



BERMUDA

DOCKYARD PORT ACT 1905

1905 : 2

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[preamble and words of enactment omitted]

Interpretation

1 In this Act, where not inconsistent with the context—

“the Dockyard Port” means—

- (i) all the waters lying southeast of Watford, Boaz and Ireland Islands within the limits of three straight lines drawn, first, from the southwest point of Watford Island to the northeast point of Pearl Island, thence through the Hogfish Beacon to a point four thousand four hundred yards from Pearl Island, and thence to the extreme northeast point of Ireland Island; and

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- (ii) all the waters lying between and around those islands in the Great Sound which belong to the Admiralty¹, and which are included within the area enclosed by four straight lines drawn as follows, that is to say, first from the southwest point of Pearl Island south 36 degrees east, true, one thousand two hundred yards, thence south 70 degrees east, true, one thousand two hundred and ninety yards, thence north 24 degrees east, true, one thousand and fifty yards, and thence to the southwest point of Pearl Island;

“vessel” includes ship, steamboat, lighter, hulk, boat and craft of every description however propelled;

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

“the Admiralty” means the Lord High Admiral of the United Kingdom or the Commissioners for executing the office of Lord High Admiral, or the Senior Naval Officer for the time being stationed in Bermuda;

“the Regulations” means the regulations made under this Act;

“specified” means specified in the Regulations.

Regulations

2 (1) The Governor acting in his discretion may, after consultation with the Chief Fire Officer, from time to time make regulations in relation to the Dockyard port for all or any of the purposes expressed in subsection (2).

(2) The purposes for which such regulations may be made shall be as follows—

- (a) for prohibiting the mooring or anchoring of vessels in such manner as to obstruct navigation in, into, or out of the Dockyard Port;
- (b) for appropriating the whole or any part of the Dockyard Port as a mooring place or anchoring ground for the exclusive use of Her Majesty’s vessels whenever the exigencies of Her Majesty’s service render it necessary in the opinion of the Admiralty, but not so as to obstruct navigation in, into, or out of the Dockyard Port;
- (c) for prohibiting or restricting the carriage of explosives, and the having or discharging of shotted or loaded guns, on board any vessel in any specified part of the Dockyard Port, and for regulating the loading and unloading of explosives in the Dockyard Port;
- (d) for restricting the use of fire and light, and the having of combustible substances, on board any vessel in any specified part of the Dockyard Port;

¹ [the islands referred to were transferred to the Government of Bermuda under the terms of the Agreement dated 11 March 1954, vide Item 2(a) of Title 7 of the Revised Laws published in 1965]

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- (e) for prohibiting the navigation of steam or motor vessels at a speed greater than a specified speed in any specified part of the Dockyard Port;
- (f) for requiring the presence of at least one person at all hours of the day and night on board every vessel above a specified size, moored, anchored, or placed in any specified part of the Dockyard Port,

and for such other purposes as from time to time appear to the Governor acting in his discretion necessary with a view to the proper protection of Her Majesty's vessels, Her Majesty's naval establishments, and other property of Her Majesty, or to the requirements of Her Majesty's naval service in Bermuda.

(3) The Regulations may impose reasonable punishments for any contravention thereof, not exceeding a fine of \$1,440 for any single offence, or a fine of \$288 a day for any continuing offence.

[Section 2 subsection (1) amended by 2014 : 33 s. 55 effective 1 January 2018]

No parliamentary scrutiny of regulations

3 Section 6 of the Statutory Instruments Act 1977 [*title 1 item 3*] shall not apply to regulations made under this Act.

Queen's Harbour Master; appointment

4 The Admiralty may from time to time appoint a fit and proper person as Queen's Harbour Master for the purposes of this Act, and every such appointment shall be notified in the Gazette.

Queen's Harbour Master may move vessel

5 If the master of any vessel within the Dockyard Port does not moor, anchor, place, unmoor, or remove the vessel according to any directions given by the Queen's Harbour Master in conformity with the Regulations, or if there is no person on board any such vessel to attend to such directions, then the Queen's Harbour Master may cause the vessel to be moored, anchored, placed, unmoored or removed in conformity with the Regulations, and for that purpose may cast off, loose or unshackle, and, if need be, sever, any chain or rope of the vessel, first putting on board a sufficient number of persons for the protection of the vessel in case there is not a sufficient number of persons on board to protect the same; and all expenses attending the exercise of the powers under this section shall be paid by the master or owner of the vessel.

Queen's Harbour Master may search vessel

6 (1) The Queen's Harbour Master, or any person having written authority from the Admiralty in that behalf, may, with proper assistants, go on board any vessel in the Dockyard Port and there search for explosives, shotted or loaded guns, or combustible substances, had or suspected to be had on board in contravention of the Regulations, and may on any such search extinguish any fire or light on such vessel when the fire or light is contrary to the Regulations.

