



BERMUDA

MARITIME SECURITY ACT 1997

1997 : 35

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WHEREAS it is expedient to make provisions for the suppression of unlawful acts against the safety of maritime navigation, for the protection of ships and harbour areas against acts of violence, and for connected purposes:

[Words of enactment omitted]

PART I PRELIMINARY

Citation

- 1 This Act may be cited as the Maritime Security Act 1997 and shall come into operation on a day to be appointed by the Governor by notice published in the Gazette and different days may be so appointed for different provisions.

Interpretation

- 2 In this Act, unless the context otherwise requires—
 - “act of violence” means—
 - (a) any act done in the Island which constitutes an offence under any provision of section 224, 226, 227, 286, 286A, 289, 293, 303, 305, 306, 308 or 314 of the Criminal Code Act 1907 [*title 8 item 31*]; and
 - (b) any act done outside Bermuda which, if done in Bermuda, would constitute such an offence as is mentioned in paragraph (a);
 - “appropriate officer” means a police officer or an immigration officer;
 - “article” includes any substance, whether in solid or liquid form or in the form of a gas or vapour;
 - “authorized person” means an authorized person designated as such by the Governor under section 10(2);

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“Department” means the Department of Marine and Ports Services established under section 11 of the Marine and Ports Services Act 2021;

“Director” means the Director of Marine and Ports Services appointed under section 11 of the Marine and Ports Services Act 2021;

“employee”, in relation to a body corporate, includes officer;

“explosive” means any article manufactured for the purpose of producing a practical effect by explosion, or intended for that purpose by a person having the article with him;

“firearm” includes an air gun or air pistol;

“harbour” means any harbour, whether natural or artificial, any port, haven, estuary, tidal or other inland waterway navigated by sea-going ships, and includes a dock and a wharf;

“harbour area” means—

- (a) any harbour in Bermuda in respect of which the Corporation of Hamilton, the Corporation of St. George’s or the Bermuda Land Management Corporation has statutory powers or duties of improvement, maintenance or management; and
- (b) any land which is adjacent to such a harbour and which is either land occupied by each such corporation or land in respect of which each such corporation has statutory power or duties of improvement, maintenance or management;

“harbour operations” means—

- (a) the marking or lighting of a harbour or any part thereof;
- (b) the berthing or dry docking of a ship;
- (c) the warehousing, sorting, weighing or handling of goods in a harbour area or at a wharf;
- (d) the movement of goods or passengers within the limits within which the person engaged in improving, maintaining or managing a harbour has jurisdiction or in a harbour area;
- (e) in relation to a harbour (which expression for the purposes of this paragraph does not include a wharf)—
 - (i) the towing, or moving of a ship which is in or is about to enter or has recently left the harbour;
 - (ii) the loading or unloading of goods, or embarking or disembarking of passengers, in or from a ship which is in the harbour or the approaches thereto; and
 - (iii) the lightering or handling of goods in the harbour;

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(f) in relation to a wharf,—

(i) the towing or moving of a ship to or from the wharf;

(ii) the loading or unloading of goods, or the embarking or disembarking of passengers, at the wharf in or from a ship;

“master” includes every person (except a pilot) having command or charge of any ship;

“measures” (without prejudice to the generality of that expression) includes the institution or modification, and the supervision and enforcement, of any practice or procedure;

“naval service” includes military and air force service;

“owner”, in relation to a ship registered in Bermuda means registered owner;

“property” includes any land, buildings or works, any ship or vehicle and any baggage, cargo or other article of any description;

“restricted zone”, in relation to a harbour area, means any part of the harbour area designated under section 12 or, where the whole of the harbour area is so designated, that area; and

“ship” means any vessel (including hovercraft, submersible craft and other floating craft) other than one which—

(a) permanently rests on, or is permanently attached to, the seabed; or

(b) has been withdrawn from navigation or laid up;

“unlawfully”—

(a) in relation to the commission of an act in Bermuda, means so as (apart from this Act) to constitute an offence under the law of Bermuda; and

(b) in relation to the commission of an act outside Bermuda means so that the commission of the act would (apart from this Act) have been an offence under the law of Bermuda if it had been committed in Bermuda.

