



MONTSERRAT

CHAPTER 7.09

PORT AUTHORITY ACT and Subsidiary Legislation

Revised Edition

showing the law as at 1 January 2013

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

This edition contains a consolidation of the following laws—

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REGULATIONS – Section 61**

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S.R.O. 71/1996

Amended by S.R.O.s: 15/2000

26/2000



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CHAPTER 7.09

PORT AUTHORITY ACT

*(Acts 9 of 1977, 9 of 1979, 9 of 1983, 13 of 1985,
12 of 1991, 15 of 1993, 14 of 1995, 4 of 2003 and 9 of 2011)*

AN ACT TO ESTABLISH A PORT AUTHORITY FOR MONTSERRAT, TO PROVIDE AND ADMINISTER A CO-ORDINATED AND INTEGRATED SYSTEM OF PORT FACILITIES AND SERVICES CONNECTED THEREWITH, TO TRANSFER TO AND VEST IN THE AUTHORITY CERTAIN OF THE FUNCTIONS AND POWERS OF THE HARBOUR MASTER AND THE COMPTROLLER OF CUSTOMS, AND FOR OTHER MATTERS INCIDENTAL THERETO OR CONNECTED THEREWITH.

Commencement

[1 January 1978]

PART 1

PRELIMINARY

Short title

1. This Act may be cited as the Port Authority Act.

Interpretation

2. In this Act—

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

“**Authority**” means the Montserrat Port Authority established under section 3;

“**authorised officer**” means a person authorised by the Port Manager to exercise the powers or perform the duties in respect of which the expression is used;

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

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

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

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

“**constable**” means a constable appointed by the Authority pursuant to the provisions of section 79;

“**dues**” includes port dues and tonnage dues levied under this Act but does not include rates or customs duties;

“**financial year**” means such period of twelve months as the Authority, with the approval of the Minister of Finance, may determine to be its financial year, so, however, that the first financial year shall be the period commencing with the commencement of this Act and ending with such day as shall be fixed by the Authority with the approval of the Minister;

“**goods**” means all kinds of moveable property including animals;

“**Governor**” means the Governor acting on the advice of Cabinet;

“**Master**”, in relation to a ship means any person having charge for the time being of that ship;

“**member**” when used in relation to the constitution of the Authority includes the Chairman;

“**Minister**” means in relation to—

(a) any matter, concerning finance, the Minister responsible for Finance;

(b) and in any other matter the Minister responsible for Communications and Works;

“**owner**” when used in relation to—

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

(b) any ship, includes any part owner, charterer, operator, consignee or mortgagee in possession thereof or any duly authorised agent of such person;

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

“**Permanent Secretary**” includes a nominee appointed by the Governor;

“**Port**” means the Port of Little Bay, and the Governor may specify the limits of the Port by Order; (*Amended by Act 4 of 2003*)

“**Port Manager**” means the Port Manager appointed under section 12, and includes any person appointed to act as Port Manager;

“**premises**” includes any immovable property whether open or closed, whether built on or not, and whether public or private, and whether maintained or not under statutory authority;

“**Regulations**” means Regulations made under this Act;

“**ship**” includes any ship, vessel, tug or boat of any kind whatsoever whether the same is propelled by steam or otherwise or is towed;

“**Tariff Book**” means the Tariff Book prepared and published under section 53;

“**vehicle**” means any vehicle towed or propelled by any means whatsoever for the portage of goods or persons otherwise than by sea.

(Amended by Acts 4 of 2003 and 9 of 2011)

PART 2

ESTABLISHMENT, CONSTITUTION, MANAGEMENT AND STAFF OF AUTHORITY

Establishment of Authority

3. (1) There shall be established for the purposes of this Act a body to be called the Montserrat Port Authority.

(2) The Authority shall be a body corporate with perpetual succession and a common seal and with power to enter into contracts, with approval of the Governor, to sue and be sued in its corporate name, to acquire, hold, mortgage, lease and dispose of all kinds of property, moveable and immovable, subject to approval of the Governor acting on the advice of Cabinet, and to do and perform such acts and things as bodies corporate may do by law, subject to the provisions of this Act. *(Amended by Act 9 of 2011)*

Constitution of the Authority

4. (1) The Authority shall consist of six members appointed by the Governor as follows—

- (a)* one member nominated by the Chamber of Commerce;
- (b)* one member nominated by the Shipping Association;
- (c)* two members who in the opinion of the Governor are persons with legal, managerial or administrative experience;
- (d)* two “*ex officio*” members being—
 - (i)* the Permanent Secretary in the Ministry of Communications and Works, who shall be the Chairman, and
 - (ii)* the Financial Secretary.

(Substituted by Act 14 of 1995)

(2) Every member shall be appointed by the Governor for such period not exceeding three years as the Governor may decide, and shall, on ceasing to be a member, be eligible for reappointment:

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

(3) In the event of incapacity from illness or other temporary cause or temporary absence from Montserrat of any member, the Governor may subject to the provisions of subsection (1), appoint some other person to act as a temporary member during the time such incapacity or absence continues.

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

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

(Inserted by Act 12 of 1991)

Seal of Authority

5. (1) The Seal of the Authority shall be kept in the custody of the Chairman and may be affixed to instruments pursuant to a resolution of the Authority and in the presence of the Chairman and the Secretary.

(2) The Seal of the Authority shall be authenticated by the signature of the Chairman and of the Secretary, and such Seal shall be judicially noticed.

(3) All deeds, instruments, contracts and other documents, other than those required by law to be under seal, made by, and all decisions of the Authority, may be signified under the hand of the chairman.

(4) Until a seal is provided in accordance with the provisions of this Act, a stamp bearing the words “**Montserrat Port Authority**” and authenticated as in this section provided may be used in place of such seal.

Service of notices

6. (1) Service of any notice, order or other document required or authorised under this Act or any regulation to be served on the Authority or on the Port Manager or any authorised officer may be served—

(a) by delivering the notice or other document to the Port Manager or the authorised officer; or

(b) by leaving it at the office of the Port Manager; or

(c) by sending it by registered post addressed to the Port Manager at the office of the Authority.

(2) Service of any notice, order or other document required or authorised under this Act or any regulation to be served on any person by the Authority or by the Port Manager or any authorised officer may be served—

- (a) by delivering it to the person; or
- (b) by leaving it at the usual or last known place of abode of the person; or
- (c) by sending it by registered post addressed to the person at his usual or last known address.

Procedure and meetings of the Authority

7. (1) The Authority shall meet at such times as may be necessary or expedient for the transaction of business, and such meetings shall be held at such place and time and on such days as the Authority may determine.

(2) The Chairman may at any time call a special meeting of the Authority and shall call a special meeting within seven days of a requisition for that purpose addressed to him by at least two members to consider the matters contained in such requisition.

(3) The Chairman shall call a special meeting of the Authority if directed by the Minister so to do.

(4) A quorum for any meeting of the Authority shall be three members: Provided however that where any member is disqualified from taking part in any deliberation or decision of the Authority with respect to any matter, he shall be disregarded for the purpose of constituting a quorum for deliberating on or deciding that matter.

(5) The Secretary may take part in the deliberations of the Authority but—

- (a) shall not vote in respect of any decision or matter; and
- (b) shall be disregarded for the purpose of constituting a quorum for deliberating on any decision or matter.

(Amended by Act 14 of 1995)

(6) The decision of the Authority with regard to any question shall be determined by vote of the majority of the members present at the meeting of the Authority, and in any case when the votes of the members present shall be equally divided in regard to any question, the Chairman shall have a casting vote in addition to his own vote.

(7) Minutes of the proceedings of each meeting of the Authority shall be kept in such manner as the Authority may determine and shall be confirmed by the Chairman as soon as practicable thereafter at a subsequent meeting.

(8) The Authority may co-opt any one or more persons to attend any particular meeting of the Authority for the purpose of assisting or advising the Authority, but no such co-opted person shall have any right to vote.

(9) Subject to the provisions of this section, the Authority shall have power to regulate its own proceedings.

Disclosure of interest and abstaining from voting

8. (1) It shall be the duty of a member who is in any way, whether directly or indirectly, interested in an application to the Authority for a contract or proposed contract with the Authority, or in any other matter to be decided by the Authority, to declare the nature of his interest at the first meeting of the Authority at which it is practicable for him to do so.

(2) A member shall not vote in respect of any contract or proposed contract with the Authority or on any other matter in which he is pecuniarily interested, whether directly or indirectly.

Appointment of committees

9. (1) The Authority may appoint a committee of the Authority to examine and report to it on any matters whatsoever arising out of or connected with any of its functions under this Act.

(2) Any such committee shall consist of at least one member together with such other persons, whether members or not, whose assistance or service the Authority may desire.

(3) Where persons, other than members, are members of a committee appointed under this section, or where any person is co-opted under section 7(8), the Authority may, with the approval of the Minister of Communications and Works, by resolution declare the remuneration and allowances of such persons, and such sums shall be properly payable out of the funds and resources of the Authority.

(4) The Authority may by resolution reject the report of any such committee or adopt it either wholly or with such modifications, additions or adaptations as the Authority may think fit.

Power to delegate

10. Subject to the provisions of this Act, the Authority may delegate to any member or committee of the Authority the power and authority to carry out on its behalf such duties as the Authority may determine subject to the approval of the Governor. (*Amended by Act 9 of 2011*)

Remuneration

11. There shall be paid from the funds of the Authority to the Chairmen, members, and servants such remuneration, fees or allowances if any as the Governor may determine.

Appointment of Port Manager

12. (1) After consultation with the Authority the Governor shall under such terms and conditions as it may determine appoint a Port Manager who shall be the Chief Executive Officer and Secretary of the Authority and shall exercise, perform and discharge all such powers, functions and duties entrusted to him by this Act and any regulations made thereunder and shall

be present at all meetings of the Authority unless he has obtained leave of absence from the Chairman or is incapacitated by illness or other cause from attending such meetings.

(2) In the event of the absence of the Port Manager the Governor may appoint any person to act during the period of such absence under such terms and conditions as he may determine. The person so appointed may exercise, perform and discharge all the powers, function and duties of the Port Manager.

(Substituted by Act 15 of 1993)

Appointment of officers and servants

13. (1) The Authority may appoint and employ such Officers and servants as it deems necessary for the proper carrying out of its functions under this Act in accordance with the establishment terms and conditions approved by the Governor.

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

Savings for acts of the Authority

14. The validity of any act done or proceedings taken under this Act shall not be questioned on the ground of—

- (a) the existence of any vacancy in the membership of, or any defect in the constitution of, the Authority; or
- (b) the contravention by a member of the provisions of section 8; or
- (c) any omission, defect or irregularity not affecting the merits of the case.

Protection of members of the Authority

15. No personal liability shall attach to any member in respect of anything done or suffered in good faith under the provisions of this Act, and any sums of money, damages or costs which may be recovered against any such member in respect of any act or thing done *bona fide* for the purpose of carrying this Act into effect shall be paid out of the funds and resources of the Authority.

Policy

16. (1) The Minister may give to the Authority directions of a general or specific character as to the policy to be followed in the performance of its functions in relation to matters appearing to him to concern the public interest.

(2) The Authority shall furnish the Minister with such returns, accounts and other information as he may require with respect to the property and activities of the Authority, and shall afford to him facilities for

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verifying such information in such manner and at such times as he may reasonably require.

