



TURKS AND CAICOS ISLANDS

CHAPTER 6.01
PORTS AUTHORITY ORDINANCE

Revised Edition
showing the law as at 31 August 2009

This is a revised edition of the law, prepared by the Law Revision Commissioner under the authority of the Revised Edition of the Laws Ordinance 1997.

This edition contains a consolidation of the following laws—

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CHAPTER 6.01

PORTS AUTHORITY

(Ordinance 15 of 2007)

AN ORDINANCE TO ESTABLISH THE PORTS AUTHORITY OF THE TURKS AND CAICOS ISLANDS, FOR THE MANAGEMENT OF MARITIME AFFAIRS, AND FOR RELATED MATTERS.

Commencement

[1 January 2008]

PART I

PRELIMINARY

Short title

1. This Ordinance may be cited as the Ports Authority Ordinance.

Interpretation

2. In this Ordinance—

“berth” includes an anchorage, mooring, dock, jetty, wharf and every place within territorial waters where a vessel may be brought to rest and secured;

“crane” includes a derrick and every other load handling device of a like nature;

“day marker” means a buoy, beacon or other mark or sign of the sea other than a lighthouse;

“Director of Ports” means the person appointed to be Director of Ports under section 10;

“diving” means remaining below the surface of the sea with the assistance of underwater breathing apparatus;

“equipment”, in relation to a vessel, includes the tackle, apparel and furniture of the vessel;

“financial year” means the period of twelve months ending on the 31st of March in any year;

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

“Government port” means a port so designated under section 19;

“master”, in relation to a vessel, means the person for the time being having charge or control of the vessel;

- “mile” means a nautical mile, being a distance of 6,080 feet;
- “Minister” means the Minister for the time being responsible for ports;
- “owner”, in relation to any goods, includes any consignor, consignee, shipper or agent for the sale or custody of the goods;
- “port” means a Government port and a port licensed under section 25;
- “port dues” means the dues or charges levied under section 23(1) and includes all debts due to the Ports Authority under this Ordinance;
- “Ports Authority” means the Ports Authority of the Turks and Caicos Islands established under section 3;
- “vessel” means a device, including a hovercraft, capable of being navigated in water by any means by a crew of one or more persons, but does not include an inflatable device unless such device is or is, designed to be, propelled by a power unit attached thereto.

PART II

THE PORTS AUTHORITY OF THE TURKS AND CAICOS ISLANDS

Establishment, constitution and meetings of Ports Authority

3. (1) There is hereby established a body corporate called the Ports Authority of the Turks and Caicos Islands which shall have perpetual succession and a common seal and may, in pursuance of its functions under this Ordinance, buy, lease, sell, hold, deal in and otherwise acquire and dispose of property of any nature, enter into contracts of any nature, raise loans, and sue and be sued in its corporate name.

(2) The Ports Authority shall consist of the Director of Ports, the Permanent Secretary responsible for finance or his nominee, the Permanent Secretary with responsibility for Ports, the Chief Engineer and the Collector of Customs, who shall be *ex officio* members, and the following members nominated by the Minister and appointed by the Governor—

- (a) a chairman;
- (b) a deputy chairman; and
- (c) not fewer than two or more than four other members, including a shipping agent,

who shall hold office for three years and be eligible for reappointment.

(3) There shall be paid from the moneys of the Ports Authority to each member who is not a public officer such remuneration and allowances as the Governor, after consultation with the Minister, may determine.

(4) The provisions of the Schedule shall have effect with respect to the proceedings of the Ports Authority.

(5) A member, other than one who is a public officer, may resign his office by giving notice in writing to the Governor but the resignation shall not take effect until the notice has been received.

(6) The Governor shall cause every appointment, removal, resignation and death of a member to be published in the *Gazette*.

(7) The Governor shall, after consultation with the Minister, appoint a public officer (not being a member) to be the secretary of the Ports Authority, who shall be present at all meetings of the Ports Authority and take minutes of the business transacted.

(8) The seal of the Ports Authority shall be authenticated by the Chairman in that behalf, and by the secretary, but all documents not required by law to be under seal may be signed by the chairman, any member authorised in that behalf, the Director of Ports or the secretary.

