

PORTS AUTHORITY REGULATIONS
ARRANGEMENT OF REGULATIONS

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PORTS AUTHORITY REGULATIONS – SECTIONS 20 AND 23

(Legal Notices 8/2008)

Commencement

[1 April 2008]

PART I

GENERAL

Short title

1. These Regulations may be cited as the Ports Authority Regulations.

Interpretation

- 2 In these Regulations—

“agent” means any person (natural or legal) engaged on behalf of the owner, charter or master of a ship, or of the owners cargo, in providing shipping services including—

- (a) collection of freight and/or charter hire where appropriate and all related financial matters;
- (b) arranging for Customs and cargo documents and forwarding of cargo;
- (c) arrangements for procuring, processing the documentation and performing all activities required related to dispatch of cargo;
- (d) organising arrival or departure arrangements for the ship;
- (e) arranging for the supply of services to a ship while in port,

the payment of all related fees and dues.

“cargo dues” means a charge levied against the vessel for the use of the port and based on the cargo loaded or unloaded by the vessel;

“diving vessel” means any vessel used primarily for the carriage of persons engaged in diving for sports;

“dock dues” means the charge for the use of the wharf and does not include a charge for any other service;

“explosive” has the meaning assigned to it by the Explosives Ordinance;

“facility” includes any craft, port, jetty, buoy, machinery, light, building or land under the control of the Ports Authority;

“Island vessel” means a vessel registered in the Islands;

“mooring” means any anchor, buoy, pile, post, chain pillar sinker, or like apparatus used for the mooring of vessels;

“pleasure craft” means any vessel used only for pleasure or recreation and not for or in the expectation of profit, gain or reward;

“power boat” includes boats capable of developing speeds in excess of ten knots and in particular vessels propelled by outboard, inboard-outboard or inboard engines intended for speed in excess of ten knots.

Application

3. These Regulations shall apply to all users of the facilities of the Ports Authority.

User creates a binding covenant

4. The use of the ports and other facilities under the jurisdiction of the Ports Authority shall constitute a consent by vessels, masters, their owners and agents, and other users of such ports and facilities to the terms and conditions hereof and is evidence of agreement on the part of vessels and other users of such facilities to pay all charges specified and be governed by the Regulations or any other regulations made under the Ports Authority Ordinance.

Appeals

5. An appeal against any decision of the Director of Ports shall lie to Minister under these Regulations.

Exemption of charges in the case of construction work

6. Construction work done under contract, with and for the benefit of the Ports Authority, is exempt from the payment of charges in so far as such work is necessary for the performance of such contract.

General restrictions and limitations

7. The Ports Authority has no obligation to provide—
 - (a) storage or accommodation for property which has not been transported and is not intended to be transported by water to or from a port;
 - (b) berthing or other services beyond the reasonable capacity of its facilities; or
 - (c) extended storage for any property in the course of normal operations, beyond such period of time as may be provided by these Regulations or allowed by the Director of Ports nor is he obliged to accept any cargo incompatible with public policy or the general objects of a port.

Disclaimer of responsibility for loss or damage or injury

8. The Ports Authority shall not be responsible for—
 - (a) damage to freight being loaded, unloaded, handled, stored or otherwise present on its facilities, or for loss of freight or delay thereto;
 - (b) loss or damage to freight on or in its facilities by reason of fire, leakage, evaporation, natural shrinkage, wastage, decay, animal, rodents,

moisture, the elements, discharge of water from sprinklers fire protection system or from any other cause;

- (c) delay, loss, damage arising from riots, strikes, labour disturbances or any persons, or for loss due to pilferage or theft or to other cause; or
- (d) personal injuries or death resulting from any cause whatsoever on its properties or facilities,

unless occasioned by the wilful neglect or default of the Ports Authority or its servants or agents acting in such capacity.

Placement of goods not to be bailment

9. The placing of goods of any nature, including cargo on the Ports Authority premises pursuant to these Regulations shall not be construed, under any circumstances, as a bailment of such goods, nor shall the Ports Authority, its officers, employees and agents, be considered to be bailees of any goods.

Abandoned cargo

10. Where the Director of Ports determines abandonment of cargo in any instance he shall deal with same under the provision of the Ordinance.

Furnishing cargo statement and vessel report

11. Within twenty-four hours of the arrival or departure as the case may be, of any vessel, its master, its agent, and all other users of the port and any facilities in connection therewith are required to furnish the Director of Ports with copies of the inbound or outbound manifest or other documents in a form satisfactory to the Director of Ports, or a signed and certified full and correct statement on blanks furnished by the Ports Authority, showing the weights and measurements of the various items to be discharged or loaded and the basis on which freight charges are assessed.

Agent

12 (1) Except in the event of an emergency, every vessel which enters or calls on a port must have an agent.

(2) Every agent shall have a representative within the Islands.

(3) A vessel which enters or calls on a port and does not have an agent at the time of its entry shall utilise its best efforts to obtain an agent within one business day after its arrival in port.

Access to records

13. All vessels, masters, their owners and agents, and all other users of ports and facilities are required to permit access to manifests of cargo, passengers lists and all other documents for the purpose of audit for ascertaining the correctness of reports filed or for securing necessary data to permit a correct estimate of the charges to be levied.