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(2) Any person who wilfully obstructs the Queen's Harbour Master or other person in the execution of the authority conferred by this section commits an offence:

Punishment on summary conviction: a fine of \$288.

Queen's Harbour Master may remove unfit vessel

7 (1) Any vessel laid by or neglected as unfit for sea service shall not be permitted to lie within any specified part of the Dockyard Port; and the Queen's Harbour Master may cause any such vessel to be removed therefrom, and to be moored beyond the limits of the Dockyard Port, or to be placed on some part of the strand or seashore or in some other place where the vessel may, without injury to any person, be placed.

(2) The expenses incurred by the Queen's Harbour Master in the removal, mooring or placing of any such vessel may be recovered from the owner thereof, and the Queen's Harbour Master may detain, and, in case of non-payment of such expenses within one week after the demand thereof from the owner, may, after obtaining the warrant of a Justice of the Peace, cause such vessel, her tackle, apparel or furniture, or any part thereof, to be sold by public auction and may apply the proceeds of the sale in the payment of such expenses, the costs of obtaining the warrant, and the expenses of the sale, rendering the surplus (if any) to the owner on demand; and any deficiency may be recovered from the owner.

Admiralty to be Harbour Authority

8 The Admiralty shall be the Harbour Authority with respect to the Dockyard Port and the usual ship channel leading thereto from Five Fathom Hole through the Narrows at the East end of Bermuda, and shall in that capacity have with respect to any floating timber, or any vessel sunk, foundered, stranded or grounded in the Dockyard Port or the said ship channel, or so near thereto as to cause danger, obstruction or delay to any vessel entering or having occasion to enter, or passing through or using the Dockyard Port or the said ship channel, or to any inward or outward bound vessel, the same powers and authorities as are conferred on the Minister for the time being responsible for marine and ports services and related matters by the Marine Board Act 1962 [*title 22 item 3*], with respect to ship channels within the meaning of that Act:

Provided that nothing in this Act shall authorize the Harbour Authority to exercise control over the waters of Murray's Anchorage, but vessels shall have and enjoy full access to such anchorage as heretofore.

Trial of offences

9 Offences against this Act, or against any regulations made thereunder, shall be prosecuted before a court of summary jurisdiction.

Distress and sale of vessel

10 Where a court of summary jurisdiction makes an order under this Act directing the payment of any fine, expenses, or costs by the master or owner of a vessel, and payment is not duly made forthwith, or within such time as may be allowed by such order for the purpose, the court may, if it thinks fit, instead of exercising any other power it may have

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for the purpose of compelling payment, direct the amount unpaid to be levied by distress and sale of such vessel, her tackle, furniture and apparel or any part thereof.

Owner; recovery of amount paid

11 If the owner of any vessel or thing is in any case compelled to pay any fine, expenses or costs by reason of any act or omission of the master of such vessel or other person, he shall be entitled to recover the amount paid by him with costs from the person who actually committed the offence or did the wrongful act in respect of which the owner was compelled to make such payment.

Service

12 Any summons or other document in any proceeding taken under this Act or under the Regulations may be served personally on the person to be served or by being left for him on board any vessel to which he belongs with the person being or appearing to be in charge or command of such vessel.

Restriction on proceedings against Queen's Harbour Master

13 (1) An action or prosecution shall not lie against the Queen's Harbour Master, or any other person acting under the authority or in the execution or intended execution or in pursuance of this Act or of the Regulations, for any alleged irregularity, trespass, or other act or thing done or omitted by him, unless—

- (a) notice in writing, specifying the cause of action or prosecution, is given by the intending plaintiff or prosecutor to the intended defendant one month at least before the commencement of the action or prosecution; and
- (b) the action or prosecution is commenced within the period of six months next after the act or thing complained of is done or omitted to be done, or, in the case of a continuation of damage, within the period of six months next after the doing of such damage has ceased.

(2) In any such action—

- (a) the defendant may allege generally in his defence that the act or thing complained of was done or omitted to be done by him when acting under the authority or in the execution or intended execution or in pursuance of this Act or of the Regulations (specifying which of them), and may give all special matter in evidence;
- (b) the plaintiff shall not succeed if tender of sufficient amends is made by the defendant before the commencement of the action and in case no such tender is made the defendant may by leave of the court in which the action is brought, at any time after the commencement thereof pay into court such sum of money as he thinks fit, whereupon such proceedings shall be had as on the payment of money into court in an ordinary action; and
- (c) if the plaintiff does not succeed in the action the defendant shall be entitled to recover against the plaintiff the costs and expenses incurred by him in

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defending such action on the costs and expenses being taxed by the proper officer and allowed by the court or a judge.

[Assent Date: 1 February 1905]

[This Act, originally of limited duration, was continued in force indefinitely by 1930:71]

[Amended by:

1948 : 25
1952 : 3
1952 : 11
1970 : 32
1970 : 109
1977 : 35
2014 : 33]