

CHAPTER 247

An Act to establish the Grenada Ports Authority as a corporate body with all necessary powers to provide, manage and maintain efficient port services and facilities

Acts
14 of 1978
5 of 1986
9 of 1988
52 of 1991

[Parts I to IV - 5th December, 1980]

[Parts V to XII -1st January, 1981]

PART I

PRELIMINARY

1. This Act may be cited as the
PORTS AUTHORITY ACT.

Short title

2. In this Act-

Interpretation

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

“Authority” means the Grenada Ports Authority established under section 4;

“Authority pilot” means a pilot employed by the Authority pursuant to section 56;

“authorised officer” means an officer authorised by the Port Manager pursuant to section 73;

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

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

“business plan” for a financial year, means –

- (a) the business plan approved under section 33;
and
- (b) all amendments to the business plan approved
under that section,
for the financial year;

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

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

“dues” include pilotage dues, port and navigational aids dues, wharfage dues and cargo dues levied under this Act, but do not include rates;

“financial year” means the period of twelve months beginning on the first day of January in any year;

“functions” includes powers and duties;

“General Manager” means the General Manager of the Authority appointed under section 12 and includes a person appointed under subsection (3) thereof to act as General Manager;

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

“harbour craft” means any vessel which plies within a port for any purpose of trade or business;

“master” includes every person, except a pilot, having command or charge of a vessel;

“Minister” means the Minister responsible for finance;

“owner” in relation to-

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

(b) a vessel, includes part-owner, charterer, operator, consignee and mortgagee in possession and any duly authorised agent;

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

“pilot” means a person not belonging to a vessel who has the conduct thereof;

“Pilotage Committee” means the Pilotage committee appointed under section 57;

“port” means a port declared as such under section 3(1)(a);

“Port Manager” means the Port Manager appointed under section 12;

“premises” includes any place 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;

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

“vessel” includes any ship or boat or other description of craft used in navigation;

“wharf” includes quay, pier, jetty or other landing place.

3. (1) After consultation with the Authority the Minister may, by Notice in the *Gazette*, declare-

- (a) an area to be a port for the purposes of this Act;
- (b) an area adjacent to a port to be the approaches to a port.

Declaration
of ports, etc.

(2) Every Notice under this section shall define the limits of the port or the approaches to the port, as the case may be.

PART II

ESTABLISHMENT, CONSTITUTION, MANAGEMENT AND STAFF

4. (1) There is established for the purposes of this Act a body to be called the Grenada Ports Authority.

Establishment
of the
Grenada
Ports
Authority

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

5. (1) The Authority shall consist of a Chairman, Deputy Chairman and not less than six members appointed by the Minister of whom- [As amended by #11 of 1992]

Constitution
of the
Authority

- (a) at least three shall be persons appearing to the Minister to have ability and experience in shipping, commerce and trade unions;
- (b) at least three shall be public officers.

(2) Every member shall be appointed by the Minister for such period not exceeding three years as the Minister may direct and, on ceasing to be a member, shall be eligible for re-appointment;

Provided that where a member ceases to be a member for any reason the Minister may appoint another member, subject to subsection (1), in his place for the remainder of the time for which the former member would have served but for his ceasing to be a member.

(3) The secretary of the Authority shall be the Port Manager.

(4) In the event of incapacity from illness or other temporary cause or of the temporary absence from Grenada of a member, the Minister may, subject to subsection (1), appoint some

other person to act as a temporary member during the time such incapacity or absence continues.

(5) The Minister may at any time revoke the appointment of a member if he considers it expedient so to do.

(6) The appointment of a member, and the termination of office of any person as a member whether by death, resignation, revocation, effluxion of time or otherwise, shall be notified in the *Gazette*.

(7) No member of the Senate or the House of Representatives shall be eligible for appointment as a member.

Remuneration of chairman and members. **6.** There shall be paid to the chairman and members, or to such of them as the Minister may determine, such salaries, fees and allowances out of the funds of the Authority as the Minister may from time to time approve.

Meetings **7.** (1) The Authority shall meet as often as may be necessary or expedient for the transaction of business and meetings shall be held at such places and times as the chairman may determine;

Provided that the chairman shall not allow more than two months to elapse between meetings.

(2) Where not less than three members, by notice in writing signed by them addressed to the chairman, request that a meeting of the Authority be held for any purpose specified in such notice the chairman, within seven days of the receipt by him of such notice, shall convene a meeting accordingly.

8. (1) The quorum necessary for the transaction of the business of the Authority shall be five:

Procedure at meetings

Provided that for the purpose of determining whether there is a quorum a person who attends the meeting shall be treated as being present notwithstanding that, under the provisions of this section, he cannot vote or has withdrawn.

(2) In the absence of the chairman from any meeting of the Authority the Deputy Chairman shall preside thereat; and in the absence of both Chairman and Deputy Chairman the members

present shall elect one of their number to preside thereat.*[Amended by Act #11 of 1992 to provide for a Deputy Chairman]*

(3) If the chairman or another member has, directly or indirectly, any pecuniary or personal interest in a contract, proposed contract, or other matter, and is present at a meeting of the Authority or a committee thereof at which such contract or matter is the subject of consideration, he shall, at the meeting and as soon as practicable after the commencement thereof, disclose the fact, and shall not take part in consideration or discussion of, or vote on any question with respect to, that contract or matter and, if the chairman or other person presiding at the meeting so requests, such member shall withdraw from the meeting during such consideration or discussion.

(4) Questions arising at a meeting of the Authority or a committee thereof shall be decided by the votes of the majority of those present and voting, and in the case of an equality of votes the chairman or other person presiding at such meeting shall have a second or casting vote.

(5) Subject to the provisions of this Part the Authority shall have power to regulate its own proceedings.

9. (1) The Authority may delegate to committees consisting of such members or officers of the Authority as it thinks fit, or to an employee of the Authority, such of its functions (other than the power to make rules and regulations, to prescribe and levy dues and rates, and to borrow money) as it may deem necessary or desirable.

Delegation
of functions

(2) Functions delegated under subsection (1)-

- (a) may be delegated subject to such conditions or restrictions as the Authority may either generally or specially impose;
- (b) shall be exercised in the name and on behalf of the Authority by the committee or employee to whom the delegation has been made.

(3) No delegation under this section shall preclude the Authority itself from exercising or performing at any time any function delegated.

Execution of documents, etc.

10. (1) The Common Seal of the Authority shall not be used except pursuant to a resolution of the Authority and in the presence of the chairman and one member and such use shall be authenticated by their signatures.

(2) All documents, other than those required by law to be under seal, to which the Authority is a party may be signed on behalf of the Authority by the chairman or a member or by an employee generally or specially authorised in that behalf by the Authority.

Vacancy not to invalidate acts, etc.