Consultative body

17. (1) The Governor may make regulations providing for the establishment of a consultative body—

- (a) to represent the interests of persons using facilities under the control of the Authority;
- (b) for holding consultations between the body and the Authority;
- (c) enabling the body to make representations to the Authority, or to any particular member or officer of the Authority with a view to safeguarding those interests.

(Amended by Act 9 of 2011)

(2) Such regulations may contain such incidental and supplemental provisions (excluding provisions for the making of payments to persons serving on that body) as the Governor considers expedient for the purposes of the Regulations. *(Amended by Act 9 of 2011)*

PART 3

DUTIES AND GENERAL POWERS AND PROVISIONS RELATING TO LAND PROPERTY AND UNDERTAKINGS OF THE AUTHORITY

Powers and duties

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

(2) Subject to the provisions of this Act, the Authority may, for the purpose of performing any of its functions under this Act, with the approval of the Governor, do anything and enter into any transaction which in the opinion of the Authority, is necessary to ensure the proper performance of its functions. *(Amended by Act 9 of 2011)*

(3) In particular, and without prejudice to the generality of subsections (1) and (2), it shall be the duty of the Authority, subject to any general or specific directions which the Governor may from time to time issue—

- (a) to administer and to operate the port as appears to it best calculated to serve the public interest;
- (b) to regulate and control navigation within the limits of the port and its approaches;

- (c) to maintain, improve and regulate the use of the port and the services and facilities therein as it considers necessary or desirable;
- (d) to provide for the Port and the approaches thereto such beacons, buoys and other navigational services and aids as it considers necessary or desirable;
- (e) to exercise the duties and functions of the Harbour Master under the Harbour Master Act.

(Amended by Act 9 of 2011)

(4) For the avoidance of doubt it is hereby declared that the Port Manager shall be the Harbour Master for all the purposes of the Harbour Master Act as though he had been appointed under that Act.

Compulsory acquisition of land

19. (1) The Governor, when and as often as land is required for the purposes of this Act, may acquire any lands either by private treaty or compulsorily under the provisions of the Land Acquisition Act, and may exercise all powers under that Act in relation to any acquisition or intended acquisition of such lands. *(Amended by Act 9 of 2011)*

(2) The Governor may, upon such terms and conditions as he may determine, vest any lands acquired in the Authority.

(3) Nothing herein contained shall prejudice the right of any person having any interest in any lands acquired as aforesaid within the provisions of the Land Acquisition Act.

Power to vest reclamations in Authority

20. (1) Any wharf, dock or other public work constructed by the Government along, across or extending out from the foreshore within the limits of the port and the land on which the same is constructed, any land reclaimed from the sea, and any part of the foreshore situated within the limits aforesaid, may be vested in the Authority upon such terms and conditions as the Governor may determine. *(Amended by Act 9 of 2011)*

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

Apparatus etc. not subject to distress, etc.

21. When any apparatus, fixture or fitting is placed in or upon any premises not being in the possession of the Authority for the purposes of carrying out the functions of the Authority, such apparatus, fixture or fitting shall not be subject to distress or be taken in execution under process of any court or any proceedings in bankruptcy against the person in whose possession the same is.

PART 4

FINANCIAL

Revenue of the Authority

22. (1) The Revenue of the Authority shall consist of—

- (a) the sums received by the Authority in respect of dues and charges levied and payable in pursuance of the provisions of this Act and any regulations;
- (b) such sums as the Authority may borrow for meeting any of its obligations or discharging its functions;
- (c) all other sums that may become payable to or vested in the Authority in respect of any matter incidental to its powers and duties.

(2) All sums referred to in subsection (1) shall be paid into and placed to the credit of the Authority in an account at such Bank or Banks as the Authority may determine.

Application of revenue of Authority

23. The Revenue of the Authority in any financial year shall be applied in payment of the following charges—

- (a) the interest and Sinking Fund contributions on any loan payable by the Authority;
- (b) the sums required to be paid to the Government of Montserrat towards the repayment of any loan made by the Government -to the Authority;
- (c) remuneration and allowances, if any, of members and of any committee of the Authority;
- (d) the salaries, remuneration, allowances, pensions, gratuities, provident fund and other superannuation benefits of the officers and servants employed in or connected with the activities carried on by the Authority;
- (e) the working and establishment expenses of, and the expenditure on, or provision for the maintenance of the property and installations of the Authority, and the discharge of the functions of the Authority properly chargeable to revenue accounts;
- (f) such sums as the Authority may, with the approval of the Governor, deem appropriate to set aside in respect of obsolescence and depreciation or renewal of the property or installations of the Authority, having regard to the amount set aside out of revenue under paragraphs (a) and (b);

- (g) the cost, or any portion thereof, of any new works, plant or appliances, not being a renewal of property of the Authority, which the Authority may determine, with the approval of the Governor, to charge to revenue;
- (h) sums to be appropriated to the Reserve Fund;
- (i) any other expenditure authorised by the Authority and properly chargeable to revenue.
(Amended by Act 9 of 2011)

Temporary investment of funds

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

(2) All interests or dividends from such investments shall be paid to the credit of the Authority's account as provided in section 22(2).

Power to borrow

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

- (a) from the Government of Montserrat; or
- (b) with the consent of the Governor, from any other source.
(Amended by Act 9 of 2011)

(2) Without prejudice to section 26, the power of the Authority to borrow under this section shall not be exercised unless a proposal in writing showing—

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

is first submitted to the Governor for his approval.

(Amended by Act 9 of 2011)

Temporary borrowing

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

- (a) for the purposes of defraying expenses pending the receipt of revenues recoverable by it in respect of the period of account in which those expenses are chargeable; or
- (b) for the purposes of defraying, pending the receipt of money due in respect of any loan authorised to be raised under subsection (1) of section 25, expenses intended to be defrayed by any such loan.

(Amended by Act 9 of 2011)

Guarantee of borrowing of Authority

27. (1) The Governor may, with the approval of the Legislative Assembly, guarantee in such manner and on such conditions as he may think fit, the repayments of the principal and interest of any authorised borrowing of the Authority.

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

(3) The Authority shall make to the Accountant General at such times and in such manner as the Governor may direct payments of such amounts as may be so directed in or towards the repayment of any sums issued in fulfilment of any guarantee given under this section, and payments of interest on what is outstanding for the time being in respect of any sums so issued at such rate as the Governor may direct; and different rates of interest may be directed as regards different sums and as regards interests for different periods.

(Amended by Act 9 of 2011)

Reserve Fund

28. The Authority shall establish a Reserve Fund which shall be dealt with and applied in accordance with any direction which may from time to time be given to the Authority by the Governor. *(Amended by Act 9 of 2011)*

Application of surplus

29. Any balance of revenue at the end of the financial year resulting from the activities carried on by the Authority under this Act which is available after making full allowance for the matters enumerated in section 23 shall be paid to the credit of the Consolidated Fund.

Estimates in respect of financial year

30. (1) In every year the Authority shall cause to be prepared for the approval of the Minister of Finance estimates of revenue and expenditure in respect of the ensuing financial year and shall adopt such estimates as approved by the Minister.

(2) Supplementary estimates may be adopted at any meeting of the Authority, provided that the source of finance is determined by the Authority and agreed by the Minister of Finance.

(3) A copy of all estimates of revenue and expenditure in respect of the financial year and supplementary estimates in respect of that year shall upon adoption by the Authority be submitted to the Minister of Communications and Works and the Minister of Finance.

Accounts

31. (1) The Authority shall keep proper accounts of all its transactions to the satisfaction of the Minister and a statement of accounts shall be kept and made up in respect of each financial year.

(2) The statement of accounts in respect of each financial year shall present a true and fair view of the true financial position of the Authority and of the results for the financial year to which it relates, of the operations of the Authority.

Audit

32. (1) The accounts of the Authority shall be audited in each financial year by the Auditor General, or such other auditor as may be approved by the Governor. (*Amended by Act 9 of 2011*)

(2) The Council, officers and servants of the Authority shall grant to the Auditor General or other auditors appointed to audit the accounts under subsection (1) all books, deeds, contracts, accounts, vouchers, or other documents which they may deem necessary to call for, and such auditors may require any person holding or accountable for any such document to appear before them and make a signed statement in relation thereto and may require from such person such information as they may deem necessary.

(3) Any person to whom a request to produce a document or to make and sign a statement or to furnish information, fails without reasonable excuse to comply with such requisition, shall be guilty of an offence against this Act and shall be liable on summary conviction therefor to a fine of \$500 or to a term of imprisonment of three months.

Auditor's report

33. Such auditors shall as soon as practicable and not later than 3 months after the accounts have been submitted for audit, send an audited statement of accounts and their report thereon in respect of their audit for the financial year to the Authority.

Submission of report

34. (1) The Authority shall as soon as practicable, and not later than 1 month after the receipt of such accounts and report as provided in section

33, submit a report to the Minister of Communications and Works containing—

- (a) a statement of such accounts of the Authority together with auditor's report thereon; and
- (b) an account of the activities of the Authority during the preceding financial year in such form as the Minister may direct.

(2) The Minister of Finance shall cause a copy of the report together with a copy of the audited statement of the accounts and the Auditors' report thereon to be laid on the table of the Legislative Assembly as soon as practicable thereafter. (*Amended by Act 9 of 2011*)

PART 5

RESPONSIBILITY OF THE AUTHORITY AS A WAREHOUSEMAN

Liability for loss etc. of goods

35. Subject to the provisions of this Act or any regulations or of any contract, the Authority shall not be liable for the loss, misdelivery or detention of or damage to goods—

- (a) delivered to or in the possession of the Authority, otherwise than for the purposes of carriage and warehousing, except where such loss, misdelivery, detention or damage is caused by negligence on the part of any person employed by or on behalf of the Authority;
- (b) accepted by the Authority for carriage or warehousing where such loss, misdelivery, detention or damage occurs otherwise than while the goods are in transit or being warehoused and is not caused by negligence on the part of any person employed by or on behalf of the Authority:

Provided that, the Authority shall in no case be liable for such loss, misdelivery, detention or damage arising from—

- (i) Act of God;
- (ii) act of war or the Queen's enemies;
- (iii) arrest or restraint or seizure under legal process;
- (iv) act or omission of the consignor, consignee, or depositor, or of the servant or agent of any such person;
- (v) fire, flood, tempest, riots, civil commotion, strikes, lock-outs, stoppage or restraint of labour from whatever cause, whether partial or general;

- (vi) inherent liability to wastage in bulk or weight, latent or inherent defect, vice or natural deterioration;
- (vii) deficiency in the contents of unbroken packages;
- (viii) insufficiency or improper packing or leakage from defective drums, containers or packages:

Provided further, that, where such loss, misdelivery, detention or damage occurs in relation to goods accepted by the Authority for carriage or for warehousing, the limitation contained in section 36 shall apply.

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

36. The liability of the Authority in respect of any goods accepted by the Authority for carriage or warehousing and in relation to which a false account in any material particular has been given under section 48, shall not in any case exceed the value of the goods as calculated and determined by the Authority.

Burden of proof in proceedings under section 36

37. In any proceedings brought under the provisions of section 35 against the Authority, it shall be necessary for the person claiming damages or compensation to prove how the loss, misdelivery, detention or damage to goods was caused.