Indemnity bond

14. Users of the Ports Authority facilities, unless specifically exempted, are required to furnish the Ports Authority with cash bonds for such amounts as the Director of Ports may require, insuring the Ports Authority against loss of any funds and indemnifying the Ports Authority in full for the payment of bills that have accrued as a result of berthage, cargo and passenger wharfage, water sales, storage, rentals, leases, warehousing, wharf demurrage, electric current and any other charges that may accrue for services rendered by the Ports Authority.

Insurance

15. The rates and charges published in these Regulations do not include insurance of any nature, and users of the Ports Authority facilities are required to carry bodily injury liability insurance and property damage liability insurance and to furnish certificates of insurance to the Director of Ports in proof thereof, failing which the Director of Ports may require a cash bond for an appropriate amount.

PART II

CONTROL OF PORTS

Allocation of space

16. (1) The Ports Authority shall control the allocation of all space, covered or open, on the port premises.

(2) All persons using the port premises in any manner shall comply with such allocation.

(3) The Director of Ports may move goods at the owner's or agent's expense in order to enforce this regulation.

Cleanliness of premises

17. (1) All vessels, their owners and agents, and all other users of a facility of the Ports Authority shall be held responsible for the general cleanliness of the facility which has been allocated, assigned or leased to them.

(2) Where any person fails to clean the facility or premises allocated, assigned or leased to him, the Ports Authority may cause such facility or premises to be cleaned at the person's expense.

Damage to facilities

18. (1) All vessels' owners or agents and all other users of a facility of the Ports Authority, shall be held responsible for any damage to the facility occasioned by them.

(2) The Director of Ports may detain any vessel responsible for damage to the facility until sufficient security has been given for the amount of damage.

(3) It shall be the responsibility of the users of the facility to report any damage to the facility occasioned by them to the Director of Ports.

Loitering on port property

19. (1) It shall be an offence for any person to loiter upon the Ports Authority's properties or for unauthorised persons to enter cargo sheds or handling areas.

(2) Any person using a facility of the Ports Authority do so at their own risk and the Ports Authority shall not be responsible for any injuries or damage sustained.

Signs

20. (1) Painting signs on structures belonging to the Ports Authority is prohibited without prior approval.

(2) Signs to be erected on a facility of the Ports Authority shall be furnished by the port users and erected or placed by the user after the Director of Ports has approved the design, material and size of such signs.

Smoking

21. It is an offence for any person to smoke or to light any match or to have any naked flame upon or in any facility where smoking is prohibited by notice.

Vehicles

22. (1) It is an offence to park any motor vehicle in a restricted area or to park a motor vehicle, trailer or any other vehicle in a loading zone for any longer period than is necessary to load or discharge cargo or passengers.

(2) All vehicles entering the port premises, not engaged in the transportation of cargo, shall park in the area designated by the Ports Authority.

Wharf obstruction

23. (1) Stevedore's tools, appliances, equipment, vehicles or any other materials or objects which are not part of the cargo shall not be permitted to remain on the wharves or in the transit shed, except at the discretion of the Director of Ports.

(2) Cargo or gear shall not be stored on the aprons, in driveways, roadways, or any other locations that would hamper normal port operations without the prior approval of the Ports Authority and if not removed when ordered, shall be subject to removal by the Ports Authority at the agent's expense.

Sanitary arrangements in port

24. (1) When required by the Director of Ports a vessel's water closets and latrines shall be closed during such period as the vessel is in port.

(2) All closets and latrines shall have splash boards or similar devices so as to prevent fouling the wharf or any other vessel.

Emergencies

25. Anyone on the port property at any time becoming aware of an emergency situation of any nature must notify the Director of Ports or other representative of the Ports Authority by the fastest means, while taking such immediate action as may appear appropriate.

Fire on vessels

26. (1) In the event of a fire occurring on board a vessel in port, the master or watch shall at once give the alarm and take such action towards the protection of property as the Director of Ports may direct.

(2) Vessels shall, in the event of a fire on board hoist "N.Q." of the International Code and at the same time sound one long and three short blasts in quick succession on the whistle and the signal "N.Q." shall be kept hoisted until the fire on board has been extinguished.

Fire fighting operation

27. Persons on port area shall comply with the instructions of constables and other authorised persons in the event of an outbreak of fire, and shall not obstruct or interfere with fire fighting operations.

Solicitation

28. It shall be unlawful for any person to solicit or carry on any business on the Ports Authority property without first obtaining the requisite permission from the Ports Authority.

Advertising at ports

29. Any person who, unless authorised to do so by the Ports Authority, advertises or causes any advertisement to be exhibited on any premises or property under the control of the Ports Authority without first obtaining the requisite permission from the Ports Authority commits an offence.

Dogs and cats aboard vessels

30. Dogs and cats are not permitted to land from vessels without a certificate from a Veterinarian at the last port of call and port of origin (if different) and a permit from a Government Veterinary Officer showing that the said animal is free from disease.

Dangerous driving

31. Whoever drives a mechanically propelled vehicle within a port area so as to cause danger to any person or property commits an offence.

Behaviour of motorist

32. Drivers and persons in charge of mechanically propelled vehicles shall at all times while entering or leaving a port area conduct themselves in an orderly manner and comply with such orders as may from time to time be issued by the Director of Ports and with the terms of any notices and signs exhibited by order of the Ports Authority.

Traffic signals

33. Whoever in a port area disregards a traffic signal or fails to stop when called upon to do so by a constable or other authorised person commits an offence.

