisions of any notice served under subsection (1) of this section,

Authorised officer's power to levy charges, etc.

Effect of non-removal of goods.
17 of 1978.

the Ports Commissioner or a port manager may, within a reasonable time not being less than four weeks, and by a suitable notice seven days before sale in the *Gazette*, sell the goods by public auction.

(3) Where the goods in the custody of the Authority are perishable goods, the Ports Commissioner or a port manager may direct their removal within such shorter period, not being less than twenty-four hours after the landing thereof as the Ports Commissioner or a port manager thinks fit, and he may sell the goods without giving the said notice but shall as soon as practicable inform the owner or such other person appearing to be entitled thereto of the action that has been taken.

(4) No imported goods shall be sold under this section until they have been entered for home consumption in accordance with the provisions of the law relating to customs duty and any tax under any enactment.

50. The Authority shall, upon being required to do so by the Comptroller of Customs under the provisions of section 19 of the Customs Regulation Act, Cap. 49, sell the goods covered by the said request within twenty days from the date of such request.

Authority to sell goods upon request by Comptroller.

17 of 1978.

51. The proceeds of any sale under section 49 or section 50 of this Act, shall be applied by the Authority as follows, and in the following order,

Application of the proceeds of sale.

17 of 1978.

- (a) in the payment of any duty payable in respect of the goods;
- (b) in the payment of the expenses of sale;
- (c) in the payment of the sums due to the Authority in respect of the carriage or warehousing and other service performed or facility provided in respect of the goods;
- (d) in the payment of freight and other claims of which notice under the provisions of this Act has been given,

and by rendering the surplus, if any, to the owner or the person entitled thereto on demand, and if no such demand is made within one year from the date of the sale of the goods, by paying the surplus into the funds of the Authority, whereupon all rights to the same of such person shall be extinguished.

Compilation of
dues, charges and
Tariff Book.

52.—(1) Subject to this Act, the dues, conditions and charges for the carriage or warehousing of goods and for any other service or facility performed or provided by the Authority when determined, shall be in the form of regulations made by the Board and shall be first submitted to the Minister of Finance for approval.

(2) Regulations made under subsection (1) of this section, shall have effect from the date of such publication or from such later date as may be specified therein.

(3) Subject to the approval of the Minister of Finance and without prejudice to subsections (1) and (2), the regulations shall be deemed to have been made and be embodied in the Tariff Book as provided in accordance with subsection (4) of this section.

(4) The Authority shall cause to be prepared and published in such manner as it may think fit, a Tariff Book containing all matters under this Act or any regulations that are required to be contained therein, together with such other matters as the Authority may determine.

PART VI

Pilotage

Compulsory pilotage.

17 of 1978.

53.—(1) The territorial waters of Belize shall be compulsory pilotage waters and all ships other than those excepted under subsection (2), navigating within those waters shall do so under the pilotage of a licensed pilot and any failure to take on a pilot shall render the ship liable to a fine of five hundred dollars in addition to the pilotage fee. The fine and the fee shall be levied as a charge by the Authority.

(2) For the purposes of this section, the following ships are excepted ships,

- (a) ships belonging to Her Majesty;
- (b) ships owned or operated by the Authority;
- (c) ferrying boats plying as such exclusively within the limits of a port;
- (d) ships trading exclusively between ports and other parts of Belize;
- (e) tugs, dredges, barges or similar vessels whose ordinary course of navigation does not extend beyond the limits of Belize.

(3) The Minister or the Ports Commissioner may exempt from compulsory pilotage any ship in any particular case.

54.—(1) Subject to this Act, the Authority may employ such number of pilots as it thinks necessary or expedient for the purpose of providing an adequate and efficient pilotage service.

Authority to employ pilots.

(2) No person shall be employed as an Authority Pilot, unless he is in possession of a valid licence to act as a pilot issued under section 59 of this Act.

55.—(1) The Authority shall appoint a Pilotage Committee for the purpose of,

Appointment and functions of the Pilotage Committee.

- (a) holding examinations and issuing on behalf of the Authority licences to act as an Authority pilot;
- (b) holding inquiries concerning the conduct of Authority pilots in the discharge of their duties;

- (c) making such arrangements as may be necessary for the training of persons selected for or in the pilotage service of the Authority;
- (d) investigating and advising on such matters as may be referred to the Committee by the Authority; and
- (e) carrying out such other functions as are conferred on the Pilotage Committee by this Act.

Constitution of Pilotage Committee.

56.—(1) The Pilotage Committee shall consist of,

- (a) the Ports Commissioner, who shall be the Chairperson of the Committee; and
- (b) four other persons appointed by the Authority, of whom two at least shall be persons who by reason of their knowledge of or experience in nautical matters are, in the opinion of the Authority, fit and proper persons to be members of the Committee.

(2) The appointment of a member of the Pilotage Committee may be for any period not exceeding three years but such member shall be eligible for reappointment on completion of every such period.

(3) Three members of the Pilotage Committee shall form a quorum at any meeting of the Committee.

(4) The Chairperson of the Pilotage Committee shall preside at all meetings thereof.

