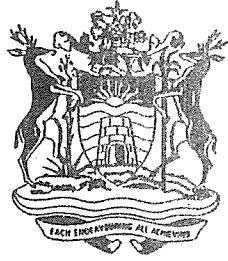


ANTIGUA AND BARBUDA



THE ANTIGUA AND BARBUDA MERCHANT SHIPPING
(AMENDMENT) ACT, 2014

No. 15 of 2014

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**THE ANTIGUA AND BARBUDA MERCHANT SHIPPING
(AMENDMENT) ACT, 2014**

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[L.S.]



I Assent,

Rodney Williams,
Governor-General.

20th January, 2015

ANTIGUA AND BARBUDA

THE ANTIGUA AND BARBUDA MERCHANT SHIPPING (AMENDMENT) ACT, 2014

NO. 15 OF 2014

AN ACT to amend the Antigua and Barbuda Merchant Shipping Act, 2006 No. 1 of 2006.

ENACTED by the Parliament of Antigua and Barbuda as follows—

1. Short title and commencement

This Act may be cited as the Antigua and Barbuda Merchant Shipping (Amendment) Act, 2014, and shall come into force on a day appointed by the Minister; and different days may be appointed for different provisions.

2. Interpretation

In this Act, “the principal Act” means the Antigua and Barbuda Merchant Shipping Act, 2006.

3. Amendment of section 2

The principal Act is amended in section 2—

(a) by inserting the following definitions, in the appropriate alphabetical order—

“Anti-Fouling Systems Convention” means the International Convention on the Control of Harmful Anti-Fouling Systems on Ships, 2001, as amended from time to time;

“Ballast Water Management Convention” means the International Convention for the Control and Management of Ships’ Ballast Water and Sediments, 2004, as amended from time to time;

“commercial yacht” means a ship which does not carry cargo, which is not a passenger ship, and which is used by its owner for monetary gain;

“craft” means any boat or ship of any size or type and of any use;

“electro-technical officer” means an officer qualified in accordance with Regulation III/6 of the STCW Convention, 1978 as amended;

“electro-technical rating” means a rating qualified in accordance with Regulation III/7 of the STCW Convention, 1978;

“hovercraft” means a craft of the type which the whole or a significant part of its weight can be supported, whether at rest or in motion, by a continuously generated cushion of air dependent for its effectiveness on the proximity of the surface over which the craft operates;

“Maritime Labour Convention” means the Maritime Labour Convention 2006, as amended from time to time;

“ship security officer” means the person on board the ship, accountable to the master, designated by the Company as responsible for the security of the ship including implementation and maintenance of the ship security plan and liaison with the Company security officer and port facility security officers;

“security duties” includes all security duties and tasks on board ship as defined by chapter XI-2 of the SOLAS Convention, 1974 and the ISPS Code, 2002;

“small commercial vessel” means a ship that operates within the area of application of the Small Commercial Vessel Code as adopted by the Government of Antigua and Barbuda and within the geographical limits applicable to that Code;

(b) by repealing the definition of “engineering officer” and substituting the following definition—

“engineering officer in charge of a watch” means an officer qualified in accordance with Regulation III/1 of the STCW Convention, 1978.

4. Amendment of section 8

The principal Act is amended in section 8 by adding after the words “1992 Oil Fund Protocol” at the end of subsection (1), the following Conventions—

“Anti-Fouling Systems Convention

Ballast Water Management Convention

Maritime Labour Convention.”

5. Amendment of section 11

The principal Act is amended in section 11(1) by inserting after the words “owned wholly” the words “, or bareboat chartered to,”.

6. Replacement of section 12

The principal Act is amended by repealing section 12 and substituting the following—

“12 Port of registry

- (1) (a) The port of St. John’s shall be the port of registry for Antigua and Barbuda ships.
- (b) The following ports shall, at the choice of the owner, be the port of registry for Antigua and Barbuda ships registered in the part of the register referred to in section 13(1) (commercial yachts, pleasure yachts or small commercial vessels)—
 - (i) St John’s;
 - (ii) English Harbour;
 - (iii) Jolly Harbour;
 - (iv) Codrington Harbour.

(2) In the case of bareboat chartered ships registered under Chapter 2 of Part III of the principal Act, the port of St. John’s shall be the port of registry.”.

7. Amendment of section 13

The principal Act is amended in section 13 by—

- (a) repealing subsections (1) and (2), and substituting the following as subsection (1)—

“(1) The register shall distinguish between commercial yachts, pleasure yachts, small commercial vessels and other vessels.”, and

- (b) renumbering subsection (3) as (2).

8 Repeal and substitution of section 14

The principal Act is amended in section 14 by repealing subsection (1) and (2) and substituting the following—

“(1) A hovercraft shall not be registered.”

9. Amendment of section 16

The principal Act is amended in section 16 by repealing subsection (1) and substituting the following—

“(1) The owner of a ship, other than a pleasure yacht applying for registration under this Act, shall cause such ship to be surveyed by ADOMS in order to ascertain compliance with any applicable international maritime conventions or applicable Codes.”

10. Repeal and substitution of section 17

The principal Act is amended by repealing section 17 and substituting the following—

“(a) Subject to paragraph (b), the tonnage of every ship to which the Tonnage Convention applies shall be measured in accordance with the Tonnage Convention by a Recognised Organisation or such other body as may be recognised by the Director, and a certificate of the tonnage shall be provided to the owner by the Organization or body in question. Such tonnage shall be entered in the certificate of the registry as the tonnage of the ship.

(b) where the tonnage has previously been measured by a classification Society which is a member of IACS, the certificate of tonnage issued by the Society may be accepted for the purpose of paragraph (a).”

11. Amendment of section 18

The principal Act is amended in section 18 by repealing subsection (1) and substituting the following—

“(1) Every ship of 500 GT or more shall be entered with a Recognised Organisation.”

12. Insertion of section 18A

The principal Act is amended by inserting after section 18 the following section—

“18A. Power to de-register unsuitable ships

(1) If at any time with respect to a ship registered on the Register, in the view of ADOMS—

- (a) the ship fails to meet the standards required by the applicable international conventions and the owner fails to take acceptable steps to rectify the situation;
- (b) the owner fails to take acceptable steps to rectify deficiencies following Port State Control inspections;
- (c) the owner or manager of the ship ceases to be certificated in terms of the ISM Code, or fails to pay invoices submitted by ADOMS for a period exceeding 6 months; or
- (d) otherwise the condition of the ship as regards safety, pollution prevention, its condition as regards health and welfare of crews, or the interests of Antigua and Barbuda, would make it inappropriate to continue registry;

the Registrar may remove the vessel from the register subject to the requirements of subsection (2).

(2) On any occasion where the Registrar concludes that a ship is to be removed from the register in accordance with either section 18(2) or sub-section (1) above he shall provide a minimum of 30 days notice of the intention to remove the ship from the register to the registered owner, the manager responsible for ISM, and to any registered mortgagees.

