

COMMONWEALTH OF DOMINICA**ARRANGEMENT OF SECTIONS**

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2006 DOMINICA AIR AND SEA PORTS ACT 8
AUTHORITY

COMMONWEALTH OF DOMINICA**ACT NO. 8 OF 2006***I Assent***N. J. O. LIVERPOOL***President*30th November, 2006.

AN ACT to establish an Authority to be known as the Dominica Air and Sea Ports Authority , to provide for co-ordinated and integrated systems of airports, seaports and port services, to transfer to and vest in the Authority the assets, liabilities and functions of the Dominica Port Authority established under the Port Authority Act Chap 50:01 and the assets, liabilities and functions of the Melville Hall Air Port provided for under Melville Hall Air Port Act Chap 47:01 and the Canefield Airport provided for under the Canefield Airport Act Chap 47:02.

(Gazetted 7th December, 2006).

BE IT ENACTED by the Parliament of the Commonwealth of Dominica as follows:

PART I
Preliminary

1. (1) This Act may be cited as the -

**DOMINICA AIR AND SEA PORTS
AUTHORITY ACT, 2006**



2006 DOMINICA AIR AND SEA PORTS ACT 8
AUTHORITY

(2) This Act shall come into force on such date as the Minister may by Order appoint hereinafter “the appointed date”.

Interpretation.

2. In this Act –

“aircraft” means any machine for flying, whether propelled by mechanical means or not, and includes any description of balloon;

“airport” means the Melville Hall Airport, the Canefield Airport and any other places declared Airports under this Act;

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

“Authority” means the Dominica Air and Sea Ports Authority established under section 3;

“Authorised officer” means a person authorised by the Port Manager to exercise the powers or 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 buoy and includes aeronautical beacons and such other aids as are commonly used in aviation;

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

“buoy” means an anchored float and includes any floating light, mark or sign used as an aid to navigation;

“Chairman” means the Chairman of the Board and includes any person for the time being performing the functions of Chairman;

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

“Deputy General Manager” means the Deputy General Manager appointed under section 13;

(a) goods, includes any consignor, consignee, shipper or agent of the owner for the sale, custody, loading, handling, unloading or delivery of such goods;

(b) airport means the manager appointed under section 13;

“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 Regulations made under this Act;

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

“Tariff Book” means the Tariff Book prepared and published under section 53;

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

PART II

ESTABLISHMENT, CONSTITUTION, MANAGEMENT AND STAFF

3. There is hereby established for the purposes of this Act a body corporate to be called the Dominica Air and Sea Ports Authority.

Establishment of the Authority.

4. (1) The Authority shall be administered by a Board which shall consist of nine members appointed by the Minister responsible for ports.

Constitution of the Board.

(2) In making his appointment of members to the Board the Minister shall have regard to persons who would collectively, have experience in as many as possible of the subject of Aviation, Shipping, Industry, Commerce, Finance, Engineering and Law.

(3) The members of the Board shall hold office for a period not exceeding three years, but are eligible for reappointment for no more than one other term.

(4) The Minister shall appoint the Chairman and Deputy Chairman of the Board from among the members of the Board.

(5) A member may resign his office at any time by giving written notice to the Minister and in the like manner the Minister may terminate the appointment of a member.

(6) Where a member ceases to be a member for any reason the Minister may appoint another person in his place for the remainder of the time for which the former member would have served if he did not cease to be a member.

(7) The Board shall appoint a Secretary to the Board.

Removal.

5. (1) The Minister may remove a member from the Board for any of the following reasons.

(a) inability to perform the functions as a member of the Board;

(b) for being absent for three consecutive meetings of the Board except on leave granted by the Board or five meetings in aggregate during any twelve month period of his term of appointment.

(c) if convicted for a criminal offence.

(2) Where a member of the Board is removed by virtue of subsection (1), the Minister shall appoint another person to serve the unexpired period of that member in the manner specified in section 4.

Seal of the Authority.

6. (1) The seal of the Authority shall be kept in the Custody of the General Manager and may be affixed to instruments pursuant to a resolution of the Authority and in the presence of the Chairman or a Deputy Chairman and the General Manager.

(2) The seal of the Authority shall be authenticated by the signature of the Chairman or the Deputy Chairman and the General Manager, and the 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 Chairman or the Deputy Chairman and the General Manager.

7. (1) Service of any notice, order or other document required or authorized under this Act or any Regulations, to be served on any person by the General Manager or by any authorized 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 authorized under this Act or Regulations to be served on the General Manager, may be served-

- (a) by delivering the notice, order or other document to the General Manager;
- (b) by leaving it at the office of the General Manager;
- (c) by sending it by registered post addressed to the General Manager at the office of the Authority.

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

Procedure and meetings
of the Board.

(2) The Chairman shall preside over the meetings of the Board and in his absence the Deputy Chairman shall preside.

(3) Six members shall form a quorum at any meeting of the Board.

(4) Where any member is disqualified from taking part in any deliberation or decision of the Board with respect to any matter, he shall be disregarded for the purpose of constituting the quorum under subsection (3) for deliberating on or deciding that matter.

(5) The Chairman may at any time call a special meeting of the Board. He shall also call a special meeting within seven days of a requisition for that purpose addressed to him by any three members to consider the matter contained in such requisition.

(6) The Chairman shall also call a special meeting of the Board if directed by the Minister to do so.

(7) The decision of the Board with regard to any question shall be determined by consensus but where there is no consensus 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 Chairman presiding at the meeting shall have a casting vote in addition to his own vote.

(8) 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 Board as soon as practicable thereafter at a subsequent meeting.

(9) The Board may invite any one or more persons to attend any particular meeting of the Board for the purpose of assisting or advising the Board.

(10) A member appointed by the Minister who absents himself without the leave of the Chairman from three consecutive meetings of the Board shall cease to be member.

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

Disclosure of interest
and abstaining from
voting.

9. (1) It shall be the duty of a member 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 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.

10. (1) The Board may appoint a committee of the Board 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
Committees.

(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 Board may desire.

(3) 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.

11. Subject to the provisions of 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.

12. (1) There shall be paid from the funds of the Authority to the Chairman, and other members such remuneration, fees or allowances as the Minister may determine.

Remuneration of
members.

(2) Where persons, other than members, are members of a committee appointed under section 10, or where any person is co-opted under the provisions of subsection (9) of section 7, the Board may with the approval of the Minister by resolution declare any remuneration, fees or allowances of such persons, and such sums shall properly be payable out of the funds and resources of the Authority.