PART 6

DUES, CHARGES AND TARIFF BOOK

When dues and charges payable

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

Dues and charges in respect of ship

39. Subject to the provisions of this Act and the Regulations, every ship which—

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

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

Appointment of agent

40. Every ship shall have an appointed agent who shall be responsible for the payment of the dues and charges without prejudice to the recovery by the agent from the master or owner of the ship of such sums paid on behalf of any such ship.

Security for charges

41. Any agent who intends to incur a liability in respect of any of the sums mentioned in section 39 may deposit with the Authority, or guarantee, such sums as are, in the opinion of the Authority reasonable, having regard to the amount or probable amount of the sums which the agent shall be liable to pay to the Authority.

Detention by authorised officer

42. (1) Where any sums mentioned in section 38 or 39 are owing in respect of any ship, any authorised officer may with such assistance as he deems necessary enter such ship and may arrest the ship and the tackle, apparel and furniture thereof, and may detain it until the said sums are paid.

(2) Where, after such arrest, such sums remain unpaid for a period of seven days the authorised officer may cause the ship and the tackle, apparel and furniture thereof arrested to be sold, and out of the proceeds of such sale he shall retain the amount necessary to meet the expenses of detention and sale thereof, and shall after paying the amount of any sums which are owing to the Authority, deliver the balance to the agent.

(3) Where any ship in respect of which the sums mentioned in section 38 or 39 are owing and have not been secured as provided in section 42 leaves the Port and enters or is found within Montserrat, then such ship may be dealt with as if it had not left the Port in respect of which such sums are owing as aforesaid.

Master to obtain certificate of authorised officer before requesting clearance

43. Before the master of any ship in the Port shall obtain outward clearance from the Port, he shall first obtain from an authorised officer a certificate stating that—

- (a)* all dues and charges in respect of the ship and all penalties and expenses to which the ship and her master are liable under this Act or the Regulations have been paid or secured to the satisfaction of the authorised officer; and
- (b)* he has complied with the provisions of this Act and the Regulations.

All goods deemed to be in custody of Authority

44. Notwithstanding anything contained in any other enactment, all goods shall, on importation or exportation from Montserrat by sea, be deemed to be in the custody of the Authority.

Power to determine conditions and rates of carriage or warehousing

45. The Authority may, subject to the provisions of this Act and any Regulations—

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

Port Manager to retain goods until freight is paid

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

- (a) the payment of any dues and charges in respect of such ship and the goods and of customs duties thereon; or
- (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 persons entitled to take delivery thereof.

(2) Where the Port Manager 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 paragraphs (b) or (c) of that subsection, the Authority shall be freed from all liability to any person in respect of the goods.

(3) Nothing in this section shall be construed as requiring any person to take into the custody of the Authority any goods which would not otherwise be receivable by the Authority under the provisions of this Act or any Regulations or as requiring the Port Manager 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).

Documentary requirements for release of goods

47. No goods shall be released by the Authority unless the bill of lading or other similar document relating to the goods clearly indicates—

- (a) the freight charges relating to the goods; and
- (b) the landing, storage and delivery charges payable in respect thereof, being charges which are not a rate greater than any rate from time to time prescribed.

(Inserted by Act 9 of 1979)

Consignor or consignee liable for carriage or warehousing

48. The consignor of, or person tendering any goods for carriage or warehousing by the Authority, or the consignee of, or person receiving any goods which have been carried or warehoused by the Authority, shall be liable in accordance with the Regulations under this Part for the charges of such carriage or warehousing and any other services performed or facility provided in respect of the goods by the Authority.

Duty to deliver description of goods

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

(2) An authorised officer may, for the purpose of verifying the documents delivered under subsection (1) require 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 referred to in subsection (1) or to permit such goods to be examined as required in subsection (2) hereof, an authorised officer may, in respect of the goods which are tendered for carriage or warehousing by the Authority, refuse to accept the goods for such carriage or warehousing unless in respect thereof a charge not exceeding the highest payable for any class of goods is paid.

(4) If in respect of goods which have been carried or warehoused by the Authority, any document delivered under subsection (1) is found to be false in any material particular with respect to the description of any goods to which it purports to relate, an authorised officer may refuse to deliver such goods unless in respect of carriage or warehousing of the goods, a charge not exceeding double the highest charge payable for any class of goods is paid.

Authorised officer's power to levy charges, etc.

50. In respect of all goods in the custody of the Authority in pursuance of section 44, an authorised officer shall be entitled to levy such charges as may be determined in accordance with the regulations made under this Act, and he may do all such reasonable acts and things and incur such reasonable expenses as are necessary for the proper custody and preservation of the goods, and the Authority shall have a lien on the goods for such charges and any other expenses and shall be entitled to seize and detain the goods until such charges are fully paid.

Effect of non-removal of goods

51. (1) Subject to the provisions of this section and without prejudice to the provisions of section 50, where any goods except perishable goods are in the custody of the Authority on any premises of the Authority and are not removed therefrom within a period of fifteen days from the time when the goods were placed in or on such premises, the Port Manager shall cause a notice to be served on the owner or any other person appearing to the Port Manager to be entitled thereto, requiring him to remove the goods.

(2) Where—

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

the Port Manager may, within a reasonable time being not less than six weeks after a suitable notice has been published in the *Gazette* and in a newspaper published in Montserrat, sell the goods by public auction.

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

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

Application of proceeds of sale

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

- (a) in the payment of any duty or consumption tax payable in respect of the goods;
- (b) in the payment of the expenses of the sale;
- (c) in payment of the sums due to the Authority in respect of the carriage or warehousing and other service performed or facility provided in respect of the goods; and
- (d) in payment of freight and other claims of which notice under the provisions of this Act has been given, and by paying the surplus, if any, to the owner or the person entitled thereto on demand, and if no such demand is made within one year from the date of the sale of the goods, by paying the surplus into the funds of the Authority, whereupon all rights of such person to the same shall be extinguished.

Compilation of dues, charges and tariff book

53. (1) Subject to the provisions of this Act, the dues, conditions and charges for the carriage or warehousing of goods and for any other service or facility performed or provided by the Authority when determined, shall be in the form of regulations, and shall be first submitted to the Governor for approval. (*Amended by Act 9 of 2011*)

(2) Such regulations shall be published in the *Gazette* and shall have effect from the date of such publication or from such later date as may be specified therein.

(3) Subject to the approval of the Minister, and without prejudice to subsections (1) and (2), the Regulations shall be deemed to have been made and be embodied in the Tariff Book as provided in accordance with subsection (4).

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

PART 7

SPECIAL PROVISIONS IN RELATION TO PORTS

Master to supply information

54. The master of any ship arriving in the Port shall produce to an authorised officer—

- (a) the ship’s register and the ship’s papers;
- (b) a list of the passengers, if any, showing particulars of their sex and occupation;

- (c) a list showing the deaths, if any, which have occurred during the voyage;
- (d) a list showing the stowaways, if any, on the ship;
- (e) such other information in relation to the ship, passengers and cargo thereof, as such authorised officer may reasonably require.

Power of Port Manager in relation to ships

55. (1) Notwithstanding the provisions of any regulations made under section 61, the Port Manager may—

- (a) direct where any ship shall be berthed, moored or anchored and the method of anchoring within the port and the approaches to the port;
- (b) direct the removal of a ship from any berth, station or anchorage to another berth, station or anchorage and the time within which such removal is to be effected within the port and the approaches to the port; and
- (c) regulate the movement of ships within the port and the approaches to the port.

(2) In case of any refusal or neglect or of any failure to comply with any direction given under subsection (1), the Port Manager may, without prejudice to any proceedings being instituted against any person, cause to be done all such acts and things as are in its opinion reasonable or necessary for the purpose of carrying out such direction and may hire and employ such persons as it considers proper and necessary for such purpose. *(Amended by S.R.O. 13/1997)*

(3) All expenses incurred in doing such acts and things shall be borne and paid by the person or persons so offending.

Power in respect to wrecks, etc.

56. (1) The Port Manager shall be a Receiver of Wreck for the purposes of the Receivers of Wreck Act and may—

- (a) remove any wreck in or other obstruction to, the port or its approaches, or any timber, raft or other thing floating in the port which endangers, or obstructs, or is likely to endanger or obstruct the free navigation of the port or the use of any dock or wharf therein;
- (b) in the case of urgent necessity take any action in the port which in his opinion may be necessary to prevent any danger to life, limb or property;
- (c) enter upon any ship or into any building in the port if it is necessary for him to do so in the performance of any duty under this Act or any regulation or if he has reasonable

grounds for believing that an offence against this Act or any regulation has been, or is about to be committed.

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

(3) Where any wreck or thing is removed under the provisions of subsection (1)(a) and the expenses of removal have not been paid within seven days of such removal, the Port Manager may cause such wreck or thing to be sold by public auction and shall out of the proceeds of sale retain the amount necessary to meet the expenses of such removal, detention and sale and any customs duties, taxes, dues or charges payable in respect thereof, and shall pay the balance, if any, to the person appearing to him to be entitled thereto.

Fire on board ship

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

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

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

Accidents

58. (1) Where any accident occurs in the port, then if that accident—

- (a) is attended, or is of a kind usually attended with loss of human life or with serious injury to person or property; or
- (b) involves any collision between ships or damage to the wharf; or
- (c) is of such other kind as the Minister of Communications and Works may specify, the Port Manager shall, as soon as practicable, give notice of the occurrence of the accident to the Minister.

(2) The Port Manager may order such enquiry into any accident which occurs in the port as he may think fit and shall, when so required by the Minister, order such enquiry as aforesaid as the Minister may think fit.

(3) The Port Manager shall submit to the Minister a report on any accident enquired into setting out, *inter alia*, the probable cause of such accident and the steps, if any, which have been taken or he has directed shall be taken with a view to avoiding a repetition thereof.

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

Liability for demurrage

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

Execution of orders

60. (1) All acts, orders or directions under this Part of this Act, or any regulations thereunder, authorised to be done or given by a particular officer of the Authority, may be done or given by any other officer of the Authority authorised in writing in that behalf.

(2) Any person authorised to do any such act may call to his aid such assistance as is necessary.