(3) The notice specified in sub-section (2) shall set out the reasons why the ship is to be removed and shall request from the owner and manager any representations they may wish to make on why the ship should not be removed.

(4) On the expiry of the notice period specified in subsection (2) the Registrar shall consider any representations made by the owners and managers and if he remains satisfied that the reasons for removal remain applicable, he shall—

- (a) issue a notice of de-registry to the registered owner, the manager, and any registered mortgagees, stating that the ship’s registry will be cancelled within 7 days of the date of the notice;
- (b) on a date 7 days after the notice of de-registry—
 - (i) cancel the vessel’s registry and issue a transcript of registry showing the cancellation;
 - (ii) issue a Continuous Synopsis Record (CSR) showing the date on which the vessel ceased to be registered;
 - (iii) inform the vessel’s classification society.”.

13. Repeal of section 26

Section 26 of the principal Act repealed.

14. Amendment of section 27

The principal Act is amended in section 27 by repealing subsection (1) and substituting the following subsection—

“27. (1) Subject to section 28, a ship that is registered in a foreign register may be registered as an Antigua and Barbuda ship if she is bareboat chartered by a person who meets the requirements for ownership stated in section 11.”

15. Amendment of section 29

The principal Act is amended by repealing section 29 and substituting the following—

“29. Payment of fees in respect of registration of chartered bareboats

For the registration of a chartered bareboat there shall be paid the fees payable under this Act in relation to the registration of an Antigua and Barbuda ship.”

16. Amendment of section 32

The principal Act is amended in section 32 by repealing subsection (2) and substituting the following—

“(2) Mortgages and encumbrances referred to in subsection (1) continue to be governed by the law of the country governing them at the time of their creation and are not affected by the fact of the registration of the ship in the Antigua and Barbuda register.”

17. Amendment of section 68

The principal Act is amended in section 68 —

(a) in paragraph (vii) of section 68(1) by inserting “, security” after “safety”; and

(b) by repealing section 68(1)(xi) and substituting the following paragraphs—

“(xi) (a) A safe and continuous watch or watches appropriate to the prevailing circumstances and conditions are maintained on every seagoing ship at all times.

- (b) The ship's watch system is so arranged that the efficiency of all watch-keeping personnel will not be impaired by fatigue and that the duties are so organised that the first watch at the commencement of a voyage and subsequent relieving watches are sufficiently rested and otherwise fit for duty, and
- (c) Watches are carried out with due regard for the principles of safe watch keeping contained in Section A.VIII/1 of the Code to the STCW Convention.”.

18. Repeal of sections in Part IV

The principal Act is amended by repealing sections 79 to 100 and 108 to 113.

19. Insertion of section 126A

The principal Act is amended by inserting after section 126 the following section—

“126A Temporary permissions

In any case where a ship is temporarily unable through breakdown of equipment, damage, or other cause, to comply fully with the requirements of an International Convention the Director may issue the ship with a temporary permission where he considers it appropriate and on such conditions as he sees fit to permit the ship to operate for a period of up to three months until repairs can be completed.”.

20. Insertion of new Chapters in Part VII

The principal Act is amended in Part VII by inserting after section 182 the following new Chapters—

“CHAPTER 1A

ANTI-FOULING SYSTEMS CONVENTION

182A. Anti-Fouling Systems Convention to have force of law in Antigua and Barbuda

The provisions of the articles of, and Annexes 1 to 4 to, the International Convention on the Control of Harmful Anti-Fouling Systems on Ships, 2001 shall have the force of law in Antigua and Barbuda.

182B. Anti-Fouling Systems surveys

Without prejudice to section 182A—

- (a) Antigua and Barbuda ships to which regulation 1 of Annex 4 to the Anti-Fouling Systems Convention applies shall be subject to the surveys required by Anti-Fouling Systems Convention, and on being satisfactorily surveyed, may be issued with the Certificate specified in the Anti-Fouling Systems Convention;

- (b) Antigua and Barbuda ships to which regulation 5 of Annex 4 to the Anti-Fouling Systems Convention applies shall carry a Declaration required by that regulation.

182C. General compliance duty

(1) It shall be the duty of the owner and the master of the ship to comply with and ensure compliance with the provisions of the Anti-Fouling Systems Convention.

(2) It shall be the duty of any person—

- (a) upon whom an obligation is imposed by the Anti-Fouling Systems Convention; or
- (b) to whom a direction is given in pursuance of the Anti-Fouling Systems Convention (whether under subsection (1) or otherwise) to comply or ensure compliance with the Anti-Fouling Systems Convention.

(3) Where a person specified in subsection (1) or (2) contravenes that subsection, that person commits an offence and is liable upon conviction to a fine not exceeding fifty thousand dollars.

182D. Offences

A person who —

- (a) intentionally alters a Certificate or Declaration issued for the purposes of the Anti-Fouling Systems Convention;
- (b) falsely makes a Certificate or Declaration referred to in the Anti-Fouling Systems Convention;
- (c) in connection with any survey required by the Anti-Fouling Systems Convention, knowingly or recklessly furnishes false information;
- (d) with intent to deceive, uses, lends, or allows to be used by another, a Certificate or Declaration referred to in the Anti-Fouling Systems Convention;
- (e) fails to surrender a Certificate or Declaration required to be surrendered issued for the purposes of the Anti-Fouling Systems Convention;

commits an offence and is liable upon conviction to a fine not exceeding five thousand dollars.

182E. Power to deny entry into port

Where the Director has reason to believe that a ship proposing to enter an Antigua and Barbuda port or offshore terminal, or territorial waters, is not in compliance with the requirements of this

Chapter, and he is satisfied that the ship presents an unreasonable threat of harm to the marine environment, he may deny entry of such ship to any Antigua and Barbuda port or offshore terminal or territorial waters.

182F. Inspection

(1) Subject to subsection (2), a Certificate issued by a member State of the Anti-Fouling Systems Convention in accordance with the Anti-Fouling Systems Convention shall be accepted by the Director and regarded for all purposes of the Anti-Fouling Systems Convention as having the same validity as a corresponding Certificate issued under this Act.

(2) A ship to which the Anti-Fouling Systems Convention applies shall, while in a port or offshore terminal of Antigua and Barbuda, be subject to inspection by officers authorised by the Director for the purpose of determining whether the ship is in compliance with the Anti-Fouling Systems Convention.

(3) Any inspection referred to in subsection (2) shall be limited to—

- (a) verifying that there is on board a valid Certificate or Declaration; and
- (b) a brief sampling of the ship's anti-fouling system that does not affect the integrity, structure, or operation of the anti-fouling system;

unless there are clear grounds for believing that the condition of the ship or its equipment does not correspond substantially with the particulars of that Certificate or Declaration, in which case, or if the ship does not carry a valid Certificate or Declaration, the Director shall, subject to subsection (4), cause the ship to be detained and prevent it from sailing until it can proceed to sea without presenting an unreasonable threat of harm to the marine environment.