No conveyance of goods into or out of a port area without proper gate pass and customs clearance

34. (1) No person may load or cause to be loaded into any vehicle any parcel, package or article of any kind, except upon production to a duly authorised person at a port gate a passcheck authorising such person to remove such parcel, package or article.

(2) No passcheck shall be issued until all requirements have been complied with and all port dues and other charges in respect thereof have been paid or secured.

No liquor to be carried through port gates

35. No person shall supply, convey or deliver any intoxicating liquor to any crew member or to any other person on board any ship in port unless—

- (a) purchased with the consent of the master of the ship, from a person duly licensed to sell the same;
- (b) such liquor is delivered in bond and checked and sealed by Customs, the said seal not broken while the ship is within the port limits.

Boarding or leaving ships

36. Whosoever, except with the permission of the Director of Ports, boards or leaves a ship while that ship is in motion or otherwise than by means of a gangway or efficient pilot ladder commits an offence.

Propellers may not be turned in port without warning

37. No ship's propellers shall be turned in port for the purpose of trying engines without the giving of sufficient warning to the Director of Ports and to other vessels in the vicinity.

Goods not to be delivered without authority from Custom

38. No goods shall be delivered to any consignee without the production by him of the necessary authority from the Customs.

PART III

NAVIGATION

Anchorage or obstruction in turning basin or channels

39. It shall be unlawful for any person whether as principal, servant, agent, employee, or otherwise to anchor any vessel, boat, barge or other watercraft of any kind in any of the turning basins or channels in the port or to otherwise obstruct navigation, except in the case of actual emergency.

Lights at nights

40. All vessels or other watercraft, while anchored, moored or manoeuvring in the territorial waters of the Islands shall between the hours of sunset and sunrise show proper lights.

Pollution of air and water

41. (1) It shall be unlawful for any person to deposit, place or discharge into the territorial waters of the Islands, any ballast, dunnage, sanitary sewage, butcher's offal, garbage, dead animals, gaseous liquid or solid matter, oil, gasoline, residuum of gas, calcium, carbide, trade waste, tar or refuse, or any other matter which is capable of producing floating matter or scum on the surface of the water, sediment or obstruction on the bottom of the ocean bed, or odours of gases of putrefaction.

(2) All vessels and all persons using the facility of the Ports Authority shall take every precaution to avoid pollution of the air.

Application for berth

42. (1) The agent for a vessel desiring to berth at a port shall give twenty-four hours notice to the Director of Ports in writing in the form prescribed in the Schedule for a berth specifying the name of the vessel, size, the date and estimated time of arrival, date and time of sailing, and the nature and quantity of cargo.

(2) Agents shall advise the Director of Ports or his designee at the earliest time when a vessel that has been scheduled to call at a port changes or cancels its ETA (estimated time of arrival) or itinerary by more than six hours.

Assignment of berth

43. A berth assignment shall be made by the Director of Ports and when so made shall be strictly adhered to until further directions or orders in respect of any change or further use are given by the Director of Ports.

Change of berth

44. (1) Every vessel or other watercraft shall at all times have on board a person in charge with authority to take such action in any emergency as may be necessary to facilitate common navigation or commerce, or for the protection of other vessels or property.

(2) The Director of Ports shall have authority to order and enforce the removal or change of berth or location of any vessel or other watercraft at its own expense, to such place as he may direct for the purpose of facilitating navigation or commerce or for the protection of other vessels or property and it shall be unlawful for the master, owner or agent of such vessel to fail, neglect or refuse to obey such order.

(3) Where there is no responsible person available or the person in charge refuses to shift the vessel as directed, the Director of Ports shall cause the vessel to be shifted at the risk and expense of the owner.

Unauthorised berthing

45. (1) No person shall berth a vessel other than at a designated berth and a vessel berthed at a designated berth shall not be shifted without the prior approval of the Director of Ports.

(2) Any vessel berthed or shifted in contravention of subregulation (1) shall be subject to removal to a proper berth by the Director of Ports without notice to the owner and at the owner's risk and expense.

Unauthorised movements of vessels

46. (1) No unauthorised vessel shall be navigated within a quarter mile distance of the port.

(2) Any vessel contravening this regulation commits an offence.

Vessel to be continuously worked

47. (1) Any vessel accepted for berthing may be required to be worked continuously to completion, even with overtime, if necessary, when the assignment of berth or the port is declared congested by the Director of Ports.

(2) Any vessel refusing to honour this requirement shall be considered an unauthorised berthing and the provisions of regulation 45 shall apply.

Vessel to give way and exhibit prescribed light

48. Vessels within the limits of a port shall make way for vessels under way and shall between the hours of sunset and sunrise exhibit the lights prescribed for their class by Collision Regulations.

Approaches to ports, vessel's ladder and gangway to be clear

49. (1) Free passage shall be kept to landing places, wharves and mooring, and vessels shall move when required to clear such passage.

(2) Vessel's accommodation ladders and gangways shall be kept in good condition and clear of obstruction.

Sunken objects in port to be reported

50. Any person responsible for the sinking of any object in a port shall report the matter to the Director of Ports.

Power boats

51. Any person who within a quarter of a mile of a port facility proceeds at a speed exceeding five knots or endangers other vessels or structure or causes wake damage commits an offence.