Vacation of office

4. An appointed member shall vacate his office—

- (a) upon termination of his appointment by the Governor made at the recommendation of the Minister on the grounds of the misbehaviour or physical or mental incapacity of the member;
- (b) if he becomes bankrupt or compounds with his creditors or makes any assignment of his remuneration for their benefit; or
- (c) if he absents himself, except with leave granted by the chairman of the Ports Authority, from three consecutive meetings of the Ports Authority.

Functions of Ports Authority

5. The functions of the Ports Authority are—

- (a) the general management and control of ports and the limits thereof;
- (b) the establishment and control of lighthouses and day markers;
- (c) the establishment and control of berths within ports;
- (d) the provision, maintenance and control of cranes, launches, lighters, rafts, trucks, capstans, winches, windlasses, bollards and other machinery, apparatus, tackle and gear used in ports and territorial waters for the securing, loading, unloading and maintenance of vessels;
- (e) the establishment, maintenance and control of transit sheds, offices and all other buildings in ports other than buildings under the control of the Collector of Customs, the Chief Immigration Officer or the Chief Medical Officer;
- (f) the general supervision of territorial waters and of vessels and wrecks located therein;

- (g) the loading and unloading of vessels within ports;
- (h) the enforcement of this Ordinance and of all laws of the United Kingdom relating to shipping that have application in the Islands;
- (i) the inspection of vessels for the purpose of checking and enforcing compliance with this Ordinance;
- (j) without prejudice to the provisions of any other law, to exercise overall control for the preservation of good order in the territorial and internal waters of the Turks and Caicos Islands, in any Government port and in the land and sea approaches to any Government port;
- (k) to regulate and control all matters related to merchant shipping or provided for under the Merchant Shipping Ordinance or any other related legislation;
- (l) without prejudice to the provisions of any environmental protection legislation to prevent and control pollution by oil or any other substances of any port or the approaches thereto;
- (m) to advise the Government on any matter relating to ports, merchant shipping, marine pollution prevention and control, and on any other matter relating to its functions and duties; and
- (n) such other functions as may be conferred upon it by or under this Ordinance or any other law.

Powers of Minister

6. The Minister may, after consultation with the chairman of the Ports Authority, give the Ports Authority directions of a general character as to the policies to be followed in the exercise and performance of its functions in relation to matters appearing to him to concern the public interest, and the Ports Authority shall give general effect to any such direction.

Vesting of property

7. There is vested in the Ports Authority—

- (a) the land with the buildings and works thereon used at the commencement of this Ordinance in connection with ports as the Governor may at any time direct; and
- (b) all plants, cargo handling equipment, mechanical and otherwise, and other equipment, all apparatus, instruments, vehicles, ships, crafts tools and other property of the Government used in connection with ports at the commencement of this Ordinance, which shall be recorded in an inventory prepared at the direction of the Minister and approved by the Ports Authority and entered as assets in the accounts of the Ports Authority.

Construction of laws, contracts, etc., relating to transferred assets

8. Subject to the provisions of this Ordinance, all laws, rules, regulations, orders, judgments, decrees, awards, deeds, bonds, contracts, agreements, instruments, documents, warrants and other arrangements subsisting immediately before the date of the coming into force of this Ordinance affecting or relating to any of the properties or undertakings transferred to the Ports Authority by or under this Ordinance shall have full force and effect against or in favour of the Authority, and shall be enforceable fully and effectually, as if instead of the Government the Authority has been named therein or has been a party thereto, and otherwise in substitution of the Government.

Transitory provisions

9. (1) Where anything has been commenced by or under the authority of the Government prior to the date of the coming into force of this Ordinance and such thing relates to any of the properties or undertakings or any right or liability transferred to the Authority by or under this Act, such thing may be carried on and completed by or as authorised by the Authority.

(2) Where immediately before the coming into force of this Ordinance, any legal proceedings are pending to which the Government is or is entitled to be a party, and such proceedings are related to any of the properties or undertakings, or any right or liability transferred by or under this Ordinance, the Authority shall, as from the date aforesaid, be substituted in such proceedings for the Government, or shall be made a party thereto in like manner as the Government could have become, and such proceedings shall not abate by reason of the substitution.

(3) Any such direction shall be published by the Ports Authority in the *Gazette*.

Director of Ports and Deputy Director

10. (1) The Ports Authority shall, after consultation with the Governor and the Minister, appoint a person to be the Director of Ports on such terms and conditions as it shall fix in consultation with the Minister.