(4) The Director may grant a ship subject to a detention order referred to in subsection (3), permission to leave the port or offshore terminal for the purpose of proceeding to the nearest appropriate repair yard available.

182G. Detection of violations and enforcement of Chapter

(1) The Director shall co-operate with governments of other states in the detection of violations and enforcement of this Chapter, using all appropriate and practicable measures of detection and environmental monitoring, adequate procedures for reporting and accumulation of evidence.

(2) Where it is alleged that a ship of another state bears an anti-fouling system in contravention of the Anti-Fouling Systems Convention the Director shall furnish to the government of the state concerned, evidence, if any, of the alleged violation, and if it is practicable, notify the master of the ship concerned.

(3) Where the Director receives from another state such evidence as is referred to in subsection

(2) in respect of an Antigua and Barbuda ship, he may request the government of such state to furnish further or better evidence of the alleged violation.

(4) Where the Director is satisfied that sufficient evidence is available to enable proceedings to be brought in respect of the alleged violation, he shall cause such proceedings to be taken as soon as possible, and shall promptly inform the government of the state which has reported the alleged violation, and the organisation of the action taken.

182H. Power to detain

(1) In any case where a ship is suspected of being in violation of the requirements of this Chapter, the ship shall be liable to be detained.

(2) The Director shall make every possible effort to avoid unduly detaining or delaying a ship under sections 182E to 182H.

(3) The owner of a ship that is unduly detained or delayed under sections 182E to 182H shall be entitled to compensation for any loss or damage suffered.

182I. Customs clearance

Before a ship proceeds to sea from any port in Antigua and Barbuda, the master of that ship shall produce to a customs officer from whom a clearance for the ship is demanded for an international voyage in respect of a ship to which the Anti-Fouling Systems Convention applies, the Certificate or Declaration required to be carried by such a ship complying with the relevant provisions of the Anti-Fouling Systems Convention, and in the case of any qualified Certificate, the corresponding valid exemption Certificate.

Chapter 1B

BALLAST WATER MANAGEMENT CONVENTION

182J. Ballast Water Management Convention to have force of law in Antigua and Barbuda

The provisions of the Articles of, and the Annex to, the International Convention for the Control and Management of Ships' Ballast Water and Sediments, 2004 shall have the force of law in Antigua and Barbuda.

182K. Anti-Fouling Systems surveys

Without prejudice to section 182J, Antigua and Barbuda ships to which regulation E-1 of the Annex to the Ballast Water Management Convention applies shall be subject to the surveys required by the Conven-

tion, and on being satisfactorily surveyed, may be issued with the Certificate specified in the Ballast Water Management Convention.

182L. General compliance duty

(1) It shall be the duty of the owner and the master of the ship to comply with and ensure compliance with the provisions of the Ballast Water Management Convention.

(2) It shall be the duty of any person —

- (a) upon whom an obligation is imposed by the Ballast Water Management Convention; or
- (b) to whom a direction is given in pursuance of the Ballast Water Management Convention (whether under subsection (1) or otherwise) to comply or ensure compliance with the Ballast Water Management Convention.

(3) Where a person specified in subsection (1) or (2) contravenes that subsection, that person commits an offence and is liable on conviction to a fine not exceeding fifty thousand dollars.

182M. Offences

A person who—

- (a) intentionally alters a Certificate issued for the purposes of the Ballast Water Management Convention;
- (b) falsely makes a Certificate referred to in the Ballast Water Management Convention;
- (c) in connection with any survey required by the Ballast Water Management Convention, knowingly or recklessly furnishes false information;
- (d) with intent to deceive, uses, lends, or allows to be used by another, a Certificate referred to in the Ballast Water Management Convention;
- (e) fails to surrender a Certificate required to be surrendered issued for the purposes of the Ballast Water Management Convention,

commits an offence and is liable on conviction to a fine not exceeding five thousand dollars.

182N. Power to deny entry into port

Where the Director has reason to believe that a ship proposing to enter an Antigua and Barbuda port or offshore terminal, or territorial waters, is not in compliance with the requirements of this Chapter,

and he is satisfied that the ship presents an unreasonable threat of harm to the marine environment, he may deny entry of such ship to any Antigua and Barbuda port or offshore terminal or territorial waters.

182O. Inspection

(1) Subject to subsection (2), a Certificate issued by a member state of the Ballast Water Management Convention in accordance with the Ballast Water Management Convention shall be accepted by the Director and regarded for all purposes of the Ballast Water Management Convention as having the same validity as a corresponding Certificate issued under this Act.

(2) A ship to which the Ballast Water Management Convention applies shall, while in a port or offshore terminal of Antigua and Barbuda, be subject to inspection by officers authorised by the Director for the purpose of determining whether the ship is in compliance with the Ballast Water Management Convention.

(3) Any inspection referred to in subsection (2) shall be limited to—

- (a) verifying that there is on board a valid Certificate, and
- (b) inspection of the Ballast Water record book, and/or
- (c) a sampling of the ship's Ballast Water, carried out in accordance with the guidelines as may be developed by IMO,

unless there are clear grounds for believing that the condition of the ship or its equipment does not correspond substantially with the particulars of that Certificate, in which case, or if the ship does not carry a valid Certificate, the Director shall, subject to subsection (4), cause the ship to be detained and prevent it from sailing until it can proceed to sea without presenting an unreasonable threat of harm to the marine environment.

(4) The Director may grant a ship subject to a detention order referred to in subsection (3), permission to leave the port or offshore terminal for the purpose of proceeding to the nearest appropriate repair yard available.

182P. Detection of violations and enforcement of Chapter

(1) The Director shall co-operate with governments of other states in the detection of violations and enforcement of this Chapter, using all appropriate and practicable measures of detection and environmental monitoring, adequate procedures for reporting and accumulation of evidence.

(2) Where it is alleged that a ship of another state bears a ballast water management system in contravention of the Ballast Water Management Convention the Director shall furnish to the Government of the State concerned, evidence, if any, of the alleged violation, and if it is practicable, notify the master of the ship concerned.

(3) Where the Director receives from another state such evidence as is referred to in subsection

(2) in respect of an Antigua and Barbuda ship, he may request the government of such state to furnish further or better evidence of the alleged violation.

(4) Where the Director is satisfied that sufficient evidence is available to enable proceedings to be brought in respect of the alleged violation, he shall cause such proceedings to be taken as soon as possible, and shall promptly inform the government of the state which has reported the alleged violation, and the organisation of the action taken.

182R. Power to detain

(1) In any case where a ship is suspected of being in violation of the requirements of this Chapter, the ship shall be liable to be detained.

(2) The Director shall make every possible effort to avoid unduly detaining or delaying a ship under sections 182N to 182R.

(3) A ship that is unduly detained or delayed under sections 182N to 182R shall be entitled to compensation for any loss or damage suffered.