Duty of owners

52. (1) It is the duty of every person having control of a power boat within territorial waters—

- (a) to navigate such boat as to avoid collision with or injury to any vessel or person present in or under the water in the area occupied by or disturbed by the said boat or the wash or wake thereof; or
- (b) to navigate such boat with due care and consideration for other persons having regard to the prevailing conditions and the reasonable likelihood of other persons being present in or coming into the area occupied by such boat and the wash and wake thereof, as the case may be.

(2) Every person in control of a power boat within the limits of any port shall when so instructed by the Director of Ports—

- (a) have to; and
- (b) bring his boat alongside any place indicated by the Director of Ports and otherwise,

comply with any navigational orders issued to him by the Director of Ports.

(3) Where a dispute arises as to who is in control of a boat every person present therein shall be deemed to be in control until he proves the contrary.

Moorings etc

53. (1) Vessels within a port shall have sufficient hands on board to attend to their mooring, and to cause them to be slackened or heave in as necessary.

(2) No rope shall be made fast except to dolphins, buoys, moorings and bollards placed for that purpose, and no wire rope may be used unless the bollards and the edge of the coping of the wharf are protected from chafes to the satisfaction of the Director of Ports.

(3) Chain cables may not be used for mooring alongside a wharf.

(4) Vessels shall anchor, moor, and berth to the satisfaction of the Director of Ports and shall take such additional precautions in severe weather as may be ordered.

(5) Vessels alongside wharfs shall affix efficient rat guard on every line and wire connected to or reaching shore if so ordered by the Director of Ports.

Watch to be kept on board

54. A watch shall be constantly kept by day and night upon the open deck of every vessel in port.

Vessels to be in readiness to move

55. (1) Vessels shall at all times be kept in a fit condition to be moved and in default, the Ports Authority, at the vessel's risk and expense may perform the work.

(2) Vessels entering, leaving or shifting berth within a port shall be provided with sufficient hands for the purpose and shall have on board good and sufficient warps, and no warp may be cast off unless so authorised by the Director of Ports.

Displaced mooring to be reported

56. If any mooring or marker buoy is dragged from its position or damaged by any vessel, the fact shall be reported immediately to the Director of Ports and the cost of repairing or replacing the said mooring or marker shall be paid for by such vessel.

Condition under which vessel has priority

57. (1) Vessels arriving at a port with intentions of discharging cargo shall have priority to berth in order of their time of arrival.

(2) The Director of Ports may give priority to vessels that arrive later in emergency or in order to save perishable cargo.

Removal of vessels having offensive matter on board

58. The Director of Ports may order the removal from port of any vessel which has on board cargo or other matter injurious to health or offensive or dangerous in any respect and such cargo or matter shall be disposed of in such manner as the Director of Ports may order at the risk and expense of the vessel.

Customs, immigration and health formalities

59. Until customs, immigration and health formalities have been completed; no unauthorised person may board or leave an arriving vessel.

Due notice of departure to be given

60. Vessels shall give at least four hours notice to the Director of Ports, in the form prescribed in the Schedule, prior to departure.

Removal of offensive cargo

61. The Director of Ports may with the consent of the Comptroller of Customs and after giving two hours notice to the owner or other persons entitled to receive goods or, if the owner or consignee cannot be found, without such notice, order the removal and if necessary the destruction of any if they are of an offensive nature and such removal or destruction shall be at the expense of the owner, consignee or other person concerned.

Master or agent to give notice of dangerous cargo

62. (1) Vessels having on board goods of a dangerous or inflammable nature shall, at least twenty-four hours before arrival, give notice thereof to the Director of Ports.

(2) If such goods are landed without permission, the Director of Ports may order them to be placed on board the vessel whence they came or otherwise deal with the goods as he considers necessary at the risk and expense of the vessel.

Notification of explosives

63. (1) Explosives of all kind shall in addition to appearing on the manifest be declared by special letter to the Director of Ports, which letter shall be delivered where practicable twenty-four hours prior to the arrival of the vessel.

(2) The letter referred to in subregulation (1) shall contain a description of the dangerous cargo carried by the vessel, listing the kind of explosives, number of packages, and where they are stowed.

(3) The vessel shall comply with the international regulations which apply to such cases.

(4) Prescribed signals must be shown by day and night and all necessary precaution must be taken.

(5) The Ports Authority reserves the right to accept or refuse cargo which may be considered dangerous to person or property.

Explosives to be covered

64. Explosives on board a vessel, which are not in a safe magazine, shall, while the hatch is open, be kept carefully covered and due care taken to prevent any water from seeping into any explosive or its container.

Method of handling explosives

65. (1) Packages containing explosives being discharged from or loaded into a vessel are not to be dropped, dragged or thrown. A rope cargo net in good condition (to be inspected) shall be used; if no such net is available, then such explosives shall carefully be passed from hand to hand.

(2) While explosives are being discharged no other cargo shall be handled or dealt with at or near thereto.

(3) Persons not engaged in or supervising the work, shall remain a safe distance from the place of such discharge or loading of explosives.

Permit to land explosives

66. Explosives shall not be permitted to land from any vessel until a permit has been produced by the importer to the Director of Ports.

Inspection

67. (1) Vessels in port are subject to inspection by the Director of Ports at any time, which inspection may extend to every part thereof including cargo gear.

(2) Such vessels may be required to produce a valid cargo gear certificate issued from a source recognised by the Ports Authority.