(5) If the Chairperson is absent from a meeting or any part thereof, such member as the members of the Pilotage Committee present shall choose, shall preside in his place.

(6) The Chairperson or member presiding at any meeting of the Pilotage Committee shall have a vote and in the case of an equality of votes, a second or casting vote.

(7) The Authority may at any time revoke the appointment of any member of the Pilotage Committee who by reason of illness or repeated absence has in the opinion of the Authority ceased to be a fit and proper person for holding such an appointment.

57. The members of the Pilotage Committee shall be deemed to be public servants within the meaning of the Criminal Code, Cap. 101.

Members deemed to be public servants.

58. Subject to this Act, the Authority may from time to time make, vary or revoke rules for the purpose of regulating the meetings and proceedings of the Pilotage Committee.

Rules.

59.-(1) The Pilotage Committee shall examine candidates to be licensed as pilots and on being satisfied as to a candidate's general fitness and competency, including physical fitness to act as a pilot may, on behalf of the Authority, issue to him a licence to act as such, and such licence may contain such conditions as the Pilotage Committee may think fit.

Examination for licence.

(2) Subject to this Part, every pilot who immediately prior to the coming into operation of this Part is performing the duties of a pilot, shall be deemed to be qualified as a pilot and the Pilotage Committee shall, on behalf of the Authority, issue to every such pilot a licence to act as a pilot subject to such conditions as the Pilotage Committee may impose.

(3) Every pilot shall, whenever the Pilotage Committee considers that owing to changed conditions or for whatever other sufficient reason the further testing of the knowledge, efficiency or physical fitness of any such pilot is necessary, present himself for further examination, and shall in every such case first deposit with the Pilotage Committee his licence issued by the Pilotage Committee on behalf of the Authority, which may be returned or cancelled by the said Committee on behalf of the Authority, as the result of such test or examination determines.

(4) The Authority shall not continue to employ as a pilot any pilot whose licence to act as such is cancelled as the result of any test or examination carried out or held under the provisions of subsection (3) of this section.

(5) Any licence issued under this section shall cease to be valid upon the cancellation of the said licence by the Authority.

(6) No person who has not been granted a licence or whose licence has been cancelled by the Authority may continue to act as a pilot. Any person who does so commits an offence and is liable upon summary conviction to six months imprisonment and a fine of one thousand dollars.

17 of 1978.

(7) Nothing in this section shall be deemed to prevent any person from rendering assistance to a vessel in distress or in circumstances making it necessary for the master to avail himself of the best assistance which can be found at the time until duly relieved by a qualified pilot.

Enquiries by Pilotage Committee.

60.—(1) The Pilotage Committee may, and when directed by the Authority shall, hold an inquiry into the conduct of a pilot where it appears that he has been guilty of misconduct affecting his capability as a pilot or has failed in or neglected his duty as a pilot or has become incompetent to act as a pilot.

(2) For the purposes of such inquiry, the Pilotage Committee may summon any person in Belize to attend any meeting of the said Committee to give evidence on oath or produce any document or thing in his possession relating to the matters which are the subject matter of such inquiry and to be examined as a witness.

(3) Any person who,

- (a) being summoned to attend any such inquiry fails to do so;
- (b) offers any act of disrespect or insult or any threat to the Pilotage Committee or any member thereof during an inquiry; or
- (c) being required by the Pilotage Committee to give evidence on oath or affirmation or to produce a document or other thing, refuses to do so, commits an offence and is liable on summary conviction to a

fine not exceeding five hundred dollars or to a term of imprisonment not exceeding three months.

61.—(1) Where the Pilotage Committee, after due inquiry in accordance with this Part and after hearing any statement that may be offered in defence, finds that a pilot has been guilty of misconduct affecting his capability as a pilot or has failed in or neglected his duty as a pilot or has become incompetent to act as a pilot, it shall submit to the Authority a copy of the record of the inquiry and its findings and recommendations in respect of the inquiry.

Submission of Pilotage Committee's findings and recommendations to Authority.

(2) The Authority may, after considering the findings and recommendations of the Pilotage Committee, suspend or cancel the licence of such pilot, or impose such other punishment as the Authority may think fit.

(3) Any pilot who is aggrieved by any decision of the Authority made under subsection (2) of this section, may within fourteen days from the date of such decision appeal to the Minister whose decision shall be final.

62. The master or owner of a ship navigating in the circumstances in which pilotage is compulsory shall be answerable for any loss or damage caused by the ship or by any fault in the navigation of the ship in the same manner as it would if pilotage were not compulsory.

Liability of the master or owner in the case of a ship under pilotage.

63.—(1) A pilot who has given a bond in accordance with subsection (2) of this section, shall not be liable for neglect, want of skill or incapacity in office beyond the penalty of such bond and the amount payable to the Authority on account of pilotage in respect of the voyage in which he was engaged when he became so liable.

Limitations of pilot's liability when bond is given.

(2) Every pilot shall give a bond in the sum of one thousand dollars in favour of the Authority for the proper performance of his duties under this Part and of any regulations.

(3) Any bond by a pilot in accordance with this section shall not be liable to stamp duty.