11. (1) No act or proceeding of the Authority or any committee thereof shall be questioned on account of any vacancy among the members or on account of the appointment of any member having been defective.

(2) Until the contrary is proved, every meeting of the Authority or a committee thereof shall be deemed to have been duly convened and held and all members thereat shall be deemed to have been duly qualified.

(3) A statement in a document to the effect that a function has been delegated under section 9 shall be evidence that such delegation has been lawfully made, unless the contrary is proved.

Appointment of General Manager and Port Manager

12. (1) The Authority shall, at such salary and upon such terms and conditions as it may determine, appoint-

- (a) a General Manager; and
- (b) a Port Manager,

but such appointments shall not be made unless approved by the Minister.

(2) The General Manager shall be the chief executive officer of the Authority and shall perform the functions entrusted to him by this Act and the regulations, and (whether or not he is a member) he shall be present at all meetings of the Authority unless he has obtained leave of absence from the chairman or is incapacitated by illness or other cause from attending.

(3) In the absence of the General Manager, the Authority may, by instrument in writing and with the approval of the Minister, appoint a person to act as

General Manager during the period of absence upon such terms and conditions as it may determine. The person so appointed may exercise and perform all the powers and duties respectively to be exercised and performed by the General Manager or as many powers and duties as are specified in such instrument.

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

Appointment
of officers
and
employees

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

14. The Chairman and members, and the employees of the Authority of every description, shall be deemed to be public officers within the meaning of section 5 of the Criminal Code.

Public
officers
Cap. 76-1958

15. (1) The Authority, with the approval of and subject to such terms and conditions as may be imposed by the Minister, may 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.

Establishment
and main-
tenance of
superannua-
tion schemes

(2) Without prejudice to the generality of subsection (1), a 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 employee, widow, family or dependant such gratuities, pension or allowances as are by this section authorised to be granted.

Protection
members

16. No personal liability shall attach to a member in respect of any of thing done or suffered *bona fide* 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 or suffered *bona fide* for the purpose of carrying this Act into effect shall be paid out of the funds and resources of the Authority.

Power of the Minister to give directions to the Authority and to require information.

17. (1) The Minister may, after consultation with the chairman, give to the Authority directions of a general character as to the policy to be followed in the performance of its functions in relation to matters appearing to him to concern the public interest.

(2) The Authority shall furnish the Minister 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 such information in such manner and at such times as he may reasonably require.

PART III

POWERS AND DUTIES OF THE AUTHORITY

Powers and duties of the Authority

18. (1) Subject to the provisions of this Act, the Authority is hereby empowered to provide in accordance with the provisions of this Act and the regulations, a co-ordinated and integrated system of ports, lighthouses and port services.

(2) Subject to the provisions of this Act, the Authority may for the purpose of performing its duties 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 those duties.

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

- (a) to operate and administer ports in the manner which appears to it best calculated to serve the public interest;
- (b) to regulate and control navigation within the limits of ports and their approaches;

- (c) to maintain, improve and regulate the use of ports, and the services and facilities therein, as it considers necessary or desirable;
- (d) to provide, for ports and the approaches thereto, such pilotage services, beacons, buoys and other navigational services and aids as it considers necessary or desirable;
- (e) to exercise the powers and perform the duties specified in any enactment relating to shipping and navigation formerly exercisable by the Harbour Master or Port Officer.

19. (1) Subject to the provisions of this Act the Authority, for the purposes of carrying out the duties imposed upon it, shall have the following powers-

General
powers of
the authority

- (a) to appoint, licence and regulate the weights and measurements of goods within a port;
- (b) to acquire any undertaking providing or intending to provide services or facilities which the Authority is competent to provide;
- (c) to provide, within the limits of a port or the approaches to a port, facilities and services for-
 - (i) berthing, towing, mooring, moving, shifting and docking vessels;
 - (ii) loading or discharging goods and embarking or disembarking passengers;
 - (iii) sorting, weighing, measuring, storing, warehousing and handling goods;
 - (iv) storage of goods;
- (d) to supply fuel and water to vessels;
- (e) to provide and use vessels and appliances for the purpose of rendering assistance to any vessel or recovering property lost, sunk or stranded;
- (f) to provide such fire services, both within the limits of a port and on the high seas, as may be deemed necessary by the Authority for the purposes of extinguishing fires on land or afloat and of preserving life and property.

(2) The powers conferred by subsection (1) shall be in addition to and not in derogation of any other power conferred upon the Authority by this or any other Act.

Land
acquired
compulsorily

20. If land is acquired compulsorily by the Government at the request and for the purposes of the Authority under the provisions of a written law for the time being in force relating to such acquisition-

- (a) the Authority shall indemnify the Government against all costs, charges and expenses incurred by the Government in relation to the acquisition;
- (b) the Authority shall not, without the written consent of the Minister, sell, exchange, or otherwise dispose of the land or any interest therein.

Transfer of
property to
the Authority

21. (1) The Governor-General may at any time, by Order, vested any land or movable property of the Government in the Authority where it appears desirable to do so to enable the Authority to carry out its duties.

(2) Property vested in the Authority under this section may be vested absolutely or subject to such terms and conditions as the Governor-General may think fit to impose.

(3) Where land is vested in the Authority under this section a delivery of the Order to the Registrar of the Supreme Court shall be sufficient authority for him to register the Order in accordance with the provisions of the Deeds and Land Registry Act.

Cap. 79

Power to
vest
reclamations,
etc., in the
Authority

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

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

23. 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 any function of the Authority, such apparatus, fixture or fitting shall not be subject to distress or be taken in execution

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

under process of any court or any proceedings in bankruptcy against the person in whose possession the same is.

24. All lands vested in the Authority at and after the commencement of this Act shall be exempt from any 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. *[This provision was effectively repealed by Act 26 of 1992, but GPA could apply for exemptions to the Minister]*

Lands vested in the Authority to be free from municipal rates and taxes

PART IV

FINANCIAL

25. (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 the regulations;

(b) such sums as the Authority may borrow for meeting any of its obligations or performing 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.

Revenue of the Authority

(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.

Application of the revenue of the Authority

26. The revenue of the Authority in any financial year shall be applied towards 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 employees employed in or in connection with the activities of the Authority;

- (e) the establishment and working expenses of, and other expenditure on, the provision and maintenance of the property and installations of the Authority, and the performance of the functions of the Authority properly chargeable to revenue accounts;
- (f) such sums as the Authority may deem it appropriate to set aside in respect of obsolescence, depreciation or renewal of the property or installations of the Authority, having regard to the amounts provided out of revenue under paragraphs (a) and (b) of this section;
- (g) the whole or any part of the cost of new works, plant, or appliances, not being a renewal of property of the Authority, which the Authority may determine to charge to revenue;
- (h) sums to be appropriated to a reserve fund;
- (i) any other expenditure authorised by the Authority and properly chargeable to revenue.