[Section 2 definitions "Department" and "Director" amended by 2021 : 8 s. 98(1) effective 23 January 2023; Section 2 definition "harbour area" amended by 2024 : 22 s. 11 effective 1 September 2024]

PART II

OFFENCES AGAINST THE SAFETY OF SHIPS

Hijacking of ships

3 A person who unlawfully, by the use of force or by threats of any kind, seizes a ship or exercises control of it, commits the offence of hijacking a ship and is liable on conviction on indictment to imprisonment for life.

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Destroying ships or endangering their safety

- 4 (1) A person commits an offence if he unlawfully and intentionally—
- (a) destroys a ship;
 - (b) damages a ship or its cargo so as to endanger, or to be likely to endanger, the safe navigation of the ship; or
 - (c) commits on board a ship an act of violence which is likely to endanger the safe navigation of the ship.
- (2) A person commits an offence if he unlawfully and intentionally places, or causes to be placed, on a ship any device or substance which is likely to destroy the ship or is likely so to damage it or its cargo as to endanger its safe navigation.
- (3) Nothing in subsection (2) shall be construed as limiting the circumstances in which the commission of any act—
- (a) may constitute an offence under subsection (1); or
 - (b) may constitute attempting or conspiring to commit, or aiding, abetting, counselling, procuring or inciting the commission of such an offence.
- (4) A person guilty of an offence under this section is liable on conviction on indictment to imprisonment for life.

Other acts endangering or likely to endanger safe navigation

- 5 (1) It is an offence for any person unlawfully and intentionally—
- (a) to destroy or damage any property to which this subsection applies; or
 - (b) seriously to interfere with the operation of any such property,
- where the destruction, damage or interference, as the case may be, is likely to endanger the safe navigation of any ship.
- (2) Subsection (1) applies to any property used for the provision of maritime navigation facilities, including any land, building or ship so used, and including any apparatus or equipment so used, whether it is on board a ship or elsewhere.
- (3) It is also an offence for any person intentionally to communicate any information which he knows to be false in a material particular, where the communication of the information endangers the safe navigation of any ship.
- (4) It is a defence for a person charged with an offence under subsection (3) to prove that, when he communicated the information, he was lawfully employed to perform duties which consisted of or included the communication of information and that he communicated the information in good faith in performance of those duties.
- (5) A person guilty of an offence under this section is liable on conviction on indictment to imprisonment for life.

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Offences involving threats

- 6 (1) A person commits an offence if—
- (a) in order to compel any other person to do or abstain from doing any act, he threatens that he or some other person will do in relation to any ship an act which is an offence by virtue of section 4(1); and
 - (b) the making of that threat is likely to endanger the safe navigation of the ship.
- (2) A person commits an offence if—
- (a) in order to compel any other person to do or abstain from doing any act, he threatens that he or some other person will do an act which is an offence by virtue of section 5(1); and
 - (b) the making of that threat is likely to endanger the safe navigation of any ship.
- (3) A person guilty of an offence under this section is liable on conviction on indictment to imprisonment for life.

Ancillary offences

- 7 (1) Where a person does outside Bermuda any act which, if done in Bermuda, would constitute an offence falling within subsection (2), his act shall constitute that offence if it is done in connection with an offence under sections 3, 4, 5 or 6 committed or attempted by him.
- (2) The offences falling within this subsection are the offences referred to in the definition of “act of violence” in section 2.
- (3) Subsection (1) has effect without prejudice to section 686 and 687 of the Merchant Shipping Act 1894 of the United Kingdom as extended to Bermuda.
- (4) It is an offence for any person in Bermuda to induce or assist the commission outside Bermuda of any act which would be an offence under section 3, 4, 5 or 6.
- (5) A person who commits an offence under subsection (4) is liable on conviction on indictment to imprisonment for life.
- (6) Subsection (4) has effect without prejudice to the operation, in relation to any offence under sections 3, 4, 5 or 6 of this Act.

Master’s power of delivery

- 8 (1) The provisions of this section shall have effect for the purposes of any proceedings before any court in Bermuda.
- (2) If the master of a Bermuda ship, wherever that ship may be, has reasonable grounds to believe that any person on board the ship has—
- (a) committed an offence under section 3, 4, 5 or 6;
 - (b) attempted to commit such an offence; or

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- (c) aided, abetted, counselled, procured or incited the commission of such an offence,

in relation to any ship other than a warship or other ship used as a naval auxiliary or in customs or police service, he may deliver that person to an appropriate officer in Bermuda.