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

Appointment of General
Manager, Deputy
General Manager and
Port Managers.

(a) a General Manager;

(b) a Deputy General Manager;

(c) such number of Sea Port Managers and Airport Managers as it thinks fit;

but all such appointments shall be subject to the approval of the Minister.

(2) The General Manager 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 be present at all meetings of the Board unless he is instructed by the Chairman to withdraw from any meeting or he has obtained leave of absence from the Chairman or is incapacitated by illness or other cause from attending any meeting.

(3) In the absence of the General Manager the Deputy Manager shall exercise, perform and discharge the powers, functions and duties of the General Manager.

(4) In the event of the absence of the General Manager and the Deputy General Manager, the Authority may, by instrument in writing and with the approval of the Minister, appoint any person to act as General Manager during such period of such absence upon such terms and conditions as it may determine. The person so appointed may exercise all the powers and all the duties by this Act exercisable or to be performed by the General Manager or as many of such powers and duties as may be specified in such instrument.

Appointment of officers
and servants.

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

(2) The persons so appointed shall perform such duties as may be assigned to them by the General Manager or his designate.

Establishment and
maintenance of
Superannuation
Schemes.
Chap. 31:01.

15. (1) Subject to the provisions of the Social Security Act, the Authority may, with the approval of and subject to such terms and conditions as may be imposed by the Minister, provide for the establishment and maintenance of a Pension 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), the Pension Scheme or 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 dependants such gratuities, pensions or allowances as are by this section authorized to be granted.

16. The validity of any action done or proceedings taken under this Act shall not be questioned on the ground of – Protection of members.

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

17. No personal liability shall attach to any member 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.

18. (1) The Minister may, give to the Board directions of a general or specific character as to the policy to be followed in the performance of its functions. Policy.

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

Consultative Body.

19. (1) The Minister may make Regulations providing for the establishment of a 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 member or officer of the Authority with a view to safeguarding those interests.

(2) The Regulations may contain such incidental and supplemental provisions (excluding provisions for the making of payments).

PART III

DUTIES AND GENERAL POWERS, PROVISIONS RELATING TO LAND, PROPERTY AND UNDER- TAKINGS OF THE AUTHORITY

Powers and duties of the Authority.

20. (1) Subject to the provisions of this Act, the Authority is hereby empowered to provide in accordance with the provisions of this Act and any Regulations co-ordinated and integrated systems of airports, seaports, lighthouses and port services and to levy charges and dues for the use of the facilities and services provided.

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

(3) In particular and without prejudice to the generality of the provisions of subsection (1) and (2) it shall be the duty of the Authority to –

- (a) operate the ports as appears to it best calculated to serve the public interest;
- (b) regulate and control navigation within the limits of such ports and their approaches;
- (c) maintain, improve and regulate the use of such ports and the services and facilities therein as it considers necessary or desirable;
- (d) provide for such ports and the approaches thereto such pilotage services, beacons, buoys and other navigational services aviation services and aids as it considers necessary or desirable;
- (e) carrying out exclusively the loading ,unloading, landing and carrying of all goods to and from all ships and aircraft in a Port;
- (f) exercise the duties and functions in any enactment relating to shipping, navigation and aviation formally exercisable by any government department.

(4) Notwithstanding subsection (3) the Authority may, with the approval of the Minister authorize in writing any person, corporation or other body to carry out the functions of the Authority specified in subsection (3) subject to such conditions and restrictions as the Authority may consider desirable.

21. (1) Any wharf, dock or other public work constructed by the Government along, across or extending out from the foreshore within the limits of the port and the land on which the same is constructed, any land reclaimed from the sea, and any part of the foreshore situated within the limits mentioned above, may be vested in the Authority upon such terms and conditions as the President may determine.

Powers to vest
reclamation 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 written law providing for compensation.

Apparatus etc. not
subject to distress.

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

PART IV **FINANCE**

Revenue of the
Authority.

23. (1) The revenue of the Authority shall consist of –

- (a) the sums received by the Authority in respect of dues and charges levied and payable in pursuance of the provisions of this Act and any regulations or in pursuance of any other Act and Regulations; and
- (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) shall be paid into and placed to the credit of an account at a bank approved by the Minister in consultation with the Minister for Finance.

(3) The Authority shall not borrow any money without the approval of the Minister in consultation with the Minister for Finance .

Application of revenue
of the Authority.

24. The Revenue of the Authority in any financial year shall be applied in payment of the following charges:

- (a) the interest and sinking fund contributions on any loan payable by the Authority;

- (b) the sums required to be paid to the Government towards the repayment of any loan made by the Government to the Authority;
- (c) the remuneration and allowances of members and of any committee of the Authority;
- (d) 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;
- (e) 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;
- (f) such sums as the Authority thinks appropriate to set aside in respect of obsolescence and depreciation or renewal of the 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.

25. (1) The Authority may from time to time temporarily invest with the approval and in such manner as the Minister for Finance may direct any of its funds not required to be expended in the meeting of its obligations or in the discharge of its functions.

Temporary investment.

(2) The interest from such investment shall be paid to the credit of the Authority's accounts as provided in section 23(2)

26. (1) Subject to this Act the Authority may from time to time for the purpose of this Act raise loans-

Power to borrow.

- (a) from the government;
 - (b) with the consent of the Minister for Finance from any other source;
- (2) The power to borrow under this section may be exercised to-
- (a) borrow and reborrow monies by the issue and sale of debentures or debenture stocks 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) create and issue debentures or debenture stock or other security respectively issued in respect of moneys previously borrowed by the Authority, and not repaid;
 - (c) 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 the debentures or debenture stock or other security and otherwise carrying out the provisions of this Act;
 - (d) effect any conversion authorized by this section either by arrangement with the holders of the existing debentures or debenture stock or other security, or by the purchase of the debentures or debenture stock or other security out of moneys raised by the sale of the debentures or debenture stock or other security, or partly in the one way or partly in the other.
- (3) Without prejudice to section 27, 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 for Finance.

27. The Authority may with the consent of the Minister for 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 –

Temporary borrowing.

- (a) for the purpose of defraying expenses pending the receipts of revenues recoverable by it in respect of the period of account in which those expenses are chargeable; or
- (b) for the purpose of defraying, pending the receipt of money due in respect of any loan authorized to be raised under section 26(1), expenses intended to be defrayed by any such loan.

28. (1) With the approval of the House of Assembly the Minister for Finance may guarantee, in such manner and on such conditions as he thinks fit, the payments of the principal and interest of the authorized borrowing of the Authority.

Guarantee of borrowing.