Temporary investment of funds

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

(2) Interest from such investment shall be paid to the credit of the account provided for in section 25(2).

Power to borrow

28. (1) Subject to the provisions of this Act, the Authority may from time to time for the purposes of this Act raise loans-

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

(2) The power to raise loans under subsection (1) may be exercised-

- (a) to borrow moneys by the issue and sale of debentures or any debentures stock or other security for the purpose of raising funds to enable or facilitate the effectual exercise by the Authority of the powers conferred upon it by this Act;

- (b) to create and issue debentures or any debenture stock or other security for, respectively, debentures or any debenture stock or other security issued in respect of moneys previously borrowed by the Authority and not repaid;
- (c) to create issue and sell debentures or any debenture stock or other security for the purpose of borrowing money for redeeming any loan and for paying the expenses incurred in the issue and creation of the debentures, debenture stock or other security and otherwise carrying out the provisions of this Act;
- (d) to effect any conversion authorised by this section either by arrangement with the holders of existing debentures or debenture stock or other security, or by the purchase of debentures or debenture stock or other security out of money raised by the sale of debentures or debenture stock or other security, or partly in one or the other manner.

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

- (a) the amount and particulars of the proposed loan;
 - (b) the rate of interest to be paid on the loan;
 - (c) the source or sources from which the loan is to be obtained;
 - (d) the purposes to which the money proposed to be borrowed is to be applied; and
 - (e) the manner in which the loan is to be repaid,
- shall have been submitted for the approval of the Minister.

Temporary
borrowing

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

- (a) for the purpose of defraying expenses pending the receipt of 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 authorised to be raised under section 28(1), expenses intended to be defrayed by any such loan.

Guarantee of borrowing

30. (1) The Minister with the approval of the House of Representatives may guarantee, in such manner and on such conditions as he may think fit, the payments of the principal and interest of any authorised borrowing of the Authority.

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

(3) The Authority shall make payment to the Accountant General, at such time and in such manner as the Minister may direct, of the amount so directed in or towards the repayment of a sum debited to the Consolidated Fund in fulfilment of a guarantee given under this section, and in or towards the payment of interest on what is outstanding for the time being in respect of a sum so debited at such rate as the Minister may direct, and different rates of interest may be directed as regards different sums and as regards interest for different periods.

Reserve fund

31. The Authority shall establish a Reserve fund which shall be dealt with and applied in accordance with directions from time to time given to the Authority by the Minister.

Applications of surplus

32. At the end of each financial year any balance resulting from the activities of the Authority under this Act which is available after making full allowance for the matters enumerated in section 26 shall be paid to the credit of the Consolidated Fund.

33. [As amended by Act # 18 of 2008]

(1) The Board shall, not later than four months before the commencement of each financial year and in such form as the Minister requires, prepare in respect of the financial year, and submit to the Minister, a proposal for a business plan for the

Business Plan in respect of the financial year

financial year that must contain:

- (a) a statement of the Authority's objectives and priorities in carrying its responsibilities for the financial year and the following two financial years;
- (b) a comprehensive business plan that:-
 - (i) shows how resources, including but not limited to financial resources, will be allocated to meeting the objectives and priorities of the Authority for the financial year, and
 - (ii) includes pro forma financial statements as required by the Minister;
- (c) a comparison of the pro forma financial statements with the actual financial statements for the previous financial year;
- (d) a statement as to how the Board proposes to measure its performance in carrying out its responsibilities in the financial year; and
- (e) any other information required by the Minister by written notice to the Board.

(2) The Minister may, on the request of the Board, extend the time for submitting a proposal for a business plan.

(3) The Minister shall, as soon as practicable, consider the proposal for a business plan and may,

- (a) approve the proposal as submitted;
- (b) with the proposal of the Board, amend the proposal and approve it as amended; or
- (c) refer the proposal back to the Board with directions that the Board take any further action with respect to it that the Minister considers appropriate.

(4) Where the Minister refers the proposal for a business plan back to the Board under subsection (3) (c) he or she shall provide the Board with his or her reasons for not approving it.

(5) A proposal for a business plan that is referred back to the Board under subsection (3) (c) must be resubmitted to the Minister as directed by the Minister and, when it is resubmitted, subsections (3) and (4) shall apply.

(6) When a proposal in relation to a financial year is approved by the Minister, it becomes the business plan for that financial year.

(7) The Board –

(a) may, of its own motion, submit to the Minister a proposal to amend an approved business plan; and

(b) shall, on request of the Minister and within the time required by the Minister, submit to the Minister a proposal to amend an approved business plan.

(8) Subsections (3), (4), (5) and (6) apply to proposals submitted to the Minister under subsection (7).

34. [As amended by Act # 18 of 2008]

The Board shall -

Board obligated
to implement
business

(a) in each financial year implement the business plan for the financial year; and
plan.

(b) establish a mechanism for monitoring the implementation of the business plan.

35. [As amended by Act # 18 of 2008]

(1) The Board shall-

Accounts

(a) keep proper books of account of its income and other receipts and expenditures; and

(b) ensure that-

(i) all money received is promptly brought to account;

(ii) all payments out of its money are correctly made and properly authorised; and

(iii) adequate control is maintained over its property and over the incurring of liabilities by the Authority.

(2) The books of account kept under subsection (1) shall-

(a) be sufficient to record and explain the Authority's transactions;

(b) enable the Authority's financial position to be determined with reasonable accuracy at any time; and

- (c) be sufficient to enable financial statements to be prepared and audited in accordance with this section.

(3) Within 3 months after the end of each financial year, the Board shall cause to be prepared-

- (a) the following financial statements together with proper and adequate explanatory notes-
 - (i) a statement of the assets and liabilities of the Authority at the end of the financial year;
 - (ii) a statement of the revenue and expenditure of the Authority during the financial year;
 - (iii) such other financial statements for the financial year as may be specified in writing by the Minister; and
- (b) an annual report of the Authority on the implementation of the business plan and such other matters as the Board considers advisable or the Minister directs.

(4) Without delay after the completion of the financial statements and the annual report, the Board shall furnish a copy of each to the Director of Audit.

36. [As amended by Act # 18 of 2008]

Audit by
Director of
Audit and
report to the
House of
Representatives

(1) Not later than three months after receipt of the financial statements and annual report from the Board, the Director of Audit shall audit the financial statements in accordance with the Audit Act 2007.

(2) Without delay after the completion of his or her audit of the Authority, the Director of Audit shall submit a copy of his or her report together with the financial statements and annual report to the Minister and the Board.

(3) The Minister shall, not later than seven days after the House of Representatives first meets after he or she has received the report together with the financial statements

and the annual report of the Authority, lay it before the House of Representatives.

