



[L.S.]

I Assent,

Joseph Myers,
Governor-General's Deputy.

11th March, 1997.

ANTIGUA AND BARBUDA

1997, No. 7

AN ACT to amend the Antigua and Barbuda Merchant Shipping Act.

[3rd July, 1997]

ENACTED by the Parliament of Antigua and Barbuda as follows —

1. This Act may be cited as the Antigua and Barbuda Merchant Shipping (Amendment) Act 1997.

2. Section 5 of the Antigua and Barbuda Merchant Shipping Act (hereinafter called the principal Act) is amended by inserting the following definitions in their alphabetical order —

Short title

“bareboat chartered” means a ship leased without master and crew for a certain period of time;

Amendment of section 5 of Cap. 28.

“certificate of competency” means a certificate issued to a person under Part IV that shows his competency as a seafarer and includes a licence issued under section 63;

“near coastal trade” means the carriage by sea of passengers or goods from any port or place in Antigua and Barbuda to any other port or place in Antigua and Barbuda;

“near coastal trade ship” means any ship engaged in the near coastal trade;

“coastal service” means a trade along a coast provided the distance to nearest port and offshore distance are not exceeding 50 nautical miles;

“restricted international service” means a trade along a coast not exceeding 200 nautical miles;

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

“seafarer” means the master, officer and any other category of crew;

“seaman” means every person serving or engaged to serve on board of a ship other than the master, a pilot, an officer, a mate, an engineer or a person temporarily serving in the ship while she is in port;

“officer” means a person who belongs to the ship’s command at the management or operational level; or is a member of its administration at a similar level.

“STCW” or “STCW 78” means the International Convention on Standards of Training, Watchkeeping and Certification 1978);

“SOLAS” means the International Convention for the Safety of Life at Sea;

“IMO” means the International Maritime Organisation.

Repeal and replacement of section 8 of principal Act.

3. Section 8 of the principal Act is repealed and the following is substituted —

“8. (1) The Minister may appoint Registrars of Antigua and Barbuda ships who shall perform such functions connected with the registration of ships as may be specified by this Act. In performance of their functions the Registrars shall act under the direction of the Director of Marine Services who shall be the Registrar General of Antigua and Barbudan ships.

(2) Individuals designated by the Minister as Registrars may register Antigua and Barbudan ships in Antigua and Barbuda and in countries other than Antigua and Barbuda, and registers must contain the particulars that are required to be entered in a register by this Act in respect of all vessels registered by them”.

4. Section 10 of the principal Act is repealed and the following is substituted —

Repeal and Replacement of section 10 of the principal Act.

“10. (1) Every Antiguan and Barbudan ship, including Government owned ships, employed in commercial service, unless it is a ship which does not exceed 24 metres overall length, shall be registered under this Act.

(2) A foreign-going-ship may, regardless of the nationality of the owners, be approved for registration by the registrar

(3) A ship registered under the law of a foreign country shall on application be registered for the period of the bareboat charter of an Antiguan and Barbudan ship under Part III and the registrar shall notify the authorities of that foreign country of such registration as a Antiguan and Barbudan ship”.

5. Section 12 of the principal Act is repealed and the following is substituted —

Repeal and replacement of section 12 of principal Act.

“Office of Registrar General. 12. (1) The office of the Registrar General shall be situated in St. John’s.

(2) The Registrar General shall designate a central registry office where details of all Antigua and Barbudan ships registered must be kept”.

Repeal and Replacement of section 20 of principal Act.

6. Section 20 of the principal Act is repealed and the following is substituted —

“20 (1) The owner of a vessel applying for registry under this Act shall cause such ship to be surveyed by the flag state in order to ascertain compliance with all relevant International Maritime Organisation Conventions.

(2) The owner of every Antigua and Barbuda ship shall cause such ship to be surveyed annually by the flag state to ascertain compliance with all relevant International Maritime Organisation Conventions.”

Repeal and replacement of section 62 of principal Act.

7. Section 62 of the principal Act is repealed and the following is substituted —

“Complement of certificated officers.

62. (1) Every foreign going ship, every home of trade ship and every ship in near coastal trade, other than fishing vessels and pleasure yachts not engaged in trade, when proceeding to sea, shall be provided with officers duly certificated under this Act according to the safe manning requirements set out by the Department of Marine Services.