(3) Ropes, slings and wires in general use for hoisting or lowering shall be inspected once in every three months and where explosives are being handled, all machinery and attachments including ropes, slings and wire cable shall be inspected immediately prior to use.

Removal of ship in fairways

68. (1) No vessel may be anchored in the fairways of a port without the permission of the Director of Ports.

(2) A vessel anchoring in contravention of subregulation (1) shall, in addition to any penalty, be liable to be removed at the vessel's risk and expense.

Careening

69. (1) Except in an emergency, a vessel shall not be careened or hauled on shore within the port in any area where it will restrict or prevent the use of any port facility or any boat ramp.

(2) Any vessel so dealt with shall as soon as practicable be removed by the master or owner of that vessel when called upon to do so by the Director of Ports.

Priority berthing

70. Priority for vessel movement other than for hurricanes and unless otherwise authorised by the Director of Ports shall be as follows—

- (a) Government vessels when responding to emergency and official duties;
- (b) vessels stopping to discharge sick or injured persons;
- (c) inbound vessels scheduled to load or discharge cargo upon arrival;
- (d) outbound vessels with inter-island cargo;
- (e) incoming vessels arriving for repairs or bunkers;
- (f) all other vessels.

Pleasure vessels

71. A pleasure or small craft may only lie or manoeuvre in a port with the permission of the Director of Ports, who shall indicate where it may lie or manoeuvre.

PART IV PORT DUES

Dock dues

72. Dock dues shall be payable in respect of every vessel of 5 tons or more, other than a diving vessel or pleasure vessel, lying moored at a berth of any port in relation to which these Regulations apply at the following rates—

- (a) in the case of a vessel of 20 tons or more—
 - (i) for the first period of twelve hours or part of that period, \$180.00;
 - (ii) for each additional hour or part of an hour, \$20.00;
- (b) in the case of a vessel of less than 20 tons and not less than 5 tons—
 - (i) for the first period of twelve hours or part of that period, \$25.00;
 - (ii) for each additional hour or part of an hour, \$2.50;

Provided that, in the case of an Island vessel engaged in the movement of cargo inter-Islands, the port dues payable shall be fifty *per centum* (50%) of the appropriate rate.

Dock dues (diving vessels and pleasure vessels)

73. Dock dues shall be payable in respect of every diving vessel and pleasure vessel lying moored at the berth of any port in relation to which these Regulations apply at the following rates—

- (a) in the case of a diving vessel—
 - (i) for the first period of three hours or part of that period, \$5.00;
 - (ii) for each additional hour or part of an hour, \$2.00;
- (b) in the case of a pleasure vessel—
 - (i) for the first period of twelve hours or part of that period, \$20.00;
 - (ii) for each additional hour or part of an hour, \$2.00.

Cargo dues

74. Cargo dues shall be payable in respect of all goods loaded on to or unloaded from a vessel of 5 tons or more lying moored at a berth of any port in relation to which these Regulations apply at the rate of \$9.00 per ton of those goods.

Payment of dues

75. (1) Dock dues in respect of any vessel shall be payable by the owner, master or agent of the vessel.

(2) Cargo dues in respect of any goods imported or to be exported by any vessel shall be payable by the owner, master or agent of the vessel.

(3) Dock and cargo dues shall be payable on demand of the Director of Ports or any port officer authorised in writing by the Director of Ports to receive payment of those dues.

Tonnage of vessels

76. (1) A reference in regulations 72, 74 or 78 to the tonnage of a vessel is a reference to the gross registered tonnage of the vessel.

(2) Subject to paragraph (3) the gross tonnage of a vessel duly registered according to law shall, for the purpose of determining the port dues payable in respect of that vessel under these Regulations, be ascertained according to the certified tonnage in the register of that vessel.

(3) Where—

- (a) the gross tonnage of that vessel is not ascertainable in accordance with paragraph (2); or
- (b) the Director of Ports is not satisfied as to the accuracy of the certified tonnage in the register of that vessel,

the gross tonnage of the vessel shall be ascertained by the Director of Ports in such manner as he thinks fit.

Charges in respect of cranes, etc.

77. Every person, other than a holder of a valid stevedoring licence, bringing within a port in relation to which these Regulations apply any crane, vehicle or other equipment (other than a crane, vehicle or equipment belonging to the Government) in connection with the loading of goods on to, or the unloading of goods from a vessel at the port, or in connection with the depositing or removal of goods within or from the port, shall pay, on demand of the Director of Ports or any officer authorised in writing by the Director of Ports to receive the same, a charge at such rate as the Director of Ports shall determine with the approval of the Minister.

Security charge

78. (1) There shall be payable in respect of all goods loaded on to, or unloaded from vessels of 5 tons or more lying moored at the berth of any port in relation to which these Regulations apply, a security charge at the rate of \$3.00 per ton of those goods.

(2) Security charge shall be payable by the owner, master or agent of the vessel on demand of the Director of Ports or any officer authorised in writing by the Director of Ports to receive same.

PART V

MISCELLANEOUS

Penalty

79. Any person who commits an offence against these Regulations for which no special penalty is provided by the Ordinance or these Regulations shall be liable on summary conviction to a fine not exceeding one thousand dollars or to a term of imprisonment of up to six months, or both.