(2) The Director of Ports shall be the chief executive officer of the Ports Authority, with responsibility for implementing the decisions of the Ports Authority and managing its operations, and he shall have such other functions as are conferred upon him by this Ordinance or any other law.

(3) Subject to section 12, the Ports Authority may appoint a person to be the Deputy Director of Ports to assist the Director of Ports or and to act for him during any temporary absence or vacancy in the office of the Director of Ports, but any person so appointed shall not sit as a member at meetings of the Ports Authority.

Staff of Ports Authority

11. (1) The Ports Authority may employ such officers and employees as it considers necessary for the administration of this Ordinance.

(2) The terms and conditions of officers and employees of the Ports Authority shall be fixed by the Ports Authority in consultation with the Minister.

PART III

FINANCIAL PROVISIONS

Revenue of the Ports Authority

12. (1) The revenue of the Ports Authority shall consist of—

- (a) dues and charges received by virtue of this Ordinance;
- (b) amounts borrowed by the Ports Authority; and
- (c) miscellaneous receipts, including interest on and service of investments,

and such revenue shall within seven days of receipt be paid into a bank account approved by the Minister.

(2) The revenue of the Ports Authority shall be applied to—

- (a) the repayment of overdraft, if any, on current account;
- (b) any interest on loans;
- (c) any sinking fund on loan redemption;
- (d) the repair and maintenance of buildings, works and equipment and other recurrent expenses;
- (e) the reserve fund referred to in section 16;
- (f) the salaries, pensions and gratuities of the staff of the Ports Authority; and
- (g) such other expenditure as may be approved by the Minister responsible for finance.

(3) Any balance of account of up to \$100,000 in favour of the Ports Authority after meeting its expenditure under subsection (2) may be carried forward to the account of the following year, and any balance in excess of that sum shall be paid into the general revenue of the Islands.

(4) The Ports Authority shall, in consultation with the Minister, cause estimates of expenditure and revenue to be prepared and adopted each year in respect of the following financial year, and, when adopted, the Minister shall lay a copy of the estimates before the House of Assembly for its approval and publish them in the *Gazette*.

Borrowing powers of the Ports Authority

13. (1) Subject to subsection (2), the Ports Authority may borrow sums required by it for meeting any of its obligations or discharging any of its functions.

(2) The power of the Ports Authority to borrow shall be exercisable only with the approval of the Minister, as to the amount, as to the sources of the borrowing and as to the terms on which the borrowing may be effected.

(3) An approval given under subsection (2) may be either general or limited to a particular borrowing, and may be either unconditional or subject to conditions.

Guarantees for Ports Authority

14. (1) With the approval of the House of Assembly, the Minister responsible for finance may guarantee, in such manner and on such conditions as he thinks fit, the payment of the principal and interest on any authorised borrowings of the Ports Authority.

(2) Where the Minister responsible for finance is satisfied that there has been default in the repayment of any principal moneys or interest guaranteed under the provisions of this section, he shall direct the repayment out of the general assets and revenue of the Islands of the amount in respect of which there has been such default.

Repayment of guarantees called up

15. The Ports Authority shall pay into the Consolidated Fund, at such times and in such manner as the Minister may direct, such amounts as may be so directed in or towards repayment of any sums issued in fulfilment of any guarantee given under, section 14, and shall pay into the Consolidated Fund interest on what is outstanding for the time being in respect of such advances and of any sum so issued at such rate as the Minister may direct, and different rates of interest may be directed as respects different advances or sums and as respects interest for different periods.

Reserve fund

16. (1) The Ports Authority shall maintain a reserve fund.

(2) The management of the reserve fund, the sums to be carried from time to time on its credit, and its application, shall be as the Ports Authority may determine:

Provided that no part of the reserve fund shall be applied otherwise than for the purposes of the Ports Authority.

(3) The Ports Authority may, with the approval of the Minister, invest its reserve fund at interest.

Balancing of revenue account

17. (1) It is the duty of the Ports Authority so to exercise its functions as to secure that its revenues are sufficient to meet all sums properly chargeable to its revenue account, taking one year with another.

(2) If at the end of any financial year the revenues of the Ports Authority are insufficient to enable it to meet all sums properly chargeable to its revenue

account, and such insufficiency cannot be met from its reserve fund, the Minister responsible for finance may, subject to such conditions as he may fix, meet the whole or any part of the insufficiency out of moneys appropriated for the purpose by the House of Assembly, and such moneys shall be repaid out of the revenues of the Ports Authority as soon as possible.