(2) Where the Minister for 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 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 for Finance may direct payments of such amounts as may be so directed in or towards repayment of any sums issued in fulfillment of any

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guarantee given under this section, and payments of interest on what is outstanding for the time being in respect of any sums so issued at such rate as the Minister for Finance may direct and different rates of interest may be directed as regards different sums and as regards interests for different periods.

Reserve funds.

29. 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 for Finance.

Application of surplus.

30. Any balance at the end of the financial year resulting from the activities carried on by the Authority under this Act which is available after making full allowance for the matters enumerated in section 27 shall be placed to the credit of the Consolidated Fund.

Estimates in respect of financial year.

31. (1) The Authority shall cause to be prepared every year, estimates of expenditure and revenue in respect of the ensuing financial year and shall adopt such estimates in respect of that year.

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

(3) A copy of all estimates of revenue and expenditure in respect of the financial year and supplementary estimates in respect of that year shall upon adoption by the Authority be sent to the Minister.

Accounts.

32. (1) The Authority shall keep proper accounts of all its transactions to the satisfaction of the Minister for Finance and a statement of accounts shall be kept and made up in respect of each financial year.

(2) The statement of accounts in respect of each financial year shall present a true 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 qualified accountants appointed by the Authority.

Audit.

(2) The Board, officers and staff of the Authority shall grant to the Auditor appointed to audit the accounts under subsection (1) all books, deeds, contracts, accounts, contracts, vouchers or other documents which he may think necessary to call for and 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 who fails without reasonable excuse to comply with a request to produce a document or to enter an appearance and make and sign a statement or furnish information is liable on summary conviction to a fine of fifteen thousand dollars or to imprisonment for six months.

34. The Auditors appointed to audit 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 their report in respect of their audit for the financial year to the Authority.

Auditors Report.

35. (1) The Authority shall, as soon as practicable and not later than one month from the receipt of the accounts and report mentioned in section 34, submit a report to the Minister containing-

Report to the Minister.

- (a) a Statement of the accounts of the Authority;
- (b) an account of the activities of the Authority during the preceding financial year in such form as the Minister 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 Assembly at the next sitting following the receipt of the report.

PART V
RESPONSIBILITY OF THE AUTHORITY AS A
WAREHOUSEMAN

Liability for loss of
goods etc.

36. (1) Subject to this Act or any Regulations or any contract, the Authority is not liable for the loss, misdelivery or detention of, or damage to goods –

- (a) delivered to or in the possession of the Authority otherwise than for the purposes of carriage and warehousing, except where such loss, misdelivery, detention or damage is caused by want of reasonable foresight and care 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 the want of reasonable foresight and care on the part of any person employed by or on behalf of the Authority,

(2) The Authority is in no case liable for loss, misdelivery, detention or damage referred to in subsection (1) if it is from –

- (i) act of God
- (ii) act of war or of the enemies of the State;
- (iii) act or omission of the consignor, consignee or depositor, or of the servant or agent of any such person;
- (iv) fire, flood, tempest, riots, civil commotion, strikes, lock outs, stoppage, or restraints of labour from whatever cause, whether partial or general;
- (v) inherent liability to wastage in bulk or weight, latent or inherent defect, vice or natural deterioration;

- (vi) deficiency in the contents of unbroken packages; or
- (vii) unprotected cargo, insufficiency or improper packing or leakage from defective drums, containers or packages,

and 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 shall apply.

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 49, shall not in any case exceed the value of the goods as calculated in accordance with the description contained in such false account.

Limitation of liability for loss where false accounts is given.

38. In any proceedings brought under section 37 against the Authority, it is necessary for the person claiming damages or compensation to prove how the loss, misdelivery, detention or damage to goods was caused.

Burden of proof in proceedings under section 37.

PART VI

SHIP AND AIR CRAFT DUES, CHARGES AND TARIFF BOOK

39. Subject to the provisions of this Act and the Regulations-

Dues and charges in respect of ships.

- (a) every ship which enters a port for the purpose of loading or unloading cargo or embarking or disembarking passengers or which occupies an anchorage or berth within a port; and
- (b) every aircraft which uses a port,

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

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Payment of dues and charges when due.

40. (1) All dues and charges payable under this Part shall be paid at the prescribed time, and where no such time is prescribed such dues and charges shall be paid on demand.

(2) Notwithstanding any other law all dues and charges shall be deemed to have been demanded when they become payable.

Appointment of Agent.

41. Every ship and aircraft 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 owner or person in charge of the ship or aircraft of such sums paid on behalf of any such ship or aircraft.

Security charges.

42. An agent who intends to incur a liability in respect of any of the sums mentioned in section 39 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.

Detention by authorized officer.

43. (1) Where any sums mentioned in section 40 are owing in respect of any ship or aircraft, any officer authorized by the General Manager may with such assistance as he deems necessary enter such ship or aircraft and may arrest the ship or aircraft and the furniture, fixtures and equipment thereof, and may detain it until the said sums are paid.

(2) Where after such arrest, such sums remain unpaid for a period of seven days an officer authorized by the General Manager may cause the ship or aircraft and the furniture, fixtures and equipment thereof arrested to be sold, and 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 or aircraft in respect of which the sums mentioned in section 39 are owing and have not been secured as provided in section 42 leaves a port and enters or is in any other port, then such ship or aircraft may be dealt with as if such sums so owing and not secured as aforesaid were sums owing in respect of such other port.

44. Before a person in charge of a ship or aircraft in a port shall obtain outward clearance from that port he shall first obtain from an officer authorized by the General Manager a certificate stating that –

Certificate of authorized officer required before clearance is requested.

- (a) all dues and charges in respect of the ship or aircraft and all penalties and expenses to which the ship or aircraft and the person in charge are liable under this Act or regulations have been paid or secured to the satisfaction of the person authorized by the General Manager; and
- (b) he has complied with the provisions of the Act and the regulations.

45. Notwithstanding anything in the Customs (Control and Management) Act or in any Act replacing that Act or in any other enactment all goods shall on importation and exportation by sea or air be deemed to be in the Custody of the Authority.

All goods deemed to be in the custody of the Authority.
Chap. 69:01.

46. The Authority may subject to the provisions of this Act and any regulations determine –

Power to determine conditions, and carriage or warehousing of goods or other service or facility.

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

47. (1) Where the agent of a ship or aircraft from which any goods have been landed at a port and accepted by the Authority

Authority may retain goods until freight is paid

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for carriage or warehousing or for delivery to the consignee, notifies the General Manager in writing that the freight or other charges in respect of such goods remain unpaid, the General Manager shall retain the goods and refuse delivery of them to the consignee or any other person until-

- (a) the payment of such freight or other charges or customs duties in respect of such goods; or
- (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 by the person entitled to take delivery thereof.