SCHEDULE

FORM 1

(Regulation 42)

NOTICE OF ARRIVAL AND APPLICATION FOR A BERTH

To Director of Ports:

Name of vessel: Flag:

Tonnage: GRT: NRT:

Length: Beam: Draft FWD: AFT:

Pilot required: Not required:

Manifest W/T: C/T: No. of mailbags:

Description of cargo:

.....

.....

Passengers: Registered No.:

Request that a berth at:

Be allotted to this vessel on:

for the purpose discharging/loading and/or disembarking/embarking passengers

.....

I hereby declare and certify as follows—

*The vessel is not/is carrying dangerous goods and/or explosives (other than) those described in the Schedule as shown on the back thereof.

Cargo to be landed: W/T: C/T:

Remarks:

.....

.....

Agent:

Date:

Signed:

MASTER/AGENT

**Delete whichever is not applicable*

(To be submitted in duplicate)

FORM 2

NOTICE OF DEPARTURE OF A VESSEL

(Regulation 60)

To:
OWNER/AGENT

1. Name of vessel:

2. Flag:

3. Port of Registry:

4. Tonnage: GRT: GRT:

5. Date and time of arrival:
.....

6. Port at which voyage commenced:

7. Last port of call:

8. Next port of call:

9. Cargo discharged, B/L Tons: cu. ft.:

10. No. of mail bags:

11. Cargo loaded, B/L tons: cu. ft.:

12. Date and time sailed:

13. Draft forward: aft:

14. Remarks:
.....
.....

**PORTS AUTHORITY (STEVEDORE,
FEES AND CHARGES) REGULATIONS**

ARRANGEMENT OF REGULATIONS

REGULATION

1. Short title
 2. Interpretation
 3. Stevedore licence
 4. Application for grant of licence
 5. Production of evidence for issue of stevedore licence
 6. Grant of licence
 7. Annual licence fee
 8. Renewal of licence
 9. Duties and responsibilities of stevedore
 10. Change in name, constitution etc to be communicated
 11. Power to suspend or cancel licence
 12. Appeal
 13. Effect of Appeal
 14. Power of Minister on appeal
 15. Tariff
 17. Variation of tariff
 18. Amendment of Schedule
- SCHEDULE: Tariff

**PORTS AUTHORITY (STEVEDORES,
FEES AND CHARGES) REGULATIONS - SECTION 20**

(Legal Notice 6/2008)

Commencement

[7 March 2008]

Short title

1. These Regulations may be cited as the Ports Authority (Stevedores, Fees and Charges) Regulations.

Interpretation

2. In these Regulations—

“cargo” means goods which are loaded on or offloaded from vessels but excludes—

- (a) goods which are for the vessel’s own consumption;
- (b) goods required for the vessel’s crew or passengers;
- (c) liquid cargo when pumped or discharged through a pipeline by the vessel’s own crew directly into or from private storage installations;

“goods” includes livestock, minerals and merchandise of all description, other than personal effects and provisions and stores for use on board a vessel;

“stevedore” means a person to whom a stevedoring licence has been issued under regulation 6 to perform stevedoring work at ports and includes their assigned personnel;

“stevedoring work” means—

- (a) the securing of vessels within the port using lines provided by the vessel and releasing vessels on completion of cargo handling, or as directed by the master;
- (b) the working of cargo in the holds or on the deck of a vessel when such vessel is being loaded or unloaded at the port;
- (c) the receiving of cargo or transporting units below vessel’s hook or delivering cargo or transportation units to below vessel’s hook when vessel’s gear is being used for cargo handling;
- (d) the receipt of cargo or empty units at the port for loading in or on the vessel;
- (e) the delivering of cargo or full transportation unit to receivers within the port; and in the absence of instructions relative to specific goods or transportation units to transport these units, to and from the storage area prior to collection by the receiver; and
- (f) the weighing of cargo and transportation units at the direction of the Director of Ports;

“transportation unit” means a container of any size certified under the International Standards Organisation or a road certified trailer.

Stevedore licence

3. (1) Subject to these Regulations, no person shall perform stevedoring work at a port controlled or owned by the Ports Authority except under a licence issued by the Ports Authority under regulation 6.

(2) A person who contravenes subregulation (1) commits an offence and is liable upon summary conviction to a fine of \$1,000 or to term of imprisonment of six months.

Application for grant of licence

4. (1) An application for grant of a stevedore licence may be made to the Ports Authority in such form and accompanied by such information as the Ports Authority may determine.

(2) The application shall be accompanied with the appropriate application fee as may be prescribed.

Production of evidence for issue of stevedore licence

5. No licence shall be granted unless the applicant satisfies the Ports Authority—

- (a) that he maintains or would maintain the output/input norms of handling different cargo;
- (b) that he undertakes to have in his employment such minimum staff and has in his possession such minimum equipment suitable for the job intended; and
- (c) of his financial standing to meet the obligations if he is granted the licence.

Grant of licence

6. (1) If, on an application for a licence, the Ports Authority is satisfied that the applicant meets the requirements for the grant of a licence, the Ports Authority shall issue the applicant, in such form, upon payment of such fee and subject to conditions as provided in these Regulations and such special conditions as the Ports Authority thinks fit, a licence to perform stevedoring work at ports under the control of the Ports Authority.

(2) A stevedore licence shall be valid for such period as is stipulated in the licence unless earlier cancelled under regulation 11.

(3) A licence shall not be transferable without the permission of the Ports Authority.

(4) The Ports Authority may elect to grant an exclusive licence to a stevedore for designated port facilities of the Ports Authority.