Accounts and audit

18. (1) The Ports Authority shall keep proper accounts of all its transactions to the satisfaction of the Minister responsible for finance and in a form according with the best commercial standards, and shall make these accounts up to the last day of each financial year, submitting the same with vouchers to the Chief Auditor to be audited, who shall report thereon to the Ports Authority and the Minister.

(2) The Chief Auditor shall be entitled at all reasonable times, on the directions of the Governor, to examine such accounts and vouchers.

(3) The Ports Authority shall within one month of receiving the Chief Auditor's report prepare a report of its activities during the period to which the Chief Auditor's report relates; and the Minister shall lay both such reports, together with the audited accounts, before the House of Assembly.

PART IV

DESIGNATION, CONTROL, USE AND LICENSING OF PORTS

Designation of Government ports

19. (1) The Governor may, by notice made on the recommendation of the Ports Authority and published in the *Gazette*, designate any land, vessel or floating structure and the approaches thereto as a Government port for the purposes of this Ordinance, whether or not such land comprises a dock, wharf, pier, quay or other place for the shipping and unshipping of goods and other articles.

(2) The notice shall indicate the location of a Government port, and define its limits by reference to a plan.

(3) The plans of all Government ports shall be kept at the office of the Director of Ports and—

(a) be made available by him for inspection at all reasonable times; and

(b) be evidence in all proceedings of the location and limits of the relevant Government port.

(4) The Director of Ports may mark off, by buoys or otherwise, the seaward limits of a Government port for the guidance of vessels.

Regulations for the use and control of Government ports

20. On the recommendation of the Ports Authority, the Minister may make regulations providing for the use and control of Government ports and the powers of the Director of Ports and officers; and, in particular, may so make provision for—

- (a) the admission of vessels within a Government port;
- (b) the movement, mooring and anchorage of vessels within a Government port;
- (c) the maintenance of clear channels of navigation within a Government port and the mooring of fish-pots, buoys and other obstacles to navigation within a Government port;
- (d) the berthing of vessels at a Government port and the manner in which vessels shall come to, remain in and depart from a berth;
- (e) the shipping and unshipping, landing, warehousing, storing, depositing and removing of goods within a Government port;
- (f) the permitted ballast which may be taken on and discharged by vessels within a Government port or territorial waters;
- (g) the discharge of foul water, refuse or any other noxious or offensive substance from vessels within a Government port or territorial waters;
- (h) the conduct of the master and crew of a vessel within a Government port;
- (i) the use of lights and beacons within a Government port;
- (j) the closure of a Government port and the hours during which a Government port may be used for any purposes;
- (k) the employment of any person at a Government port and the duties and conduct of such persons;
- (l) the carrying, keeping and use of explosive or highly flammable or otherwise dangerous substances within a Government port;
- (m) the emission of noise and the emission into the atmosphere of any noxious or offensive substance from a vessel or vehicle within a Government port;
- (n) the use and keeping of any vehicle, crane or other equipment within a Government port;
- (o) fire precautions in ports and port areas;
- (p) garbage and sewage disposal in territorial waters;
- (q) rules of procedure in dealing with wrecks and salvage;
- (r) rules of navigation in territorial waters;

- (s) stevedores, ships' chandlers, clearing and forwarding agents and ship repairs within port areas; and
- (t) pilotage.

Removal of goods and other articles from Government ports

21. (1) Subject to this section and without prejudice to section 32, where any goods (other than perishable goods) within a Government port are not removed therefrom within a period of fifteen days from the time of deposit, the Director of Ports shall cause a notice to be served on the owner or other person appearing to be entitled thereto, requiring him to remove them.

(2) Where—

- (a) the owner of the goods is not known and no person appears to be entitled thereto;
- (b) the notice cannot for any reason be served; or
- (c) there has been no compliance with the notice,

the Director of Ports may after the expiry of four weeks sell the goods by public auction: provided no less than seven days' notice of the holding of such sale is published in the *Gazette*, listing the goods and showing the time and place of the auction.

(3) Where the goods are perishable, the Director of Ports may deal with them at his discretion having regard to the possible entitlement of any person thereto.