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

(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 or as requiring the Authority to inquire into the validity of any claim made for freight or any other sums mentioned in any notice given by an agent under subsection (1) of this section.

Consignor or Consignee
liable for payment of
carriage or warehousing.

48. The consignor of 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 by the Authority in respect of the goods.

49. (1) The consignor of or the person tendering any goods for carriage or warehousing by the Authority, and, on request by the General Manager, the consignee of or person receiving any goods which have been carried or warehoused by the Authority, shall deliver to the General Manager the documents as prescribed in the regulations under this Part to enable him 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) The General Manager may, for the purpose of verifying the documents delivered under subsection (1) 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), the General Manager 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) is found to be false in any material particular with respect to the description of any goods to which it purports to relate, the General Manager 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 without prejudice to any penalty that may be imposed under any other section of this Act.

50. In respect of all the goods in custody of the Authority in pursuance of section 45 of this Act, the General Manager shall be entitled to levy such charges as may be determined in accordance with the regulations made under this Act, and he may do all such reasonable acts and incur such reasonable expenses as are

Power to levy charges.

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.

Effects of non-removal of goods.

51. (1) Subject to the provisions of this section and without prejudice to the provisions of section 50 where any goods in the custody of the Authority and 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 General Manager shall cause a notice to be served on the owner requiring him to remove the goods.

(2) Where-

- (a) the owner of the goods in the possession of the Authority is not known; or
- (b) the notice referred to in subsection (1) of this section cannot for any reason be served; or
- (c) there has been non compliance with the provisions of any notice served under subsection (1) of this section;

the General Manager, may within a reasonable time not being less than six weeks sell the goods by public auction after giving seven days notice in the Gazette before the sale.

(3) Where the goods are perishable the General Manager may require their removal within a shorter period, not being less than twenty-four hours after the landing thereof or 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.

Application of the proceeds of sale.

52. The proceeds of the sale under section 51 shall be applied by the Authority as follows, and in the following order:

- (a) in the payment of any duty payable in respect of the goods;

- (b) in the payment of the expenses of sale;
- (c) in 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 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 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 the owner shall be extinguished.

53. (1) Subject to the provisions of this Act, the dues , charges and conditions for any service or facility performed or provided by the Authority when determined, shall be in the form of Regulations, and shall be first submitted to and approved by the Minister.

Compilation of dues and charges and Tariff Book.

(2) Such regulations shall have effect from the date of their publication or from such later date as may be specified therein.

(3) Subject to the approval of the Minister, and without prejudice to subsection (1) and (2) of this section, 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 thinks fit, a “Tariff Book” containing all matters which under this Act or any Regulations are required to be contained therein, together with such other matters as the Authority may determine.

PART VII
PILOTAGE

Compulsory pilotage.

54. (1) The Sea ports shall be compulsory pilotage ports and all ships other than exempted ships navigating whether by entering, leaving or moving within the limits thereof shall be under the pilotage of an Authority pilot.

(2) For the purposes of this section the following ships are exempted ships:-

- (a) ships belonging to the State;
- (b) ships owned or operated by the Authority;
- (c) pleasure yachts or fishing vessels;
- (d) ferrying boats plying as such exclusively with the limits of a port;
- (e) ships of less than 100 tons gross register;
- (f) ships trading exclusively between ports and other parts of State;
- (g) tugs, dredges, barges or similar vessels whose ordinary course of navigation does not extend beyond the limits of the State.

(3) The General Manager may exempt from compulsory pilotage any ship in any particular case.

Authority to employ pilots.

55. (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.

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

56. The Board in consultation with the Minister shall appoint a Pilotage Committee for the purpose of –

Appointment and functions of 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;
- (e) carrying out such other functions as are conferred on the Pilotage Committee by this Act;

57. (1) The Pilotage Committee consists of –

Constitution of Pilotage Committee.

- (a) the General Manager who shall be the Chairman of the Committee;
- (b) senior officer of the Coast Guard Unit;
- (b) three other 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 shall be for any period not exceeding three years but such member shall be eligible for re-appointment 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 Chairman of the Pilotage Committee shall preside at all meetings of the Committee. If the Chairman is absent from

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a meeting or any part thereof such member as the members of the Pilotage Committee present choose shall preside in his place.

(5) The Chairman 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.

(6) Members of a Pilotage Committee who are not employees of the Government or of the Authority may be paid, out of the funds of the Authority, such fees and allowances as the Authority may from time to time determine.

Rules.

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.

Examination for licence.

59. (1) Pilotage Committee shall examine candidates for employment by the Authority as pilots and on being satisfied as to a candidate's general fitness and competency, including physical fitness, to act as an Authority 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 deem fit.

(2) Subject to the provisions of this Part every person who immediately prior to the coming into operation of this Act was licensed as an Authority pilot under the Port Authority Act shall be deemed to be licensed under this Act as an Authority Pilot under subsection (1) subject to the conditions in the licence issued to him under the said Act.

(3) Every Authority pilot shall whenever the Pilotage Committee considers that, owing to changed conditions or for any other sufficient reason, the further testing of the knowledge, efficiency of 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 said Committee on behalf of the Authority to be returned or cancelled by the said Committee on behalf of the Authority as the result of such examination determines.

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

(5) Any licence issued under the provisions of this section shall cease to be valid upon the termination of any Authority pilot's employment with the Authority.

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

Enquiries by Pilotage
Committee.

(2) For the purposes of such inquiry, the Pilotage Committee may summon any person in the State to attend any meeting of the said Committee to give evidence on oath or produce any document or other thing in his possession and to examine him as a witness or require him to produce any document or other thing in his possession relative to the matters which are the subject of such inquiry.

(3) Any person who –

- (a) being summoned to attend any such inquiry fails to do so;
- (b) offers any act of disrespect or any insult or threat to the Pilotage Committee or any member thereof during any 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 under this Act and shall be liable on summary conviction to a fine of two thousand dollars or to imprisonment for six months or to both.

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

61. (1) Where the Pilotage Committee, after due inquiry in accordance with the provisions of this Part and after hearing any statement that may be offered in defense, finds that an Authority Pilot has been guilty of misconduct affecting his capacity or has failed or neglected his duty or has otherwise become incompetent to act as an Authority 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.

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

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

Liability of the owner and person in charge of ship in the case of ship under pilotage.