(4) Where any proceedings are taken against a pilot for any neglect, want of skill or incapacity in office in respect of which his liability is limited as provided that this section, and other claims are made in respect of the same neglect, want of skill or incapacity in office, the court in which such proceedings are taken may,

- (a) determine the amount of such pilot's liability and, upon payment by him of such amount into court, distribute such amount rateably among the several claimants;
- (b) stay any proceedings pending in any other court in relation to the same matter; and
- (c) proceed in such manner and subject to such directions as to making persons interested parties to the proceedings, and as to the exclusion of any claimants who have not submitted their claims within a certain time, and as to requiring security from such pilot, and as to payment of any costs as the court thinks fit.

Pilotage Committee and Authority not liable for loss or damage occasioned by pilots.

64.—(1) The issue of a licence to a pilot by the Pilotage Committee on behalf of the Authority under section 59 of this Act, shall not impose any liability on the Pilotage Committee for any loss or damage occasioned by any act, omission or default of such pilot.

(2) Any pilot whilst engaged in any pilotage act shall, notwithstanding that he may be employed at a salary by the Authority, be deemed to be the servant only of the master or owner of the vessel under pilotage and the Authority shall not be liable for any loss or damage occasioned by any act, omission or default of such pilot.

Proceedings in respect of pilots.

65.—(1) Any proceedings affecting pilots under this Act or any regulations shall be determined by a judge of the Supreme Court and such judge shall call upon two persons with nautical experience to sit with him as assessors in any such proceedings.

(2) The Supreme Court shall have power to regulate any proceedings which have been referred to it under this section.

PART VII

Powers and Functions etc., of Ports

66. The master of any ship arriving in a port shall produce to an authorized officer,

Master to supply information.

- (a) the ship's register and the ship's papers;
- (b) a list of the passengers, if any, showing particulars of their sex and occupation;
- (c) a list showing the details, if any, of any incident which has occurred during the voyage;
- (d) a list showing the stowaways, if any, on the ship,

and shall also supply such other information in relation to the ship, passengers and cargo thereof, as such officers may reasonably require.

67. Notwithstanding the provisions of any regulations made under section 74 of this Act, the Ports Commissioner or a port manager may,

Power of Ports Commissioner in relation to ships.

- (a) direct where any ship shall be berthed, moored or anchored within the port and the approaches to the port;
- (b) direct the removal of any ship from any berth, station or anchorage to another berth, station or anchorage and the time within which such removal is to be effected within the port and approaches to the port;
- (c) regulate the moving of ships within the port and the approaches to the port.

17 of 1978.

(2) In case of any refusal or neglect or of any failure to comply with any direction given under subsection (1) of this section, the Authority may, without prejudice to any proceedings being instituted against any

person, cause to be done all such acts as are in its opinion reasonable or necessary for the purpose of carrying out such measures as it considers proper and necessary for such purposes.

(3) All expenses incurred in doing such acts shall be paid and borne by the person or persons so offending.

68.—(1) The Ports Commissioner or a port manager may,

- (a) remove any wreck in or other obstruction to a port or its approaches, or any timber, raft or other thing floating in a port, which endangers, or obstructs or is likely to endanger or obstruct the free navigation of the port or the use of any dock or wharf therein;
- (b) in the case of urgent necessity, take any action in a port which in his opinion may be necessary, to prevent any danger of life or limb;
- (c) enter upon any ship or into any building in a port if it is necessary for him to do so in the performance of any duty under this Act or any regulations or if he has reasonable grounds for believing that an offence against this Act or any regulations has been, or is about to be, committed.

(2) The owner of any wreck or other thing removed by the Ports Commissioner or a port manager under the provisions of subsection (1) (a) of this section shall, without prejudice to any other action which may be taken against him, be liable to pay the reasonable expenses of such removal. Such wreck or other thing shall be detained by the Ports Commissioner or a port manager until such expenses and customs duties, dues or charges payable in respect thereof are paid.

(3) Where any wreck or thing is removed under subsection (1) (a) of this section and the expenses of removal have not been paid within seven days of such removal, the Ports Commissioner or a port manager may cause such wreck or thing to be sold by public auction and shall,

Power in respect to wrecks, etc.

out of the proceeds of the sale, retain the amount necessary to meet the expenses of such removal, detention and sale and any customs duty, dues or charges payable in respect thereof and shall retain the balance, if any, to the person appearing to him to be entitled.

69.-(1) In the event of fire breaking out on board any ship in the port, the Ports Commissioner or port manager may proceed on board such ship with such assistance or persons as to him seems fit, and may give such orders as to him seem necessary for scuttling such ship, or for removing such ship or any other ship to such place as to him seems proper to prevent in either case danger to other ships and for the taking of any other measures that appear to him expedient for the protection of life or property.

Fire on board ships.

(2) If such orders are not forthwith carried out by the master of such ship the Ports Commissioner or a port manager may himself proceed to carry them into effect.

(3) Any expenses incurred in the exercise of the powers conferred by subsections (1) and (2) of this section, shall be recoverable from the master or owner of the ship concerned as a civil debt.

