

Territorial Waters Act, No. 1977-26(1)

Short title

1. This Act may be cited as the Barbados Territorial Waters Act, 1977.

Interpretation

2. For the purposes of this Act:

"Competent Authority" means the Minister or any person designated by him as the Competent Authority for the purposes of this Act;

"foreign ship" means the ship of a foreign State;

"foreign State" means a State other than Barbados;

"innocent passage" means passage which is not deemed to be prejudicial to the peace, good order or security of Barbados;

"internal waters" means the internal waters of Barbados as defined in section 5;

"low-water line" means the low-water line of the coast of Barbados at mean low-water spring tide;

"Minister" means the Minister responsible for External Affairs;

"nautical mile" means the international nautical mile;

"passage" means the navigation of a ship in territorial waters without stopping or hovering, but includes stopping, hovering and anchoring in so far as the same are rendered necessary by force majeure or by reason of distress or for the purpose of affording assistance to persons, ships or aircraft in danger or distress;

"ship" includes vessel, boat or sea-craft of any kind;

"submarine areas" includes the seabed and subsoil thereof;

"territorial waters" means the territorial waters of Barbados as defined in section 3.

Limits of the territorial waters

3. (1) The territorial waters of Barbados comprise those areas of the sea, having as their landward limit the baselines specified by section 4 or prescribed under that section, as the case may be, and as their seaward limit a boundary line which at every point is a distance of 12 nautical miles or such other distance from the nearest point of those baselines as the Minister by order prescribes.

(2) The territorial waters, including the submarine areas thereof, form part of the territory of Barbados.

(3) An order made under subsection (1) shall be subject to affirmative resolution and shall be judicially noticed.

Baselines of territorial waters

4. (1) Subject to subsection (2) the low-water line along the coast of Barbados shall be the baselines of the territorial waters.

(2) The Minister may in the place of the baselines referred to in subsection (1) by order prescribe other baselines making use of a mixture of straight lines drawn from points on the coast of Barbados and the low-water line.

(3) Where baselines are prescribed under subsection (2) the Minister shall cause the baselines together with the seaward

boundary line of the territorial waters to be marked on a scaled map or chart and such map or chart shall be judicially noticed for all purposes of the law as indicating the baselines from which the territorial waters shall be measured and the boundaries, breadth and limit of the territorial waters.

(4) The Minister shall make provision for the safe custody of the map or chart referred to in subsection (3) and shall by notice specify the place where it may be open to inspection by the public and the place where certified copies thereof may be obtained.

(5) For the purposes of this Act, permanent harbour works which form a part of the harbour, dock or port system and the island commonly known as Culpepper situated off the coast of the parish of Saint Philip shall be treated as forming part of the coast of Barbados.

Internal Waters

5. The areas of the sea which are on the landward side of the baselines specified in section 4 or prescribed under that section, as the case may be, are the internal waters and together with the submarine areas thereof, form part of the territory of Barbados.

Entitlement to right of innocent passage

6. (1) Subject to subsection (2) and section 7 (1), a foreign ship shall be entitled to enjoy the right of innocent passage in territorial waters.

(2) A foreign ship of war shall not navigate in territorial waters without the prior permission of the Competent Authority obtained by the State to which the ship belongs.

Non-innocent passage

7. (1) Subject to subsection (2), the passage of a foreign ship shall be deemed to be prejudicial to the peace, good order or security of Barbados if, without the prior permission of the Competent Authority obtained by the captain or person in charge of the ship, the ship while in territorial waters, engages in any of the following activities:

- (a) Exercises or practices with weaponry of any kind;
- (b) Any act aimed at collecting information relating to the defence, security or economic or social conditions and circumstances of Barbados;
- (c) The taking on board or off-loading of any person, commodity or currency in breach of any law relating to exchange control, customs, immigration, health or drugs and therapeutic substances;
- (d) Any act of pollution calculated to or likely to cause damage or harm to Barbados, its resources or its marine environment;
- (e) Fishing or extracting living or non-living resources;
- (f) The carrying out of research of whatever kind or survey activities;
- (g) Any act aimed at interfering with any system of communication or telecommunication whether such system is on land, on the sea or under it;
- (h) Being a submarine or other underwater ship, underwater navigation;
- (i) Such other activity as may be prescribed.

(2) The passage of a foreign ship of war in territorial waters shall be deemed to be prejudicial to the peace, good order or security of Barbados if the ship navigates in territorial waters without the permission required by section 6 (2).

Power of police and authorized persons

8. (1) Where a foreign ship engages in any of the activities specified in paragraphs (a) to (h) of section 7 (1) or prescribed under paragraph (i) of that section, as the case may be, or where a member of the Police Force or person authorized by the Minister in

writing suspects upon reasonable grounds that a foreign ship is engaged in any such activity, such member of the Police Force or authorized person may:

- (a) Stop and board the offending ship for the purpose of carrying out enquiries and investigations;
- (b) Without a warrant arrest the offending ship and bring it into a port in Barbados;
- (c) Without a warrant arrest the captain and any person on board the ship participating in the activity of the ship which is deemed to be prejudicial to the peace, good order or security of Barbados.