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

Limitations of pilot's liability when bond is given.

63. (1) An Authority pilot who has given bond in accordance with subsection (2) is not liable for neglect, want of skill or incapacity in office beyond the penalty of the 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.

(2) Every authority pilot shall give a bond in the sum of three 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 an Authority pilot in accordance with this section is liable to stamp duty.

(4) Where any proceedings are taken against an Authority pilot for any neglect, want of skill or incapacity in office in respect of which his liability is limited as provided by this section,

and other claims are made in respect of the same neglect, want of skill or incapacity in office, the Court in which the proceedings are taken may-

- (a) determine the amount of the pilot's liability and, upon payment by him of the amount into Court, distribute the 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 the pilot, and as to payment of any costs as the Court thinks fit.

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

Immunity for Authority
and Pilotage Committee.

(2) Any Authority 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 person in charge and owner of the ship under pilotage and neither the Authority nor the Authority pilot shall be liable for any loss or damage occasioned by any act, commission or default of such Authority pilot.

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

Proceeding in respect of
pilots.

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

PART VIII

SPECIAL PROVISIONS

Supply of information.

66. The person in charge of any ship or aircraft arriving in or departing from a port shall produce to the Authority such documents and supply such information in relation to the ship or aircraft, and the persons and goods carried thereon, as the Authority may reasonably require.

Power of General Manager.

67. (1) Notwithstanding the provisions of any regulations made under section 74 of this Act the General Manager may-

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

(2) In case of any refusal or neglect or of any failure to comply with any direction given under subsection (1), 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 direction and may hire and employ such persons as it considers proper and necessary for such purpose.

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

68. (1) The General Manager may except in the case of an accident to aircraft in a port -

Power in respect wrecks.

- (a) remove any wreck in or other obstruction to a port or its approaches, or any timber, raft or other thing floating or lying in a port, which endangers or obstructs, or is likely to endanger or obstruct, the free navigation or the port or the use of any facility 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 to life or limb or damage to goods or premises;
- (c) enter upon any ship or aircraft 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 General Manager under the provisions of subsection 1(a) 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 General 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 the provisions of subsection 1(a) and the expenses of removal have not been paid within seven days of such removal, the General Manager may cause such wreck or thing to be sold by public auction and shall out of the proceeds of sale retain the amount necessary to meet the expenses of such removal, detention and sale and any customs duties, dues or charges payable in respect thereof and shall retain the balance, if any, for the person appearing to him to be entitled.

Fire on board ship or aircraft.

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

(2) If such orders are not forthwith carried out by the person in charge of such ship or aircraft the General Manager may himself proceed to carry them into effect.

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

Accidents in ports.

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

- (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 or aircraft;
- (c) is of such other kind as the Minister may specify,

the Authority shall, as soon as practicable, give notice of the occurrence of the accident to the Minister.

(2) The Authority may order such enquiry into any accident which occurs in any port as it may think fit and shall order an inquiry into any such accident when so required by the Minister.

(3) The Authority shall present a report on any accident inquired into, setting out, *inter alia*, the probable cause of such accident and the steps if any, which have to be taken or it has directed shall be taken with a view to avoiding a repetition thereof.

(4) The Authority shall submit 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.

(5) Where an accident takes place in which an aircraft is concerned the Authority shall inform the Civil Aviation Authority of the Organisation of Eastern Caribbean States.

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

Liability for demurrage or other charges.

72. (1) All Acts, orders or directions under this Part or regulations thereunder authorized to be done or given by a particular officer of the Authority may be done or given by any other officer of the Authority or authorized in writing on that behalf by the Authority or the General Manager.

Delegation of Authority.

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

73. The Authority shall not be liable for any mala fide act, omission or default of the General Manager.

Non-liability of authority.

74. (1) The Minister may on the recommendation of the Authority, make Regulations generally with respect to the maintenance, supervision, control and management of the ports and the approaches thereto, and the services performed and the communication navigation and other facilities provided by the Authority and for the maintenance of order on any premises or in any ship, aircraft or vehicle in a port and the approaches thereto and for the carrying out of the provisions of this Act, and without prejudice to the generality of the foregoing, regulations made under this section may contain provisions with respect to –

Regulations.

- (a) the proper control and management of the foreshores of any port and the entrances thereof, the prevention and removal of obstructions therein and the regulation of any work service or facility performed or provided thereat;

- (b) the control of all persons and vehicles on such premises, the maintenance of order thereon and the admission or exclusion of persons therefrom and the charges, if any, to be made for such admission;
- (c) regulating, controlling and prohibiting the doing or omission of any thing or class of thing within the boundaries of any port either at all times and on all occasions or at any time or times or on any occasion or occasions;
- (d) the regulation, restriction and control (without prejudice to the conduct of navigation) of the depositing of any substance, solid matter, article or thing polluting or likely to cause pollution of the waters of any port;
- (e) the regulation of traffic and navigation of ships and aircraft within the limits and approaches to any port and all matters relating to the protection of life and property;
- (f) the regulation of the mode and place of mooring, anchoring and berthing of ships and the parking of aircraft and the removal of ships and aircraft from a mooring, anchorage, berth or position and the time within which such removal shall be effected;
- (g) the protection of ships and aircrafts and their cargoes and the removal, destruction, sale or abandonment of stranded ships, aircraft and their cargoes and appurtenances which obstruct or are likely to obstruct the fairway or runway of any port, the payment of expenses including salvage incurred in connection therewith and the levy and recovery of a charge for the right of a hulk or wreck or wreckage to lie in any port;
- (h) the examination, licensing, duties and obligations, and the conduct and discipline of Authority pilots and the charges to be paid for pilotage;

-
- (i) the regulating of the times, places, order and mode of loading, unloading, warehousing, storing and the depositing of goods;
 - (j) the fixing of dues and charges payable in respect of any ship or aircraft, with different dues or charges being applicable in respect of different ships or aircraft or classes of ships or aircraft, the exemption or the remission thereof or part thereof;
 - (k) the fixing of the dues and charges payable in connection with the loading, unloading, carrying or warehousing of goods and for any service or facility performed or provided by the Authority including the exemption, refunding or remission of any such charges;
 - (l) the fixing of the dues and charges payable in respect of any other service or facility performed or provided by the Authority;
 - (m) the licensing of shipping agents, customs brokers, landing agents, forwarding agents, baggage and parcel agents, porters, contractors for supplies and victualling, and other persons concerned in or engaged in or performing any service or work in connection with the ports;
 - (n) anything required to be prescribed by this Act and any matter or thing in respect of which it may be necessary or expedient to make regulations to give effect to the purposes of this Act.