(4) The proceeds of any sale under this section shall be applied by the Ports Authority as follows, and in the following order of payment—

- (a) to customs duty;
- (b) to the expenses of the sale;
- (c) to any port dues;
- (d) to freight and other allowable claims of which notice has been received by the Director of Ports;
- (e) to the owner, if traceable within twelve months;
- (f) to the funds of the Ports Authority.

(5) In respect of goods, vehicles, wrecks, equipment or other articles within a Government port that appear to the Director of Ports to be derelict and un-saleable, the Director of Ports may, subject to any regulation made under section 20, take such steps as he may deem necessary to remove them from the Government port.

Damage to Government ports

22. (1) Subject to subsection (3), the owner of a vessel shall be liable to the Ports Authority for any damage caused by the vessel, or by any person employed by such owner, to a Government port or any vessel, vehicles, equipment or

works belonging to the Ports Authority; and the master of the vessel through whose wilful act or negligence any such damage is done shall also be liable to the Ports Authority for the damage.

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

(3) Subsection (1) shall not apply so as to impose any liability on the owner or master of the vessel by which the damage was caused if the damage is attributable to any act or omission on the part of a person authorised under any regulations under section 20 to act as pilot, and whom the owner or master of the vessel was bound under those regulations to employ and put in charge of the vessel.

Port dues

23. (1) On the recommendation of the Ports Authority, the Minister may make regulations providing for port dues, and in particular for the levy, payment and collection of—

- (a) dues in respect of the use and occupation of any berth at a Government port by any vessel;
- (b) dues in respect of any goods landed at or exported from a Government port;
- (c) charges in respect of the use of any vehicle, crane or other equipment at a Government port, whether or not such vehicle, crane or equipment belongs to the Ports Authority;
- (d) charges in respect of goods deposited at a Government port and left there after the prescribed time;
- (e) charges in respect of moorings put down within the approaches of a Government port;
- (f) charges in respect of any services or facilities prescribed by regulations, whether or not the same are provided by the Ports Authority; and
- (g) charges in respect of pilotage and demurrage,

and different rates of port dues may be levied in respect of different cases or classes of cases.

(2) Any port dues payable under subsection (1) shall be recoverable by the Ports Authority as a civil debt due to it.

(3) Where the weight of a vessel or the weight or quantity of any goods is required to be ascertained for the purpose of determining the amount of any port dues, such weight or quantity shall be ascertained in the prescribed manner.

(4) Where any difference arises between the Director of Ports and the master of any vessel, the owner of any goods or any other person, as to the weight of a vessel or the weight or quantity of any goods in respect of which port dues are payable, the Director of Ports may cause the vessel or goods to be

weighed or measured, and, if necessary, detain any vessel or goods until the vessel or goods have been weighed or measured.

(5) If the weight or quantity of goods weighed or measured at the instance of the Director of Ports—

- (a) is greater than that shown by the manifest, bill of lading, account or other statement delivered by the master of the vessel containing the goods or by the owner of the goods, an amount equal to the amount of the expenses of and incidental to the weighing and measuring of the goods shall be paid to the Director of Ports by the master of the vessel or owner of the goods and shall be recoverable by the Director of Ports from the master of the vessel or owner of the goods as a civil debt due to the Ports Authority;
- (b) is less than that so shown, the Director of Ports shall pay to the master of vessel or the owner of the goods an amount equal to the amount incurred by the master of the vessel or the owner of the goods as the result of the detention of the vessel or goods by the Director of Ports acting in exercise of those powers.

Penalty for evading payment of dues

24. A master of a vessel or owner of goods who evades or attempts to evade the payment of any port or cargo dues commits an offence and is liable on summary conviction to a penalty of three times the amount of those dues or \$10,000, whichever is the greater, or to a term of imprisonment of six months, or both.

Prohibition against operating a private port except under licence

25. (1) No person shall use—

- (a) any land, other than land in the possession of the Crown or a Government port; or
- (b) any vessel or any floating structure not belonging to the Government or the Ports Authority,

for the shipping or unshipping of goods or other articles, unless the person in possession of that land, vessel or floating structure is the holder of a valid licence granted under this section, and unless the use of that land, vessel or floating structure for that purpose is in accordance with that licence:

Provided that this section shall not apply to transshipment with the Turks and Caicos Islands in respect of goods which have already been cleared through a port.

(2) A licence under this section may be granted for such consideration, for such term and upon such conditions as the Minister, acting on the advice of the Ports Authority, may see fit on the grant of the licence or at any time thereafter; and any such conditions may be varied or revoked by the Minister acting on the advice of the Ports Authority.