(2) Where the passage of a foreign ship is deemed to be prejudicial to the peace, good order or security of Barbados, the captain or other person in charge of such ship and any person participating in the activity of the ship which is deemed to be so prejudicial, is guilty of an offence under this Act.

Immunity

9. (1) Where the passage of a foreign ship is deemed to be prejudicial to the peace, good order or security of Barbados and the ship or any person on board thereof who participates in the activity which is deemed to be prejudicial is entitled to State or other immunity recognized by law, the flag State of such ship and the State of nationality of such person shall be deemed to bear international responsibility for the activity of the ship.

(2) Where the flag State of a ship or the State of nationality of a person is deemed to bear international responsibility under this section, the Minister shall take all steps possible to obtain redress under international law.

Jurisdiction

10. (1) For the purposes of the exercise of the jurisdiction of the courts of Barbados, the territory of Barbados shall include the internal waters and the territorial waters.

(2) Where any offence punishable on summary conviction is committed or suspected to have been committed within or in relation to the internal waters or the territorial waters, the offence may be dealt with and determined by a magistrate assigned to any magisterial District, and such magistrates shall have and exercise all the powers, privileges, rights and jurisdiction as are conferred on him by the Magistrates Jurisdiction and Procedure Act.

(3) The quasi-criminal and the civil jurisdiction conferred on a magistrate by the Magistrates Jurisdiction and Procedure Act shall in relation to the internal waters and the territorial waters be exercised by a magistrate assigned to any magisterial District.

(4) The jurisdiction conferred on any court under this Act shall be without prejudice to any jurisdiction conferred on or exercisable by such court apart from this Act.

Regulations

11. (1) The Minister may make regulations:

- (a) For the safety of navigation and the regulation of marine traffic;
- (b) For the conservation of the living resources of the sea;
- (c) For the preservation of the marine environment of Barbados and the prevention and control of pollution thereto;
- (d) For the regulation of fishing;
- (e) Relating to the grant of permits and the conditions to be attached thereto for fishing by nationals of foreign States and by means of foreign ships;
- (f) For the inspection and admission in evidence before the courts of the chart or map to which section 4 refers or any part thereof;
- (g) Prescribing the fees to be paid for permits granted in accordance with regulations made under subparagraph (e);

(h) Generally, for regulating the use of the internal waters and the territorial waters including prescribing the fees to be paid for any activity in relation thereto;

(i) Providing for the forfeiture to the Crown of any ship engaged, or any equipment used, in any of the activities specified in sub-paragraphs (a) to (h) of section 7 or prescribed under paragraph (i) of that section, as the case may be; and

(j) Annexing to the contravention of any regulation made under this section a punishment on summary conviction of a fine of \$5,000 or of imprisonment for a term of 2 years or both.

(2) Regulations made under this section shall be subject to affirmative resolution and shall be judicially noticed.

Offences

12. (1) A person who assaults or obstructs a person acting under the authority of this Act or the regulations is guilty of an offence under this Act.

(2) A person who is guilty of an offence under subsection (1) or section 8(2) is liable:

(a) On conviction or indictment to a fine of \$10,000 or imprisonment for a term of 5 years or both; or

(b) On summary conviction to a fine of \$5,000 or imprisonment for a term of 2 years or both.

(3) The court may, in addition to any penalty which it may impose under this section for an offence under section 8 (2), order the forfeiture to the Crown of any ship engaged, or equipment used, in any activity which is the subject of the offence.

Binding of the Crown

13. This Act binds the Crown.

Application of laws

14. (1) Any reference in any enactment or law having effect as a part of the law of Barbados prior to the commencement of this Act, to coastal waters, territorial waters, waters of the Island or any analogous expression in whatever terms used, shall be construed as a reference to internal waters and territorial waters.

(2) Any reference in any enactment or law having effect as a part of the law of Barbados prior to the commencement of this Act to a distance of 3 miles or a longer or shorter distance in relation to coastal waters, territorial waters, waters of the Island or any analogous expression in whatever terms used shall be construed as a reference to a distance of 12 nautical miles or such other distance as may be prescribed under section 3.

Repeal and amendments

15. (1) The Territorial Waters Jurisdiction Act, 1878 of the United Kingdom Parliament in so far as it forms part of the law of Barbados, is repealed.

(2) The enactments specified in the first column of the Schedule are amended in the respects specified in the second column thereof.

Commencement

16. This Act shall come into operation on such day as the Governor-General may by proclamation appoint.

SCHEDULE

First column

Second column

The Interpretation Act Cap. I Insert in the appropriate alphabetical order in section 46 the following definition:
"internal waters" means the internal waters of Barbados as defined in section 5 of
the Barbados Territorial Waters Act, 1977;
"territorial waters" means the territorial waters of Barbados as defined in section 3
of the Barbados Territorial Waters Act, 1977.

Magistrates Jurisdiction and
Procedure Act, Cap. 116 Section 19 is repealed.

The Fisheries Regulation
Act Cap. 131 Section 23 is repealed.

Endnotes

1 (Note - Note)

Text communicated by the Permanent Mission of Barbados to the United Nations.