(2) The Minister shall, on the recommendation of the Authority, make regulations generally for the conveyance, loading, unloading and storage of dangerous goods within the limits of the ports, and without prejudice to the generality of the foregoing, may make regulations with respect to –

- (a) the classification of goods as dangerous goods;
- (b) the regulation of the navigation and place of berthing of ships and parking of aircraft carrying dangerous goods;
- (c) the regulation and control of loading and unloading dangerous goods;
- (d) the prohibition or subjection to conditions and restrictions of the conveyance of any kind of dangerous goods with any other kind of goods;
- (e) the prohibition of the loading or unloading of dangerous goods at places where such loading or unloading appears dangerous to the public
- (f) the fixing of places and times at which dangerous goods are to be loaded and the quantity to be loaded or unloaded at any one time;
- (g) the regulation of the mode and precautions to be observed in conveying or keeping dangerous goods and in the loading and unloading of the same;
- (h) the protection, whether by means similar to those abovementioned or not, of persons and property from danger generally.

(3) Subject to the provisions of any enactment relating to merchant shipping, or air navigation, the Minister may, on the recommendation of the Authority, make Regulations with respect to -

- (a) the taking of measures for the prevention of ships and aircrafts from leaving any port if overloaded, improperly loaded, 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 not seaworthy or airworthy, as the case may be;

(b) the examination, certification and licensing of masters, mates and engineers of ships and of pilots of aircrafts, and the licence fees payable in respect thereof;

(c) the inspection, licensing, registration or certification of ships and aircrafts the charges to be paid therefore and the number of passengers to be carried therein.

(4) The Minister may make Regulations for the management, control and supervision of the Airports and prescribe offences against any of the said Regulations.

(5) Without prejudice to the generality of the powers conferred by subsection (4) any Regulations made under this Act may provide for all or any of the following matters:

(a) declaring any building or any part of a building or any area of land at any Airport to be a restricted place or area;

(b) regulating and restricting the admission of persons whether as passengers or otherwise to any part of the Airport;

(c) regulating and restricting the use of Airport or any part thereof by any person whether as passengers or otherwise;

(d) appointing parking places for motor vehicles at Airports and prescribing charges for parking;

(e) the issue of permits and conditions to be observed by the holders of such permits;

(f) to shoot cattle and other animals found wandering, straying or let loose in restricted areas of the Airport and disposing of them.

(6) Regulations made under this section in relation to the use of roadways in any port, shall take effect notwithstanding that such roadways may be roads which are subject to the Motor Vehicles and Road Traffic Act and Regulations thereunder.

(7) Notwithstanding anything 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 of two thousand dollars or by a term of imprisonment of six months or both such fine and imprisonment.

(8) All regulations made under this Act shall be subject to negative resolution of Parliament.

PART IX

OFFENCES

Damaging property
likely to endanger life.

75. Any person who unlawfully damages or in any way interferes with any lighthouse, buoy, beacon, ground light or other property of the Authority in such manner as to endanger or as might endanger, the life of any person commits an offence and be liable on conviction to imprisonment for a term of ten years.

Endangering safety of
other persons.

76. Any person, whether on duty or lawfully employed or not, who on any premises of the Authority or upon any ship, aircraft or vehicle in a port, endangers the safety of any other person by-

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

commits an offence and liable on summary conviction to a fine of five thousand dollars or to a term of imprisonment of six months or to both such fine and imprisonment.

77. Any person who, without lawful excuse refuses or neglects to obey any direction given under section 67 or under any Regulations made under Part VIII of this Act commits an offence and liable on summary conviction to a fine of five thousand dollars or to imprisonment for a term of six months or to both such fine and imprisonment.

Failure to comply under directions of section 68 etc.

78. If any ship is navigated in circumstances in which pilotage is compulsory and such ship is not under the control of an Authority pilot, the person in charge thereof commits an offence and shall be liable on summary conviction to a fine of five thousand dollars or in default of payment to imprisonment for a term of six months.

Failure to employ Authority pilot.

79. Any person in charge of a ship or an aircraft who fails to comply with the provisions of section 66 or gives any information which is false in any material particular, commits an offence and shall be liable on summary conviction to a fine of five thousand dollars or in default of payment thereof to imprisonment for a term of six months.

Failure to comply with section 66.

80. Any person in charge of a ship or aircraft who without lawful excuse refuses to allow an officer authorised by the General Manager to enter his ship or aircraft in contravention of section 68 (1)(c) commits an offence and shall on summary conviction be liable to a fine of five thousand dollars or in default of payment thereof to imprisonment for a term of six months.

Offence where authorized officer refused entry.

81. Any person who, in any return, claim or other document required or authorized to be made under this Act or any Regulations, makes, either knowingly or recklessly, any statement which is false in any material particular commits an offence and shall be liable on conviction to a fine of three thousand dollars or to imprisonment for a term of two years or to both such fine and imprisonment.

False returns.

82. Any person, who by any means whatsoever eludes or evades or attempts to elude or evade any dues or charges leviable under this Act or Regulations, commits an offence and shall be liable on summary conviction to a fine of five thousand dollars or to imprisonment for a term of six months or to both such fine and imprisonment.

Evasion of dues and charges.

Demanding improper
amount.

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 one thousand dollars or to imprisonment for a term of six months or to both such fine and imprisonment.

Miscellaneous offences.

84. Any person who –

- (a) being on any premises of the Authority or on any ship, aircraft or vehicle in a port –
 - (i) refuses when called upon by an officer authorized by the General Manager, police officer or security officer, to give his name and address or gives a false name and address for the purpose of avoiding 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, aircraft or vehicle;
 - (iii) without lawful excuse contravenes any direction given by any officer authorized by the General Manager;
- (b) defaces the writing on any board or notice authorized to be maintained upon any premises of the Authority or upon any ship, aircraft or vehicle in a port;
- (c) damages or interferes with any property of, or goods in the custody of, the Authority;
- (d) willfully obstructs or impedes any other person in the discharge of his duties arising out of his employment with the Authority; or
- (e) gives or offers to any other person any inducement in cash or otherwise for the purpose of avoiding payment of any sum due to the Authority,

commits an offence and shall be liable on summary conviction to a fine of five thousand dollars or to imprisonment for a term of six months or to both such fine and imprisonment.

85. (1) Any person who commits any offence mentioned in section 75, 76 or 84 of this Act may be arrested without warrant by any officer authorized by the General Manager, police officer or port security officer.