(3) Where the master of a ship delivers any person to an appropriate officer under subsection (2) he shall—

- (a) make such oral or written statements relating to the alleged offence as that officer may reasonably require; and
- (b) deliver to that officer such other evidence relating to the alleged offence as is in the master's possession.

(4) The master of a ship who without reasonable excuse fails to comply with subsection (5) is guilty of an offence and liable on summary conviction to a fine not exceeding two thousand dollars.

(5) In this section—

“Bermuda ship” means a ship which is registered in Bermuda; and

“master” has the meaning assigned to that expression by section 1 of the Merchant Shipping Act 1973 [*title 31 item 11*].

PART III

PROTECTION OF SHIPS AND HARBOUR AREAS AGAINST ACTS OF VIOLENCE

Purposes to which Part III applies

9 (1) The purposes to which this Part applies are the protection against acts of violence—

- (a) of ships, and of persons or property on board ships; and
- (b) of harbour areas, of such persons as are at any time present in any part of a harbour area and of such property as forms part of a harbour area or is at any time (whether permanently or temporarily) in any part of a harbour area.

(2) In this Part “authorised person” means a police officer or a person authorized under section 10(2).

Searches in harbour

10 (1) For purposes to which this Part applies, the Governor may give a direction in writing to the Director to secure that searches to which this section applies are carried out by authorised persons.

(2) The Governor may by instrument in writing designate fit and proper persons as authorised persons for any of the purposes of this Part but the Governor shall not

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authorise any person to exercise any power to undertake searches of persons unless he is satisfied that the appointee is suitably qualified and has received appropriate training.

(3) An authorised person shall, if required, produce written evidence of his appointment when exercising any power under this Part.

(4) An authorised person shall not exercise any power under this Part to search any person unless the authorised person is specifically authorised by the Governor to exercise such power.

(5) The searches to which this section applies, in relation to a harbour area, are searches—

- (a) of the harbour area or any part of it;
- (b) of any ship which at the time when the direction is given or at any subsequent time is in the harbour area;
- (c) of property (other than ships) which may at any time be in the harbour area; and
- (d) subject to subsection (4) and subsection (6), of persons.

(6) Subject to subsections (8) and (9), if an authorised person has reasonable cause to suspect that an article to which this subsection applies is in, or may be brought into, any part of the harbour area, he may, by virtue of this subsection and without a warrant—

- (a) search any part of the harbour area or any ship, vehicle, goods or other movable property of any description which is, for the time being, in any part of the harbour area; and
- (b) subject to subsection (4), search any person who, he has reasonable cause to suspect is, or may, in any way, be connected with such article, and who is, for the time being, in any part of the harbour area.

(7) For the purposes of subsection (6) an authorised person—

- (a) may enter any building or works in the harbour area, or enter upon any land in the harbour area, if need be by force;
- (b) may go on board any such ship and inspect the ship;
- (c) may stop any such ship and, for so long as may be necessary for that purpose, prevent it from being moved; and
- (d) may stop any vehicle, goods, property or person and detain it or him for so long as may be necessary for that purpose.

(8) In the case of premises used only as a private dwelling any power to search or enter conferred by subsections (6) and (7) may not be exercised except by a police officer under the authority of a warrant issued by a justice of the peace.

(9) If, on an application made by a police officer, a justice of the peace is satisfied that there are reasonable grounds for suspecting that an article to which subsections (6)

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and (7) applies is in any premises used only as a private dwelling, he may issue a warrant authorising a police officer to enter and search the premises.

(10) Subsections (6) and (7) applies to the following articles—

- (a) any firearm, or any article having the appearance of being a firearm, whether capable of being discharged or not;
- (b) any explosive, any article manufactured or adapted (whether in the form of a bomb, grenade or otherwise) so as to have the appearance of being an explosive, whether it is capable of producing a practical effect by explosion or not, or any article marked or labelled so as to indicate that it is or contains an explosive; and
- (c) any article (not falling within either of the preceding paragraphs) made or adapted for use for causing injury to or incapacitating a person or for destroying or damaging property, or intended by the person having it with him for such use, whether by him or by any other person.