70.-(1) Where any accident occurs in any port, then if that accident,

Accidents.

- (a) is attended, or is of a kind usually attended, with loss of human life or with serious injury to person or property;
- (b) involves any collision between ships;
- (c) is of such other kind as the Minister may specify,

the Ports Commissioner or a port manager shall, as soon as practicable, give notice of the occurrence of the accident to the Minister.

(2) The Ports Commissioner or a port manager may order such inquiry into any accident which occurs in any port as he may think fit and shall order such inquiry as the Minister thinks fit into any such accident when so required by the Minister.

(3) The Ports Commissioner or a port manager shall submit a report to the Minister on any accident inquired into setting out, *inter alia*, the probable cause of such accident and the steps, if any, which have been taken or he has directed shall be taken with a view to avoiding a repetition thereof.

(4) The Ports Commissioner or a port manager shall make to the Minister a return, in such form and at such intervals as the Minister may direct, of all accidents occurring in any port, whether or not such accident is attended with injury to any person.

Liability for demurrage.

71. The Authority shall not be liable for any demurrage which may occur or be due on any ship, however such demurrage may have been caused.

Execution of orders.

72.—(1) All acts, orders or directions under this Part or regulations hereunder authorised to be done or given by a particular officer of the Authority may be done or given by any other officer of the Authority authorized in writing in that behalf.

(2) Any person authorised to do any such act may call to his aid such assistance as is necessary.

Non-liability of Ports Commissioner.

73. The Authority shall not be liable for any act, omission or default of the Ports Commissioner or a port manager.

Regulations.

74.—(1) The Authority may, with the approval of the Minister, make Regulations generally with respect to the maintenance, control and management of the port and the approaches thereto, the services performed, the lighthouses and other facilities provided by the Authority for the maintenance of order on any premises used by or for the purposes of the Authority, or in any ship or vehicle used by or for the purposes of the Authority and for the carrying out of the provisions of this Act, and without prejudice to the generality of the foregoing, may make regulations with respect to,

- (a) the proper control and maintenance of the foreshores of any port and the entrances thereof;
- (b) the control of all persons and vehicles on any such premises;

- (c) regulating, controlling and prohibiting the doing or omission of anything or class of thing within the boundaries of the port at all times;
- (d) the regulation, restriction and control (without prejudice to the conduct of navigation) of the depositing of any substance, solid matter, article or thing that causes pollution of the port, or any port;
- (e) the regulation of traffic and navigation of ships within the limits and approaches to a port;
- (f) the regulation of the mode and place of mooring, anchoring and berthing of ships;
- (g) the protection of ships and cargoes and the removal, destruction, sale or abandonment of stranded ships and their cargoes which obstruct or are likely to obstruct the fairway of any port;
- (h) the examination, licensing, duties and obligations and the conduct and discipline of pilots and the charges to be paid for pilotage;
- (i) the regulation of the time, places, order and mode of shipping, unshipping, loading, warehousing, storing and the depositing of goods;
- (j) the fixing of dues and charges payable in respect of any ship, with different charges being applicable in respect of different ships or classes of ships;
- (k) the fixing of the charges payable in connection with the carriage or warehousing of goods and for any service performed by the Authority;
- (l) the fixing of the scale of charges payable in respect of any other service performed by the Authority;

- (m) the licensing of shipping agents, customs brokers, landing agents, forwarding agents, baggage and parcel agents, porters, contractors for supplies and victualing and other persons concerned in or engaged in performing any work in connection with the port;
- (n) the collection and collation of statistical data and other matters incidental thereto concerning any port in Belize.

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(2) The Authority shall, with the approval of the Minister, make regulations generally for the conveyance, loading, discharging and storage of dangerous goods within the limits of the port, and without prejudice to the generality of the foregoing, may,

- (a) make regulations with respect to,
 - (i) the classification of goods as dangerous goods;
 - (ii) the regulation of the navigation and place of berthing of ships carrying dangerous goods;
 - (iii) the regulating and control of landing, loading and discharging dangerous goods;
 - (iv) the prohibition of the conveyance of any kind of dangerous goods with any other kind of goods, articles or substances;
 - (v) the prohibition of the loading or discharging of dangerous goods at places within the control of the Authority in cases where such loading or discharging appears specially dangerous to the public;
 - (vi) the fixing of places and times at which dangerous goods are to be loaded and the quantity to be loaded or discharged at any one time;

- (vii) the regulation of the mode and the precautions to be observed in conveying or keeping dangerous goods and in the loading or discharging of them;
- (viii) the protection, whether by means similar to those above mentioned or not, of persons and property from danger generally.

(3) Subject to the provisions of any enactment relating to merchant shipping, the Authority may, with the approval of the Minister, make regulations with respect to,

- (a) the taking of measures for the prevention of ships from leaving any port if overloaded, improperly loaded, improperly found, insufficiently manned or without qualified officers or engineers or with a number of passengers in excess of the number that can be carried with reasonable safety, or if otherwise unseaworthy;
- (b) the examination, certification and licensing of masters, mates and engineers of tugs conducting ships in and out of ports, dredges and light craft, and the licence fees payable in respect thereof;
- (c) the inspection, licensing, registration or certification of ships, ferries, tugs, launches, hulks, ferry boats, or other craft, the charges to be paid therefor and the number of passengers to be carried therein.