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 officer authorized by the General Manager, police officer or port constable if -

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

Provided that, where there is reason to believe that such person will not abscond, he shall, if his true name and address are ascertained, be released on his executing a bond 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 had been committed in such place; and the offence shall for the purposes incidental to, or consequent upon, the prosecution, trial or punishment thereof, be deemed to be committed in that place:

Place of trial.

Provided that nothing herein contained shall prelude the prosecution, trial and punishment of such person in any place in which, but for the provisions of this section, such person might have been prosecuted, tried and punished.

General Manager may
confer power on officers.

87. The General Manager may, by notice in writing authorize any officer of the Authority to maintain Order upon any premises used by the Authority or on any ship, aircraft or vehicle in a port and any officer so authorized shall, in the performance of such duty, have all the powers, rights, privileges and protection of a police officer.

PART X

LEGAL PROVISIONS

Notice of claims.

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

(a) no person shall be entitled to compensation or damages 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 General Manager within six months of the date upon which such goods are accepted by the Authority;

(b) no person shall be entitled to compensation or damages for any goods missing from a packed or unpacked consignment or for misdelivery or detention of, or damage or delay to any goods accepted by the Authority for carriage or warehousing unless —

(i) the General Manager is notified of such fact in writing within seven days of the date upon which such goods were delivered to the consignee or person entitled to take delivery thereof; and

(ii) a claim in writing, giving such particulars as may reasonably be necessary, is given to the General Manager within one month of such date.

(2) Where the person claiming compensation or damages proves that it was impracticable for him to notify the General Manager or to give the General Manager his claim as set out in subsection (1) within the times specified therein and that the notification or claim was made or given in a reasonable time, nothing in that subsection shall prejudice the right of such person to obtain compensation or damages.

89. Where, after the commencement of this Act, any legal proceedings is commenced against the Authority for any act done in pursuance, or execution or intended execution of this Act, or regulations or of any public duty 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, such regulations or of any such duty or authority, the following provisions shall have effect notwithstanding anything contained in any enactment, that is to say –

Limitation.

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

90. Notwithstanding anything to the contrary in this Act or any regulations or in any other enactment or in Regulations made under any other enactment, where any judgment or order of any Court or any award of an arbitration tribunal has been obtained against the Authority for or in respect of anything done or omitted to be done under the provisions of this Act, and any Regulations, any contract or otherwise for or in respect of the Authority or its purposes –

Restriction or execution
against property of
Authority.

- (a) no execution or attachment or process in the nature thereof shall be issued against the Authority, but such amounts as may by the judgment or order, be awarded against the Authority shall be paid by the Authority from its funds to the person entitled thereto;
- (b) no property of the Authority shall be seized or taken by any person having by law power to attach or distrain property.

Overpayment or underpayment of dues and charges.

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

- (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 payment:

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 given-

- (a) by the person claiming such overpayment, to the General Manager; or
- (b) by the General 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 the discovery by the General Manager of the correct information or description.

PART XI
TRANSITIONAL

92. (1) Upon commencement of this Act subject to the provisions of the State Lands Act –

Transfer of assets,
liabilities, functions etc.

(a) all lands and other property vested immediately before the commencement of this Act in the Dominica Port Authority established by section 3 of the Dominica Port Authority Act, set out in Schedule I are hereby transferred to and vested in the Authority without further assurance;

Chap. 50:01.
Schedule I.

(b) all lands of the State within the boundaries of the airports and such warehouses, buildings, machinery, plant tools and other property within the boundaries of the airports as were the property of the State immediately before the commencement of this Act are hereby transferred to and vested in the Authority without further assurance.

(c) All lands of the State within the boundaries of the Canefield Airport set out in Schedule II hereby vested in the Authority.

Chap. 47:02.
Schedule II.

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

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

(4) 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 Port Authority or of the Government in respect of responsibilities for any airport 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 Port Authority or the Government or any person acting on behalf thereof, the Authority had been named therein and had been a party thereto.

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

93. All land vested in the Authority at and after the commencement of this Act shall be exempted from the rate, tax, 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.

Staff of the Authority.

94. (1) The General Manager, the other officers and staff of the Port Authority and the Security Officers appointed by the Authority under the provisions of the Port Authority Act and in the service of that Authority immediately before the commencement of this Act, shall after the commencement of this Act, continue in the service of the Authority as if appointed under the corresponding provisions of this Act.

(2) Where secondment of a public officer to the Authority is approved by the Public Service Commission, subject to such conditions as it may impose, the officer so seconded to the Authority shall be employed in accordance with the provisions of this Act, but the service of the seconded officer during the period of secondment shall, in relation to pension, gratuity or other benefits and rights as a public officer, be treated as continued service in the Public Service.

(3) For the avoidance of doubt, it is hereby declared that an officer seconded from the Public Service to the Authority shall continue to be a public officer until such time when he resigns, retires, or otherwise leaves the Public Service, but the officer shall during his period of secondment to the authority, comply with the provisions of this Act and rules made under this Act.

(4) The Authority may employ a public officer on secondment to the Authority as a member of staff for a maximum period of two years, except in exceptional circumstances, when the secondment may be extended or renewed.

(5) A public officer who is seconded to the Authority shall exercise an option at least three months prior to the completion of the period of his secondment of either becoming a member of the permanent staff of the Authority or returning to his substantive position in the Public Service or such other equivalent and suitable position to which he may be appointed in the Public Service.

(6) A public officer who exercises his option under subsection (5) -

- (a) to become a member of the permanent staff of the Authority, shall do so in writing addressed to the Chairman of the Authority and copied to the Permanent Secretary of the Ministry;
- (b) to return to the Public Service, shall do so in writing to the Permanent Secretary of the Ministry and copied to the Chairman of the Authority;

(7) Where the officer under subsection (6) exercises his option to return to his substantive position and such position no longer exists, the Chief Personnel Officer shall consult with the officer in order to treat with the officer or his representative with a view to agreeing to a suitable alternative position to which the officer may be appointed by the Public Service Commission or subject to the power of removal by the Commission, to make provision for compensation.

(8) A public officer on secondment to the Authority shall be employed by the Authority that his remuneration and conditions of service are not less favourable than those that are attached to such appointment in the Public Service.

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(9) Where a public officer on secondment to the Authority exercises his option to accept permanent employment with the Authority, the officer shall cease to be a public officer on the date of such acceptance, but the provisions of the Pensions Act shall continue to apply to him in relation to his service with the Authority as if he had continued to be a public officer in respect of his pension and gratuity payments.