(10) Any person who intentionally obstructs an authorised person acting in the exercise of a power conferred on him by subsection (6) is guilty of an offence and is liable on conviction by a court of summary jurisdiction to a fine not exceeding ten thousand dollars or to imprisonment for a term not exceeding two years or to both such fine and imprisonment.

(11) Subsections (6) and (7) have effect without prejudice to the operation, in relation to any offence under this Act of any rule of law relating to the power to arrest without warrant.

Power of Governor to require information

11 (1) The Governor may, by notice in writing served on any of the following persons, that is to say,—

- (a) the owner, charterer, manager or master of—
 - (i) a Bermuda ship; or
 - (ii) any other ship which is in, or appears to the Governor to be likely to enter, a harbour area;
- (b) any person who carries on harbour operations in a harbour area; and
- (c) any person who is permitted to have access to a restricted zone of a harbour area for the purposes of the activities of a business carried on by him,

require that person to provide the Governor with such information specified in the notice as the Governor may require in connection with the exercise by the Governor of his functions under this Part.

(2) A notice under subsection (1) shall specify a date (not being earlier than seven days from the date on which the notice is served) before which the information

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required by the notice in accordance with subsection (1) is to be furnished to the Governor.

(3) Any such notice may also require the person on whom it is served, after he has furnished to the Governor the information required by the notice in accordance with subsection (1), to inform the Governor if at any time the information previously furnished to the Governor (including any information furnished in pursuance of a requirement imposed by virtue of this subsection) is rendered inaccurate by any change of circumstances (including the taking of any further measures for purposes to which this Part applies or the alteration or discontinuance of any measures already being taken).

(4) In so far as such a notice requires further information to be furnished to the Governor in accordance with subsection (3), the Governor shall require that information to be furnished to him before the end of such period (not being less than seven days from the date on which the change of circumstances occurs) as is specified in the notice for the purposes of this subsection.

(5) Any person who—

- (a) without reasonable excuse, fails to comply with a requirement imposed on him by a notice under this section; or
- (b) in furnishing any information so required, makes a statement which he knows to be false in a material particular, or recklessly makes a statement which is false in a material particular,

is guilty of an offence and is liable on conviction by a court of summary jurisdiction to a fine not exceeding ten thousand dollars or to imprisonment for a term not exceeding two years or to both such fine and imprisonment.

(6) A notice served on a person under subsection (1) may at any time—

- (a) be revoked by a notice in writing served on him by the Governor; or
- (b) be varied by a further notice under subsection (1).

Designation of restricted zones of harbour areas

12 (1) The Governor may by order designate the whole or any part of a harbour area as a restricted zone for the purposes of this Part.

(2) The whole or any part of a harbour area may be designated as a restricted zone, or part of a restricted zone, for specified days or times of day only.

Unauthorised presence in restricted zone

13 (1) A person shall not—

- (a) go, with or without a vehicle or vessel, onto or into any part of a restricted zone of a harbour area except with the permission of the Director or a person acting on behalf of the Director and in accordance with any conditions subject to which that permission is for the time being granted; or

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- (b) remain in any part of such a restricted zone after being requested to leave by the Director or a person acting on behalf of the Director.

(2) Subsection (1)(a) does not apply unless it is proved that, at the material time, notices stating that the area concerned was a restricted zone were posted so as to be readily seen and read by persons entering the restricted zone.

(3) A person who contravenes subsection (1) without lawful authority or reasonable excuse is guilty of an offence and liable on conviction by a court of summary jurisdiction to a fine not exceeding ten thousand dollars.

Power to impose restrictions in relation to ships

14 (1) For purposes to which this Part applies, the Governor may give a direction in writing to the owner, charterer, manager or master of a Bermuda ship, or of any other ship which is in a harbour area, requiring that person—

- (a) not to cause or permit persons or property to go or be taken on board any ship to which the direction relates, or to come or be brought into proximity to any such ship, unless such searches of those persons or that property as are specified in the direction have been carried out in such manner and by such persons as the Governor may require; or
- (b) not to cause or permit any such ship to go to sea unless such searches of the ship as are specified in the direction have been carried out.