(2) The Department of Marine Services shall issue minimum manning requirements for seafarers in which shall be stated the numbers and grades of the personnel required to ensure the safe operation of an individual ship, taking into account —

- (a) SOLAS 1974 and subsequent amendments;
- (b) STCW 1978 and subsequent amendments;

(c) IMO safe manning guidelines,

(3) Vessels which operate generally in the near coastal trade and in the home trade area shall be provided with officers according to the following scale:

- (a) in every case a duly certificated master;
- (b) if the ship is of 3000 GT and over, a master and one chief officer;
- (c) if the ship is 500 GT or more but less than 3000GT, a master and a deck officer;
- (d) if the ship is of less than 500GT, a master and one mate;
- (e) if the ship is powered by main propulsion machinery of 3000 kw or more, a chief engineer and one engineer officer;
- (f) if the ship is powered by main propulsion machinery of under 3,000 kw to 750 kw, a Chief Engineer;
- (g) if the ship is powered by main propulsion machinery of less than 750 kw, one engineer officer;
- (h) a radio officer must be provided in accordance with SOLAS 1974.

(4) Ships which operate generally in the foreign trade shall be provided with officers according to the following scale:

- (a) in every case a duly certificated master;
- (b) if the ship is of 3000 GT and over, a master, one chief mate and a deck officer, depending on the technical characteristics of the vessel;
- (c) if the ship is 500 GT or more but less than and 3000GT, a master and a chief mate;
- (d) if the ship is of less than 500 GT, a master and one deck officer;
- (e) if the ship is powered by main propulsion machinery of 3000 kw or more, a chief engineer and one engineer officer;
- (f) if the ship is powered by main propulsion machinery of less than 3000 kw and more than 750 kw, a chief engineer;
- (g) if the ship is powered by main propulsion machinery of 750 kw or less, one engineer officer;
- (h) a radio officer must be provided in accordance with SOLAS 1974;

(5) The Minister may make regulations for carrying out the purposes of this section having regard to the STCW 78 Conventions, and subsequent amendments, and in particular such

regulations may provide for the following matters:

- (a) requiring ships to which this section applies to carry such number of qualified officers of any description, seafarers designated to provide medical first aid, and such number of seafarer of any description as may be specified in the regulations;
- (b) standards of competence to be attained in accordance with STCW 78 and subsequent amendments by officers and other seafarers of any description in order to be qualified for the purpose of this section;
- (c) standards of competence to be attained in accordance with STCW 78 and subsequent amendments by manning personnel in respect of ships and vessels not included in subsection (1) and (2).

(6) Regulations made under this section may establish different provisions for each *description of ships or for ships of the same description in different circumstances*".

8. Section 64 of the principal Act is repealed and the following is substituted —

**Uncertified and unauthorized officers.*

64. (1) Any person who having been engaged in any of the capacities in ships prescribed under this part, goes to sea in that capacity without being entitled to, and without being in possession of the required certificate, a valid dispensation or having a documentary proof

Repeal and replacement of section 64 of principal Act.

required in accordance to the STCW 78 Convention, and any company or master who employs any person in a capacity in such ship without ascertaining that he is entitled to, or possessed of such certificate of competency, commits an offence under this Act.

(2) An offence under this section implies a degree of incompetency and lack of ability or capacity to fulfil the duties with accuracy, which is required from companies, masters and a holders of certificates of competency; and a finding that an officer was incompetent may justify a court of formal investigation ordering the suspension or cancellation of a certificate of the officer”.

Repeal and replacement of section 65 of principal Act.

9. Section 65 of the principal Act is repealed and the following substituted —

“Form of Certificates.

65. Every certificate of competency and granted under this Act shall be in the prescribed form according to the STCW 78 Convention, and shall be made in duplicate. One copy shall be delivered to the person entitled to the certificate or endorsement and the other shall be kept and recorded with the administration”.

Repeal and replacement of section 69 of principal Act.

10. Section 69 of the principal Act is repealed and the following is substituted —

“Production of Certificates and Endorsements.

69. (1) The master of a foreign going ship, of a home trade ship or of a near coastal trade ship, shall, on signing the agreement with the crew, produce to any registrar or officer before whom it is signed, the certificates of competency or endorsement evidencing an appropriate qualification of a person which is serving or engaged to serve in any of this ships as a master, mate, engineer or other officer.