(10) An officer to whom the Pension act applies under subsection (9) may, subject to subsection (11), hold office for an indeterminate period.

(11) An officer to whom this section applies shall vacate his office of employment with the Authority at the mandatory age of retirement from the Public Service and is eligible for gratuity and pension payments at that age.

Repeals.

95. (1) The following enactments are hereby repealed:

(a) The Port Authority Act, Chap 50:01

(b) The Melville Hall Airport Act, Chap 47:01

(c) The Canefield Airport Act Chap 47:02

(2) Notwithstanding the repeal of the legislation mentioned in subsection (1) all subsidiary legislation made under the repealed Acts shall continue as if made under the Act until repealed and replaced.

(3) All subsidiary legislation saved by the Port Authority Act and in force at the commencement of this Act shall continue to have effect until altered, varied or revoked by Regulations made under this Act.

PART XII

MISCELANEOUS AND GENERAL

Power to kill animal
found trespassing.

96. Notwithstanding any law in force to the contrary, it shall be lawful for a police officer or port constable or any other person authorized in writing on that behalf by the General Manager to destroy by shooting any animal found trespassing on any port.

97. Any person suspected of having contravened or of being about to contravene any of the provisions of, or regulations made under this Act shall upon being requested to do so by a police officer or security officer or by any other person authorized on that behalf in writing by the General Manager correctly state his name and address and the purpose of his being at the port, and upon his failure so to do may be removed from the port or any part thereof by such police officer, security officer or person authorized by the General Manager, as the case may be.

Suspected persons.

98. Any person found contravening any provision of this Act or Regulations made under this Act, and any vehicle, animal or things found in the area in contravention of any such provision or regulation, may be removed from the area to which the provision or regulation applies by a police officer or security officer or by any other person authorized in that behalf in writing by the General Manager; and upon conviction for any such contravention before a Magistrate, the owner or person in charge or any such vehicle, animal or thing may in addition to any other penalty be ordered by the Magistrate to pay the cost of such removal.

Removal of persons and things.

99. (1) If any warehouse of the Authority is approved and appointed under any enactment relating 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 warehouses or for the due exportation of such goods.

Bonded warehouse.

(2) When such security has been given by the Authority, no further security shall be required by the Comptroller of Customs from any other person 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 from paying any such duty as he would be compelled to pay in respect of any such goods.

General Manager's fiat.	100. Proceedings for offences arising out of the provisions of this Act shall be instituted in writing by the General Manager or by any officer duly authorized by him in writing.
Proof.	101. In any proceedings for any offence, the averment that such offences were committed within the limits of a port shall be sufficient without proof of such limits, unless the contrary is proved.
Recovery sums.	102. 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.
Monies recovered to be paid into account of the Authority.	103. 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 powers and functions of this Act or any Regulations shall be paid into the account of the Authority.
Customs Act to prevail in case of conflict.	104. Nothing in the Act or Regulations shall prejudice the operation of any Customs Act or any other Act dealing with customs, and in all cases of conflict the Customs Act shall prevail.

FIRST SCHEDULE

PART I

The limits of the port of Roseau are defined as follows:

From Old Port point latitude 15 degrees 19 minutes 00 seconds North, Longitude 61 degrees 24 minutes 14 seconds West thence in the direction of 270 degrees true for 0.25 miles, thence in the direction of 180 degrees true for 2.0 miles, thence in the direction of 090 degrees true for 1.3 miles to latitude 15 degrees 17 minutes 00 seconds North,

Longitude 61 degrees 23 minutes 09 seconds West, thence along the foreshore at the average High Water Mark of the Roseau Road stead and Woodbridge Bay to Latitude 15 degrees 19 minutes 00 seconds North, Longitude 61 degrees 24 minutes 14 seconds West, being the area that includes all Waters and Ocean bed of the Roseau Roads and Woodbridge Bay lying within the defined limits so described.

PART II

The Limits of the Port of Portsmouth are defined as follows:

From Latitude 15 degrees 34 minutes 52 seconds North, Longitude 61 degrees 29 minutes 00 seconds West, thence in a direction of 180 degrees true for 2.2 miles to Latitude 15 degrees 32 minutes 45 seconds North, Longitude 61 degrees 29 minutes 00 seconds West, thence along the foreshore at the average High Water Mark of Prince Rupert Bay to Latitude 15 degrees 34 minutes 52 seconds North, Longitude 61 degrees 29 minutes 00 seconds West, being the area that includes all Waters and Ocean bed lying within the defined limits so described.

PART III

The limits of the Port of Anse de Mai are defined as follows:

From Latitude 15 degrees 35 minutes 52 seconds North, Longitude 61 degrees 23 minutes 29 seconds West, thence in a direction of 270 degrees true to Latitude 15 degrees 35 minutes 51 seconds North, Longitude 61 degrees 23 minutes 29 seconds West, thence along the foreshore at the average High Water Mark in Anse de Mai to Latitude 15 degrees 35 minutes 51 seconds, Longitude 61 degrees 23 minutes 29 seconds, being the area that includes all Waters and Ocean bed lying within the defined limits so described.

SECOND SCHEDULE**PART I****MELVILLE HALL AIRPORT**

All that parcel and portion of land comprising 125, 922 acres situated at Melville Hall in the Parish of St. Andrew and bounded as follows:

- NORTH:** A straight line commencing from the sea and separating the Melville Hall Airport from Melville Hall Estate running in a westerly direction to a point 5,560 feet from the sea up to the Lyons Estate, thence in a southerly direction for a distance of 160 feet, thence westwards along the Lyons Estate boundary for a distance of 1,610 feet to a concrete pillar.
- EAST:** The Sea
- SOUTH:** From the sea along the Melville Hall River for a distance of 6,400 feet, then in a straight line separating the Melville Hall Estate from the Melville Hall Airport in a westerly direction for a distance of 1,636 feet to a point marked by a concrete pillar.
- WEST:** From the concrete pillar at the end of the southern boundary in a straight line for a distance of 716 feet in a northerly direction to another concrete pillar at the end of the northern boundary.

PART II
CANEFIELD AIRPORT

All that parcel of land situated at Canefield in the parish of St. Paul and bounded as follows:

- NORTH:** The boundary runs along the Checkhall River
- EAST:** The main road between Roseau and Massacre
- SOUTH:** State lands formerly vested in the Housing
Development Corporation
- WEST:** State lands formerly vested in the Housing
Development Corporation.

Passed in the House of Assembly this 8th day of November, 2006

HELEN E. AMBO
Clerk of the House of Assembly. (Ag.)