(2) Subject to the following provisions of this Part, a direction given to an owner, charterer or manager of a ship under subsection (1) may be given so as to relate either to all the ships falling within that subsection of which at the time when the direction is given or at any subsequent time he is the owner, charterer or manager or only to one or more such ships specified in the direction.

(3) Subject to the following provisions of this Part, a direction under subsection (1) may be given so as to relate—

- (a) either to all persons or only to one or more persons, or persons of one or more descriptions, specified in the direction; and
- (b) either to property of every description or only to particular property, or property of one or more descriptions so specified.

(4) Subject to the following provisions of this Part, any direction given under this section to any person not to cause or permit anything to be done shall be construed as requiring him to take all such steps as in any particular circumstances are practicable and necessary to prevent that thing from being done.

(5) A direction may be given under this section to a person appearing to the Governor to be about to become such a person as is mentioned in subsection (1), but a direction given to a person by virtue of this subsection shall not take effect until he becomes a person so mentioned and, in relation to a direction so given, the preceding provisions of this section shall apply with the necessary modifications.

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(6) A person who, without reasonable excuse, fails to comply with a direction given to him under this section is guilty of an offence and liable on conviction by a court of summary jurisdiction, to a fine not exceeding ten thousand dollars or to imprisonment for a term not exceeding two years or to both such fine and imprisonment.

(7) Where a person is convicted of an offence under subsection (6), then, if without reasonable excuse the failure in respect of which he was convicted is continued after the conviction, he is guilty of a further offence and liable on summary conviction to a fine not exceeding four hundred dollars for each day on which the failure continues.

General power to direct measures to be taken for purposes to which Part III applies

15 (1) Subsection (2) applies to—

- (a) any person who is the owner, charterer or manager of one or more ships which—
 - (i) are Bermuda ships; or
 - (ii) are in a harbour area;
- (b) any person who carries on harbour operations in a harbour area; and
- (c) any person who is permitted to have access to a restricted zone of a harbour area for the purposes of the activities of a business carried on by him.

(2) Subject to the following provisions of this section, the Governor may give a direction in writing to any person to whom this subsection applies requiring him to take such measures for purposes to which this Part applies as are specified in the direction—

- (a) in the case of a direction given to a person as the owner, charterer or manager of a ship, in respect of all the ships falling within subsection (1) (a) of which (at the time when the direction is given or at any subsequent time) he is the owner, charterer or manager, or in respect of any such ships specified in the direction;
- (b) in the case of a direction given to a person as a person falling within subsection (1)(b), in respect of the harbour operations carried on by him; and
- (c) in the case of a direction given to a person as a person who is permitted to have access to a restricted zone as mentioned in subsection (1)(c), in respect of such activities carried on by that person in that zone as are specified in the direction.

(3) Without prejudice to the generality of subsection (2), the measures to be specified in a direction given under this section to any person to whom that subsection applies may include the provision by that person of persons charged with the duty (at such times as may be specified in the direction)—

- (a) where the direction is given to a person as the owner, charterer or manager of ships, of guarding the ships against acts of violence;

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- (b) where the direction is given to a person as falling within subsection (1)(b), of guarding against acts of violence any ship in the harbour area which is for the time being under his control; or
- (c) where the direction is given to a person as falling within subsection (1)(c), of guarding any ship which is for the time being under his control,

for purposes to which this Part applies.

(4) A direction given under this section may be either of a general or of a specific character, and may require any measures specified in the direction to be taken at such time or within such period as may be so specified.

(5) A direction under this section—

- (a) shall not require any search (whether of persons or of property);
- (b) shall not require the modification or alteration of any ship, or of any of its apparatus or equipment, or the installation or carriage of additional apparatus or equipment, or prohibit any ship from being caused or permitted to go to sea without some modification or alteration of the ship or its apparatus or equipment or the installation or carriage of additional apparatus or equipment; and
- (c) shall not require a building or other works to be constructed, executed, altered, demolished or removed on land within the harbour area.

(6) A direction may be given under this section to a person appearing to the Governor to be about to become a person to whom subsection (2) applies, but a direction given to a person by virtue of this subsection shall not take effect until he becomes a person to whom subsection (2) applies and, in relation to a direction so given, the preceding provisions of this section shall apply with the necessary modifications.