182S. Customs clearance

Before a ship proceeds to sea from any port in Antigua and Barbuda, the master of that ship shall produce to a customs officer from whom a clearance for the ship is demanded for an international voyage in respect of a ship to which the Ballast Water Management Convention applies, the Certificate required to be carried by such a ship complying with the relevant provisions of the Ballast Water Management Convention, and in the case of any qualified Certificate, the corresponding valid exemption Certificate.”.

21. Insertion of section 184A

The principal Act is amended in Chapter 2 (Civil Liability for Oil Pollution) of Part VII, by inserting after section 184 the following section—

“184A. Convention on Civil Liability for Bunker Oil Pollution Damage 2001 to have force of law in Antigua and Barbuda

The provisions of Articles 1 to 10 of and the Annex to the International Convention on Civil Liability for Bunker Oil Pollution Damage, 2001 done at London on 23 March 2001 (in this Chapter referred to as the “Bunker Oil Liability Convention”) shall have the force of law.”.

22. Repeal and substitution of section 185

The principal Act is amended by repealing section 185 and substituting with the following—

“185 Meaning of state of ship’s registry

Where the registry of an Antigua and Barbuda ship is suspended and that ship is registered in a foreign country for the duration of a bareboat charter in accordance with section 34, the state of the ship’s registry is such foreign country, notwithstanding anything to the contrary in—

- (a) Article 1 of the 1992 CLC Protocol;
- (b) Article 1 of the 1992 Oil Fund Protocol; or
- (c) Article 1 of the Bunker Oil Liability Convention,”

23. Insertion of section 186A

The principal Act is amended by inserting the following section after section 186—

“186A. Bunker Oil Liability Convention certificates

(1) This section applies to any ship having a gross tonnage of more than 1000.

(2) A ship shall not enter or leave a port in Antigua and Barbuda or arrive at or leave an offshore terminal in the territorial sea of Antigua and Barbuda nor, if the ship is an Antigua and Barbuda ship, a port in any other country or a terminal in the territorial sea of any other country, unless there is in force a certificate complying with the following provisions—

- (a) the certificate must show that there is in force in respect of that ship a contract of insurance or other security satisfying the requirements of Article 7 of the Bunker Oil Liability Convention;
- (b) if the ship is an Antigua and Barbuda ship, a certificate issued by ADOMS;
- (c) if the ship is registered in a country to which the Bunker Oil Liability Convention applies, other than Antigua and Barbuda, a certificate issued by or under the authority of the government of that country; and
- (d) if the ship is registered in a country which is not a country to which the Bunker Oil Liability Convention applies, a certificate issued by the Administration or by or under the authority of the government of any country to which the Bunker Oil Liability Convention applies other than Antigua and Barbuda.”.

24. Amendment of section 187

The principal Act is amended in section 187—

- (a) by repealing subsection (1) and substituting the following—
-

“(1) A certificate required by sections 186 or 186A to be in force in respect of a ship shall be carried in the ship and shall be produced on demand by the master to any customs officer or the Director and if the ship is an Antigua and Barbuda ship also to any registrar, inspector, or consular officer.”

(b) by repealing subsection (4) and substituting the following—

“(4) If a ship attempts to leave a port in Antigua and Barbuda in contravention of sections 186, 186A or this section, the ship may be detained.”

(c) by repealing subsection (5) and substituting the following—

“(5) Nothing in sections 186, 186A or this section applies in relation to any warship or any ship for the time being used by the government of any State for other than commercial purposes.”;

(d) by adding the following subsection at the end of subsection (6)—

“(7) In relation to a ship owned by a State and for the time being used for commercial purposes, it shall be sufficient compliance with section 186A(2) if there is in force a certificate issued by the government of that State and showing that the ship is owned by that State and that any liability for pollution damage as defined in Article 1 of the Bunker Oil Liability Convention will be met up to the limit prescribed by Article 6 of the Convention on Limitation of Liability for Maritime Claims 1976, as amended by the Protocol of 1996.”.

25. Insertion of section 188A

The principal Act is amended by inserting the following section after section 188—

“188A. Issue of Bunker Oil Liability Convention certificates

(1) If the Director is satisfied on application for a certificate mentioned in section 186A in respect of an Antigua and Barbuda ship that there will be in force in respect of the ship, throughout the period for which the certificate is to be issued, a contract of insurance or other security satisfying Article 7 of the Bunker Oil Liability Convention, the Director may issue such a certificate to the owner.

(2) If the Director is of the opinion that there is a doubt whether the person providing insurance or other security will be able to meet his obligations thereunder, or whether the insurance or other security will cover the owner’s liability under the Bunker Oil Liability Convention in all circumstances, the Director may refuse the certificate.”.

26. Amendment of section 189

The principal Act is amended in section 189, subsections (1) and (3) by inserting in each instance after the words “section 186” the words “or section 186A”.

27. Amendment of section 190

The principal Act is amended in section 190, by repealing wherever the words occur the words “ and the 1992 Oil Fund Protocol” and substituting the words “, the 1992 Oil Fund Protocol and the Bunker Oil Liability Convention”.

28. Amendment of section 193

The principal Act is amended by inserting in section 193, after the words “the 1992 CLC Protocol” the words “or Article 9 of the Bunker Oil Liability Convention”.

29. Amendment of section 194

The principal Act is amended in section 194, by repealing the full stop at the end of paragraph (b) with “, and”, and adding the following—

“(c) actions for compensation under the Bunker Oil Liability Convention.”.

30. Amendment of section 195

The principal Act is amended in section 195(1) by repealing the full stop at the end of paragraph (b) with “, and”, and adding the following—

“(c) a court in a country to which the Bunker Oil Liability Convention applies to enforce a claim in respect of a liability incurred under any provision implementing the Bunker Oil Liability Convention.”.

31. Insertion of section 195A

The principal Act is amended by inserting after section 195 the following section—

“195A. Limitation of liability under section 186A

For the purposes of Chapter 2 of Part IX of the Shipping Act, any liability incurred under section 186A shall be deemed to be a liability to damages in respect of such damage as is mentioned in paragraph 1(a) of Article 2 of the Convention on Limitation of Liability for Maritime Claims 1976, as amended by the Protocol of 1996.”.

32. Convention on Limitation of Liability for Maritime Claims 1976 given force of law

The principal Act is amended by repealing Chapter 2 of Part IX, and replacing it with the following—

**“CHAPTER 2
LIMITATION OF LIABILITY**

235. Convention on Limitation of Liability to have force of law in Antigua and Barbuda

(1) The provisions of the Convention on Limitation of Liability for Maritime Claims 1976, as amended by the Protocol of 1996, as set out in Part I of the Fourth Schedule (hereafter in this section and in the Fourth Schedule referred to as “the Convention”) shall have the force of law in Antigua and Barbuda.

(2) The provisions of Part II of that Schedule shall have effect in connection with the Convention and subsection (1) shall have effect subject to the provisions of that Part.