(4) If the Minister fails to lay the report together with the financial statements and the annual report of the Authority before the House of Representatives in accordance with subsection (3), the Director of Audit shall transmit the report, the financial statements and the annual report to the Speaker who shall, as soon as practicable, present them to the House of Representatives.

(5) As soon as reasonably practicable after the report together with the financial statements and the annual report of the Authority have been laid before the House of Representatives, the Board shall cause the report, the financial statements and the annual report of the Authority to be published in the Gazette.

37. (1) The Authority, as soon as practicable and not later than one month after receipt of the accounts and report sent as provided in section 36, shall submit a report to the Minister containing-

Report to be submitted to the Minister

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

(2) Within 3 months after the end of each financial year, the Board shall cause to be prepared-

- (i) a statement of the assets and liabilities of the Authority at the end of the financial year;
- (ii) a statement of the revenue and expenditure of the Authority during the financial year;
- (iii) such other financial statements for the financial year as may be specified in writing by the Minister; and

PART V

RESPONSIBILITY OF THE AUTHORITY AS A WAREHOUSEMAN

Liability for
loss, etc., of
goods

38. Subject to the provisions of this Act and the regulations and to the terms of any contract, the Authority shall not be 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 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 want of reasonable foresight and care on the part of any person employed by or on behalf of the Authority:

Provided that the Authority shall not be liable for such loss, misdelivery, detention or damage arising from-

- (i) act of God;
- (ii) act of war;
- (iii) arrest or restraint of princes or rulers, or seizure under legal process;
- (iv) act or omission of the consignor, consignee, or depositor, or of the employee or agent of any such person;
- (v) fire, flood, tempest, riot, civil commotion, strike, lock-out, stoppage or restraint of labour from whatever cause, whether partial or general;
- (vi) inherent liability to wastage in bulk or weight, latent or inherent defect, or natural deterioration;
- (vii) deficiency in the contents of unbroken packages;
- (viii) insufficiency or improper packing of, or leakage from defective, drums, containers or packages:

Provided further that where such loss, misdelivery, detention or damage occurs in relation to goods accepted by the Authority for carriage or for warehousing the limitation contained in section 39 shall be applicable.

39. The liability of the Authority in respect of goods accepted by the Authority for carriage or warehousing and in relation to which a document false in any material particular has been given in pursuance of section 49(1) shall not in any case exceed the value of the goods as calculated in accordance with the description contained in such false document.

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

40. In any proceeding brought under the provisions of section 38 against the Authority, it shall not be 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 38

PART VI

DUES, CHARGES AND TARIFF BOOK

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

Dues and charges, when due

Dues and charges in respect of vessels

42. Subject to the provisions of this Act and the regulations, every vessel which-

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

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

Appointment

43. Every vessel shall have had appointed an agent

of agent responsible for the payment of dues and charges in respect of the vessel and the cargo discharged or loaded, without prejudice to the recovery by the agent, from the master or owner of the vessel or consignee or consignor of the cargo, of sums paid on their behalf.

Security for charges **44.** An agent who intends to incur a liability in respect of any dues or charges mentioned in section 42 shall 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 the agent shall be liable to pay to the Authority.

Detention by authorised officer **45.** (1) If dues or charges payable under this Part are owing in respect of a vessel, an authorised officer may, with such assistance as he deems necessary, enter such vessel; and he may arrest the vessel and the tackle, apparel and furniture thereof, and may detain the same until the dues or charges owing have been paid.

(2) Where, after such arrest, the dues or charges remain unpaid for a period of not less than seven days the authorised officer may cause the vessel and the tackle, apparel and furniture thereof to be sold, and out of the proceeds of sale he shall retain the amount necessary to meet the expenses of the detention and sale and shall, after paying the sums which are owing to the Authority, deliver the balance to the agent.

(3) Where a vessel, in respect of which dues or charges payable under this Part are owing and have not been secured as provided in section 44, leaves one port and enters or is in some other port, then such vessel may be dealt with as if those dues or charges owing and not secured were dues or charges owing in respect of such other port.

46. Before the master of a vessel in a port obtains outward clearance from the port he shall first obtain from an authorised officer a certificate stating that-

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

Master required to obtain certificate of authorised officer before requesting clearance

- authorised officer;
- (b) he has complied with the provisions of this Act and the regulations

47. The Authority may, subject to the provisions of this Act and the regulations-

Power to determine conditions, and rates of carriage or warehousing

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

48. (1) Where the agent of a vessel, from which goods have been landed at a port and accepted by the Authority for carriage or warehousing or for delivery to the consignee, notifies the Port Manager in writing that the freight or other charges payable to the agent of the vessel to the amount specified in the notice remain unpaid in respect of the goods, the Port Manager shall retain the goods and refuse delivery of them to the consignee and any other person until-

Port Manager may retain goods until freight is paid

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

(2) Where the Port Manager causes any goods in respect of which a notice has been given under subsection (1) to be delivered to a person producing such receipt or release or making such payment as is referred to in paragraph (b) or (c) 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 a person to take into the custody of the Authority goods which would not otherwise be receivable by the Authority under the provisions of this Act or any regulation, or as requiring the Port Manager to inquire into the validity of any claim made for freight

or any other charges specified in a notice given by an agent under subsection (1).

Duty to
deliver
description
of goods

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

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

(3) If the consignor, person or consignee fails to deliver the documents referred to in subsection (1) or to permit the goods to be examined as required by subsection (2), an authorised officer may, in respect of goods which are tendered for carriage or warehousing by the Authority, refuse to accept the goods for 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 a document delivered under subsection (1) is found to be false in a material particular with respect to the description of the goods to which it purports to relate, an authorised officer may refuse to deliver the goods unless, in respect of the warehousing or carriage of the goods, a charge not exceeding double the highest charge payable for any class of goods is paid.

50. In respect of all goods placed in the premises of the Authority or passing through or over the premises of the Authority, an authorised officer shall be entitled to levy such charges as may be determined in accordance with the regulations, and he may do such reasonable acts and incur such reasonable expenses as are necessary for the proper custody and preservation of the goods, and the Authority shall have a lien on the goods for such charges and any

Authorised
officer's
power to
levy charges,
etc.

other expenses and shall be entitled to seize and detain the goods until such charges shall have been fully paid.

51. (1) Subject to the provisions of this section and without prejudice to the provisions of section 49, where goods other than perishable goods are in the custody of the Authority on premises of the Authority and have not been removed therefrom within a period of fifteen days from the time when the goods were placed in or on the premises, the Port Manager shall cause a notice to be served on the owner or some other person appearing to the Port Manager to be entitled to the goods requiring him to remove them.