(4) The power of the Authority to make regulations under this section in relation to any matter, shall not be construed to be in conflict with or as derogatory from any other power conferred upon any other person under this Act or any regulations to make provisions in relation to any such matter in any different manner.

(5) Notwithstanding anything enacted in any other law, regulations may provide that any breach or contravention of any such regulations shall be punishable on summary conviction by a fine not exceeding

five hundred dollars or by a term of imprisonment not exceeding three months, or by both such fine and term of imprisonment.

(6) Any regulations made under this section shall be subject to negative resolution.

PART VIII

Offences and Penalties

Damaging property likely to endanger life.

75. Any person who unlawfully damages or in any way interferes with any lighthouse, buoy, beacon or other property of the Authority in such manner so as to endanger the life of any person commits an offence and is liable on conviction to imprisonment for a term not exceeding ten years or a fine not exceeding twenty thousand dollars, or to both such fine and term of imprisonment.

Persons endangering safety of operations.

76. Any person who, while on duty of the Authority or upon any ship or vehicle of the Authority, endangers the safety of other persons,

- (a) by contravening any of the provisions of the Act;
- (b) by contravening any lawful order, direction, or rule given to such person or made in respect of his service;
- (c) by being under the influence of alcohol; or
- (d) by any rash or negligent act,

commits an offence and is liable on summary conviction to a fine not exceeding one thousand dollars or to a term of imprisonment not exceeding six months, or to both such fine and term of imprisonment.

Failure to comply with directions under section 69, etc. .

77. Any person who without lawful excuse refuses to obey any directions lawfully given under section 69 of this Act or any regulations made under the Act, commits an offence and is liable on summary conviction to a fine not exceeding five hundred dollars or to imprisonment for a term not exceeding three months, or to both such fine and term of imprisonment.

- 78.** If any ship is navigated in circumstances in which pilotage is compulsory and such ship is not under the control of a licensed pilot, the master thereof commits an offence and is liable on summary conviction to a fine not exceeding five hundred dollars or in default of payment to imprisonment for a term not exceeding three months.
- Failure to employ licensed pilot.
- 79.** Any master who fails to comply with the provisions of section 66 or gives any information which is false commits an offence and is liable on summary conviction to a fine not exceeding five hundred dollars or in default of payment to imprisonment for a term not exceeding three months.
- Master's failure to give information or giving false information.
- 80.** Any master who without lawful excuse refuses to allow an authorised officer to enter his ship in contravention of section 68 (1) (c) of this Act, commits an offence and is liable on summary conviction to a fine not exceeding two hundred and fifty dollars or in default of payment to imprisonment for a term not exceeding three months.
- Master refusing entry to authorised officer.
- 81.** Any person who by any means eludes any dues or charges leviable under this Act commits an offence and is liable on summary conviction to a fine not exceeding one thousand dollars or to imprisonment for a term not exceeding six months, or to both such fine and term of imprisonment.
- Evasion of dues and charges.
- 82.** Any person who makes, either knowingly or recklessly, any statement which is false in any material particular in any return, claim or any document which is required to be made under this Act commits an offence and is liable to a fine not exceeding three thousand dollars or to imprisonment for a term not exceeding two years, or to both such fine and term of imprisonment.
- False returns.
- 83.** Any person who with intent to defraud, demands or receives from any person delivering goods for carriage or warehousing by the Authority, or from any other person making use of the facilities provided by the Authority, any greater or lesser amount than he should demand or receive shall on summary conviction be liable to a fine of five hundred dollars or to a term of imprisonment for a term not exceeding three months, or to both such fine and term of imprisonment.
- Demanding improper account.

Miscellaneous offences.

84. Any person who,

- (a) being on any premises, ship or vehicle of the Authority,
 - (i) refuses when called upon by an authorised officer, police officer, or constable to give his name and address or gives a false name and address for the purpose of avoiding a prosecution;
 - (ii) without lawful excuse, the proof whereof shall lie on him, discharges any firearm or does anything which may cause injury to any person on such premises or upon such ship or vehicle; or
 - (iii) without lawful excuse contravenes any lawful direction given by any authorised officer; or
- (b) defaces the writing on any board or notice authorised to be maintained upon any premises of the Authority or upon any ship or vehicle used by the Authority;
- (c) damages, or without lawful authority interferes with, any property of the Authority;
- (d) wilfully obstructs any person in the discharge of his duties arising out of his employment with the Authority; or
- (e) gives or offers to any other person money or money's worth for the purpose of avoiding payment of any sum due to the Authority,

commits an offence and is liable on summary conviction to a fine not exceeding two thousand dollars or to imprisonment for a term not exceeding twelve months, or to both such fine and term of imprisonment.

85.—(1) Any person who commits an offence mentioned in section 75, 76 or 84 of this Act, may be arrested without warrant by any authorised officer, police officer or constable.