(3) The provisions having the force of law under this section shall apply in relation to Government ships as they apply in relation to other ships.

236. Exclusion of Liability

(1) Subject to subsection (3) the owner of an Antigua and Barbuda ship shall not be liable for any loss or damage in the following cases, namely

- (a) where any property on board the ship is lost or damaged by reason of fire on board the ship; or
- (b) where any gold, silver, watches, jewels or precious stones on board the ship are lost or damaged by reason of theft, robbery or other dishonest conduct and their nature and value were not at the time of shipment declared by their owner or shipper to the owner or master of the ship in the bill of lading or otherwise in writing.

(2) Subject to subsection (3) where the loss or damage arises from anything done or omitted by any person in his capacity as master or member of the crew or (otherwise than in that capacity) in the course of his employment as a servant of the owner of the ship, subsection (1) shall also exclude the liability of—

- (a) the master, member of the crew or servant; and
- (b) in a case where the master or member of the crew is the servant of a person whose liability would not be excluded by that subsection apart from this paragraph the person whose servant he is.

(3) This section does not exclude the liability of any person for any loss or damage resulting from any such personal act or omission of his as is mentioned in Article 4 of the Convention in Part I of the Fourth Schedule.

(4) In this section “owner”, in relation to a ship, includes any part owner and any charterer, manager, or operator of the ship.

237. Exclusion of limitation of liability for loss or damage caused to crew

The provisions having the force of law under section 235 shall not apply to any liability in respect of loss of life or personal injury caused to, or loss of or damage to any property of, a person who is on board the ship in question or employed in connection with that ship or with the salvage operations in question if—

- (a) he is so on board or employed under a contract of service governed by the laws of Antigua and Barbuda; and
- (b) the liability arises from an occurrence which took place after the coming into force of this subsection;

and in this subsection “ship” and “salvage operations” have the same meaning as in those provisions.”

33. Amendment of Second Schedule

The principal Act is amended in the Second Schedule as follows—

- (a) in the Table in paragraph 2 by adding at the end of the entries under ‘Engine Department’ the following—

Electro-technical officer on a ship powered by main propulsion machinery of 750 KW propulsion power or more	Regulation III/6
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- (b) in paragraph 4 the following sub-paragraphs shall be added—

- “ (d) every able seafarer deck serving in a seagoing ship of 500 gross tons or more shall hold a certificate of training issued in accordance with Regulation II/5 of the Annex to the STCW Convention, by an Administration, the certificates of which are recognised by Antigua and Barbuda;
- (e) every able seafarer engine serving in a manned engine room, or designated to perform duties in a periodically unmanned engine room, on a seagoing ship powered by main propulsion machinery of 750 kW propulsion power or more shall hold a certificate of training issued in accordance with Regulation III/5 of the Annex to the STCW Convention, by an Administration, the certificates of which are recognised by Antigua and Barbuda;

(f) every electro-technical rating serving on a seagoing ship powered by main propulsion machinery of 750 kW propulsion power or more shall hold a certificate issued in accordance with Regulation III/7 of the Annex to the STCW Convention, by an Administration, the certificates of which are recognised by Antigua and Barbuda.”.

(c) by repealing paragraphs 6 to 10 and substituting the following —

“6. SPECIAL TRAINING REQUIREMENTS FOR PERSONNEL ON CERTAIN TYPES OF SHIPS

- (a) Officers and ratings assigned specific duties and responsibilities related to cargo or cargo equipment on oil or chemical tankers shall hold a certificate in basic training for oil and chemical tanker cargo operations as required by Regulation V/1.1 of the Annex to the STCW Convention issued following training which is approved by a member state recognised by Antigua and Barbuda for the issue of endorsements to certificates of competency or otherwise approved by Antigua and Barbuda.
- (b) Masters, chief engineer officers, chief mates, second engineer officers and any person with immediate responsibility for loading, discharging and care in transit, or handling of cargo, tank cleaning or other cargo-related operations on oil tankers, shall hold a certificate in advanced training issued in accordance with Regulation V/1-1.3 of the Annex to the STCW Convention, by an Administration, the certificates of which are recognised by Antigua and Barbuda.
- (c) Masters, chief engineer officers, chief mates, second engineer officers and any person with immediate responsibility for loading, discharging and care in transit, handling of cargo tank cleaning or other cargo-related operations on chemical tankers, shall hold a certificate in advanced training for chemical tanker operations issued in accordance with Regulation V/1-1.3 of the Annex to the STCW Convention, by an Administration, the certificates of which are recognised by Antigua and Barbuda.
- (d) Officers and ratings assigned specific duties and responsibilities related to cargo or cargo equipment on liquefied gas tankers shall hold a certificate in basic training for liquefied gas tanker cargo operations issued in accordance with Regulation V/1-2.1 of the Annex to the STCW Convention, by an Administration, the certificates of which are recognised by Antigua and Barbuda.
- (e) Masters, chief engineer officers, chief mates, second engineer officers and any person with immediate responsibility for loading, discharging and care in transit, or handling of cargo, tank cleaning or other cargo-related operations on liquefied gas tankers, shall hold a certificate in advanced training issued in accordance with Regulation V/1-2.3 of the Annex to the STCW Convention, by an Administration, the certificates of which are recognised by Antigua and Barbuda.
-

- (f) Masters, officers, ratings and other personnel and other personnel serving on passenger ships engaged on international voyages shall, prior to being assigned shipboard duties on board such ships, have completed the training required by Regulation V/2.2 to 7 of the Annex to the STCW Convention and be issued with documentary evidence of training.

7. MANDATORY MINIMUM REQUIREMENTS FOR FAMILIARISATION, BASIC TRAINING AND INSTRUCTION FOR ALL SEAFARERS

- (a) All seafarers shall receive safety familiarisation and basic training or instruction in accordance with Regulation VI/1 of the Annex to the STCW Convention and shall meet the appropriate standard of competence specified therein.
- (b) Where basic training is not included in the qualification for the certificate to be issued, each seafarer employed or engaged in any capacity on board ship on the business of the ship as part of the ship's complement with designated safety or pollution prevention duties in the operation of the ship shall hold a certificate of proficiency in basic training issued following a course which is approved by a member state which is recognised by Antigua and Barbuda for the issue of endorsements to certificates of competency.

8. MANDATORY MINIMUM REQUIREMENTS FOR CERTIFICATES OF PROFICIENCY IN SURVIVAL CRAFT, RESCUE BOATS AND FAST RESCUE BOATS ISSUED UNDER THE RELEVANT PROVISIONS OF THE CONVENTION, BY AN ADMINISTRATION, THE CERTIFICATES OF WHICH ARE RECOGNISED BY ANTIGUA AND BARBUDA.