Effect of
non-removal
of goods

(2) Where-

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

the Port Manager may within a reasonable time, not being less than six weeks, and after the publication of a suitable notice in the *Gazette* at least seven days before the sale, sell the goods by public auction.

(3) The Port Manager may direct the removal of perishable goods under this section within such period, being not less than twenty-four hours after the landing thereof, as he thinks fit; and he may sell the goods without giving notice, but he shall as soon as practicable inform the owner or such other person appearing to be entitled to the goods of the action that has been taken.

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

Application
of the
proceeds
of sale

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

- (a) payment of any duty or tax payable in respect of the goods;
- (b) payment of the expenses of sale;

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

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

Compilation of dues and charges, and Tariff Book

53. (1) Subject to the provisions of this Act, the dues and charges and conditions for the carriage or warehousing of goods and for any other service or facility provided by the Authority, when determined, shall be submitted to the Minister for approval and, if approved, shall be published as regulations.

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

(3) The regulations required by subsection (1) shall be deemed to be contained in the Tariff Book.

PART VII

PILOTAGE

54. (1) The Authority may, from time to time, by Notice in the *Gazette*, declare the whole or any part of a port or the approaches to a port to be a compulsory pilotage area.

Declaration of compulsory pilotage areas

(2) Every such Notice shall define the limits of the compulsory pilotage area.

(3) The Authority may, under such conditions as it deems fit, exempt any vessel or class of vessels from the requirements of compulsory pilotage.

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

Liability of the master or owner in the case of a vessel under pilotage

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

Authority to employ pilots

(2) No person shall be employed as an Authority pilot and no person shall offer his services as a pilot unless he is in possession of a valid licence, issued under section 61, to act as a pilot.

57. The Authority shall appoint a Pilotage Committee for the purposes of-

Appointment and functions of Pilotage Committee

- (a) holding examinations and issuing, on behalf of the Authority, licences to act as an Authority pilot and, for the purpose of holding examinations, the Committee may co-opt a master mariner or other suitably qualified person; **[As amended by #5 of 1986]**
- (b) holding inquiries concerning the conduct of Authority pilots in the discharge of their duties;
- (c) making such arrangements as may be necessary for the training of persons selected for or in the pilotage service of the Authority;
- (d) investigating and advising on such matters as may be referred to the Committee by the Authority; and
- (e) carrying out such other functions as are conferred on the Pilotage Committee by this Act.

Constitution of Pilotage Committee

58. (1) The Pilotage Committee shall consist of-

- (a) the General Manager who shall be the chairman of the Committee; and
- (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 may be for any period not exceeding three years but such member shall be eligible for re-appointment on completion of each period.

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

(4) The chairman of the Pilotage Committee shall preside at meetings thereof:

Provided that if the chairman is absent from a meeting, or any part thereof, the members of the Committee present shall elect a member to preside temporarily in his place.

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

(6) Members of the 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.

59. The members of the Pilotage committee shall be deemed to be public officers within the meaning of section 5 of the Criminal Code.

Members deemed to be public officers

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

Rules of Pilotage Committee

61. (1) The Pilotage Committee shall examine candidates for employment by the Authority as pilots and, on being satisfied as to a candidate's general suitability 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 the licence may contain such conditions as the Pilotage Committee considers appropriate.

Examination for licence, periodic testing of pilots, etc.

(2) An Authority pilot, if at any time the Pilotage Committee considers that owing to changed conditions or for any

other sufficient reason any testing of his knowledge, efficiency or physical fitness is necessary, shall present himself when so required for further examination and shall first deposit with the Committee the licence issued to him by the Committee under subsection (1) which shall be returned to him or cancelled by the Committee on behalf of the Authority according to the result of such examination.

(3) The Authority shall not continue to employ, as a pilot, any pilot whilst his licence to act as such remains cancelled as the result of an examination held under the provisions of subsection (2).

(4) A licence issued under this section shall cease to be valid upon the termination of an Authority pilot's employment with the Authority.

62. (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 as a pilot or has failed in or neglected his duty, or has become incompetent to act, as a pilot.

Inquiry by
Pilotage
Committee

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

(3) Any person who-

- (a) being summoned to attend an 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 an inquiry; or
- (c) being required by the Pilotage Committee to give evidence on oath or affirmation or to produce a document or thing, wilfully refuses to do so,

shall be guilty of an offence and liable, on summary conviction, to a fine of one thousand dollars and to imprisonment for three months.

Submission
of Pilotage

63. (1) Where the Pilotage Committee, after due inquiry in pursuance of section 62(1), having heard and considered

Committee's findings and recommendations to the Authority, penalties and right of appeal

any statement offered in his defence finds that an Authority pilot has been guilty of misconduct affecting his capability as a pilot or has failed in or neglected his duty, or has become incompetent to act as a pilot, the Committee shall submit to the Authority a copy of the record of the inquiry and of its findings and recommendations.

(2) The Authority, after considering the findings and recommendations of the Pilotage Committee submitted pursuant to subsection (1), may suspend or cancel the licence of the Authority pilot, or impose such other penalty as the Authority may think fit.

(3) An authority pilot who is aggrieved by a decision of the Authority made under subsection (2) may, within fourteen days from the date of such decision, appeal to the Minister who shall review the decision and whose determination shall be final.

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

Limitation of pilot's liability when bond is given

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

(3) A bond given by an Authority pilot in accordance with subsection (1) shall not be liable to stamp duty.

(4) Where 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 such proceedings are taken may-

- (a) determine the amount of such pilot's liability and, upon payment by him of that 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 give such directions (as to making persons parties to the proceedings, and as to the exclusion of any claimants who have not submitted their claims within a specified time, and as to requiring security from such pilot, and as to the payment of costs) as the court thinks fit.

65. (1) The issue of a licence under section 61 shall not impose any liability on the Pilotage Committee for loss or damage occasioned by the act, omission or default of a pilot.

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

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

Proceedings
in respect
of pilots

66. (1) Proceedings affecting Authority pilots under this Act or the 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 such proceedings.

(2) The High Court shall have power to regulate proceedings assigned to it by subsection (1).

PART VII

SPECIAL PROVISIONS IN RELATION TO PORTS

Documents
to be
produced on
arrival of
vessel in port

67. The master of a vessel arriving in a port shall produce to an authorised officer-

- (a) the vessel's register and certificates;
 - (b) a list of passengers (if any);
 - (c) particulars of any death which has occurred during the voyage;
 - (d) particulars of any stowaway found on the vessel,
- and shall supply such other information concerning the ship, its cargo and any passengers on board as such officer may reasonably require.