(7) Any person who without reasonable excuse, fails to comply with a direction given to him under this section, commits an offence and is liable on conviction by a court of summary jurisdiction, to a fine not exceeding ten thousand dollars or to imprisonment for a term not exceeding two years or to both such fine and imprisonment.

(8) Where a person is convicted of an offence under subsection (7), then, if without reasonable excuse the failure in respect of which he was convicted is continued after the conviction, he is guilty of a further offence and liable on summary conviction to a fine not exceeding four hundred dollars for each day on which the failure continues.

Limitations on scope of directions under sections 14 and 15

16 (1) A direction shall not have effect in relation to any ship used in naval, customs or police service.

(2) A direction shall not have effect in relation to any ship which is registered outside the Island and of which the owner is the Government of a country outside the Island, or is a department or agency of such a Government, except at a time when any such ship is being used for commercial purposes or is for the time being allocated by that Government, department or agency for such use.

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(3) A direction shall not be construed as requiring or authorising the person to whom the direction was given, or any person acting as his employee or agent, to do anything which, apart from the direction, would constitute an act of violence; but nothing in this subsection shall restrict the use of such force as is reasonable in the circumstances (whether at the instance of the person to whom the direction was given or otherwise) by an authorised person.

(4) In so far as a direction requires anything to be done or not done at a place outside Bermuda—

- (a) it shall not have effect except in relation to Bermuda ships; and
- (b) it shall not have effect so as to require anything to be done or not done in contravention of any provision of the law (whether civil or criminal) in force at that place, other than any such provision relating to breach of contract.

(5) In so far as a direction given to any person mentioned in section 15(1)(b) or (c) requires any measure to be taken on land outside the harbour area, the direction shall not confer on the person to whom it is given any rights as against a person having—

- (a) an interest in that land; or
- (b) a right to occupy that land; or
- (c) a right restrictive of its use,

and accordingly, the direction shall not be construed as requiring the person to whom it is given to do anything which would be actionable at the suit or instance of a person having such interest or right in his capacity as a person having that interest or right.

(6) Nothing in this section shall be construed as derogating from any exemption or immunity of the Crown in relation to the provisions of this Part.

(7) In this section “direction” means a direction under section 14 or 15.

General or urgent directions under sections 14 and 15

17 (1) A direction given to any person under section 14 or 15 need not be addressed to that particular person, but may be framed in general terms applicable to all persons to whom such a direction may be given or to any class of such persons to which that particular person belongs.

(2) If it appears to the Governor that an exception from any direction given under any of those sections is required as a matter of urgency in any particular case he may, by a notification given (otherwise than in writing) to the person for the time being subject to the direction, authorise that person to disregard the requirements of the direction—

- (a) in relation to such ships or class of ships, in relation to such harbour area or part of a harbour area, in relation to such land outside a harbour area, in relation to such activities or in relation to such persons or property or such description of persons or property; and
- (b) on such occasion or series of occasions, or for such period,

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as he may specify; and the direction shall have effect in that case subject to any exceptions so specified.

(3) Any notification given to any person under subsection (2) with respect to any direction shall cease to have effect (if it has not already done so)—

- (a) if a direction in writing is subsequently given to that person varying or revoking the original direction; or
- (b) if no such direction in writing is given within the period of thirty days beginning with the date on which the notification was given, at the end of that period.

(4) Any notification given under subsection (2) shall be regarded as given to the person to whom it is directed if it is given—

- (a) to any person authorised by that person to receive any such direction or notification;
- (b) where that person is a body corporate, to the secretary, or similar officer of the body corporate; and
- (c) in any other case, to anyone holding a comparable office or position in that person's employment.

Operation of directions under Part III in relation to rights and duties under other laws

18 (1) In subsections (2) to (4), references to a direction are references to a direction under section 14 or 15 as the direction has effect subject to any limitation imposed on its operation—

- (a) by section 16; or
- (b) by any exemption or immunity of the Crown,

and any reference in those subsections to compliance with a direction is a reference to compliance with it subject to any limitation so imposed.

(2) In so far as a direction requires anything to be done or not done in Bermuda, the direction shall have effect notwithstanding anything contained in any contract (whether a Bermuda contract or not) or contained in, or having effect by virtue of, any other Act or any rule of law; and accordingly no proceedings (whether civil or criminal) shall lie against any person in any court in Bermuda by reason of anything done or not done by him or on his behalf in compliance with a direction.