Annual licence fee

7. The holder of a stevedore licence shall on the anniversary date of the grant of the licence pay the annual licence fee as may be prescribed.

Renewal of licence

8. An application for the renewal of a stevedore licence shall be made at least three months before the expiry of the licence.

Duties and responsibilities of stevedore

9. The holder of a stevedore licence shall, subject to any special conditions contained in the stevedore licence—

- (a) ensure due compliance by all his staff and workers employed by him of the instructions issued from time to time by the Director of Ports in the interest of safety;
- (b) carry out the operations with equipment arranged at his own cost;
- (c) comply with all accepted safety practices in relation to operations performed by him;
- (d) indemnify the Ports Authority against any expense, liability, loss (including legal cost), claim or proceedings whatsoever in respect of any injury or damage to any real or personal property and any personal injury to or the death of any person (including the stevedore's employees), but limited to the percentage extent it was caused by and arises out of the acts or omissions of the stevedore's employees, in the course of the carrying out of their duties under the licence or otherwise;
- (e) not be liable for any accidents, injuries, claims or suits arising from the acts or omissions of the Ports Authority's employees and/or any third parties;
- (f) will indemnify the Ports Authority from and against all proceedings, claims, demands, cost (including legal cost), awards and damages arising directly or indirectly as a result of any breach by the stevedore;
- (g) if any equipment, plant or other property of the Ports Authority is damaged in the course of any operation carried out by him, compensate the Authority for such loss or damage, to the extent of the stevedore's fault; the extent of damage shall be decided by the Director of Ports after carrying out a proper enquiry but shall be reviewable by a court;
- (h) provide for adequate supervision over workers employed by him in order to ensure maximum productivity consistent with the requirement of safety;
- (i) provide all the necessary gear and equipment duly tested for the respective type of cargo and stevedoring work;
- (j) produce all gear and equipment with necessary test certificate for inspection periodically or whenever demanded by the Director of Ports;

- (k) provide the workers employed by him the necessary protective safety appliances appropriate for the type of cargo and stevedoring work;
- (l) ensure that his workers possess the proper valid driver's licence to operate the type of equipment;
- (m) employ competent workers to carry out essential stevedoring work at the ports;
- (n) not assign, transfer or in any manner part with any interest or benefit in or under the licence to any other person without the permission of the Ports Authority;
- (o) comply with such instructions as may be issued to him from time to time by the Director of Ports in the interest of safety;
- (p) maintain at his own expense public liability insurance, employer's liability insurance and motor vehicle insurance covering vehicles owned by him and used at the ports and to furnish certificates of insurance to the Director of Ports as proof thereof.

Change in name, constitution etc to be communicated

10. (1) Where the holder of a stevedore licence is a firm or a company it shall immediately communicate to the Director of Ports any change in the controlling interest in the firm or company including a change in the directors, managing director or partners as the case may be, with a copy of the document in support of such change.

(2) Any change in the name, title or constitution of the firm or company holding a stevedore licence shall be communicated to the Director of Ports forthwith with a copy of the document in support of such change.

Power to suspend or cancel licence

11. (1) Subject to any agreement in writing with the stevedore, the Ports Authority may at any time suspend or cancel a stevedore licence for the violation of any term of the licence or for any of the following reasons—

- (a) material and repeated violations by the stevedore of written safety precautions which are reasonable under the circumstances;
- (b) material and repeated failure by the stevedore to meet objective productivity criteria which are reasonable under the circumstances;
- (c) wilful, material and repeated failures by the stevedore to provide supervision over the stevedore's workers;
- (d) material and repeated improper and unsafe handling of packages and cargo;
- (e) the stevedore being adjudged insolvent or has voluntarily gone into liquidation or if the company has been struck off the Register of Companies and remains so struck for a period of 12 months;
- (f) material, repeated and consistent violations of the terms of the stevedore licence.

(2) No stevedore licence shall be suspended or cancelled until the holder of the licence has been given a reasonable opportunity for showing cause to the Ports Authority why his licence should not be suspended or cancelled.

(3) Before suspending or cancelling a stevedore licence the Ports Authority shall give the holder of the licence notice in writing of its intention to suspend or cancel the licence and the reasons for it.

(4) A notice given under subregulation (3) shall state that within thirty days of the service the holder of the licence may make representations in writing to the Ports Authority concerning the matter; and the Ports Authority shall not determine the matter without considering any representations received within the period of thirty days.

Appeal

12. A stevedore aggrieved by any decision of the Ports Authority may appeal in writing to the Minister within thirty days following notification to him of the decision appealed against.

Effect of Appeal

13. So long as the stevedore continuing to operate would not create a public danger, an appeal to the Minister under regulation 12 shall have the effect of suspending the execution of the decision of the Ports Authority until the Minister gives his decision on the appeal.

Power of Minister on appeal

14. (1) In considering an appeal under regulation 12, the Minister may request the appellant to furnish him with such documents and information as he deems necessary, and may dismiss the appeal if the appellant fails to comply with his request.

(2) The Minister may confirm the decision on appeal or may direct the Ports Authority to restore the licence it has suspended or cancelled, as the case may be, or restore it on such terms and conditions as he may determine and the Ports Authority shall comply with such direction.

Tariff

15. For the services provided by the stevedore and specified in the Schedule, there shall be payable the appropriate rates shown in that Schedule.

