

[L. S.]

I Assent,

Wilfred Jacobs,  
*Governor-General.*

17th August, 1982.

**ANTIGUA AND BARBUDA.**

**No 18 of 1982.**

An Act to provide for the extension of the limits of the territorial waters of Antigua and Barbuda and Redonda, to make provisions for contiguous, exclusive economic and fishery zones and for matters connected therewith or incidental thereto.

**ON PROCLAMATION**

ENACTED by the Parliament of Antigua and Barbuda as follows—

1. This Act may be cited as the Territorial Waters Act, 1982. Short title.

2. In this Act—

*Interpretation.*

“baselines” means the baselines of the territorial waters specified in or prescribed under section 4;

“Competent Authority” means the Minister or any person designated by him as the Competent Authority for the purposes of this Act;

“exclusive economic zone” means the exclusive economic zone of Antigua and Barbuda and Redonda as defined in section 7;

“fishery zone” means the fishery zone of Antigua and Barbuda and Redonda as defined in section 8;

"foreign ship" means the ship of a foreign state;

"foreign state" means a state other than Antigua and Barbuda;

"innocent passage" means passage which is not deemed to be prejudicial to the peace, good order or security of Antigua and Barbuda;

"Internal waters" means the internal waters of Antigua and Barbuda and Redonda as defined in section 5;

"low-water line" means the low-water line of the coasts of Antigua and Barbuda and Redonda at mean low-water spring tide;

"Minister" means the Minister responsible for External Affairs;

"nautical mile" means the international nautical mile;

"passage" means the navigation of a ship in territorial waters without stopping or hovering, but includes stopping, hovering and anchoring in so far as the same are rendered necessary by force majeure or by reason of distress or for the purpose of affording assistance to persons, ships or aircraft in danger or distress;

"ship" includes vessel, boat or sea-craft of any kind;

"submarine areas" includes the sea-bed and sub-soil thereof;

"territorial waters" means the territorial waters of Antigua and Barbuda and Redonda as defined in section 3.

Limits of Territorial Waters.

3. (1) Subject to the provisions of subsections (2), (3), (4), (5) and (6), of this section, the territorial waters of Antigua and Barbuda and Redonda comprise those areas of the sea, having as their landward limit the baseline specified by section 4 or prescribed under that section, as the case may be, and as their seaward limit a boundary line which at every

point is a distance of twelve nautical miles or such other distance from the nearest point of those baselines as the Minister by order prescribes.

(2) The Minister may by order prescribe that by reason of historical, geographical or other special circumstances as respects Antigua and Barbuda and any foreign state, the territorial waters shall not be deemed to extend beyond the median line, that is to say, a line every point of which is equidistant from the nearest points of the baselines and the corresponding baselines of the foreign state concerned.

(3) No order may be made under subsection (2) unless, before that order is made, agreement has been reached in terms of the provisions of subsection (2), between Antigua and Barbuda and the foreign state concerned.

(4) Notwithstanding the provisions of any other law, there shall be provision in every order made under subsection (2) that, pursuant to agreement as in subsection (3), a law in terms similar to the provisions of the order—

- (i) forms part of the law of the foreign state concerned at the date upon which the order is made; or
- (ii) will form part of the law of that foreign state upon such date as is specified in the order being a date subsequent to the date upon which the order is made.

(5) Where an order under subsection (2) makes provision as in subsection (4) (i), that order shall come into operation as law in Antigua and Barbuda on the date upon which it is published in the *Gazette*; and where such an order makes provision as in subsection (4) (ii), it shall come into operation as law in Antigua and Barbuda on the date specified in the order as being the date upon which a law of the foreign state concerned in terms similar to the provisions of the order will form part of the law of that foreign state.

(6) An order made under and by virtue of subsection (2) shall, unless previously revoked, cease to have effect as law in Antigua and Barbuda at the same time as any similar law as above in this section of any foreign state concerned ceases to have effect as law in that foreign state.

(7) The territorial waters including the submarine areas thereof, form part of the territory of Antigua and Barbuda.