Non-liability of Authority

61. The Authority shall not be liable for any act, omission or default of the Port Manager.

Regulations

62. (1) The Governor may with the advice of the Authority, make regulations generally with respect to the maintenance, control and management of the port and the approaches thereto, the services performed, the navigational aids and other facilities provided by the Authority, and for the maintenance of order on any premises used by or for the purposes of the Authority, or in any ship or vehicle used by or for the purposes of the Authority, and for the carrying out of the provisions of this Act limiting the charges which may be made by shipping agents in respect of the landing, shipping, storage or delivery of goods or any other service associated with the landing or shipping of goods and, without prejudice to the generality of the foregoing, may make regulations with respect to—

- (a) the proper control and management of the foreshore of the port and the entrance thereof, the prevention and removal of obstructions therein, and the regulation of any work, service or facility performed or provided thereat;
- (b) the control of all persons and vehicles on any such premises, the maintenance of order thereon, and the admission or

- exclusion of persons therefrom and the charges, if any to be made for such admission;
- (c) regulating, controlling and prohibiting the doing or omission of anything or class of things within the boundaries of the port or any specified part or parts of the port, either at all times and on all occasions, or at any time or times or on any occasion or occasions;
 - (d) the regulation, restriction and control (without prejudice to the conduct of navigation) of the depositing of any substance, solid matter, article or thing polluting or likely to cause pollution of the waters of the port;
 - (e) the regulation of traffic and navigation of ships within the limits and approaches to the port and all matters relating to the protection of life and property;
 - (f) the regulation of the mode and place of mooring, anchoring, and berthing of ships and their removal from a mooring, anchorage or berth to another mooring, anchorage or berth, and the time within which such removal shall be effected;
 - (g) the protection of ships and cargoes, and the removal, destruction, sale or abandonment of stranded ships and their cargoes and appurtenances which obstruct or are likely to obstruct the fairway of the port, the payment of expenses, including salvage, incurred in connection therewith, and the levy and recovery of a rent for the right of a bulk or wreck or wreckage to lie in the port;
 - (h) the regulating of the times, places, order and mode of shipping, unshipping, loading, warehousing, storing and the depositing of goods;
 - (i) the fixing of dues and charges payable in respect of any ship, with different charges being applicable in respect of different ships or classes of ships, the exemption or the remission thereof or of part thereof;
 - (j) the fixing of the charges payable in connection with the carriage or warehousing of goods and for any service or facility performed or provided by the Authority, the exemption from payment, refund or remission thereof;
 - (k) the fixing of the scale of charges payable in respect of any other service or facility performed or provided by the Authority;

- (l) the licensing of shipping agents, customs brokers, landing agents, forwarding agents, baggage and parcel agents, porters, contractors for supplies and victualling, and other person concerned in or engaged in or performing any service or work in connection with the port

(Amended by Act 9 of 2011)

(2) The Governor may with the advice of the Authority, make regulations generally for the conveyance, loading, discharging and storage of dangerous goods within the limits of the port, and without prejudice to the generality of the foregoing, may make regulations with respect to—

- (a) the classification of goods as dangerous goods;
- (b) the regulation of the navigation and place of berthing of ships carrying dangerous goods;
- (c) the regulation and control of landing, loading and discharging dangerous goods;
- (d) the prohibition or subjection to conditions and restrictions of the conveyance of any kind of dangerous goods with any other kind of goods, articles or substances;
- (e) the prohibition of the loading or discharging of dangerous goods at places within the control of the Authority in cases where such loading or discharging appears specially dangerous to the public;
- (f) the fixing of times and places at which dangerous goods are to be loaded or discharged and the quantity to be loaded or discharged at any one time;
- (g) the regulation of the mode and the precautions to be observed in conveying or keeping dangerous goods and in the loading or discharging of the same;
- (h) the protection, whether by means similar to those above mentioned or not, of persons and property from danger generally.

(Amended by Act 9 of 2011)

(3) Subject to the provisions of any enactment relating to Merchant Shipping, the Governor may, with the advice of the Authority make regulations with respect to—

- (a) the taking of measures for the prevention of ships from leaving the port if overloaded, improperly loaded, improperly found, insufficiently manned, or without qualified officers or engineers or with a number of passengers in excess of the number that can be carried with reasonable safety, or if otherwise unseaworthy;
- (b) the examination, certification and licensing of masters, mates and engineers of tugs conducting ships in and out of the port,

and of dredges and light craft, and the licence fees payable in respect thereof;

- (c) the inspection, licensing, registration or certification of ships, ferries, tugs, launches, hulks, or other craft, the charges to be paid therefor and the number of passengers to be carried therein.

(4) Regulations made under this section may provide for any infringement thereof or failure to comply therewith a fine not exceeding \$500 on summary conviction.

(5) Regulations made under this section shall be laid before the Legislative Assembly as soon as practicable after being made, and the Legislative Assembly may by resolution amend or revoke such regulations but without prejudice to the validity of anything previously done under them or to the making of new regulations.

(Amended by Acts 9 of 1979 and 9 of 2011)

PART 8

PROVISIONS RELATING TO OFFENCES

Damaging property likely to endanger life

63. Any person who unlawfully damages or in any way interferes with any buoy, beacon or other property of the Authority in such a manner as to endanger, or as might endanger, the life of any person, shall be guilty of an offence against this Act and shall be liable on conviction on indictment to imprisonment for a term of ten years.

Persons endangering safety of operations

64. Any person, who, while on duty or lawfully employed on any premises of the Authority or upon any ship or vehicle of the Authority, endangers the safety of any other person—

- (a) by contravening any of the provisions of this Act or of any regulations; or
- (b) by contravening any lawful order, direction or rule given to such person or made in respect of his service; or
- (c) by being under the influence of alcohol; or
- (d) by any rash or negligent act, shall be guilty of an offence against this Act and shall be liable on summary conviction therefor to a fine of \$750, or to imprisonment for a term of twelve months.

Failure to comply with certain provisions of Act, etc.

65. (1) The following persons shall be guilty of offences against this Act and shall be liable on summary conviction therefor to a fine of \$500, or to imprisonment for a term of six months—

- (a) any master who fails to comply with the provisions of section 53 or gives any information which is false in any material particular;
- (b) any person who without lawful excuse refuses or neglects to obey any lawful direction given to him under section 54;
- (c) any master who, without lawful excuse, refuses to allow an authorised officer to enter his ship in contravention of section 55(1)(c).

(2) Any person who, with intent to defraud, demands or receives from any person delivering goods for carriage or warehousing by the Authority, or from any other person making use of the facilities provided by the Authority, any greater or lesser amount than he should demand or receive, shall be guilty of an offence against this Act and shall be liable on summary conviction therefor to a fine of \$500 or to imprisonment for a term of six months.

(3) Any person who, by any means whatsoever, eludes or evades any dues or charges leviable under this Act or the Regulations, shall be guilty of an offence against this Act and shall be liable on summary conviction therefor to a fine of \$1,000 in addition to the amount of such dues or charges or to imprisonment for a term of twelve months.

(4) Any person who makes, either knowingly or recklessly, any statement which is false in any material particular in any return, claim or other document which is required or authorised to be made under this Act or the Regulations, shall be guilty of an offence against this Act and shall be liable on summary conviction therefor to a fine of \$2,500 or to imprisonment for a term of two years.

Miscellaneous minor offences

66. Any person who—

- (a) being on any premises, ship or vehicle of the Authority—
 - (i) refuses when called upon by an authorised officer, police officer or constable to give his name and address or gives a false name or address; or
 - (ii) without lawful excuse contravenes any lawful direction given by any authorised officer; or
- (b) defaces the writing on any board or notice authorised to be maintained upon any premises of the Authority or upon any ship or vehicle used by the Authority; or

- (c) damages or without lawful excuse interferes with any property of the Authority; or
- (d) wilfully obstructs or impedes any other person in the discharge of his duties arising out of his employment with the Authority, shall be guilty of an offence against this Act and shall be liable on summary conviction therefor to a fine of \$250 or to imprisonment for a term of three months.

Powers of arrest

67. (1) Any person who commits any offence mentioned in section 63, 64 or 66 may be arrested without warrant by any authorised officer, police officer or constable.

(2) Any person who commits any offence against this Act or the Regulations other than an offence mentioned in subsection (1) may be arrested without warrant by any authorised officer, police officer or constable if—

- (a) there is reason to believe that such person will abscond; or
- (b) he refuses on demand to give his name and address; or
- (c) there is reason to believe that the name or address given by him is false:

Provided that, where there is reason to believe that such person will not abscond, he shall, if his true name and address are ascertained be released on his entering into a recognizance with or without sureties for his appearance before a Magistrate at a time as stated therein.

Port Manager may confer powers on officers

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

PART 9

LEGAL PROVISIONS

Notice of claims

69. (1) Notwithstanding anything contained in any enactment—

- (a) No person shall be entitled to compensation or damages for non delivery of the whole of a consignment of goods, or of any separate package forming part of such consignment accepted by the Authority for carriage or warehousing unless a claim in writing, giving such particulars as may reasonably

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be necessary, is given to the Port Manager within 6 months of the date upon which such goods were accepted by the Authority;

- (b) No person shall be entitled to compensation or damages for any goods missing from a packed or unpacked consignment or for misdelivery of, damage or delay to, or detention of any goods accepted by the Authority for carriage or warehousing unless—
 - (i) the Port Manager is notified of such fact in writing within four days of the date upon which such goods were delivered to the consignee or person entitled to take delivery thereof; and
 - (ii) a claim in writing, giving such particulars as may reasonably be necessary, is given to the Port Manager within 1 month of such date.

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

Limitation

70. Where, after the commencement of this Act, any action or legal proceedings is commenced against the Authority for any act done in pursuance or execution or intended execution of this Act or the regulations or of any public duty or authority imposed or conferred by this Act or any Regulations, or in respect of any alleged neglect or default in the execution of this Act or of the regulations or of any such duty or authority, the following provisions shall have effect notwithstanding anything contained in any enactment, that is to say—

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

Restriction on execution against property of the Authority

71. Notwithstanding anything to the contrary in this Act or any regulations or in any other enactment, where any judgement or order of any

Court or any award of an arbitration tribunal has been obtained against the Authority for or in respect of anything done or omitted to be done under the provisions of this Act or any regulation, or any contract or otherwise for or in respect of the Authority or its purposes—

- (a) no execution or attachment or process in the nature thereof shall be issued against the Authority, but such amounts as may be by the judgement or order be awarded against the Authority shall be paid by the Authority from its funds to the person entitled thereto;
- (b) no property of the Authority shall be seized or taken by any person having by law power to attach or distrain property.

Overpayment or underpayment of dues and charges

72. Where the amount paid in respect of any dues and charges is found to be incorrect, then if such amount is—

- (a) overpaid, the person who overpaid any such amount shall be entitled to a refund of the amount so overpaid;
- (b) underpaid, the amount of such underpayment may be collected from the person who made such payment:

Provided that, notwithstanding anything contained in any enactment, such overpayment or underpayment shall not be refunded, or collected, as the case may be, unless notice in writing containing such particulars as may reasonably be required be given—

- (i) by the person claiming such overpayment to the Port Manager; or
- (ii) by the Port Manager to the person against whom the underpayment is claimed within 6 months after the goods were accepted or the services rendered, as the case may be, by the Port Authority, so, however, that where such underpayment is caused by information or description subsequently found to be incorrect, such period of 6 months shall commence from the date of the discovery by the Port Manager of the correct information or description.

PART 10

TRANSITIONAL

Transfer of assets

73. (1) Upon the commencement of this Act—

- (a) all lands of the Crown within the boundaries of the port including the sea bed and shores vested in the Government of

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Montserrat immediately before the commencement of this Act, are hereby transferred to the Authority;

- (b) the warehouses, buildings, machinery, plant, tools and other property which immediately before the commencement of this Act were the property of the Government of Montserrat and which are listed in the Schedule hereto are hereby transferred to the Authority.

(2) All rights, privileges and advantages, and all the obligations to which, immediately before the commencement of this Act, the Government of Montserrat was entitled to or subject to, as the case may be, in respect of its operation of the port, are hereby transferred and conferred or imposed on the Authority for the purposes of this Act.

(3) The provisions of any deed, contract, bond or security or other document relating to the operation of the port and subsisting immediately before the commencement of this Act against or in favour of the Government of Montserrat shall have full force and effect against or in favour of the Authority and be enforceable as fully and effectively as if, instead of the Government of Montserrat or any person acting on behalf thereof, the Authority had been named therein and had been a party thereto.