Variation of tariff

16. (1) Subject to subregulation (2), in the event of an economic hardship on the stevedore, the stevedore may request or the Minister may order, an increase of the tariff by such amount or by such percentage as shall be specified in the order, and upon the removal of the hardship, the Minister may reduce the tariff:

Provided, however, in no event shall the tariff be reduced below the amounts specified in the Schedule.

(2) Before making any order under subregulation (1) varying the tariff the Minister shall consult the stevedore and relevant stakeholders.

Amendment of Schedule

17. The Minister may by order amend the Schedule.
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SCHEDULE

TARIFF

(Regulation 15)

STEVEDORING SERVICES GRAND TURK AND PROVIDENCIALES

<i>Estimated Cargo Quantities Port of Providenciales</i>		<i>Estimated Cargo Quantities Port of Grand Turk</i>	
Units	Tariff	Units	Tariff

1) Ships

1) a)	Mooring and Unmooring vessels at the dock	EA	\$75.00	EA	\$75.00
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**2) Cargo Handling within the Port area
Using Stevedore Equipment**

2) a)	Handling full 20', 40', 45', 48', 53' containers or trailers on or off a ship, both by crane and as ro-ro cargo	EA	\$135.00	EA	\$135.00
2) b)	Handling empty 20', 40', 45', 48', 53' containers on or off a ship, both by crane and as ro-ro cargo	EA	\$135.00	EA	\$135.00
2) c)	Handling Bulk Cargo (bags/pallets)	EA	\$6.00	EA	\$6.00
2) d)	Handling Break Bulk Cargo	TON	\$1.50	TON	\$1.50
2) e)	Handling Cargo to or from Country Boats	EA	\$135.00	EA	\$135.00
2) f)	Handling Automobiles & Other Transportation Equipment	EA	\$29.00	EA	\$29.00
2) g)	Handling Dangerous Goods	EA	\$120.00	EA	\$120.00
2) h)	Heavy Equipment Unloading or Loading	EA	\$500.00	EA	\$500.00
2) i)	Storing and/or Transportation units remaining in the port area beyond 14 days	EA	\$100.00	EA	\$100.00

**3) Cargo Handling within the Port area
Using Ship's Gear**

3) a)	Handling full 20', 40', 45', 48', 53' containers or trailers on or off a ship, both by crane and as ro-ro cargo	EA	\$135.00	EA	\$135.00
3) b)	Handling empty 20', 40', 45', 48', 53' containers on or off a ship, both by crane and as ro-ro cargo	EA	\$135.00	EA	\$135.00
3) c)	Handling Bulk Cargo (bags/pallets)	EA	\$6.00	EA	\$6.00
3) d)	Handling Break Bulk Cargo	TON	\$1.50	TON	\$1.50
3) e)	Handling Cargo to or from Country Boats	EA	\$135.00	EA	\$135.00
3) f)	Handling Automobiles & Other Transportation Equipment	EA	\$29.00	EA	\$29.00
3) g)	Handling Dangerous Goods	EA	\$120.00	EA	\$120.00
3) h)	Handling Small Wooden Boats	LB	\$0.50	LB	\$0.50
3) i)	Storing and/or Transportation units remaining in the port area beyond 14 days	EA	\$100.00	EA	\$100.00

4) Receipt of Cargo and

Empty Transportation Units

4) a)	Receipt of Transportation units itemized in 2) above at the port prior to loading onto a ship	EA	\$10.00	EA	\$10.00
4) b)	Collection of Transportation units itemized in 2) above from Customs Warehouse, where this is not within the port boundaries, for loading onto a ship	EA	\$100.00	EA	\$100.00

5) Handling of passengers

5) a)	Per person for handling passengers between ship and transportation vehicle provided by third party	EA	\$10.00	EA	\$10.00
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6) Weighing and Documenting Cargo and Transportation Units

6) a)	Weigh all cargo and transportation units received at the port and deliver documents as may be requested by the Authority from time to time	EA	\$5.00	EA	\$5.00
6) b)	Weigh all empty transportation units received at the port and deliver documents as may be requested by the Authority from time to time	EA	\$5.00	EA	\$5.00

7) Unusual Cargo

7) a)	For handling cargo not specified above or unusual cargo... to be agreed upon with carrier or carrier's agent	EA	TBD	EA	TBD
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NOTE: The Tariff shall be adjusted, effective on August 1, 2008, and on August 1, of each year thereafter (hereinafter the "Adjustment Dates"), in accordance with the increase or decrease, if any, in the Consumers Price Index for the Bureau of Labour Statistics of the U.S. Department of Labour for All Urban Consumers for the South Florida area, "All Items", (hereinafter referred to as the "CPI") and the hereinabove referenced base rates for the Stevedore's work as services set forth in its Tariff shall be increased or decreased to an amount equal to the base rates multiplied by a fraction, the numerator of which is the CPI for the calendar month immediately preceding the Adjustment Date and denominator of which is the CPI for the calendar month at the commencement of the initial term of the Agreement. These base rates shall be adjusted annually on August 1 of each year (i.e., the said Adjustment Dates) and the sum so calculated shall constitute the new rates applicable for that respective year. In the event the compilation and/or publication of the CPI shall be transferred to any other governmental department or bureau or agency or shall be discontinued, then the index that is most nearly the same as the CPI shall be used to make such calculation.