(3) A person who contravenes subsection (1) commits an offence and is liable on summary conviction to a fine of up to \$10,000 or a term of imprisonment of up to two years, or both.

Application of Part IV to licensed ports

26. A licence granted under section 25 may be granted on condition that this Part and any regulations made under it shall apply to the land, vessel or floating structure to which the licence relates as if that land, vessel or floating structure were a Government port, subject to such modifications as may be specified in the licence.

Health and safety of persons at or about ports

27. (1) The Minister may, on the recommendation of the Ports Authority, provide for—

- (a) securing the health, safety and welfare of persons at work in or about a port, whether as employed or self-employed persons;
- (b) protecting persons, other than persons at work, against risks to health or safety arising out of or in connection with the activities of persons at work in or about a port.

(2) On the recommendation of the Ports Authority and after consultation with the Minister responsible for health, the Minister may by regulations provide for the application to any port or vessel within a port of any of the provisions of the Public and Environmental Health Ordinance as if the port or vessel were a house or other premises and as if the master of the vessel were the occupier; and regulations under this section may apply any of those provisions subject to such modifications as the Minister thinks fit.

PART V

CARRIAGE AND STORAGE OF GOODS BY PORTS AUTHORITY

Interpretation in Part V

28. For the purposes of this Part—

“Ports Authority” includes a person contracted by the Ports Authority to carry and store goods on its behalf, and “officer” shall be construed accordingly to include all officers of the Ports Authority and any employee of such person.

Conditions of carriage and storage of goods by Ports Authority

29. The Ports Authority may, subject to this Ordinance and any regulations made under it—

- (a) determine the conditions upon which goods shall be carried or stored in Government ports, and different conditions may be determined in different cases;
- (b) determine its charges for the carriage and storage of goods and for any other service or facility performed or provided by it.

Liability for payment of carriage and storage charges

30. The consignor of, or person tendering, any goods for carriage or storage by the Ports Authority, or the consignee of, or person receiving any goods which have been carried or stored by the Ports Authority, is liable in accordance the regulations made under this Ordinance for the charges for such carriage or storage and any other services performed or facility provided by the Ports Authority.

Duty to deliver description of goods

31. (1) The consignor of, or person tendering, any goods for carriage or storage by the Ports Authority, or the consignee of, or person receiving, any goods which have been carried or stored by the Ports Authority, shall deliver to any officer at his request the documents and information prescribed in the regulations made under this Ordinance to enable such officer to determine the charges payable in respect thereof.

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

(3) If such consignor, person or consignee fails to deliver the documents, an officer may refuse to accept the goods unless in respect thereof a charge not exceeding the highest payable for any class of goods is paid.

(4) If any document or information delivered under subsection (1) is found to be false in any material particular an officer may refuse to deliver such goods unless a charge not exceeding double the highest dues payable for any class of goods is paid.

Officer's power to levy charges, etc.

32. In respect of all goods in the custody of the Ports Authority an officer shall be entitled to levy such charges as may be determined in accordance with the regulations made under it and he may do all such reasonable acts and incur such reasonable expenses as are necessary for the proper custody and preservation of the goods, and the Ports Authority shall have a lien on the goods for such charges and any other expenses and shall be entitled to seize and detain the goods until such charges are fully paid.

Director of Ports may retain goods until freight, etc., is paid

33. (1) Where the agent of a vessel, from which any goods have been landed at a Government port and accepted by the Ports Authority for carriage or storage or for delivery to the consignee, notifies the Director of Ports in writing that the freight or other charges payable to the agent of the vessel of the amount specified in the notice remain unpaid in respect of the goods, the Director of Ports may retain the goods and refuse delivery of them to the consignee or any other person until—

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

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

(3) Nothing in this section shall be construed as requiring any person to take into the custody of the Ports Authority any goods which would not otherwise be receivable by the Ports Authority under this Ordinance or as requiring the Director of Ports to enquire into the validity of any claim made for freight or any other sums made in any notice given by an agent under subsection (1).

PART VI

MISCELLANEOUS

Masters to comply with Ordinance

34. Every master and owner of a vessel present in the jurisdiction shall comply with this Ordinance and any regulations made under it, and with the directions of the Director of Ports as to navigation and berthing, and shall pay such dues and charges as may be prescribed for their classes of vessels.