(Amended by Act 9 of 1983)

Exemption from property tax

74. Notwithstanding the provisions of the Property Tax Act, the Authority shall not be liable to the payment of property tax on any property owned by the Authority.

Exemption from income tax

75. Notwithstanding anything contained in the Income and Corporation Tax Act, the Authority shall be wholly exempt from the payment of income tax.

Exemption from stamp duties and other charges

76. Notwithstanding the provisions of any law providing for the registration of documents or the payment of stamp duties, the Authority shall be exempt from the payment of all registration fees, filing fees, stamp duties and all other fees or impositions including search and inspection fees.

Exemption from import duties, etc.

77. All material, equipment, vehicles, stationery and stores required by the Authority for the purpose of carrying out its functions under this Act and which are imported by the Authority or by an agent acting on behalf of the Authority for the said purpose, shall be exempt from the payment of import duty and consumption tax.

Transfer of public servants

78. (1) The Governor may approve the transfer and appointment of an officer from the Public Service of Montserrat to the service of the Authority or from the service of the Authority to the Public Service of Montserrat.

(2) For the purposes of this section the Port Authority shall be deemed to be a “**Scheduled Government**” for the purposes of the Pensions Regulations contained in the First Schedule to the repealed Pensions Act as if the Authority had been specifically mentioned and referred to in the First Schedule to the said Regulations.

PART 11

MISCELLANEOUS AND GENERAL POWERS

Appointment of constables

79. (1) The Authority may from time to time, after consultation with the Commissioner of Police, appoint persons to be Constables with the approval of the Governor. *(Amended by Act 9 of 2011)*

(2) The Constables so appointed shall be a supplemental body of police styled “Port Constables”.

(3) The Authority shall make Standing Orders to provide for the terms and conditions of appointment of the Port Constables with the approval of the Governor. Such Standing Orders shall also provide for the duties of Constables with special regard to the maintenance of order within the port, and the protection and safety of goods and property, and the suspension and termination of appointment of any person appointed as a Constable under this section. *(Amended by Act 9 of 2011)*

(4) The Commissioner of Police shall have the general command and superintendence of the Port Constabulary.

(5) Every member of the Port Constabulary shall in the performance of his duties have and exercise all the powers, rights, privileges and protection and be liable to the same responsibilities and discipline of a member of the Royal Montserrat Police Service. *(Amended by Act 9 of 2011)*

(Amended by Act 9 of 1979)

Bonded warehouses

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

(2) When such security has been given by the Authority no further security shall be required by the Comptroller of Customs from any other person to the same effect.

(3) Nothing in this section however shall be taken to absolve any person who would have been liable to pay duties from paying any such duty as he would be compelled to pay in respect of any such goods.

Legal proceedings

81. (1) Proceedings for offences arising out of the provisions of this Act may be instituted in writing by the Port Manager or by any officer duly authorised by him in writing. Such power shall be in addition to and not in delegation of the power vested in any other person by any enactment to initiate criminal proceedings.

(2) In any proceedings for any offence under this Act, the averment that such offence was committed within the limits of the port shall be sufficient without proof of such limits, unless the contrary is proved.

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

SCHEDULE

(Section 73)

PROPERTY TRANSFERRED TO PORT AUTHORITY

1. All buildings situated on the land, reclaimed land, jetty and wharf construction included in the area comprised in the Port as defined in section 2.
2. Gates and fences, security lights and fixtures, security walls and all other fixtures and fittings attached to and forming part of the land, reclaimed land, jetty and wharf construction included in the area of the Port as defined in section 2.
3. Three dolphins adjacent to the jetty and all buoys and markers situate and used within the Authority's area of responsibility.

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*(S.R.O.s 46/1977, 30/1979, 8/1994, 40/1994,
2/1995, 71/1996, 63/1997, 17/1998 and 69/2005)*

Commencement

[1 December 1977]

PART 1

RULES AND REGULATIONS

Short title

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

PRELIMINARY

Application of tariff and supplements

2. (1) The charges, rates, rules and regulations published in this tariff shall apply equally to all users of, and all traffic in any harbour and facilities owned, operated and administered by the Port Authority of Montserrat under the jurisdiction of the Port Manager's Department on and after the effective date of this tariff or any supplements thereto.

(2) The Port Manager's Department by delegation from the Port Authority shall be the judge as to the application and interpretation of this tariff. Should an occasion arise wherein no corresponding commodity or storage situation is shown herein, the Port Manager shall be the judge as to the application of this tariff.

Interpretation

3. In this Regulation—

“**berth assignment**” means the granting of permission to use a specified berth;

“**cargo handling dues**” means a charge assessed against a vessel for handling any cargo to or from vessels, that is from vessel hook to tailgate or vice versa;

“**cargo tonnage dues**” means the charge for the use of the port and does not include a charge for any other service;

“**Chairman of the Port Authority**” means the Permanent Secretary Ministry of Communications and Works, as incorporated under the Act;

“**checking**” means the service of counting and checking cargo against appropriate documents for the account of the cargo or the vessel, or other person requesting same;

“**demurrage**” means a charge assessed against cargo remaining in or on terminal facilities after the expiration of free time unless arrangements have been made

for storage. Wharf demurrage is also applicable to cargo remaining in or on terminal facilities after expiration of an authorised storage period;

“free time” means the specified period during which cargo may occupy space assigned to it on terminal property free of wharf demurrage or terminal storage charges immediately prior to the loading or subsequent to the discharge of such cargo on or off the vessel;

The handling of cargo from vessel hook to tail gate or *vice versa*;

“heavy lift” means the service of providing heavy lift cranes and equipment for lifting cargo;

“inter-island vessel” means a vessel under 300 GRT and trading exclusively within the Caribbean Waters;

“licensed pilot” means a pilot licensed by the Port Authority to pilot vessels or ships, to and from alongside the berths at the Port of Plymouth or anywhere within the limits of the Port of Plymouth;

“loading” or “unloading” means the service of loading or unloading vessel to any place on the terminal and trucks, lighters or barges or any other means of conveyance to or from the terminal facility;

“N.O.S.” means Not otherwise specified;

“ocean-going vessel” means a vessel of or over 300 GRT;

“operator” means any person carrying on the business of furnishing wharfage, dock, warehouse, or other marine terminal services or facilities in connection with a common carrier by water in Montserrat;

“passenger domestic” means a passenger travelling in coastal or on inter-territorial vessels;

“passenger foreign-person” means a passenger travelling in a foreign-flag vessel;

“person” includes individuals, partnerships, corporations, associations, municipal and other governmental entities;

“place of rest” means a location designated by the Port Authority within the terminal area where goods and commodities shall be placed in a manner acceptable to the Port Authority and allowed to remain while awaiting delivery to consignee or for loading on board a vessel;

“Port Authority” means the Montserrat Port Authority incorporated under the Act;

“port dues” means a charge assessed against any vessel or ship on its registered GRT tonnage using any harbour or Port in Montserrat;

“Port Manager” means a person appointed as Port Manager by the Port Authority to manage the Port of Plymouth and other Ports;

“Port Manager’s Department” means the Port Manager’s Department created to operate, manage and develop the seaports and terminal facilities of Montserrat;

“Port of Plymouth” means the Port of Plymouth or any other Port under the administration of the Port Authority of Montserrat;

“**port terminal facility**” means one or more structures comprising a terminal unit, and including, but not limited to wharves, warehouses, covered and/or open storage space, cold storage plants, landings and receiving stations, used for the transmission, care and convenience of cargo and/or passengers in the interchange of same between land and water carriers or between two water carriers;

“**ships**” mean any schooner, sailing vessels propelled by sail, or partially propelled by power, and shall include in its meaning the term “**Master, Owner or Agent thereof**”;

“**tailgating**” means the delivery of cargo by the Port Authority from rest to the tailgate of the truck for inbound cargo payable by the consignee for outbound cargo from tailgate of the truck to rest;

“**tariff book**” means a publication containing dues, charges and conditions prepared and published by the Port Authority in accordance with the provisions of the Act;

“**tariff publication**” means a schedule, tariff, supplement to, or revised or amended page of a schedule or tariff;

“**terminal storage**” means the service of providing transit sheds or other terminal facilities for the storing of inbound or outbound cargo after the expiration of free time, including wharf storage, shipside storage closed or covered storage, open or ground storage, bonded storage and refrigerated storage, and after storage arrangements have been made;

“**ton**” means a ton of 2,200 pounds or thirty five cubic feet, whichever yields the greater charge;

“**usage**” means the use of the terminal facility by lighter operator, trucker, shipper or consignee, their agents, servants and/or employees, when they perform their own car, lighter or truck loading or unloading, or the use of said facilities for any other gainful purpose for which a charge is not otherwise specified;

“**vessel**”, except as otherwise specified, means floating craft of every description, with the exception of ships, and shall include in its meanings, the term, “**owners, masters and agents thereof**”;

“**vessel’s hook**” means to and from vessel’s tackle;

“**wharfage dues**” means a rate charged by weight or measurement, whichever yields the greater revenue, on all imports payable by the consignee, and on all exports, payable by the consignor, moved through the Port of Plymouth.

(Amended by S.R.O. 30/1979)

Consent of terms of tariff

4. The use of the harbours and piers, wharves, bulkhead, docks and other facilities under the jurisdiction of the Port Manager’s Department shall constitute a consent to the terms and conditions of this tariff, and evidence an agreement on the part of vessels, their owners and agents, and other users of such harbours and facilities to pay all charges specified in this tariff and be governed by all rules and regulations published herein.

Appeals

5. To the extent that the Port Manager and the Port Manager's Department derive authority and responsibility from the Port Authority and have been duly delegated same under this tariff, a right of appeal for due cause from actions by them exists to the Port Authority through the Chairman.

Exemption for port construction

6. All construction work at the Ports and Harbours of Montserrat whether new facility or maintenance, done under contract with and for the benefit of the Port Authority, is exempt from the charges enumerated in this tariff. The exemption applies only to those activities and materials specifically required and necessary for the completion of the construction work.

General restrictions and limitations

7. (1) The Port Authority is not obligated to provide storage or accommodation for property which has not been transported, nor is intended to be transported by water to or from the port; nor is it obligated to provide berthage, wharfage storage or other services beyond reasonable capacity of the facilities; nor is it obligated to provide extended storage for any property in the course of normal operations, beyond a period of time determined by the Port Manager.

(2) The Port Authority of Montserrat is not obligated to accept any cargo, either inbound or outbound, which is not compatible with the accepted objectives of the port and the established assurances to the community. The refusal of any such cargo is discretionary with the Port Manager.

GENERAL

Payment of bills

8. (1) All charges assessed under this tariff are due as they accrue and are payable within fifteen days after presentation of invoices.

(2) The Port Authority reserves the right, in the event of delay or failure to pay invoices when due, to demand payment of charges in advance before further services will be performed or facilities used, or before freight upon which charges have accrued will be released for delivery.

(3) The Port Authority does not recognise the numerous shippers of consignees and cannot attempt to collect or assist in collecting port dues, tonnage dues, cargo handling dues, storage, wharf demurrage, and other bills which may be passed on to the shippers and consignees by the vessel, its owners or agents. The Port Authority must be paid regardless of when the vessel, its owners or agents are reimbursed.