(3) In so far as a direction requires anything to be done or not done at a place outside Bermuda, the direction shall have effect notwithstanding anything contained in any contract (whether a Bermuda contract or not); and accordingly, where a direction is inconsistent with anything in such a contract, it shall (without prejudice to any proceedings in a court other than a court in Bermuda) be construed as requiring compliance with the direction notwithstanding that compliance would be in breach of that contract.

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(4) No proceedings for breach of contract shall lie against any person in a court in Bermuda by reason of anything done or not done by him or on his behalf at a place outside Bermuda in compliance with a direction, if the contract in question is a Bermuda contract.

(5) In this section “Bermuda contract” means a contract which is either expressed to have effect in accordance with the law of Bermuda or (not being so expressed) is a contract the law applicable to which is the law of Bermuda.

Detention of ships

19 (1) Where the Director is satisfied that the owner, charterer, manager or master of a ship has failed to comply with a direction given to him under section 14 or 15 in respect of that ship, and the Director certifies in writing to that effect, stating particulars of the non-compliance, the ship may be detained by an authorised person until the Director otherwise directs.

(2) The Director shall deliver the certificate to the authorised person detaining the ship.

(3) On detaining the ship, the authorised person shall deliver to the master of the ship a copy of the certificate.

False statements relating to baggage, cargo, etc.

20 (1) Subject to subsection (3), a person commits an offence if, in answer to a question which—

(a) relates to any baggage, cargo or stores (whether belonging to him or to another) that is or are intended for carriage by sea—

(i) by a Bermuda ship; or

(ii) by any other ship to or from Bermuda; or

(b) is put to him for purposes to which this Part applies—

(i) by any of the persons mentioned in subsection (2); or

(ii) by any employee or agent of such a person in his capacity as employee or agent,

he makes a statement which he knows to be false in a material particular, or recklessly makes a statement which is false in a material particular.

(2) The persons referred to in subsection (1)(b) are—

(a) the Director;

(b) an authorised person;

(c) the owner, charterer or manager of any ship; and

(d) any person who—

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- (i) is permitted to have access to a restricted zone of a harbour area for the purposes of the activities of a business carried on by him; and
- (ii) has control in that restricted zone over the baggage, cargo or stores to which the question relates.

(3) A person guilty of an offence under subsection (1) is liable on conviction by a court of summary jurisdiction, to a fine not exceeding ten thousand dollars.

(4) In this section—

“cargo” includes mail;

“ships” does not include a ship in naval customs or police service; and

“stores” means any goods intended for sale or use in a ship, including fuel and spare parts and other articles of equipment, whether or not for immediate fitting.

False statements in connection with identity documents

21 (1) A person commits an offence if—

- (a) for the purpose of, or in connection with, an application made by him or another for the issue of an identity document to which this subsection applies; or
- (b) in connection with the continued holding by him or another of any such document which has already been issued,

he makes to any of the persons specified in subsection (3), to any employee or agent of such a person or to a police officer, a statement which he knows to be false in a material particular, or recklessly makes to any of those persons, to any such employee or agent or to a police officer, a statement which is false in a material particular.

(2) Subsection (1) applies to any identity document which is to be or has been issued by any of the persons specified in subsection (3) in accordance with arrangements the maintenance of which is required by a direction given by the Governor under section 15.

(3) The persons referred to in subsection (1) are—

- (a) the owner, charterer or manager of any ship; and
- (b) any person who is permitted to have access to a restricted zone of a harbour area for the purposes of the activities of a business carried on by him.

(4) A person guilty of an offence under subsection (1) is liable on conviction by a court of summary jurisdiction to a fine not exceeding ten thousand dollars.

Offences relating to authorised persons

22 (1) A person who—

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- (a) intentionally obstructs an authorised person acting in the exercise of a power conferred on him by or under this Part; or
- (b) falsely pretends to be an authorised person,

commits an offence.

(2) A person guilty of an offence under subsection (1)(a) is liable on conviction by a court of summary jurisdiction to a fine not exceeding ten thousand dollars or to imprisonment for a term not exceeding two years or to both such fine and imprisonment.

(3) A person guilty of an offence under subsection (1)(b) is liable on conviction by a court of summary jurisdiction to a fine not exceeding ten thousand dollars.