- (a) Every person designated to launch or take charge of survival craft or rescue boats, other than fast rescue boats, shall hold a certificate of proficiency issued in accordance with Regulation VI/2.1 of the Annex to the STCW Convention and where the certificate of proficiency is based on a training course the course shall be one which is approved by an Administration party to the Convention and recognised by Antigua and Barbuda for the issue of endorsements to certificates of competency.
- (b) Every person designated to launch or take charge of a fast rescue boat shall hold a certificate of proficiency issued in accordance with Regulation VI/2, paragraph 2, of the Annex to the STCW Convention and where the certificate of proficiency is based on a training course the course shall be one which is approved by an Administration party to the Convention and recognised by Antigua and Barbuda for the issue of endorsements to certificates of competency.

9. MANDATORY MINIMUM REQUIREMENTS FOR TRAINING IN ADVANCED FIRE FIGHTING

Seafarers designated to control fire fighting operations shall have successfully completed advanced training in techniques for fighting fire with particular emphasis on organisation, tactics and command in accordance with the provisions of Regulation VI/3 of the Annex to the STCW Code and shall meet the standard of competence specified therein.

10. MANDATORY REQUIREMENTS RELATING TO MEDICAL FIRST AID AND MEDICAL CARE

- (a) Seafarers designated to provide medical first aid on board ship shall meet the standard of competence in medical first aid specified in Regulation VI/4, paragraph 1 Annex to the STCW Convention, and where the training in medical first aid is not included in the seafarer's certificate of competency, shall hold a certificate of proficiency issued in accordance with Regulation VI/4 of the Annex to the STCW Convention.
- (b) Seafarers designated to take charge of medical care on board ship shall meet the standard of competence in medical care on board ships specified in Regulation VI/4, paragraph 2 Annex to the STCW Convention and where the training in medical first aid is not included in the seafarer's certificate of competency, shall hold a certificate of proficiency issued in accordance with Regulation VI/4 of the Annex to the STCW Convention.
- (c) Training for the issue of a certificate of proficiency in medical first aid or in medical care on board shall be at a course which is recognised by a member state to the STCW Convention which is recognised by Antigua and Barbuda for the issue of endorsements to certificates of competency.

11. MANDATORY MINIMUM REQUIREMENTS FOR THE ISSUE OF CERTIFICATES OF PROFICIENCY FOR SHIP SECURITY OFFICERS

Ship security officers shall hold a certificate of proficiency as ship security officer issued in accordance with Regulation VI/5 of the Annex to the STCW Convention following training which is approved by a member state which is also recognised by Antigua and Barbuda for the issue of endorsements to certificates of competency.

12. MANDATORY MINIMUM REQUIREMENTS FOR SECURITY-RELATED FAMILIARISATION TRAINING AND SECURITY AWARENESS TRAINING AND INSTRUCTION FOR ALL SEAFARERS

- (a) Before being assigned to shipboard duties, all persons, other than passengers, employed or engaged on a seagoing ship which is required to comply with the ISPS Code shall receive approved security-related familiarisation training or instruction in accordance with Regulation VI/6.1 of the Annex to the STCW Convention and conducted by the ship's Security Officer or an equally qualified person and the training shall meet the appropriate standard of competence specified in Section A.VI/6.1 of the STCW Code.

- (b) ADOMS may, on submission of the details of the security familiarisation training proposed for each ship or group of ships, approve that training programme as meeting the requirements of paragraph (a).
- (c) Seafarers employed or engaged in any capacity on board a ship which is required to comply with the ISPS Code on the business of the ship as part of the ship's complement without designated security duties shall before being assigned to any shipboard duties, receive approved training or instruction in security awareness and shall receive documentary evidence of having completed the training or instruction.
- (d) ADOMS may, on submission of the details of the security awareness training proposed for each ship or group of ships, approve that training programme as meeting the requirements of (b).
- (e) Where security awareness is not included in the qualifications for certificate to be issued, a certificate of proficiency shall be issued indicating that the holder has attended a course in security awareness training.
- (f) Seafarers with designated security duties shall meet the standard of competence specified in Regulation VI/6.4 of the Annex to the STCW Convention following approved training or instruction.
- (g) ADOMS may, on submission of the details of the security awareness training proposed for seafarers with designated security duties on each ship or group of ships, approve that training programme as meeting the requirements of paragraph (e).
- (h) Where training in designated security duties is not included in the qualifications for certificate to be issued, a certificate of proficiency shall be issued indicating that the holder has attended a course of training for designated security duties."

34. Addition of Fourth Schedule

The principal Act is amended by adding after the Third Schedule the following—

FOURTH SCHEDULE

Section 235

INTERNATIONAL CONVENTION ON LIMITATION OF LIABILITY FOR MARITIME CLAIMS,
1976, AS AMENDED BY THE PROTOCOL OF 1996

**PART I
TEXT OF CONVENTION**

CHAPTER I. THE RIGHT OF LIMITATION

**ARTICLE 1
Persons entitled to limit liability**

1. Shipowners and salvors, as hereinafter defined, may limit their liability in accordance with the rules of this Convention for claims set out in Article 2.
2. The term "shipowner" shall mean the owner, charterer, manager or operator of a seagoing ship.
3. Salvor shall mean any person rendering services in direct connection with salvage operations. Salvage operations shall also include operations referred to in Article 2, paragraph 1(d), (e) and (f).
4. If any claims set out in Article 2 are made against any person for whose act, neglect or default the shipowner or salvor is responsible, such person shall be entitled to avail himself of the limitation of liability provided for in this Convention.
5. In this Convention the liability of a shipowner shall include liability in an action brought against the vessel herself.
6. An insurer of liability for claims subject to limitation accordance with the rules of this Convention shall be entitled to the benefits of this Convention to the same extent as the assured himself.
7. The act of invoking limitation of liability shall not constitute an admission of liability.

**ARTICLE 2
Claims subject to limitation**

1. Subject to Articles 3 and 4 the following claims, whatever the basis of liability may be, shall be subject to limitation of liability:
 - (a) claims in respect of loss of life or personal injury or loss of or damage to property (including damage to harbour works, basins and waterways and aids to navigation), occurring on board or in direct connection with the operation of the ship or with salvage operations, and consequential loss resulting therefrom;
 - (b) claims in respect of loss resulting from delay in the carriage by sea of cargo, passengers or their luggage;
-

- (c) claims in respect of other loss resulting from infringement of rights other than contractual rights, occurring in direct connection with the operation of the ship or salvage operations;
- (d) claims in respect of the raising, removal, destruction or the rendering harmless of a ship which is sunk, wrecked, stranded or abandoned, including anything that is or has been on board such ship;
- (e) claims in respect of the removal, destruction or the rendering harmless of the cargo of the ship;
- (f) claims of a person other than the person liable in respect of measures taken in order to avert or minimise loss for which the person liable may limit his liability in accordance with this Convention, and further loss caused by such measures.

2. Claims set out in paragraph 1 shall be subject to limitation of liability even if brought by way of recourse or for indemnity under a contract or otherwise. However, claims set out under paragraph 1(d), (e) and (f) shall not be subject to limitation of liability to the extent that they relate to remuneration under a contract with the person liable.