Powers of arrest.

(2) Any person who commits any offence against this Act or regulations, other than an offence mentioned in subsection (1) of this section, may be arrested by any authorised officer, police officer or constable, if,

- (a) there is a reason to believe that such person will abscond; or
- (b) he refuses on demand to give his name and address; or
- (c) there is reason to believe that the name and address given by him is incorrect.

(3) Where there is reason to believe that such person will not abscond, if his true name and address are ascertained, he may be released on his executing a bond without sureties for his appearance before a magistrate when required.

86. Any person charged with any offence against this Act, other than an offence mentioned in section 75 or 81 of this Act, may be proceeded against, tried and punished in any place in which he may be in custody for that offence as if the offence has been committed in such place; and the offence shall for the purposes incidental thereto, be deemed to be committed in that place.

Place of trial.

87. The Ports Commissioner or a port manager may, by notice in writing, authorize any officer of the Authority to maintain order upon any premises used by the Authority or any place in the port, or on any ship or vehicle used by or for the purposes of the Authority, and any officer so authorized shall in the performance of any such duty, have all the powers and privileges and protection of a police officer.

Ports Commissioner may confer power on officers.

PART IX

Claims, etc., Transfer of Assets and Liabilities etc.

Notice claims.

88.—(1) Notwithstanding anything contained in any enactment,

- (a) no person shall be entitled to compensation for non-delivery of the whole of a consignment of goods or of any separate package forming part of such consignment accepted by the Authority for carriage or warehousing unless a claim in writing, giving such particulars as may reasonably be necessary, is given to the Ports Commissioner or a port manager within three months of the date upon which such goods were accepted by the Authority;
- (b) no person shall be entitled to compensation for any goods missing from a consignment or for misdelivery of any goods accepted by the Authority for carriage or warehousing unless
 - (i) the Ports Commissioner or a port manager is notified in writing within four days of the date upon which such goods were delivered to the person entitled to take delivery thereof; and
 - (ii) a claim in writing, giving such particulars as may reasonably be necessary, is given to the Ports Commissioner or port manager within one month of such date.

Limitations.

89. Where, after the commencement of this Act, any action or other legal proceeding is commenced against the Authority for any act done in pursuance of this Act, or regulations or authority imposed or conferred by this Act or any regulations, or in respect of any alleged neglect or default in the execution of this Act or such regulations or any such duty or authority, the following provisions shall have direct effect notwithstanding anything contained in any enactment, that is to say,

- (a) the action or legal proceeding shall not be commenced until at least one month after written notice containing the particulars of the claim and of intention to commence the action or legal proceedings has been served upon the Ports Commissioner or a port manager by the plaintiff or his agent;
- (b) the action or legal proceeding shall not lie or be instituted unless it is commenced within twelve months next after the act, neglect or default complained of or, in case of a continuing injury or damage, within six months next after the cessation thereof.

17 of 1978.

90. Notwithstanding anything to the contrary in this Act or any regulations or in any other enactment, where any judgment or arbitration award has been obtained against the Authority in respect of anything done or omitted to be done under the provisions of this Act in respect of the Authority or its purposes, no execution or attachment or process in the nature thereof shall be issued against the Authority, but such amounts as are by the order awarded against the Authority shall be paid by the Authority from its funds to the person entitled hereto, and no property of the Authority shall be seized or taken by any person having by law power to attach or distrain property.

Restrictions on execution against property of the Authority.
17 of 1978.

91. Where the amount paid in respect of any dues and charges is found to be incorrect then, if such amount is,

Overpayment or underpayment of dues and charges.

- (a) overpaid, the person who overpaid any such amount then is entitled to a refund of the amount so overpaid;
- (b) underpaid, the amount of such underpayment may be collected from the person who made such payments,

17 of 1978.

Provided that, notwithstanding anything contained in any enactment, such overpayment or underpayment shall not be refunded or collected, as the case may be, unless notice in writing containing such particulars as may reasonably be necessary is given,

- (a) by the person claiming such overpayment to the Ports Commissioner or a port manager; or
- (b) by the Ports Commissioner or a port manager to the person against whom the underpayment is claimed,

within six months after the goods were accepted or the services rendered, as the case may be, by the Authority, so however, that where such underpayment is caused by information or description subsequently found to be incorrect, such period of six months shall commence from the date of discovery by the Ports Commissioner or a port manager of the correct information or description.

Transfer of as-
sests.

17 of 1978.

92.-(1) Upon the commencement of this Act,

- (a) all lands of the Crown within the boundaries of the ports in this Act including the bed and shores vested immediately before the commencement of this Act in the Government of Belize, other than those exempted by the Minister by Order published in the *Gazette*, as required for use by the Customs and Excise Department are hereby vested in the Authority;
- (b) all lights, buoys, beacons within the boundaries of the said ports are hereby transferred to the Authority;
- (c) all warehouses, buildings, boats, machinery, plant, tools and other property which immediately before the commencement of this Act were the property of the Government of Belize, other than those exempted by the Minister by Order published in the *Gazette*, as required for use by the Customs and Excise Department are transferred to the Authority.