Detention and sale of vessels and goods for unpaid dues and charges

35. (1) The Ports Authority has a lien on every vessel and its equipment and on any goods for the recovery of port dues.

(2) The Director of Ports may—

- (a) enter, take control of and detain any vessel and its equipment; and
- (b) take control of and detain any goods,

on which the Ports Authority has a lien.

(3) Where following the detention of any goods the port dues concerned remain unpaid for seven days after the day on which the detention was made, the Director of Ports may, without prejudice to any other remedy, sell the goods detained, and apply the proceeds of the sale as follows, and in the following order of payment—

- (a) to customs duty, if any;
- (b) to the expenses of the sale;
- (c) to the port dues concerned;
- (d) to freight and other allowable claims of which the Director of Ports has received notice;
- (e) to the owner, if traceable within 12 months; and
- (f) to the funds of the Ports Authority.

(4) Where the detention is of any vessel and its equipment and the port dues concerned remain unpaid for seven days after the day on which the detention was made, the Director of Ports may, without prejudice to any other remedy, cause the whole or part of the vessel and its equipment to be appraised by two or more appraisers selected by him and then sold; and the proceeds shall be applied in the same manner and order as provided in subsection (3).

(5) If any dispute arises concerning the amount of port dues payable occasioned by any detention under this section, the Director of Ports may detain the vessel, equipment or goods concerned until the amount of such dues is determined by the Magistrate on application made to him for that purpose by either party; and in so determining the Magistrate shall award such costs to be paid by either of the parties to the other of them as he thinks fit.

Ports Authority not a bailee

36. The Ports Authority is not, with respect to property entrusted to its care, a bailee for reward and has no liability for loss or damage occasioned to the property unless such loss or damage is due to the wilful neglect or default of the Ports Authority or its agents.

Liability of members, officers and employees of, and limitation of claims against Ports Authority

37. (1) No member, officer or employee of the Ports Authority shall be personally liable for any act or default of the Ports Authority done or omitted to be done in good faith in the course of the operations of the Ports Authority.

(2) No claim against the Ports Authority shall be effective unless made in writing to the Authority within three months of the arising of the claim or of the

damage coming to the notice of the person interested therein or having a duty to inform such person thereof.

Duty of masters to supply information

38. Every master of an arriving vessel shall produce to the Director of Ports at his request—

- (a) the vessel's register;
- (b) the vessel's papers, including cargo manifest;
- (c) a list of births and deaths, if any, which have occurred during the voyage;
- (d) a list of stowaways, if any; and
- (e) such other information as the Director of Ports may reasonably require.

Offences and penalties

39. (1) Any person who maliciously (the proof of absence of malice being upon the person charged)—

- (a) sets adrift or attempts to set adrift any vessel which is berthed or lying on the foreshore;
- (b) interferes or attempts to interfere with any lighthouse or day marker;
- (c) does damage to any vessel;
- (d) makes or attempts to make any signal to any vessel which if acted upon would involve injury or the risk of injury to any person or property; or
- (e) introduces any noxious or explosive matter into or over territorial waters or upon the foreshore,

commits an offence and is liable on summary conviction to a fine of up to \$5,000 or a term of imprisonment of up to five years, or both.

(2) Any person who—

- (a) obstructs or resists any officer of the Ports Authority acting in the course of his duty;
- (b) impersonates any officer;
- (c) not being authorised in that behalf, enters upon any part of any port from which the public is excluded;
- (d) dumps any litter in territorial waters;
- (e) not being authorised by the Ports Authority in that behalf, introduces or discharges any waste matter or effluent into territorial waters;

- (f) navigates any vessel in such a manner as to cause damage or risk of damage to any person or property;
- (g) loiters in any Government port with intent to commit an offence, proof of absence of such intent being upon the person charged;
- (h) fails to comply with the lawful directions of the Director of Ports with respect to any cargo;
- (i) contravenes any provision of this Ordinance or of any regulations for which no penalty is elsewhere in this Ordinance provided;
- (j) fails to comply with the lawful directions of the Director of Ports with respect to any vessel; or
- (k) by any means gives or attempts to give any false information upon any matter concerning this Ordinance,

commits an offence and is liable on summary conviction to a fine of up to \$1,000 a term of imprisonment of up to six months, or both.