Powers of
Port Manager
in relation
to vessels

68. (1) Notwithstanding the provisions of regulations made under section 75, the Port Manager may-

- (a) direct where a vessel shall be berthed, moored or anchored and the method of anchoring within a port or the approaches to a port;
- (b) direct the removal of a vessel from one berth, station, or anchorage within a port or the approaches to a port to another berth, station or anchorage within a port or the approaches to a port, and shall specify the time within which such removal must be effected; and
- (c) regulate the moving of vessels within a port or the approaches to a port.

(2) In the event of the refusal, neglect, or failure of any person to comply with a direction given to him under subsection (1) the Authority, without prejudice to its right to institute proceedings against that person, may, at his expense, do or cause to be done all such acts (including the hire and employment of labour) as are, in the opinion of the Authority, necessary or reasonable to procure the carrying out of the direction.

69. (1) The Port Manager or an authorised officer may-

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

Powers of
Port Manager
in respect of
wrecks, etc.

(2) The owner of a wreck or other thing removed by the Port Manager under the authority of paragraph (a) of subsection (1) shall, without prejudice to any other action which may be taken against him, be liable to pay the reasonable expenses of removal; such wreck or other thing shall be detained by the Port Manager until those expenses and any customs duties, dues or charges payable in respect thereof shall have been paid.

(3) Where a wreck or thing is removed under the authority of paragraph (a) of subsection (1) and the expenses of removal have not been paid within seven days of its removal, the Port Manager may cause the 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 its removal, detention and sale and any customs duties, dues or charges payable in respect thereof and shall return the balance (if any) to the person appearing to him to be entitled.

(4) Where the Port Manager considers that it is impractical to remove a wreck without destroying it he may give seven day's notice to the master or owner to remove it and, in default of such removal, the Port Manager may cause the wreck to be destroyed. The expenses incurred by the Authority may be recovered as a civil debt. If the whereabouts or identity of the master and owner of a wreck are not known to the Port Manager he may publish the notice required by this subsection in the *Gazette*.

Fire on
board a
vessel in
port

70. (1) In the event of fire breaking out on board a vessel in a port, the Port Manager may go aboard the vessel with such personnel and equipment as to him seems fit, and may give such orders as to him seem necessary for scuttling the vessel, for removing the vessel or any other vessel to such place as to him seems proper to prevent in either case danger to other ships, and for the taking of any other measures that appear to him expedient for the protection of life or property.

(2) If such orders are not forthwith carried out by the master of the vessel the Port Manager may himself proceed to carry them into effect.

(3) Expenses incurred in the exercise of the powers conferred by subsections (1) and (2) shall be recoverable from the master or owner of the vessel as a civil debt.

Accidents in port

71. (1) Where an accident occurs in a port, if the accident-

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

the Port Manager shall, as soon as practicable, give notice of the occurrence of the accident to the Minister,

(2) The Port Manager may order such inquiry as he thinks fit into an accident which occurs in a port, and shall order such inquiry as the Minister thinks fit into any such accident if so required by the Minister.

(3) The Port Manager shall after any such inquiry submit a report to the Minister containing details of the probable cause of the accident and the steps (if any) which have been taken or which he has directed shall be taken, to avoid a repetition thereof.

(4) The Port Manager shall make to the Minister a return, in such form and at such intervals as the Minister may direct, of all accidents occurring in ports whether such accidents are attended with injury to a person or not.

72. The Authority shall not be liable for any demurrage which may occur or be due on any vessel howsoever such demurrage may have been caused.

Authority not liable for demurrage

73. (1) All acts, orders or directions under this Act or the regulations which may be done or given by a particular officer of the Authority may be done or given by any other officer of the Authority duly authorised in writing by the Port Manager.

General powers of officers of the Authority

(2) A person authorised under this section may call to his aid such assistance as is necessary.

74. The Authority shall not be liable for any act, omission or default of the Port Manager, or any person duly authorised to act on his behalf.

Protection of the Authority

75. (1) The Authority may, with approval of the Minister make regulations generally with respect to the maintenance, control and management of ports and the approaches thereto, the services to be

Power of the Authority to make

performed and the navigational aids and other facilities to be provided by the Authority, and for the maintenance of order in or on any premises or any vessel or vehicle used by or for the purposes of the Authority, and for the carrying out of the provisions of this Act; and, without prejudice to the generality of the foregoing, the Authority may make regulations with respect to-

regulations

- (a) the control and proper management of the foreshore of and entrance to every port, the prevention and removal of obstructions and the regulation of any work, service or facility performed or provided thereat or therein;
- (b) the admittance and control of persons and vehicles on premises used by or for the purposes of the Authority and the exclusion of persons and vehicles therefrom, and the charges (if any) to be made for such admittance;
- (c) regulating, controlling and prohibiting the doing or omission of any thing or class of thing within the boundaries of a port or any specified part or parts of a 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 liquid substance, solid matter, article or thing polluting or likely to cause pollution of the waters of a port;
- (e) the regulation, of traffic and the navigation of vessels within the limits of and approaches to a port, and all matters relating to the protection of life and property;
- (f) regulating the mode and place of mooring, anchoring, and berthing vessels and their removal from a mooring, anchorage or berth to another mooring, anchorage or berth, and the time within which such removal must be effected;
- (g) the protection of vessels and cargoes, and the removal, destruction, sale or abandonment of stranded vessels, their cargoes and appurtenances, which obstruct or are likely to obstruct the fairway of a port, and the payment of expenses (including salvage incurred in connection therewith) and the levy and recovery of rent for allowing a bulk or wreck or wreckage to lie in a port;

- (h) the examination, licensing, duties, obligations, conduct and discipline, of pilots, and the charges to be paid for pilotage;
- (i) regulating the time, place, and method of shipping, unshipping, loading, warehousing, storing and depositing goods;
- (j) fixing dues and charges payable in respect of any vessel, fixing different charges applicable in respect of different vessels or classes of vessel, and exempting or remitting the whole or any part thereof;
- (k) fixing dues and charges payable in connection with the carriage or warehousing of goods and for any service or facility performed or provided by the Authority, and with respect to the exemption, refund or remission of payment thereof;
- (l) fixing a scale of charges to be payable in connection with any services or facilities provided by the Authority;
- (m) licensing shipping agents, customs brokers, landing agents, forwarding agents, baggage and parcel agents, porters, contractors for supplies and victualling, and other persons concerned in, engaged in or performing, any service or work in connection with a port.

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

- (a) classifying goods as dangerous goods;
- (b) regulating the navigation and place of berthing of vessels carrying dangerous goods;
- (c) regulating and controlling the landing, loading and discharge of dangerous goods;
- (d) prohibiting, or imposing conditions and restrictions on, the conveyance of any kind of dangerous goods with any other kind of goods;
- (e) prohibiting the loading or discharge of dangerous goods at places within the control of the Authority in cases where such

loading or discharge may be specially dangerous to the public;

- (f) fixing places and times at which dangerous goods are to be loaded, and the quantity to be loaded or discharged at any one time;
- (g) specifying and regulating the methods to be adopted and the precautions to be observed in conveying, keeping, loading or discharging dangerous goods;
- (h) protecting, whether by means similar to the foregoing or not, person and property from danger generally.