(4) The Port Authority requires a deposit of all charges in advance which may accrue against a vessel, its owners or against the cargo loaded or discharged by a vessel, or from other users of the facilities. Use of the facilities may be denied until such advance payments or deposits are made.

(5) Cash deposit by Master, Owner or Vessel Agent only—

| | |
|-----------------------------------|-------|
| (a) Per ton unloaded | \$40 |
| (b) per ton loaded | \$25 |
| (c) tankers per ton | \$ 6 |
| (d) passenger vessels per vessel— | |
| (i) under 100 GRT | \$200 |
| (ii) 101 – 2000 GRT | \$400 |
| (iii) 2001 GRT and over | \$800 |

Indemnity bond

9. (1) Users of the port facilities are required to furnish the Port Authority with a cashable bond, insuring the Port Authority against loss of any funds and indemnifying the Port Authority in full for the payment of bills that accrue 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 Port Authority.

(2) The Port Manager is authorised to determine and fix the amount of the required Bond.

(3) The Port Manager is also authorised to cash the Bond by this section.

Insurances

10. (1) The rates and charges published in this tariff do not include any insurance of any nature.

(2) All users of the port facilities are required to carry bodily injury liability insurance and property damage liability insurance and to furnish certificates of insurance to the Port Manager.

Pollution of air and water and unnecessary noises

11. (1) It shall be unlawful for any person, firm or corporation to deposit, place or discharge into the waterways and harbour of the Port of Plymouth any ballast, dunnage, sanitary sewage, butcher's offal, garbage, dead animals, gaseous liquid or solid matter, oil, gasoline, residium 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 odors or gases of putrefaction.

(2) All vessels and ships and all persons using port facilities shall take every precaution to avoid pollution of the air or making unnecessary noises.

(3) All appropriate federal, state and local laws, rules or regulations pertaining to air and water pollution shall be rigidly observed.

Clearance

12. No vessel or ship shall receive clearance from the Comptroller of Customs or any other officer of Customs except on the production of a certificate from the Port Manager certifying that he has complied with the regulations hereunder and paid all his tolls and dues.

Allocation of space

13. The Port Manager shall control the allocation of all space covered, or open on the Seaport properties of Plymouth. All persons using port property in any manner shall strictly comply with such allocations. The Port Manager is authorised to move cargo or other articles after the free time allowance at consignee, or agent's expenses, in order to enforce this item.

In all cases, the objective of space allocation is to insure maximum flexibility and utilisation of available space, both covered and open, and the Port Manager shall be the sole judge in the matter.

Leasing

14. Where leasing is involved as for office space or open ground space, Port Authority procedures and requirements shall be followed.

Cleanliness of premises

15. All vessels and ships their owners and agents, and all other users of the facilities shall be held responsible for the general cleanliness of the property which has been allocated, assigned or leased to them. This shall include those parts of aprons, gutters, and truck docks used in connection with any specific loading, unloading or handling operation.

If such users do not properly clean the facilities or property they have been using, the Port Manager may order the property cleaned and placed in good order and charge the users responsible at cost, plus one hundred per cent with a minimum charge of \$25.

Damage to port terminal facilities

16. All vessels, their owners or agents, and all other users of the facilities, shall be held responsible for all damage to the facilities occasioned by them. The Port Manager's Department may detain any vessel or other watercraft responsible for damage to the facilities until sufficient security has been given for the amount of the damage. It shall be the responsibility of the users of the facilities to report any damages occasioned by them to the Port Manager's Department immediately.

The services of a licenced pilot on duty on board any ship or vessel, does not relieve the master of the vessel of the responsibility for any damage caused by the ship or vessel and no liability shall be placed on a licenced pilot for any damage to facilities.

Emergencies

17. Anyone on the port property at any time becoming aware of an emergency situation of any nature should notify a responsible Port Manager's Department representative by the fastest means, while taking such immediate direct action as may be appropriate. Anyone not reporting such emergency, shall be held liable.

Loitering on Port properties

18. It shall be unlawful for any person to loiter upon the properties of the Port Manager's Department. It shall be unlawful for unauthorized persons to enter cargo movement or handling areas.

Persons using the port facilities do so at their own risk, and the Port Manager's Department will assume no responsibility for injuries or damages sustained. Any person doing so shall forthwith depart, when ordered to do so at the request of the Port Manager.

Signs

19. Painting signs on structures belonging to the Port Manager's Department is prohibited without prior approval. Signs to be erected on the port shall be furnished by the port users and erected or placed by the user after the Port Manager shall have approved the design, material and size of said signs. All signs shall be uniform.

Smoking

20. It shall be unlawful for any person to smoke or to light any match upon, or in, any port facilities where such is prohibited by the Port Authority.

Solicitation

21. It shall be unlawful for any person to solicit or carry on any business on the seaport property without first obtaining a permit from the Port Manager's Department of the Port Authority as required by this tariff and subject to having the required occupational licences.

Vehicles

22. It shall be unlawful to park automobiles in any restricted area or to park any automobile, truck, trailer or any other vehicle in loading zones for any longer period than is necessary to load or discharge cargo or passengers.

All vehicles entering the Port of Plymouth not engaged in the transportation of cargo shall park in the area designated by the Port Manager's Department.

Wharf obstruction

23. Stevedore's tools, appliances, equipment, vehicles or any other material or object which is not part of the cargo will not be permitted to remain on the wharves or wharf premises, or in the transit sheds, except at the discretion of the Port Manager.

Cargo or gear will not be stored on the aprons, in driveways, roadways, or any other locations that would hamper normal port operations without specific approval of the Port Manager's Department.

If not removed when so ordered, it shall be subject to removal by the Port Manager's Department at the agent's expense, at cost plus 100%.

Requirements of documents

24. To expedite prompt handling of goods through the terminal areas, the following documents will be required (must be originals or certified facsimiles).

Inbound Cargo

five legible copies of vessel manifest (required at least forty eight hours prior to arrival of vessel, inter-Caribbean vessels on arrival).

one copy of steamship company release (delivery order).

Outbound Cargo

one copy of loading list (required twenty ofur hours prior to vessel loading).

one copy Customs Report Outwards.

five legible copies of vessel manifest (required within three days after departure of vessel).

Discipline

25. When on Port Authority premises, no person shall—

- (a) cause or participate in any disturbance;
- (b) be in an intoxicated condition;
- (c) possess intoxicating liquor;
- (d) refuse to produce for inspection, at the request of anyone in the Port Manager's Department the contents of any parcel in his/her possession;
- (e) refuse to be searched by a Port Authority Constable;
- (f) bring in live animals, without permission;
- (g) refuse to leave, when ordered to do so, by a member of the Port Manager's Department.

CARGO

Abandoned cargo

26. Any cargo on which charges have not been collected after forty two days shall be considered abandoned cargo. The Port Authority reserves the right to remove any

or all such property. When the Port Manager determines final abandonment of cargo in any instance, he shall dispose of same under established Montserrat procedures.

Furnishing cargo statements and vessel reports

27. All vessels, their owners and agents, and all other users of the harbours and facilities, shall furnish the Port Manager copies of inbound or outbound manifest or other documents in a form satisfactory to the Port Manager, or a full and correct statement, signed and certified to, on blanks furnished by the Port Authority showing weights or measurements of the various items discharged or loaded and the basis on which freight charges are assessed, within 48 hours before arrival and/or within 24 hours of departure of vessels.

Access to records

28. All vessels, their owners and agents, and all other users of the harbours and facilities, shall be required to permit access to manifests of cargo, passengers, documents and all other documents for the purpose of audit for ascertaining the correctness of reports filed, or for securing necessary data to permit correct estimate of charges.

Explosives, inflammables, and other hazardous materials

29. Explosives, inflammable and other hazardous commodities or materials will not be handed over or received on the wharves or other facilities of the Port Manager's Department until and unless approval is obtained from the Commissioner of Police of Montserrat. Special regulations covering these items, are set out in Appendix 4.

Damaged goods

30. Goods and commodities arriving in apparently damaged conditions, shall be kept separate and delivered to damaged locker which is to be considered as place of rest for damaged cargo if not otherwise instructed.

Goods not under cover

31. Goods and commodities held in open areas are at owner's risk on account of loss and damage caused by weather or deterioration.

Perishable goods

32. To be removed by the Port Manager and sold after two days landing.

BERTHING

Office hours request for berths loading or unloading of vessel

33. (a) on weekdays not later than 3 p.m., except;
(b) on Saturdays not later than 10 a.m.

Application for berth and for the loading or unloading of

34. The agent for a vessel desiring a berth at the Port of Plymouth, or any other harbours shall, as far in advance of the date of docking as possible, make application to the Port Manager in writing in the manner prescribed, at Appendix 1 for a berth specifying the name of vessel, size, the date and estimated time of arrival, date and time of sailing and the nature and quantity of cargo, if any, and request the vessel to be loaded or unloaded.

Assignment of berth

35. All berthing assignments shall be made by the Port Manager and must be rigidly observed.

Change of berth

36. Every vessel, boat, barge or other craft, must, at all times have on board a person in charge with authority to take such action any actual emergency as may be necessary to facilitate common navigation or commerce, or for the protection of other vessels or property. The Port Manager has discretionary authority to order and enforce the removal or change the berth or location of any vessel, boat, barge, 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 any such order.

If there is no responsible person available, or if the person in charge refuses to shift the vessel as directed the Port Manager's Department shall have the vessel shifted at the risk and expense of the vessel.

Unauthorised berthing

37. Any vessel berthed in an unauthorized manner or shifted without approval of the Port Manager's Department shall be subject to an assessment in the amount equal to five times the published Port Dues, or \$1,000 whichever yields the greater. Such vessel may be moved to a properly designated berth without notice by the Port Manager's Department at the owners expense.

No vessel or ship shall tie up or lie alongside the approach bridge, connecting the main berth.

Vessels or ships arriving outside normal working hours

38. All vessels or ships arriving at the Port of Plymouth outside normal working hours of the Port Authority, as defined in regulation 3, shall wait or anchor outside the prohibited anchorage until such time as the vessel or ship is given permission to berth.

NAVIGATION

Prohibited anchorage or obstruction in turning basins and channels

39. It shall be unlawful for any person, firm or corporation 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 of Plymouth as defined in Appendix 3 or to otherwise obstruct navigation, except in cases of actual emergency.

Lights at night

40. All vessels, barges or other watercraft, while anchored, moored or manoeuvring in the waterways of the Port of Plymouth, must at all times during darkness show regulation lights.

Speed

41. It shall be unlawful for vessels or other watercraft to proceed at a speed exceeding 6 knots which will endanger persons, other vessels or structures or to cause wake damage. All applicable federal and local rules, and regulations apply.

Penalty

42. Any person infringing any of these regulations for which no other penalty is provided shall be liable on summary conviction to a fine of \$500 or to imprisonment for any term, of six months.