(8) An order made under this section shall be subject to affirmative resolution of the Legislature and shall be judicially noticed.

Baselines of  
territorial Waters.

4. (1) Subject to subsection (2), the low water line along the coasts of Antigua and Barbuda and Redonda shall be the baselines of the territorial waters.

(2) The Minister may, in the place of the baselines referred to in subsection (1), by order prescribe other baselines making use of a mixture of straight lines drawn from points on the coasts of Antigua and Barbuda and Redonda and the low water line.

(3) Where baselines are prescribed under subsection (2) the Minister shall cause the baselines together with the seaward boundary of the territorial waters to be marked on a scaled map or chart and such map or chart shall be judicially noticed for all purposes of the law as indicating the baselines from which the territorial waters shall be measured and the boundaries breadth and limit of the territorial waters.

(4) The Minister shall make provision for the safe custody of the map or chart referred to in subsection (3) and shall by notice specify the place where it may be open to inspection by the public and the place where certified copies thereof may be obtained.

(5) For the purposes of this Act, permanent harbour works which form a part of the harbour, dock or port system of Antigua and Barbuda shall be treated as forming part of the coasts of Antigua and Barbuda and Redonda.

Internal waters.

5. The areas of the sea which are on the landward side of the baselines specified in section 4 or prescribed under that section, as the case may be, are the internal waters and, together with the submarine areas thereof, form part of the territory of Antigua and Barbuda.

Contiguous zone.

6. (1) The contiguous zone to the territorial waters comprises those areas of the sea that are contiguous to the territorial waters, having as their seaward limit a boundary line which at every point is a distance of twenty-four nautical miles or such other distance from the nearest point of the baselines as the Minister by order prescribes.

(2) It shall be lawful for Government to exercise within the contiguous zone such sovereign rights as Government may, from time to time, deem necessary to prevent the infringement of any customs, fiscal, immigration, or sanitary law both within Antigua and Barbuda and the territorial waters.

Exclusive  
economic zone.

7. The exclusive economic zone comprises those areas of the sea and of the submarine area that are beyond and adjacent to the territorial waters, having as their seaward limit a boundary line which at every point is a distance of two

hundred nautical miles or such other distance from the nearest point of the baselines as the Minister by order prescribes.

8. The fishery zone comprises those areas of the sea that are beyond and adjacent to the territorial waters, having as their seaward limit a boundary line which at every point is a distance of two hundred nautical miles or such other distance from the nearest point of the baselines as the Minister by order prescribes.

Fishery zone.

9. Antigua and Barbuda shall exercise sovereignty in and over the territorial waters and the internal waters and such sovereignty shall extend to the submarine areas thereof.

Jurisdiction in territorial waters.

10. In the exclusive economic zone Antigua and Barbuda shall, subject to international law, exercise:—

Jurisdiction in exclusive economic zone.

(a) sovereign rights for the purpose of exploration, exploitation, conservation and management of the natural resources, both living and non-living, of the exclusive economic zone as well as sovereign rights with regard to producing energy from tides, winds and currents in the exclusive economic zone;

(b) jurisdiction with regard to—

(i) the establishment and use of artificial islands, installations and structures;

(ii) marine scientific research, and

(iii) the protection and preservation of the marine environment; and

(c) such other rights and duties for which provision is made by international law.

11. In the fishery zone Antigua and Barbuda shall exercise the sovereign right and exclusive authority to explore and exploit, conserve and manage the fishery resources of the fishery zone and the submarine areas thereof in accordance with international law.

Jurisdiction in fishery zone.

12. Antigua and Barbuda recognises the freedoms of navigation and of the laying of submarine cables and pipelines and other related activities within the exclusive economic zone in accordance with the principles, practice and provisions of international law.

International activities in exclusive economic zone.

Negotiating  
maritime bounda-  
ries.