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

- (a) prohibiting and preventing vessels from leaving a port if overloaded, improperly loaded, insufficiently manned, or without qualified officers or engineers aboard or with a number of passengers aboard in excess of the number that can be carried with reasonable safety, or if unseaworthy;
- (b) the examination, certification and licensing of masters, mates and engineers of tugs, dredges and light craft, and the licence fees payable in respect thereof;
- (c) the carrying capacity, inspection, licensing, registration and certification of ferries, tugs, launches, hulks, ferry-boats and other vessels, and the charges to be paid therefor.

(4) The power of the Authority to make regulations with respect to any matter under this section shall not be construed as conflicting with or derogating from any power conferred under this Act or any regulation to make provision in relation to such matter in any different manner.

(5) The regulations may provide for offences in respect of any contravention thereof and for any penalty on summary conviction not exceeding a fine of one thousand dollars and imprisonment for three months.

PART IX

PROVISIONS RELATING TO OFFENCES

Damaging property in manner likely to endanger life	<p>76. A person who unlawfully damages or in any way interferes with any lighthouse, buoy, beacon or other property of the Authority in such manner as to endanger or to be likely to endanger the life of any person shall be guilty of an offence and liable to imprisonment for ten years.</p>	
Persons endangering safety	<p>77. A person who, while on duty or lawfully employed on premises of the Authority or upon a vessel or vehicle of the Authority, endangers the safety of any other person-</p> <ul style="list-style-type: none">(a) by contravening any of the provisions of this Act or the regulations; or(b) by contravening any lawful order or direction given to such person in connection with his duties; or(c) by being under the influence of alcohol or drugs; or(d) by any reckless or negligent act, <p>shall be guilty of an offence and liable, on summary conviction, to a fine of two thousand dollars and to imprisonment for six months.</p>	
	<p>78. A person who, without lawful excuse, refuses or neglects to obey any direction lawfully given under section 68(1) shall be guilty of an offence and liable, on summary conviction, to a fine of one thousand dollars and to imprisonment for three months.</p>	Failure to comply with directions given under section 68(1)
	<p>79. If a vessel is navigated in circumstances in which pilotage is compulsory and such vessel is not under the control of a licensed pilot, the master thereof shall be guilty of an offence and liable, on summary conviction, to a fine of one thousand dollars and in default of payment to imprisonment for three months.</p>	Failure to employ licensed pilot
	<p>80. A master who fails to comply with the provisions of section 67 or gives any information thereunder which is false in a material particular shall be guilty of an offence and liable, on summary conviction, to a fine of one thousand dollars and in default of payment to imprisonment for three months.</p>	Failure of master to give information, or giving false information.

<p>81. A master who, without lawful excuse, refuses to allow the Port Manager or an authorised officer to go aboard his vessel in contravention of paragraph (c) of subsection (1) of section 69, shall be guilty of an offence and liable on summary conviction, to a fine of five hundred dollars and in default of payment to imprisonment for three months.</p>	<p>Master refusing to allow authorised officer on board</p>
<p>82. A person who knowingly or recklessly makes any statement which is false in a material particular, in any return, claim or other document which is required or authorised to be made under this Act or the regulations, shall be guilty of an offence and liable to a fine of six thousand dollars and to imprisonment for two years.</p>	<p>False returns, etc.</p>
<p>83. A person who, by any means whatsoever, eludes or evades any dues or charges leviable under this Act or the regulations shall be guilty of an offence and liable, on summary conviction, to a fine of two thousand dollars and to imprisonment for six months.</p>	<p>Avoiding dues or charges</p>
<p>Demanding improper account</p>	<p>84. A 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 be guilty of an offence and liable, on summary conviction, to a fine of one thousand dollars and to imprisonment for three months.</p>
<p>Miscellaneous offences</p>	<p>85. A person who-</p> <ul style="list-style-type: none"> (a) being on any premises, vessel or vehicle of the Authority- <ul style="list-style-type: none"> (i) refuses when called upon by an authorised officer or a police officer to give his name and address, or gives a false name or address, for the purpose of avoiding prosecution; (ii) without lawful excuse, the proof whereof shall lie on him, discharges a firearm or does anything which may cause injury to any person on such premises, vessel or vehicle; (iii) without lawful excuse contravenes any lawful direction given by an authorised officer; or (b) defaces the writing on any board or notice authorised to be maintained upon any premises of

- the Authority or upon any vessel or vehicle used by the Authority; or
- (c) damages or without lawful excuse interferes with any property of the Authority; or
- (d) wilfully obstructs or impedes any other person in the performance of his duties arising out of his employment with the Authority; or
- (e) given or offers to any other person money or money's worth for the purpose of avoiding payment of any sum due to the Authority,

shall be guilty of an offence and liable, on summary conviction, to a fine of one thousand dollars and to imprisonment for three months.

86. (1) A person who commits an offence mentioned in section 76, 77 or 85 of this Act may be arrested without warrant by an authorised officer or a police officer. Power of arrest

(2) A person who commits an offence against this Act or the regulations other than an offence mentioned in subsection (1) may be arrested without warrant by an authorised officer or a police officer if-

- (a) such officer has reason to believe that he will abscond; or
- (b) he refuses on demand to give his name and 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 without sureties for his appearance before a magistrate when required.

87. A person charged with an offence against this Act, other than an offence mentioned in section 76 or 82, may be proceeded against, tried and punished in the place in which he may be in custody for that offence as if the offence had been committed in that place; and the offence shall, for all purposes incidental to or consequent upon the prosecution, trial and punishment thereof, be deemed to have been committed in that place. Place of trial

Provided that nothing therein contained shall preclude the prosecution, trial and punishment of such person in a place in

which, but for the provisions of this section, that person might have been prosecuted, tried and punished.

88. The Port Manager may by notice in writing authorise an officer of the Authority to maintain order upon any premises used by the Authority or any place in any port, or on board any vessel or vehicle used by or for the purposes of the Authority, and an officer so authorised shall, in the performance of such duty, have all the powers, rights, privileges and protection of a police officer.

Port Manager
may confer
power on
officers to
maintain
order

89. Subject to section 71(2) of the Constitution, proceedings for an offence under this Act or the regulations shall not be instituted except by or with the sanction of the Authority or the Chief of Police and an officer of the Authority or a police officer may conduct such proceedings.