PART 2

(Inserted by S.R.O. 8/1994 and amended by S.R.O.s 40/1994,
2/1995, 63/1997, 17/1998, 69/2005)

TARIFF BOOK

SCHEDULE 1

MARINE DUES

Marine dues are collected by the Port Authority to assist in the funding of pilotage, navigational aids for safety at sea and in port and apply to ships entering the Port of Plymouth.

| Item | Particulars |
|---------------------------------|---|
| 1. (a) Piloting & Running Lines | For piloting vessels on arrival/departure of shifting berth or anchorage and running lines. From the hours of 0800 to 1600 daily: |

| Vessels including tankers | Piloting per vessel | Running Lines movement |
|---------------------------|---------------------|------------------------|
| Up to 100 GRT | — | \$ 25 |
| 101 to 500 GRT | 60 | 40 |
| 501 to 2000 GRT | 70 | 50 |
| 2001 to 5000 GRT | 90 | 75 |
| 5001 to 10000 GRT | 200 | 100 |
| 10000 and over GRT | 300 | 150 |

Provided that ships requiring a pilot for shifting from alongside one berth to another shall pay 50% of the prescribed fees.

For periods outside the above-mentioned hours and on Sundays and statutory holidays the above-mentioned charges shall be increased by 50%.

| | |
|--|------|
| Waiting Time – per hour or part thereof provided that if the ship arrives at the Pilot Station within the first hour, no waiting time will be charged..... | \$50 |
|--|------|

| | |
|---|------|
| Cancellation fee – if a pilot is ordered and the cancellation of required services is not received within three hours of due time ordered | \$50 |
|---|------|

- | | | | |
|-----|----------------|--------------------------|-----|
| (b) | Pilot's Launch | For vessels over 100 GRT | 200 |
| (c) | Clearance | All vessels | 10 |
2. Basis of Charge Marine dues shall be based on the highest gross registered tonnage of the vessel as shown in Lloyd's Register of Shipping. However, the Port Authority reserves the right to admeasure any vessel when deemed necessary and use such measurement as the basis for Marine Dues.

SCHEDULE 2

PORT DUES

Port dues are collected by the Port Authority to assist in the funding of marine structures used by ships while in port—

- | 3. | Port Dues | For the first
24 hrs or
part thereof
in port | For each
subsequent
24 hrs or
part thereof |
|------|--|---|---|
| (A) | Ships over 20 GRT but not exceeding 100 GRT | \$100 | \$100 |
| | Ships over 100 GRT but not exceeding 500 GRT | 200 | 200 |
| | Ships over 500 GRT but not exceeding 1000 GRT | 300 | 300 |
| | Ships over 1000 GRT but not exceeding 5000 GRT | 400 | 400 |
| | Ships over 5000 GRT | 500 | 500 |
| (AA) | private Yachts \$25 dollars per call private Yachts at berth – at the rate as set out in paragraph (A) above having regard to tonnage and number of hours in the port. | | |
| (B) | Laid up Ships | | |

The owner or agent of any ship anchored or moored in Plymouth may, if the ship is not being used for the storage of cargo or for commercial or residential purposes, apply to the Port Manager to be classified as a “**laid up ship**” as appropriate. Every ship so classified shall pay half the dues detailed at (a) above, provided that the owner or his agent pay such dues at the end of each calendar month.

- | | | |
|----|-------------------------------------|---|
| 4. | Port dues for unauthorized berthing | Any vessel berthed in an unauthorized manner or shifted without the approval of the Authority shall be subject to Port Dues in an amount equal to twice the published fee. |
| 5. | Exemption from Port Dues | <ul style="list-style-type: none"> a) Local Fishing vessels. b) Local cargo vessels at anchor outside of restricted area. c) Vessels belonging to the Government of Montserrat or the Government of any Commonwealth or Foreign Country other than such vessels loading or discharging cargo or embarking or disembarking passengers for freight or fares. |

SCHEDULE 3

(Amended by S.R.O. 69/2005)

CARGO DUES

Cargo dues are collected by the Port Authority to assist in the funding of facilities used to move and store Cargo.

- | | | |
|----|------------------------------|--|
| 6. | Calculation of Cargo Tonnage | A revenue tonne shall mean a volumetric measure of 1 cubic metre (35 cu ft.) 1000 kilos (2200 lbs) whichever is greater. |
|----|------------------------------|--|

Only full tonnes will be used when calculating cargo tonnage subject to cargo dues. Manifest weight totals expressed in pounds or kilograms will be converted to the nearest full tonne as follows—

Fractions over a full tonne but less than 0.5 (1/2) will be dropped. When 0.5 or more, the next highest figure will be used.

- | | | |
|----|-----------------------|---|
| 7. | Non-Shipment of Cargo | Cargo delivered on the port for export and not loaded on a vessel berthed at the port and subsequently moved inland from the port is subject to cargo dues. |
|----|-----------------------|---|

| | | | |
|-----|--|--|---------|
| 8. | Trans-shipment | Cargo transhipped through the port will be assessed cargo handling charges at one and a half times the normal rate and will be subject to half the normal storage charges. | |
| 9. | Ship's Stores | No charge for cargo dues will be made on ship's stores. | |
| 10. | Fuel Tonnage Dues | Per tonne on fuel ex tankers (applied to fuel only as tonnage dues are included in the cargo handling charge). | \$10 |
| 11. | Wharfage | | |
| | Cement per tonne | | \$10 |
| | Lumber, BRC and Steel per tonne | | \$25 |
| | Other cargo per tonne | | \$27 |
| | Other cargo per cu. ft. | | \$ 0.77 |
| | Other cargo per 100 lbs. | | \$ 1.22 |
| | Sand and Aggregate per tonne | | \$10 |
| | Cement blocks per tonne | | \$10 |
| | Empty bottles | | Free |
| | Sand, aggregate, boulders and other volcanic materials | | \$2 |

SCHEDULE 4

CARGO HANDLING CHARGES

Cargo Handling charges are collected by the Port Authority to defray costs associated with the movement of cargo from the ship's hold to the first place of rest on the Port, to either covered storage or open storage in the Port's compound and for handling cargo between place of rest and a truck's tailgate. These charges are also referred to as L.S. & D. (Landing, Storage and Delivery Charges). They cover the operations of Stevedoring, Longshoring and Tailgating.

| | | |
|-----|--|---|
| 12. | Landing, Storage and Delivery Charges – Imports | |
| | (a) Breakbulk | \$56 |
| | (b) Lumber, Steel and BRC | \$56 |
| | (c) Hazardous and Refrigerated Cargo | \$63 |
| | (d) Unitized— | |
| | (i) Cement | \$48 |
| | (ii) Blocks | \$35 |
| | (e) Self propelled wheeled vehicles— | |
| | (i) Roll on Roll off (Cars) | \$43 |
| | (ii) Roll on Roll off (trucks, pick-ups and similar vehicles) | \$26 |
| | (iii) Lift on Lift Off | \$56 |
| | (f) Raw material for manufacture (Breakbulk) | \$14 |
| | (g) Containerized Cargo: Imported full and exported empty with or without wheels | |
| | (i) Raw material for manufacture | \$679 Twenty foot Equivalent Unit |
| | (ii) Full Container Load – direct delivery | \$933 Twenty foot Equivalent Unit |

| | | |
|-------|---|---|
| (iii) | Full Container Load unstuffed in compound | \$1087 Twenty foot Equivalent Unit |
| (iv) | Empty cargo Container (flat rate) | \$400 Twenty foot Equivalent Unit |
| (h) | Less than a Container Load | \$48 per tonne |
| 12A. | Aid Funded Imports | |
| (1) | Wharfage | |
| | Cargo landed or loaded per tonne | \$15 |
| (2) | Cargo handling charges | |
| (a) | General cargo per tone or part thereof | \$32.60 |
| (b) | Landing and Loading Containers | |
| | Full container loads | |
| | Directory delivery | \$570 per Twenty foot Equivalent Unit |
| | Unstuffed by Authority | \$750 per Twenty foot Equivalent Unit |
| (c) | Flat Rate | \$400 per Twenty foot Equivalent Unit |
| 13. | Landing, Storage and Delivery Charges – Exports | |
| (a) | Breakbulk – general cargo | \$14 per tonne |
| (b) | Manufactured goods | \$14 per tonne |
| (c) | Agriculture produce | \$14 per tonne |
| (d) | Empty bottles and other Environmentally destructive items | \$11 per tonne |
| (e) | Containerised Cargo: outbound stuffed by shipper, with or without wheels— | |

| | | | |
|-----|--------------------------|--|---|
| | (i) | Personal effects | \$400 Twenty foot Equivalent Unit |
| | (ii) | Other cargo | \$500 Twenty foot Equivalent Unit |
| 14. | Over- landed Cargo | Per tonne | Same as at 12 |
| | | One free storage period as for transhipment cargo (Section 8) will be allowed after which excess storage charges will apply. | |

SCHEDULE 5

EXCESS STORAGE CHARGES

| | | | |
|-----|--|--|-----|
| 15. | Free Time Allowance | The free time allowed for assembling outbound cargo on and for removing in bound cargo from the Port, excluding Saturdays, Sundays and legal holidays, shall be five days, but the Authority may in its discretion extend the free time allowance when delay is caused by circumstances beyond the control of the consignee. | |
| | | For goods entered for transhipment, the free time allowed shall be ten days inclusive of Saturdays, Sundays and legal holidays. | |
| 16. | Computation Free Time | The free time allowed for assembling of outbound cargo shall commence on the day following placement of the first delivery of cargo on the Port. | |
| | | The free time allowed for removing inbound cargo shall commence on the day following the day the vessel completes discharging or containers unstuffed. | |
| 17. | Excess Storage (Open or Covered Storage) | All cargo remaining on the port after the free time period shall thereafter be assessed storage charges as follows: | |
| | | Per day or part thereof: | |
| | | per tonne | \$6 |
| | | minimum charge per consignment | \$5 |

18. Removal of Goods Upon completion of the free time allowance, goods may be moved from the point of rest to an alternative storage area as designated by the Authority. The removal charge shall be:

Per tonne \$10

19. Perishable Goods May be removed by the Authority and sold with due notification not less than ten days after landing.

20. Containers Storage of empty containers:

Free for twenty one days

Afterwards – per day per TEU \$15

Where cargo remains in a container in the port in excess of the free period for break bulk cargo, such cargo shall be liable to excess storage charges to the account of the goods and without prejudice to any container storage fees payable by the carrier.

Containers remaining in storage on the Port Authority premises are subject to sale and removal after sixty days whether or not the storage charges have been paid.

NOTE: Handling and storage charges assessed against a container are payable by the ship's Agent.

SCHEDULE 6**GENERAL PROVISIONS**

21. Cruise Ships In addition to the foregoing, the following charge is applicable per passenger aboard each cruise ship
- Payable by the ship's Agent as follows:
- \$8 ECC or (US \$3) per person for—
- Shipping Lines scheduled for ten or more calls per year;
- Ships with 500 passengers and over;
- Single destination vessels – Nil
- \$13.50 ECC or (US\$5) – All others
22. Sorting (Ship Owners Account) If cargo is discharged with marks mixed, the Authority may require that such cargo be sorted and in such cases the following additional charge will apply:
- per tonne or part thereof \$10
23. Coopering Any additional labour found necessary to effect the handling of damaged goods and commodities or to repair containers found in other than good condition on arrival will be charged additionally for the account of the carrier.
24. Damaged Goods Goods and commodities arriving in apparently damaged condition shall be kept separate from sound cargo and delivered to the damaged goods locker which is to be considered as the place of rest for damaged cargo. The Port Manager, at his sole discretion, may refuse to land such damaged goods or may dispose of same without notice if landed.
25. Documents To expedite prompt handling of goods through the port compound, the following documents will be required (must be originals or certified facsimiles):
- Inbound cargo – Application for Berth
 - Requisition for Port Services
 - Ship's Manifest

Outbound cargo – Same as above.