13. Where the sea or waters of any foreign state are adjacent or opposite to the territorial waters or the exclusive economic zone and there is any dispute, difference or disagreement between that foreign state and Government concerning any matter or thing relating to the seaward limits of the territorial waters or the exclusive economic zone, it shall be lawful for Government to enter into negotiations with that foreign state with a view to resolving or otherwise settling such dispute, difference or disagreement.

Entitlement to  
right of innocent  
passage.

14. (1) Subject to subsection (2) and section 15 (1), a foreign ship shall be entitled to enjoy the right of innocent passage in territorial waters.

(2) A foreign ship of war shall not navigate in territorial waters without the prior permission of the Competent Authority obtained by the State to which the ship belongs.

Non-innocent  
passage.

15. (1) Subject to subsection (2), the passage of a foreign ship shall be deemed to be prejudicial to the peace, good order or security of Antigua and Barbuda if, without the prior permission of the Competent Authority obtained by the captain or person in charge of the ship, the ship while in territorial waters, engages in any of the following activities:—

- (a) exercises or practises with weaponry of any kind;
- (b) any act aimed at collecting information relating to the defence, security or economic or social conditions and circumstances of Antigua and Barbuda;
- (c) the taking on board or off-loading of any person, commodity or currency in breach of any law relating to exchange control, customs, immigration, health or drugs and therapeutic substances;
- (d) any Act of pollution calculated to or likely to cause damage or harm to Antigua and Barbuda, its resources or its marine environment;
- (e) fishing or extracting living or non-living resources;
- (f) the carrying out of research of whatever kind or survey activities;
- (g) any act aimed at interfering with any system of communication or telecommunication whether such system is on land, on the sea or under it;

- (h) being a submarine or other underwater ship, underwater navigation;
- (i) any other activity not having a direct bearing on passage.

(2) The passage of a foreign ship of war in territorial waters shall be deemed to be prejudicial to the peace, good order or security of Antigua and Barbuda if the ship navigates in territorial waters without the permission required by section 14 (2).

16. (1) Where a foreign ship engages in any of the activities specified in section 15 (1) or where a member of the Police Force or person authorised by the Minister in writing suspects upon reasonable grounds that a foreign ship is engaged in any such activity, such member of the Police Force or authorised person may—

Power of police and authorised persons.

- (a) stop and board the offending ship for the purpose of carrying out enquiries and investigations;
- (b) without a warrant arrest the offending ship and bring it to a port in Antigua and Barbuda;
- (c) without a warrant arrest the captain and any person on board the ship participating in the activity of the ship which is deemed to be prejudicial to the peace, good order or security of Antigua and Barbuda.

(2) Where the passage of a foreign ship is deemed to be prejudicial to the peace, good order or security of Antigua and Barbuda, the captain or other person in charge of such ship and any person participating in the activities of the ship which is deemed to be so prejudicial, is guilty of an offence under this Act.

17. (1) Where the passage of a foreign ship is deemed to be prejudicial to the peace, good order or security of Antigua and Barbuda and the ship or any person on board thereof who participates in the activity which is deemed to be prejudicial is entitled to state or other immunity recognised by law, the flag state of such ship and the state of nationality of such person shall be deemed to bear international responsibility for the activity of the ship.

Immunity.

(2) Where the flag state of a ship or the state of nationality of a person is deemed to bear international responsibility under this section, the Minister shall take all steps possible to obtain redress under international law.

Jurisdiction.

18. (1) For the purposes of the exercise of the jurisdiction of the courts of Antigua and Barbuda, the territory of Antigua and Barbuda shall include the internal waters and the territorial waters.

Cap. 48.

(2) Where any offence punishable on summary conviction is committed or suspected to have been committed within or in relation to the internal waters or the territorial waters, the offence may be dealt with and determined by a magistrate appointed to any magisterial District, and such magistrate shall have and exercise all the powers, privileges, rights and jurisdiction as are conferred on him by the Magistrate's Code of Procedure Act.

Cap. 48.

(3) The quasi-criminal and the civil jurisdiction conferred on a magistrate by the Magistrate's Code of Procedure Act shall in relation to the internal waters and the territorial waters be exercised by a magistrate appointed to any magisterial District.