(2) All rights, privileges and advantages and all the obligations to which, immediately before the commencement of this Act, the Government was entitled to or subject to, as the case may be, are hereby transferred and conferred or imposed on the Authority for the purposes of this Act.

(3) A reference in any deed, contract, bond or security or other document subsisting immediately before the commencement of this Act against or in favour of the Government shall have full force and effect against or in favour of the Authority and be enforceable as fully and effectually as if, instead of the Government or any person acting on behalf thereof, the Authority had been named therein and had been a party thereto.

93. All lands vested in the Authority at and after the commencement of this Act shall be exempted from any rate or imposition which any local authority shall have power but for this section to lawfully levy, or impose, but nothing herein contained shall preclude a local authority from levying and collecting rates, taxes and other lawful charges in respect of land, houses and buildings of the Authority leased and occupied for private purposes.

Land vested in Authority to be free from municipal rate and taxes.

94. Notwithstanding anything in the Income and Business Tax Act, Cap. 55, the income of the Authority shall not be liable to income tax.

Exemption from income tax.

95. Notwithstanding any other provisions of this Act and the repeal by this Act of any enactment, or any subsidiary legislation made under any such enactment so repealed, such subsidiary legislation shall remain in force until it has been revoked or replaced by regulations:

Savings for subsidiary legislation.

Provided that the Minister may, by Order published in the *Gazette*, vary, amend, extend or revoke such subsidiary legislation so remaining in force or any part as he thinks fit.

PART X

Miscellaneous

96.—(1) The Authority may, subject to standing orders made by the Board, appoint persons to be constables.

Authority may appoint constables.

(2) The constables so appointed shall be styled “Port Constables”.

(3) Every member of the Port Constabulary shall in the performance of his duties have and exercise all the powers, rights, privileges and protection and be liable to the same responsibilities and discipline of a police officer.

Bonded warehouse.

97.-(1) If any warehouse of the Authority is approved and appointed under any enactment in relation to customs for the time being in force, the Authority may give general security by bond or otherwise for the payment of the customs duties payable in respect of goods stored in such bonded warehouse or for the due exportation of such goods.

(2) When such security has been given by the Authority, no further security shall be required by the Comptroller of Customs from any other persons to the same effect.

(3) Nothing in this section shall be taken however to absolve any person who would have been liable to pay duties for paying any such duty as he could be compelled to pay in respect of any such goods.

Ports Commissioner's *Fiat*.

98. Proceedings for offences arising out of the provisions of this Act shall be instituted in writing by the Ports Commissioner or a port manager or by any officer duly authorised by him in writing.

Proof.

99. In any proceedings for any offence, the averment that such offence was committed within the limits of the port shall be sufficient without proof of such limits, unless the contrary is proved.

Recovery of sums.

100. In addition to any other remedy given under this Act, all dues, charges, compensation, damages, costs, expenses or other sums due to the Authority under the provisions of this Act may be recovered by the Authority as a civil debt.

Money recovered to be paid into account of the Authority.

101. All fines, compensation, damages, costs or other sums directed to be paid in respect of any offence, proceeding or matter arising out of the performance of the duties and powers and functions of this Act or any regulations shall be paid into the account of the Authority.

Interpretation in this Part.

102.-(1) In this Part, unless the context otherwise requires,

“appointed day” means the day appointed by the Minister by Order published in the *Gazette* as the day on which this Part shall come into force;

“leased port” means a port listed in Part B of the Schedule;

“lessee company” means a company to whom a lease for the operation and management of a port has been granted under section 107 of this Act;

“nominated company” means Port of Belize Ltd. nominated by the Minister by Order in Statutory Instrument No. 58 of 2002 published in the *Gazette* to take over the operational and management functions of the Authority in respect of a privatised port;

“privatised port” means a port listed in Part A of the Schedule;

“Schedule” means the Schedule to this Act;

“vesting day” means the 18th day of February, 2002, appointed by the Minister of Finance by Order in Statutory Instrument No. 59 of 2002 published in the *Gazette*, as the day on which such assets of the Authority shall vest in the nominated company as may be specified in the Order.

(2) Other terms and expressions used in this Part but not defined herein shall have the meaning assigned to them by section 2 of this Act.

(3) The provisions of this Part shall have effect notwithstanding anything to the contrary contained in this Act or any other law and, in particular, where there is a conflict or inconsistency between the provisions of this Part and those of Harbours and Merchant Shipping Act, Cap. 234, the provisions of this Part shall prevail.

(4) The Minister may by Order published in the *Gazette* describe and designate the boundaries of any port.

103.—(1) As from the appointed day, the Authority shall perform such regulatory functions in respect of privatised or leased ports as appear to it best suited to serve the public interest, and may, for this purpose, enter into any transaction which in its opinion is necessary to ensure the performance of its regulatory functions.

Functions of the Authority in respect of privatised or leased ports.