Prosecution
of offences

PART X

LEGAL PROVISIONS

Notice of
claim on
Authority for
goods lost

90. (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 served on the Port Manger within six months of the date upon which the goods were accepted by the Authority.
- (b) no person shall be entitled to compensation or damages for goods missing from a packed or unpacked consignment or for misdelivery of, damage or delay to, or detention of goods accepted by the Authority for carriage or warehousing unless-
 - (i) the Port Manager is notified of such fact in writing within four days of the date upon which the 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 served on the Port Manager within one month of that date.

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

Limitation of actions

91. Where an action or other legal proceeding is instituted against the Authority for an act done in pursuance or execution or intended execution of any provision of this Act, the regulations or any public duty or authority imposed or conferred by this Act or the regulations, or in respect of any alleged neglect or default in the execution of any provision of this Act, the regulations or such duty or authority, the following provisions shall have effect notwithstanding anything contained in any enactment, that is to say-

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

92. Notwithstanding anything to the contrary in this Act or the regulations or in any other enactment or in regulations made under any other enactment, where a judgement or order of a court or an arbitration award has been obtained against the Authority for or in respect of anything done or omitted to be done under the provisions of this Act or the regulations or any contract or other agreement of or in respect of the Authority or its purposes-

Restriction on execution against property of the 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 judgement or order or award be found 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 upon property.

93. Where the amount paid to the Authority by way of dues or charges in respect of goods or services is found to be incorrect, then if the amount is-

Overpayment or underpayment of dues and charges

- (a) an overpayment the person who overpaid is entitled to a refund of the sum he has overpaid;
- (b) an underpayment the sum underpaid may be collected from the person who made the underpayment:

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 has been given-

- (i) by the person claiming such overpayment to the Port Manager; or
- (ii) by the Port Manager to the person against whom the underpayment is claimed,

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

PART XI

TRANSFER OF ASSETS, LIABILITIES, FUNCTIONS AND PERSONNEL

Transfer of land, etc. to the

- 94.** (1) On the 1st January, 1981-
- (a) all Crown lands within the boundaries of the ports

Authority

- of Grenada vested immediately before that date in the Government are hereby vested in the Authority;
- (b) all lights, lighthouses, buoys and beacons within the boundaries of the ports vested immediately before that date in the Government are hereby transferred to the Authority;
 - (c) all warehouses, buildings, machinery, plant, equipment and other property which immediately before that date were the property of the Government are hereby transferred to the Authority.

(2) All rights, privileges and advantages and all obligations to which, immediately before the 1st January, 1981, the Government was entitled or subject, as the case may be, are for the purposes of this Act hereby transferred to and conferred or imposed on the Authority.

(3) A reference in any deed, contract, bond or security or other document subsisting immediately before the 1st January, 1981, against or in favour of the Government shall for the purposes of this Act have full force and effect against or in favour of the Authority and be enforceable as fully and effectually as if, instead of the Government or a person acting on behalf thereof, the Authority had been named therein and had been a party thereto.

95. (1) The Public Service Commission may approve the transfer of public officers to the service of the Authority or the transfer of officers from the service of the Authority and their appointment to the Public Service.

Transfer of
public officers
to Authority
and *vice versa*

(2) Where a transfer has been approved under subsection (1), arrangements shall be made by the Government or the Authority to pay to the Authority or the Government, as the case may be, such contribution as may be provided for in rules made by the Minister in respect of pensions and gratuities, and such rules may make provision for different classes of cases.

PART XII

MISCELLANEOUS AND GENERAL

96. The income of the Authority shall not be liable to income

Exemption

tax.

from income
tax

97. (1) The Authority may, subject to standing orders made by the Authority and approved by the Minister, create and employ a port police force within the limits of any port.

Authority
may employ
a port
police force

(2) Every member of the port police force shall in the performance of his duties have and exercise all the powers, rights privileges, and be entitled to the same protection and be liable to the same responsibilities and discipline, as a member of the Royal Grenada Police Force.

98. (1) If a warehouse of the Authority is approved and appointed under an enactment relating to customs for the time being in force, the Authority may give general security to the Comptroller of Customs by bond or otherwise for the payment of the customs duties payable in respect of goods stored in such warehouse or for the due exportation of the goods.

Appointed
warehouses

(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 to absolve a person who would have been liable to pay duties from paying such duty as he would be compelled to pay in respect of any such goods.

Evidential
provision as
to port
limits

99. In proceedings for an offence the averment that such offence was committed within the limits of a port shall, in the absence of evidence to the contrary, be sufficient without proof of such limits.

Recovery,
by civil
process, of
sums due to
the Authority

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

Power to
compromise

101. The Authority may lawfully compound or compromise any claim or demand made against it, for such sum of money or other compensation as it deems sufficient.

Moneys recovered to be paid into the account of Authority

102. All fines, compensation, damages, costs or other sums paid in respect of any offence, proceeding or matter or in respect of the performance by the Authority of its duties, powers and functions under this Act or the regulations, shall be paid into the account of the Authority.

Restriction on the erection, etc. of wharves piers, etc.

103. (1) No wharves, piers or similar constructions extending into the waters of any port or the approaches thereto, or extensions of any similar constructions existing at the commencement of this Part of this Act, shall be erected without the approval of the Authority.

(2) No beacon, buoy, mooring or similar device shall be built or laid in any port without the approval of the Authority, and approval shall be subject to any conditions and charges the Authority may in its discretion decide to impose:

Provided that a person aggrieved by a refusal to grant approval or by any decision as to conditions or charges may refer the matter to the Minister whose determination shall be final

OTHER RELEVANT ACTS

ACT NO. 11 OF 1992

I assent,

PAUL SCOON
Governor-General

15th June, 1992.

An Act to amend the Grenada Ports Authority Act, 1978

[19th June, 1992].

Be it enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Senate and House of Representatives of Grenada, and by the authority of the same as follows:

1. This Act may be cited as the

Short title.

GRENADA PORTS AUTHORITY
(AMENDMENT) ACT, 1992

and shall be read as one with the Grenada Ports Authority Act, 1978, as amended, hereinafter referred to as the "principal Act."

14/1978

5/1986

9/1988

2. Section 5 subsection (1) of the principal Act is amended by deleting the words "Chairman and not less than six members" and substituting therefor the words "Chairman, Deputy Chairman and not less than five members".

Section 5 (1)

of the

principal Act

amended

Section 8 (2)
of the
principal Act
repealed and
replaced.
Deputy

3. Section 8 subsection (2) of the principal Act is repealed and replaced as follows:

“(2) In the absence of the Chairman from any meeting of the Authority the

Chairman shall preside thereat; and in the absence of both the Chairman and Deputy Chairman the members present shall elect one of their number to preside thereat.”

Passed by the House of Representatives this 3rd day of
March, 1992.

BASIL A. HARFORD
Clerk to the House of Representatives

Passed by the Senate this 28th day of May, 1992.

BASIL A. HARFORD
Clerk to the Senate.