Duty to report certain occurrences

23 (1) For purposes to which this Part applies, the Governor may by regulations require such persons as are specified in the regulations to make a report to him, in such manner and within such period as are so specified, of any occurrence of a description so specified.

(2) Before making any regulations under this section, the Governor shall consult organisations appearing to him to represent persons affected by the proposed regulations.

(3) Regulations under this section may—

- (a) provide that any person who, in making a report required by the regulations, makes a statement which he knows to be false in a material particular, or recklessly makes a statement which is false in a material particular, is to be guilty of an offence and liable on conviction by a court of summary jurisdiction, to a fine not exceeding ten thousand dollars or to imprisonment for a term not exceeding two years or to both such fine and imprisonment;
- (b) provide for persons to be guilty of an offence in such other circumstances as may be specified in the regulations and to be liable on summary conviction to a fine not exceeding ten thousand dollars.

(4) Regulations under this section may require the reporting of occurrences taking place outside the Island only if those occurrences relate to Bermuda ships.

(5) Regulations made under this section shall be subject to affirmative resolution procedure.

Service of documents

24 (1) This section has effect in relation to any notice, any document containing a direction and any other document authorised or required by any provision of this Part to be served on or given to any person.

(2) Any such document may be given to or served on any person—

- (a) by delivering it to him; or

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- (b) by leaving it at his proper address; or
- (c) by sending it by post to him at that address; or
- (d) by sending it to him at that address by telefax or other similar means which produce a document containing the text of the communication.

(3) Any such document may, in the case of a body corporate, be given to or served on the secretary or similar officer of that body.

(4) For the purposes of this section, the proper address of any person to whom or on whom any document is to be given or served is his usual or last known address or place of business (whether in the Island or elsewhere), except that in the case of a body corporate or its secretary, or similar officer it shall be the address of the registered or principal office of that body in the Island (or, if it has no office in the Island, of its principal office, wherever it may be).

(5) In the case of a person registered under any of the Island registration provisions as the owner of any ship so registered, the address for the time being recorded in relation to him in the register in which the ship is registered shall also be treated for the purposes of this section as his proper address.

(6) If the person to or on whom any document mentioned in subsection (1) is to be given or served has notified the Governor of an address within the Island, other than an address determined under subsection (4) or (5), as the one at which he or someone else on his behalf will accept documents of the same description as that document, that address shall also be treated for the purposes of this section as his proper address.

(7) Any document mentioned in subsection (1) shall, where there are two or more owners registered under any of Bermuda registration provisions, be treated as duly served on each of those owners—

- (a) in the case of a ship in relation to which a representative person is for the time being appointed, if served on that person; and
- (b) in the case of any other ship, if served on any one of the registered owners.

(8) Where any document mentioned in subsection (1) is to be served on the master of a ship, it shall be treated as duly served if it is left on board that ship with the person being or appearing to be in command or charge of the ship.

(9) In this section “the Bermuda registration provisions” means the registration provisions contained in the Merchant Shipping Act 2002.

[Section 24 subsections (7)(a) and (9) amended by 2002:35 s.255(2) & Sch 10 para 7 effective 7 April 2003]

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PART IV MISCELLANEOUS AND GENERAL

Offences

25 (1) Proceedings for an offence under this Act shall not be instituted except by, or with the consent of, the Director of Public Prosecutions.

(2) Where an offence under this Act or any regulations made thereunder has been committed by a body corporate and is proved to have been committed with the consent or connivance of, or to be attributable to any neglect on the part of, any director, manager, secretary or other similar officer of the body corporate, or any person who was purporting to act in any such capacity, he as well as the body corporate shall be guilty of that offence and shall be liable to be proceeded against and punished accordingly.

(3) Where the affairs of a body corporate are managed by its members, subsection (2) shall apply in relation to the acts and defaults of a member in connection with his functions of management as if he were a director of the body corporate.

[Section 25 subsection (1) amended by 1999:8 s.2 & Sch 1 effective 1 April 1999]

Expenses

26 There shall be paid out of money provided by the Legislature any expenses of the Department under this Act and any increase attributable to this Act in the sums so payable under any other Act.

[Assent Date: 1 April 2000]

[Amended by:

1999 : 8

2021 : 8

2024 : 22]