26. Normal Working Hours at the Port Authority
The rates provided in this tariff shall apply only to services performed in normal working hours.
The working hours of officers for attendance to the public shall be:
Monday – Friday from 8 a.m – 4 p.m

27. Overtime Payment Vessel Owners or Agents
Any overtime after normal working hours shall be for vessel owner’s or agent’s account.

28. Equipment Charges with Driver
Forklifts – per hour or part thereof \$ 65
CHU – per lift on compound 100
– per lift off compound 200
Crane – per hour or part thereof..... 160
Local and Inter Island Vessels 80
Yard Tractor – per hour or part thereof..... 80
5th Wheel Tractor and Chassis – per hour or part thereof..... 120

The above rates do not include overtime to be paid to the driver outside normal working hours. Rentals of other equipment by arrangement with the Authority.

29. Annual Permits
The following annual permit fees are applicable to the following business categories for the privilege of conducting their operations within the Authority’s premises;

| | |
|--|-------|
| | Each |
| Ships Agents – per vessel per call | \$ 10 |
| Fuelling Companies – per annum | \$300 |
| Utility Companies – per annum | \$200 |
| Customs Brokers – per annum | \$200 |
| Pilots – per annum | \$300 |

Other business categories will be covered by special arrangements.

The above permit fees will be applied on a calendar year basis. Firms commencing business after June 30th of any calendar year will pay the following annual fees:

30. Harbour Craft Fee Harbour craft carrying passengers on a hire, fare or a charter basis shall pay the following annual fees:

| | |
|---------------------|-------|
| Under 250 GRT | \$100 |
| Over 250 GRT..... | \$200 |

31. Cash Deposits

A The Port Authority requires in advance a deposit of all charges which may occur against a vessel, its owners or agents. Use of the facilities shall be denied until advance payment or deposits are made. In such cases the cash deposit to be made by the Master or Agent shall be—

| | |
|--|----------|
| (a) Vessels under 100 GRT | \$ 300 |
| (b) Vessels over 100 GRT | \$1,000 |
| (c) Fuel ex tankers, per tonne | \$ 12 |
| (d) Passenger vessels, per passenger ... | \$ 13.50 |

B The Port Authority requires in advance of delivery of goods, a deposit of those charges which may occur against a consignee. Delivery will be denied until such deposits are made. In such cases the cash deposit to be made by the consignee shall be:

| | |
|-------------------------------------|-------|
| (a) Per TEU (20 ft container) | \$ 27 |
| (b) Break Bulk, per tonne | \$ 70 |

PAM FORM No. 1

A P P E N D I X 1

MONTSEERRAT PORT AUTHORITY

The Port Manager,
Plymouth.

APPLICATION FOR A BERTH

We the undersigned*Owner/Master/Agents of the
S/M/V Sch. GRT Lgth
Draft: Fwd Aft Official No.
request that a berth at be allotted to this vessel on the
....., 20..... for the purpose of discharging/loading* and/or
disembarking/embarking passengers.

Port of Registry:

I hereby declare and certify as follows—

- *(a) The vessel is not carrying any dangerous goods described in the list of dangerous goods in Appendix 4.
- *(b) The vessel is not carrying explosives or goods possessing dangerous properties other than those described in the list of dangerous goods.
- †(c) The vessel is carrying dangerous goods as shown on the back hereof.
- †(d) The vessel is carrying explosives or goods possessing dangerous properties other than those described in the list of dangerous goods as shown on the back thereof.
- *(e) The packing and storage of all goods listed under (c) and (d) above are in accordance with the usual shipping practice except as shown on the back thereof.
- (f) The amount of cargo to be discharged is tons.
- (g) The amount of cargo to be loaded is tons.
- (h) The amount of deck cargo is tons.
- (i) The vessel is expected to arrive in the harbour at hrs.

Signed

Master/Agent.

*Cross out whichever is not applicable
State number of tons of each type of cargo

PAM FORM No. 2

APPENDIX 2

MONTSERRAT PORT AUTHORITY

REQUISITION FOR PORT SERVICES

(In Duplicate)

Date:

.....

TO:

The Port Manager,
Plymouth.

Please provide the following for the S/S Sch. M/V
due to arrive on

- (i) Berth or Anchorage
- (ii) In and Out Pilot
- (iii) Mooring Gangs
- (iv) Mooring Launch
- (v) Pilot Labour (Overtime)
- (vi) Crane to lift tons
- (vii) Forklifts on board
- (viii) Other Port Equipment as follows:
.....
.....
.....
- (ix) No. of Gangs on Board

Delete those services not required.

Note for Chief Accountant.

I/We undertake to meet promptly the charges raised for these services together with any Overtime incurred and further to pay for any/all damage/s caused to any equipment on hire from the above-mentioned Department.

The cash deposits in the sum of
dollars and is herein forwarded as deposit.

.....
Master/Agent

To be completed in the Department.

The following arrangements have been made for the supply of services required.

| | | | |
|--------------|-----|--------------------------------|-------|
| CASH DEPOSIT | (a) | per ton unloaded | \$ 40 |
| TOTAL \$ | (b) | per ton loaded | \$ 25 |
| | (c) | tankers per ton | \$ 6 |
| | (d) | passengers vessels per vessel— | |
| | | (i) under 100 GRT | \$200 |
| | | (ii) 101 to 2,000 GRT | \$400 |
| | | (iii) 2,001 GRT and over | \$800 |

.....
Chief Accountant.

Date:

APPENDIX 3

MONTSERRAT PORT AUTHORITY

RESTRICTED AREA AND PROHIBITED ANCHORAGE – PORT OF PLYMOUTH

From Latitude 16° 42' 09.82" North, Longitude 62° 13' 25.14" West, in a 180° (T) direction for 580 feet, to Latitude 16° 42' 04.02" North, Longitude 62° 13' 25.14" West, thence in a 230° (T) direction for 1000 feet to Latitude 16° 41' 57.54" North, Longitude 62° 13' 33.01" West, thence in a 320° (T) direction for 3570 feet to Latitude 16° 42' 24.79" North, Longitude 62° 13' 56.58" West, thence in a 090° (T) direction for 1675 feet to Latitude 16° 42' 24.79" North, Longitude 62° 13' 39.37" West, thence in a 138° (T) direction for 1560 feet to Latitude 16° 42' 13.28" North, Longitude 62° 13' 28.65" West.

APPENDIX 4

MONTSERRAT PORT AUTHORITY

**REGULATIONS GOVERNING EXPLOSIVES AND HAZARDOUS MATERIALS
AND FIRE PREVENTION WHILST VESSELS ARE IN PORT LIMITS**

1. Dangerous Goods or articles or substances, of such kind or quality as should reasonably be known to the possessor thereof to constitute a serious danger to life or property and any other article or substance that the Port Authority by notice to the person in possession thereof, designates to be dangerous goods for the purpose of this Regulation.
2. Every vessel that is loading, unloading or that has on board explosives shall display signals as follows—
 - (a) From sunrise to sunset International Code Flag “B” and
 - (b) From sunset to sunrise a red light visible from all directions.
3. The hatches, of every vessel that has explosives on board shall when not in use, be kept closed and secured.
4. No explosives shall be loaded, unloaded or otherwise handled, whether on a vessel or not, between sunset and sunrise without the permission of the Port Manager.
5. Every vessel that has explosives or dangerous goods on board shall, before or immediately upon arrival in Port Limits, make a special written report to the Port Manager setting forth the kind, quantity and destination of such explosives or dangerous goods.

6. The Port Manager may require that any vessel that has explosives or dangerous goods on board remain ready at all times, while alongside to get underway under its own power.
7. Every vessel that has explosives or dangerous goods for unloading therein shall unload them with all possible expedition at the time fixed by the Port Manager.
8. Explosives or dangerous goods unloaded from any vessel shall be removed without avoidable delay, and in the event of any delay, the person effecting the removal shall report immediately to the Port Manager the reason for the delay and the probable duration thereof.
9. The Port Manager may at the risk and expense of the person in possession of explosives or dangerous goods that have been landed otherwise than in conformity with these regulations, or that have not been removed therefrom in accordance with these regulations, remove such explosives or dangerous goods.
10. Every vessel that is loading or unloading explosives or dangerous goods or that has on board explosives or dangerous goods shall display “**No Smoking**” signs in prominent positions.
11. No welding and burning equipment shall be used on Port Authority Premises whilst explosives or dangerous goods are being unloaded.
12. No person shall set off rockets or fireworks or carry on blasting operations in Port Limits without permission of the Port Authority.
13. No article or substance shall be burned, boiled or heated by fire on Port Premises, except with permission of the Port Authority at such place and in such manner as the Port Authority directs.
14. (1) Every vessel shall have suitable fire-extinguishing equipment available for immediate use in any part of the vessel.

(2) The Port Authority may, in addition to the equipment required by subsection (1), require additional equipment to be provided in any vessel to meet any particular condition that, in the opinion of the Port Authority involves extra fire risk.
15. No burning or welding may be performed in any vessel berthed alongside without the written permission of the Port Authority.
16. In the event that a fire occurs at a dock at which a vessel is berthed, or on board any vessel alongside, such vessels shall:

- (a) with its whistle or siren sound five blasts of four to six seconds duration;
 - (b) repeat the signal at intervals;
 - (c) use the signal, in addition to, but not in substitution for, other means of reporting the fire, and for no other purpose; and
 - (d) report the fire immediately by the quickest possible means to the relevant authorities.
17. No person shall use a fire hydrant located on Port Property for any purpose other than fire or fire drill without permission of the Port Authority and then only in a manner satisfactory to the Port.
-

PORT AUTHORITY (PERIOD OF PUBLIC EMERGENCY) REGULATIONS
– SECTION 62

(S.R.O.s 71/1996, 15/2000 and 26/2000)

Commencement

[3 April 1996]

Short title

1. These Regulations may be cited as the Port Authority (Period of Public Emergency) Regulations.

Application

2. The provisions of these regulations shall apply during the period of public emergency proclaimed by the Governor on 3 April, 1996.

Modification of charges

3. Notwithstanding the provisions of the Port Authority Regulations, the following charges shall apply at the Montserrat Port Authority throughout the period specified in Regulation 2—

- (a) goods imported for relief (break bulk and general cargo) – actual handling charges, plus a 30% administrative fee;
- (b) goods imported for relief (containerized) – a container rate of EC\$200 per T.E.U. (Twenty foot equivalent unit);
- (c) Montserratians who were relocated abroad since the current emergency shall be charged a total sum of twenty seven dollars (\$27) per tonne as handling and wharfage charges in respect of imported goods exported by them upon relocation and on goods acquired by them, during their relocation abroad, up to a maximum of fourteen (14) tonnes; *(Amended by S.R.O. 15/2000)*
- (d) the free storage period is increased from five days to ten days inclusive of Saturdays, Sundays and Public Holidays. The Port Authority shall however not be liable for any loss of or damage to goods occurring after the fifth day of the period of free storage. *(Amended by S.R.O. 26/2000)*