(4) The jurisdiction conferred on any court under this Act shall be without prejudice to any jurisdiction conferred on or exercisable by such court apart from this Act.

Regulations.

19. (1) The Minister may make regulations—

- (a) for the safety of navigation and the regulation of marine traffic;
- (b) for the conservation of the living resources of the sea;
- (c) for the preservation of the marine environment of Antigua and Barbuda and the prevention and control of pollution thereto;
- (d) for the regulation of fishing;
- (e) relating to the grant of permits and the conditions to be attached thereto for fishing by nationals of foreign states and by means of foreign ships;
- (f) for the inspection and admission in evidence before the courts of the chart or map to which section 4 refers or any part thereof;
- (g) prescribing the fees to be paid for permits granted in accordance with regulations made under paragraph (e);
- (h) generally, for regulating the use of the internal waters and the territorial waters including prescribing the fees to be paid for any activity in relation thereto;

- (i) providing for the forfeiture to the Crown of any ship engaged, or any equipment used, in any of the activities specified in section 15; and
- (j) annexing to the contravention of any regulation made under this section a punishment on summary conviction of a fine of \$5,000 or of imprisonment for a term of 2 years or both.

(2) Regulations made under this section shall be subject to affirmative resolution of the Legislature and shall be judicially noticed.

20. (1) A person who assaults or obstructs a person acting under the authority of this Act or the regulations is guilty of an offence under this Act. Offence.

(2) A person who is guilty of an offence under subsection (1) or section 16 (2) is liable.—

(a) a conviction on indictment to a fine of \$10,000 or imprisonment for a term of 5 years or both; or

(b) on summary conviction to a fine of \$5,000 or imprisonment for a term of 2 years or both.

(3) The court may in addition to any penalty which it may impose under this section for an offence under section 16 (2), order the forfeiture to the Crown of any ship engaged, or equipment used, in any activity which is the subject of the offence.

21. This Act binds the Crown.

Binding of the  
Crown.

22. (1) Any reference in an enactment or law having effect as a part of the law of Antigua and Barbuda prior to the commencement of this Act, to coastal waters, territorial waters, waters of Antigua and Barbuda and Redonda or any analagous expression in whatever terms used, shall be construed as a reference to internal waters and territorial waters.

Application of  
laws.

(2) Any reference in any enactment or law having effect as a part of the law of Antigua and Barbuda prior to the commencement of this Act to a distance of three miles or a longer or shorter distance in relation to coastal waters, territorial waters, waters of Antigua and Barbuda and Redonda or any analagous expression in whatever terms used, shall be construed as a reference to a distance of twelve nautical miles or such other distance as may be prescribed under section 3.

Repeal and  
amendments, 41  
& 42 Vict. c. 73.

23. (1) The Territorial Waters Jurisdiction Act, 1878 of the United Kingdom Parliament and any Act of the United Kingdom Parliament altering that Act, in so far as they form part of the law of Antigua and Barbuda, are repealed.

Schedule.

(2) The enactments specified in the first column of the Schedule are amended in the respects specified in the second column thereof.

Commencement.

24. This Act shall come into operation on such day as the Governor-General may by proclamation appoint.

Passed the House of Representatives the 30th day of June, 1982.

Passed the Senate this 19th day of July, 1982.

C. L. Murray,  
*Speaker.*

B. T. Carrott,  
*President.*

L. A. Dowe,  
*Clerk to the House of Representatives.*

L. A. Dowe,  
*Clerk to the Senate.*

**SCHEDULE**

(Section 23(2))

**First Column**

**Second Column**

The Magistrate's Code of Procedure Act—Cap. 48

In section 38, insert "the Government of Antigua and Barbuda or" immediately after "in which".

The Interpretation Act, 1982.

Insert in the appropriate alphabetical order in section 57 the following definition —

"internal waters" means the internal waters of Antigua and Barbuda and Redonda as defined in section 5 of the Territorial Waters Act, 1982.

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