(2) If the registrar or administration officer is satisfied that the certificates or endorsements are such as the master, mate, engineers and other officers are required to hold under this Act, he shall give the master a certificate to the effect that the proper certificates of competency and endorsements have been so produced.

(3) No authority shall grant clearance to any such ship outwards without the production of such certificates or endorsements; and if any ship attempts to go to sea without clearance, the authority may detain the ship until the certificate or endorsement or the appropriate application is produced”.

11. Section 71 of the principal Act is repealed and the following is substituted —

“Recognition of Certificates or Endorsements issued abroad.

71. (1) If a seafarer intends to act on board of an Antigua and Barbuda ship and holds a certificate of competency or service, or an endorsement issued in any other country and if the administration is satisfied that the conditions under which any such certificate or endorsement are granted in that country, require standards of competency or service not lower than those required under this Act and which are in accordance with the standards provided by the International Convention on STCW 78 for the grant of corresponding certificates or endorsements, the administration may by notification declare that any certificate of competency or service and endorsement issued in that country shall, for the purposes of this Act, be recognized as equivalent to the corresponding certificate of competency or service or endorsement granted under this Act.

(2) A certificate issued under subsection (1) is valid for a period of up to five years from the date of issue and may be renewed on application in accordance with the provisions of subsection (1)”.

Repeal and replacement of section 71 of principal Act.

Repeal and replacement of section 72 of principal Act.

12. Section 72 of the principal Act is repealed and the following is substituted —

“Regulations pertaining to examinations for certificates of competency.

72. The Minister may make regulations having regard in particular to the STCW 78 Convention providing for the assessment or examination for certificates of competency and providing for the following matters —

- (a) the appropriate level for which certificates of competency may be granted;
- (b) the qualification required of persons desirous of obtaining competency for the different grades;
- (c) appointment of persons for the purpose of conducting in-service assessment or examination of competence of a seafarer with the following qualifications —
 - appropriate level of knowledge,
 - qualified in the task for which the assessment or examination is being made,
 - have received appropriate guidance in assessment or examination methods and practice,
 - in case of using a simulator appropriate experience on the type of simulator.
- (d) appointment of examiners and determining the date and place of assessment or examination and other matters connected with the

conduct of assessment or examination of competency;

- (e) provide for the delivery of certificates to successful candidates by duly authorized persons;
- (f) re-assessment or examination of candidates according to the standards provided by the STCW 78 convention where the Minister has reason to believe that the report of the examiner or assessor has been duly made;
- (g) the fees to be paid by candidates appearing for examination or assessment”.

13. Section 73 of the principal Act is repealed and the following is substituted —

Repeal and replacement of section 73 of principal Act.

“Training of merchant navy personnel.

73. (1) The Minister may by notification in the *Gazette* constitute an advisory board called the Merchant Navy Training Board for the purpose of advising him on the measures to be taken for the training of merchant navy personnel in accordance with the provisions of the STCW 78 Convention and in particular:

- (a) the establishment of training institutions in Antigua and Barbuda;
- (b) training of personnel in training institutions in foreign countries;
- (c) training personnel on board Antiguan and Barbudan ships;

- (d) training personnel on board foreign ships.

(2) The Minister may take such measures as may be necessary to ensure that:

- (a) the training of merchant navy personnel complies with the requirements under STCW 78 Convention and is administered, supervised and monitored according to the STCW 78 Code;
- (b) that those responsible for the training of seafarers are appropriately qualified in accordance with the requirements of the STCW 78 Code for the type and level of training involved
- (c) the minimum training standards according to the STCW 78 Code;
- (d) the watchkeeping Standards and procedures according to the STCW 78 Code”.

Repeal and replacement of section 74 of principal Act.

14. Section 74 of the principal Act is repealed and the following is substituted —

“Manning scale

74. The Minister may make rules prescribing the minimum manning scale of seafarers indicating the numbers and grades of the personnel required to ensure the safe operation of an individual ship, taking the following into account -

- (a) trading area, voyage length and nature;

- (b) main propulsion (kw) and auxiliaries;
- (c) tonnage of the ship (according to London convention 69);
- (d) technical characteristics of the ship;
- (e) to meet peak workload situations;
- (f) bridge watchkeeping requirements;
- (g) mooring and unmooring;
- (h) to deploy crew for watertight integrity;
- (i) capability to operate all fire equipment and life saving appliances on board of a ship;
- (j) engineering watchkeeping”.