ARTICLE 3

Claims excepted from limitation

The rules of this Convention shall not apply to:

- (a) claims for salvage, including, if applicable, any claim for special compensation under article 14 of the International Convention on Salvage 1989, as amended, or contribution in general average;
- (b) claims for oil pollution damage within the meaning of the International Convention on Civil Liability for Oil Pollution Damage dated 29th November 1969 or of any amendment or Protocol thereto which is in force;
- (c) claims subject to any international convention or national legislation governing or prohibiting limitation of liability for nuclear damage;
- (d) claims against the shipowner of a nuclear ship for nuclear damage;
- (e) claims by servants of the shipowner or salvor whose duties are connected with the ship or the salvage operations, including claims of their heirs, dependants or other persons entitled to make such claims, if under the law governing the contract of service between the shipowner or salvor and such servants the shipowner or salvor is not entitled to limit his liability in respect of such claims, or if he is by such law only permitted to limit his liability to an amount greater than that provided for in Article 6.

**ARTICLE 4
Conduct barring Limitation**

A person liable shall not be entitled to limit his liability if it is proved that the loss resulted from his personal act or omission, committed with the intent to cause such loss, or recklessly and with knowledge, that such loss would probably result.

**ARTICLE 5
Counterclaims**

Where a person entitled to limitation of liability under the rules of this Convention has a claim against the claimant arising out of the same occurrence, their respective claims shall be set off against each other and the provisions of this Convention shall only apply to the balance, if any.

CHAPTER II. LIMITS OF LIABILITY

**ARTICLE 6
The general limits**

1. The limits of liability for claims other than those mentioned in Article 7, arising on any distinct occasion, shall be calculated as follows:

- (a) in respect of claims for loss of life or personal injury,
 - (i) 2 million Units of Account for a ship with a tonnage not exceeding 2,000 tons,
 - (ii) for a ship with a tonnage in excess thereof the following amount in addition to that mentioned in (i):

for each ton from 2,001 to 30,000 tons, 800 Units of Account;

for each ton from 30,001 to 70,000 tons, 600 Units of Account,

and for each ton in excess of 70,000 tons, 400 Units of Account,

- (b) in respect of any other claims,
 - (i) 1 million Units of Account for a ship with a tonnage not exceeding 2,000 tons,
 - (ii) for a ship with a tonnage in excess thereof the following amount in addition to that mentioned in (i):

for each ton from 2,001 to 30,000 tons, 400 Units of Account;

for each ton from 30,001 to 70,000 tons, 300 Units of Account;

and for each ton in excess of 70,000 tons, 200 Units of Account.

2. Where the amount calculated in accordance with paragraph 1(a) is insufficient to pay the claims mentioned therein in full, the amount calculated in accordance with paragraph 1(b) shall be available for payment of the unpaid balance of claims under paragraph 1(a) and such unpaid balance shall rank rateably with claims mentioned under paragraph 1(b).

3. The limits of liability for any salvor not operating from any ship or for any salvor operating solely on the ship to, or in respect of which he is rendering salvage services, shall be calculated according to a tonnage of 1,500 tons.

ARTICLE 7

The limit for passenger claims

1. In respect of claims arising on any distinct occasion for loss of life or personal injury to passengers of a ship, the limit of liability of the shipowner thereof shall be an amount of 175,000 Units of Account multiplied by the number of passengers which the ship is authorised to carry according to the ship's certificate.

2. For the purpose of this Article "claims for loss of life or personal injury to passengers of a ship" shall mean any such claims brought by or on behalf of any person carried in that ship:

(a) under a contract of passenger carriage; or

(b) who, with the consent of the carrier, is accompanying a vehicle or live animals which are covered by a contract for the carriage of goods.

ARTICLE 8

Unit of Account

The Unit of Account referred to in Articles 6 and 7 is the special drawing right as defined by the International Monetary Fund. The amounts mentioned in Articles 6 and 7 shall be converted into the national currency of the State in which limitation is sought, according to the value of that currency at the date the limitation fund shall have been constituted, payment is made, or security is given which under the law of that State is equivalent to such payment.

ARTICLE 9
Aggregation of claims

1. The limits of liability determined in accordance with Article 6 shall apply to the aggregate of all claims which arise on any distinct occasion:

- (a) against the person or persons mentioned in paragraph 2 of Article 1 and any person for whose act, neglect or default he or they are responsible; or
- (b) against the shipowner of a ship rendering salvage services from that ship and the salvor or salvors operating from such ship and any person for whose act, neglect or default he or they are responsible; or
- (c) against the salvor or salvors who are not operating from a ship or who are operating solely on the ship to, or in respect of which, the salvage services are rendered and any person for whose act, neglect or default he or they are responsible.

2. The limits of liability determined in accordance with Article 7 shall apply to the aggregate of all claims subject thereto which may arise on any distinct occasion against the person or persons mentioned in paragraph 2 of Article 1 in respect of the ship referred to in Article 7 and any person for whose act, neglect or default he or they are responsible.

ARTICLE 10
Limitation of liability without constitution of a limitation fund

1. Limitation of liability may be invoked notwithstanding that a limitation fund as mentioned in Article 11 has not been constituted.

2. If limitation of liability is invoked without the constitution of a limitation fund, the provisions of Article 12 shall apply to correspondingly.

3. Questions of procedure arising under the rules of this Article shall be decided in accordance with the national law of the State Party in which action is brought.

CHAPTER III. THE LIMITATION FUND

ARTICLE 11
Constitution of the Fund

1. Any person alleged to be liable may constitute a fund with the Court or other competent authority in any State Party in which legal proceedings are instituted in respect of claims subject to limitation. The fund shall be constituted in the sum of such of the amounts set out in Articles 6 and 7 as are applicable

to claims for which that person may be liable, together with interest thereon from the date of the occurrence giving rise to the liability until the date of the constitution of the fund. Any fund thus constituted shall be available only for the payment of claims in respect of which limitation of liability can be invoked.

2. A fund may be constituted, either by depositing the sum, or by producing a guarantee acceptable under the legislation of the State Party where the fund is constituted and considered to be adequate by the Court or other competent authority.

3. A fund constituted by one of the persons mentioned in paragraph 1(a), (b) or (c) or paragraph 2 of Article 9 or his insurer shall be deemed constituted by all persons mentioned in paragraph 1(a), (b) or (c) or paragraph 2, respectively.

ARTICLE 12 **Distribution of the fund**

1. Subject to the provisions of paragraphs 1 and 2 of Article 6 and of Article 7, the fund shall be distributed among the claimants in proportion to their established claims against the fund.

2. If, before the fund is distributed, the person liable, or his insurer, has settled a claim against the fund such person shall, up to the amount he has paid, acquire by subrogation the rights which the person so compensated would have enjoyed under this Convention.

3. The right of subrogation provided for in paragraph 2 may also be exercised by persons other than those therein mentioned in respect of any amount of compensation which they may have paid, but only to the extent that such subrogation is permitted under the applicable national law.