(3) Where an offence proved to have been committed against this section involves damage to the property of the Ports Authority, the court may order the convicted person to pay the Ports Authority the cost thereof and such order may be enforced in the same manner as the judgement of a civil court.

Offences by body corporate

40. (1) Where an offence under this Ordinance committed by a body corporate is proved to have been committed with the consent or connivance of, or to be attributable to, any neglect on the part of, a director, manager, secretary or employee of the body corporate or any person purporting to act in any such capacity, he, as well as the body corporate, shall be guilty of that offence and liable to be proceeded against and punished accordingly.

(2) For the purpose of this section a person shall be deemed to be a director of a body corporate if he is a person in accordance with whose directions or instructions the directors of the body corporate or any of them act.

Loan to enable the Ports Authority to commence

41. The Governor shall lend the Ports Authority such sum as the Minister responsible for finance may certify is required to enable the Ports Authority to commence functioning, to be repaid by the Ports Authority at such times and by such methods as the Minister responsible for Finance may determine.

Secondment of public officers

42. (1) The Governor, in the exercise of his discretion and subject to such conditions as he may impose, may approve the secondment of any public officer to serve with the Ports Authority for a period not exceeding two years from the commencement of this Ordinance.

(2) Subject to the conditions of his secondment, a public officer shall, at the expiry of his period of secondment, have the option to be employed as an

officer of the Ports Authority, and the Ports Authority shall have the option to employ him.

Savings

43. (1) All subsidiary legislation made under the repealed Docks Ordinance¹, and in force immediately prior to the commencement of this Ordinance shall, so far as is not inconsistent with the provisions of this Ordinance, continue in force as if made under this Ordinance.

(2) The repealed Harbours Ordinance,² shall remain in effect until replaced by the Regulations made under this Ordinance.

(3) Any licence issued under the repealed Docks Ordinance and the repealed Harbours Ordinance, and in force at the commencement of this Ordinance, shall continue in force as if issued under this Ordinance, and the provisions of this Ordinance shall apply accordingly.

SCHEDULE

(Section 3(4))

PROCEEDINGS OF THE PORTS AUTHORITY

Validity of proceedings of the Ports Authority

1. The validity of any proceedings of the Ports Authority shall not be affected by any vacancy in its membership or by any defect in the appointment of a member.

Temporary appointments

2. The Minister, after consultation with the Governor, may appoint a person to be a temporary member to act for a member who for any reason is temporarily incapable of performing the duties of his office, and such temporary member shall, for the duration of his appointment, be deemed to be a member.

Ordinary and special meetings

3. The Ports Authority shall meet at least 12 times in every calendar year. The chairman shall call meetings on his own initiative, or within seven days of the receipt by him of a requisition for that purpose addressed to him by any three members.

¹ Cap 57, 1998 Revised Edition (*now repealed*).

² Cap 55, 1998 Revised Edition (*now repealed*).

Procedure at meetings

4. At every meeting of the Ports Authority—
- (a) the chairman or, in the chairman's absence, the deputy chairman, shall preside;
 - (b) three members shall form a quorum; and
 - (c) decisions of the Ports Authority shall be arrived at by a majority vote, the member presiding having a casting vote in the event of a tie.

Committees of Ports Authority

5. (1) To assist it in any matter, the Ports Authority may appoint one or more committees consisting of such persons, whether members of the Ports Authority or not, as the Ports Authority thinks fit, but any such committee shall include at least one member of the Ports Authority.

(2) This Schedule and section 3(3) of this Ordinance shall apply with necessary modifications to a committee and a member of a committee as they apply to the Ports Authority and a member of the Ports Authority.

Attendance of invited persons at meetings

6. The Ports Authority may invite one or more persons to attend any of its meetings for the purpose of advising or assisting it, but no such person may vote at its meetings.

Personal interest

7. If a member or other person present at a meeting of the Ports Authority is directly or indirectly interested in any contract or proposed contract or other matter he shall disclose the fact of his interest and shall absent himself during, and shall not partake in the consideration of or voting on such contract or other matter.

Minutes

8. The Ports Authority shall cause minutes to be kept of every meeting. The minutes shall be confirmed by the Ports Authority and signed by the chairman.

Procedure generally

9. Subject to this Ordinance, the Ports Authority shall otherwise have power in all respects to regulate its own procedure, including the manner in which matters subject to the determination of the Ports Authority are determined by it.

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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.