15. Section 75 of the principal Act is repealed and the following is substituted —

Repeal and replacement of section 75 of principal Act.

“Physical fitness and Medical Standards.

75. (1) No seafarer may be engaged or carried to sea to work in any capacity in any ship unless he possesses the appropriate qualification and standard of physical fitness.

(2) Physical fitness in accordance with medical standards are required for seafarers as a prerequisite for holding a certificate of competency with particular regard to eyesight

and hearing and with the following requirements in detail:

- (a) candidates for certification have to provide proof of their identity;
- (b) candidate's age not less than that prescribed in the regulations relevant to the certificate applied for;
- (c) candidate has completed the seagoing service and compulsory training required for the certificate applied for;
- (d) candidates have to meet the standards of competency prescribed for their capacities, functions and levels.

(3) On completion of this physical examination a report will be issued on behalf of the Government of Antigua and Barbuda which complies with the requirements of the Medical Examination Convention 1946 (ILO No. 73) and the STCW 78 Convention.

(4) The physical examination report may be cancelled or suspended if an authorized and approved medical practitioner has reasonable grounds for believing that there has been a significant change in the physical fitness of a seafarer or his condition was not such as to be considered fit for the purpose of the certificate at the time the certificate was issued.

(5) The physical examination report shall remain in force for a period not exceeding two years from the date on which it was established.

In so far as a physical examination report relates to colour vision it shall remain in force for a period not exceeding six years from the date on which it was granted”.

16. Section 76 of the principal Act is amended by deleting the word “seamen” wherever it occurs and substituting the word “seafarers”.

Amendment of section 76 of principal Act.

17. Section 89 of the principal Act is amended —

Amendment of section 89 of principal Act.

(i) by inserting before paragraph (a) the following —

“(aa) Education, training, sea service and matters connected therewith based on the STCW 78 Convention”;

(ii) in paragraph (f), by deleting the words “statute of officers and seamen” substituting the words “status of seafarers” with reference to the STCW 1978 Convention;

(iii) by deleting the word “seamen” wherever they occur in the section and substituting the word “seafarers”.

18. Section 257 of the principal Act is amended by adding the following subsection —

Amendment of section 257 of principal Act.

“(2) The following IMO conventions apply for the purpose of investigating casualties involving Antigua and Barbuda ships:

(a) International Convention for the Prevention of Pollution from Ships 1973, as amended by the protocol of 1978 (MARPOL).

(b) International Convention for the Safety of life at sea (SOLAS).

- (c) International Convention on Load Lines 1966.
- (d) Torremolinos International Convention for the Safety of Fishing vessels 1977 as amended by the protocol of 1993.
- (e) International Convention on Standards of Training, Watchkeeping and Certification 1978 (STCW 78)".

Repeal and replacement of section 258 of principal Act.

19. Section 258 of the principal Act is repealed and the following is substituted

"Preliminary inquiry.

258. (1) The Minister may appoint officers or recognized agencies for the purpose of holding preliminary inquiries into shipping casualties.

(2) Notice of a shipping casualty may be given to an officer or to a recognized agency appointed under subsection (1) by the master, pilot, harbour master in charge of a ship concerned or any other foreign international authorities having knowledge of a shipping casualty.

(3) On receipt of a notice of shipping casualty, the officer or the recognized agency appointed under subsection (1) shall immediately report the same to the Director of Marine Services through the appropriate office and, on order by the Minister or the office authorized by the Minister, may proceed to make preliminary inquiry into the casualty; and after the preliminary inquiry is completed, a report thereof shall be sent to the Director of Marine Services via the appropriate office".

General amendment .

20. The principal Act is amended by deleting the word "Registrar" wherever it occurs in the Act and substituting the word "Registrar General".

Passed the House of Representatives
this 26th day of February, 1997.

B. Harris,
Speaker.

S. Walker,
Clerk to the House of Representatives.

Passed the Senate this 5th day
of March, 1997.

M. Percival,
President.

S. Walker,
Clerk to the Senate.