(2) In particular and without prejudice to the generality of the foregoing, it shall be the duty of the Authority,

- (a) to regulate and control navigation within the limits of ports in Belize and their approaches;
- (b) to regulate the use of such ports and services and facilities therein as it considers necessary or desirable;
- (c) to provide for such ports and the approaches thereto such beacons, buoys and other navigational services and aids as it considers necessary or desirable or as international standards demand;
- (d) to exercise the duties and functions relating to navigation exercisable under the provisions of any other law;
- (e) to perform monitoring functions, particularly in relation to dredging and the removal of wrecks and other obstructions to navigation, to maintain safe navigation channels.
- (f) to secure safe and convenient navigation in the harbour.

(3) In the exercise of its functions under this Part, the Authority shall act in a manner which is best calculated to,

- (a) secure that all reasonable demands for port services are satisfied;
- (b) protect the interests of users against companies licensed to provide port services, by ensuring,
 - (i) that the prices charged are in keeping with the approved tariffs; and

(ii) the continuity and quality of the services.

(4) The Authority shall not perform any operational or management functions in respect of a privatised or leased port, which are assigned to a nominated company or lessee company under section 104 of this Act.

104.—(1) The nominated company or the lessee company, shall perform all operational and management functions in respect of privatised or leased ports, as the case may be, and without prejudice to the generality of the foregoing it shall provide the following services and any other services that may be required,

Functions of nominated or lessee company in respect of privatised or leased ports.

- (a) Pilotage;
- (b) Dock;
- (c) Tug;
- (d) Cranes;
- (e) Opening and closing of hatches;
- (f) Storage;
- (g) Loading and unloading;
- (h) Security;
- (i) Cargo control;
- (j) Land transportation within port premises;
- (k) Cargo classification;
- (l) Stripping of containers;
- (m) Cargo packaging;

- (n) Cargo repair;
- (o) Weighing;
- (p) Lashing Supplies;
- (q) Garbage collection;
- (r) Warehousing;
- (s) Container repairs;
- (t) Free zone activity;
- (u) Dredging;
- (v) Other activities related to normal functions and operations of ports.

(2) It shall be the duty of the nominated company or lessee company, as the case may be, to operate privatised or leased ports within their respective jurisdiction, with high standards and in the best interests of the public.

Power to grant licences.

105.—(1) The Minister may, after consultation with the Authority, grant in writing a licence to any person, corporation or other body to operate and manage a privatised port or related services, subject to such terms, conditions and restrictions and on payment of such fees as the Minister may consider appropriate.

(2) An application for a licence or renewal thereof, shall be made in the prescribed manner and shall be accompanied by the prescribed fee.

(3) A licence granted under this section shall be valid for such period not exceeding thirty-five years, as may be prescribed therein.

(4) Every licence granted under this section shall make provisions for tariffs, charges and other fees (by whatever name expressed to be levied and collected at a privatised port).

(5) A licence granted under this section may authorise the licensee to make by-laws, subject to the approval of the Minister, for all matters connected with or incidental to the operations and management of a privatised port.

(6) The Minister may, if satisfied that there has been a breach of the terms and conditions of a licence granted under this section, or any contravention of any other provision of this Act or any regulations made thereunder, revoke or suspend such licence, after giving to the licensee at least one month's notice of his intention to do so.

106.—(1) As from the vesting day, the Minister of Finance may by Order transfer to the nominated company, such assets, property, equipment and any other assets of the Authority as appear to him related to the operation and management functions of a privatised port, on payment of such compensation as may be agreed between the Minister of Finance and the nominated company, and such property shall thereupon vest in the nominated company by virtue of such Order and without further assurance.

Transfer of Property to nominated company.

(2) An Order made under subsection (1) of this section may contain such incidental, consequential or supplemental provisions as the said Minister thinks necessary or expedient for the purposes of such Order.

107.—(1) The Minister may, after consultation with the Authority, grant in writing a lease to any person, corporation or other body to operate and manage a leased port, or to provide any port or related services, subject to such terms, conditions and restrictions and on the payment of such rent as the Minister may consider appropriate.

Power to grant leases.

(2) A lease granted under this section shall be valid for such period not exceeding thirty years as may be specified therein.

(3) Subject to subsections (1) and (2) of this section, the provisions of section 105 of this Act relating to the grant of licences for privatised ports shall apply mutatis mutandis to the grant of a lease under this section.

Regulations.

108.—(1) The Minister may, after consultation with the Authority, make regulations for the better carrying out of the provisions of this Part and for prescribing such matters and things as need to be prescribed.

(2) Subject to subsection (1) of this section, and to the terms and conditions of a licence granted under section 105, or a lease granted under section 107 of this Act, all subsidiary legislation made under this Act, shall continue to apply to privatised and leased ports insofar as the same is not inconsistent with the provisions of this Part.

Amendment of
Schedule.

109. The Minister may from time to time by Order published in the *Gazette* amend the Schedule.

SCHEDULE

BELIZE PORTS AUTHORITY ACT
Privatised and Leased Ports
[Section 102]

PART A
PRIVATISED PORTS
Belize City Port Loyola

As described by Order of the Minister made under Section 102 (4) of this Act.

PART B
LEASED PORT
Commerce Bight Port

As described by Order of the Minister made under Section 102 (4) of this Act.

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