4. Where the person liable or any other person establishes that he may be compelled to pay, at a later date, in whole or in part any such amount of compensation with regard to which such person would have enjoyed a right of subrogation pursuant to paragraphs 2 and 3 had the compensation been paid before the fund was distributed, the Court or other competent authority of the State where the fund has been constituted may order that a sufficient sum shall be provisionally set aside to enable such person at such later date to enforce his claim against the fund.

ARTICLE 13 **Bar to other actions**

1. Where a limitation fund has been constituted in accordance with Article 11, any person having made a claim against the fund shall be barred from exercising any right in respect of such a claim against any other assets of a person by or on behalf of whom the fund has been constituted.

2. After a limitation fund has been constituted in accordance with Article 11, any ship or other property, belonging to a person on behalf of whom the fund has been constituted, which has been arrested or attached within the jurisdiction of a State Party for a claim which may be raised against the

fund, or any security given, may be released by order of the Court or other competent authority of such State. However, such release shall always be ordered if the limitation fund has been constituted:

- (a) at the port where the occurrence took place, or, if it took place out of port, at the first port of call thereafter; or
- (b) at the port of disembarkation in respect of claims for loss of life or personal injury; or
- (c) at the port of discharge in respect of damage to cargo; or
- (d) in the State where the arrest is made.

3. The rules of paragraphs 1 and 2 shall apply only if the claimant may bring a claim against the limitation fund before the Court administering that fund and the fund is actually available and freely transferable in respect of that claim.

**ARTICLE 14
Governing law**

Subject to the provisions of this Chapter the rules relating to the constitution and distribution of a limitation fund, and all rules of procedure in connection therewith, shall be governed by the law of the State Party in which the fund is constituted.

CHAPTER IV. SCOPE OF APPLICATION

ARTICLE 15

1. This Convention shall apply whenever any person referred to in Article 1 seeks to limit his liability before the Court of a State Party or seeks to procure the release of a ship or other property or the discharge of any security given within the jurisdiction of any such State.

ARTICLE 18

Reservations

1. Any State may, at the time of signature, ratification, acceptance, approval or accession, or at any time thereafter, reserve the right:

- (a) to exclude the application of article 2, paragraphs 1(d) and (e).

No other reservations shall be admissible to the substantive provisions of this Convention.

PART II

PROVISIONS HAVING EFFECT IN CONNECTION WITH CONVENTION

Interpretation

1. In this Part of this Schedule any reference to a numbered article is a reference to the article of the Convention which is so numbered.

Right to limit liability

2. Subject to paragraph 6 below, the right to limit liability under the Convention shall apply in relation to any ship whether seagoing or not, and the definition of “shipowner” in paragraph 2 of article 1 shall be construed accordingly.

3. (1) Paragraph 1(d) of article 2 shall not apply unless provision has been made by an order of the Minister for the setting up and management of a fund to be used for the making to harbour or conservancy authorities of payments needed to compensate them for the reduction, in consequence of the said paragraph 1(d), of amounts recoverable by them in claims of the kind there mentioned, and to be maintained by contributions from such authorities raised and collected by them in respect of vessels in like manner as other sums so raised by them.

(2) Any order under sub-paragraph (1) above may contain such incidental and supplemental provisions as appear to Minister to be necessary or expedient.

Claims excluded from limitation

4. The claims excluded from the Convention by paragraph (b) of article 3 are claims in respect of any liability incurred under section 183 of this Act.

The general limits

5. (1) In the application of article 6 to a ship with a tonnage less than 300 tons that article shall have effect as if —

(a) paragraph 1 (a)(i) referred to 1,000,000 Units of Account; and

(b) paragraph 1 (b)(i) referred to 500,000 Units of Account.

(2) For the purpose of article 6 and this paragraph a ship’s tonnage shall be the gross tonnage calculated in accordance with the tonnage measurement rules contained in Annex I of the Interna-

tional Convention on Tonnage Measurement of Ships, 1969, or in the case of ships of less than 24 metres in length, in accordance with Regulations of Antigua and Barbuda relating to the measurement of tonnage of such ships.

Limit for passenger claims

6. (1) In the case of a ship for which there is in force a Passenger Ship Safety Certificate, the ship's certificate mentioned in paragraph 1 of article 7 shall be that certificate.

(2) In paragraph 2 of Article 7 the reference to claims brought on behalf of a person includes a reference to any claim in respect of the death of a person under the Fatal Accidents Act (Cap. 166).

Units of Account

7. (1) For the purpose of converting the amounts mentioned in Articles 6 and 7 from special drawing rights into United States dollars one special drawing right shall be treated as equal to such a sum in United States dollars as the International Monetary Fund have fixed as being the equivalent of one special drawing right for —

- (a) the relevant date under paragraph 1 of article 8; or
- (b) if no sum has been so fixed for that date, the last preceding date for which a sum has been so fixed.

(2) A certificate given by or on behalf of the Eastern Caribbean Central Bank stating —

- (a) that a particular sum in United States dollars has been fixed as mentioned in sub-paragraph (1) above for a particular date; or
- (b) that no sum has been so fixed for that date and that a particular sum in United States dollars has been so fixed for a date which is the last preceding date for which a sum has been so fixed,

shall be conclusive evidence of those matters for the purposes of those articles; and a document purporting to be such a certificate shall, in any proceedings, be received in evidence and, unless the contrary is proved, be deemed to be such a certificate.

Constitution of fund

8. (1) The Minister may, with the concurrence of the Eastern Caribbean Central Bank, by order prescribe the rate of interest to be applied for the purposes of paragraph 1 of Article 11.

(2) Where a fund is constituted with the court in accordance with Article 11 for the payment of claims arising out of any occurrence, the court may stay any proceedings relating to any claim arising out of that occurrence which are pending against the person by whom the fund has been constituted.

Distribution of fund

9. No lien or other right in respect of any ship or property shall affect the proportions in which under Article 12 the fund is distributed among several claimants.

Bar to other actions

10. Where the release of a ship or other property is ordered under paragraph 2 of Article 13 the person on whose application it is ordered to be released shall be deemed to have submitted to the jurisdiction of the court to adjudicate on the claim for which the ship or property was arrested or attached.

Meaning of "court"

11. References in the Convention and the preceding provisions of this Part of this Schedule to the court are, in relation to Antigua and Barbuda, references to the High Court.

Meaning of "ship"

12. References in the Convention and in the preceding provisions of this Part of this Schedule to a ship include references to any structure (whether completed or in course of completion) launched and intended for use in navigation as a ship or part of a ship."."

Passed by the House of Representatives
on the 6th day of November, 2014.

Passed by the Senate on the 24th day
of November, 2014.

Gerald Watt, Q.C.,
Speaker.

Alicia Williams Grant,
President.

Ramona Small,
Clerk to the House of Representatives.

Ramona Small,
Clerk to the Senate.