

ANTIGUA AND BARBUDA

**OIL POLLUTION OF MARITIME
AREAS ACT 1995.**

Arrangement of Sections

Sections

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[L. S.]

I Assent

James B. Carlisle,
Governor-General.

27th December, 1995

ANTIGUA AND BARBUDA

No. 14 of 1995

AN ACT to make provision against the discharge or escape of oil
into the Maritime Areas of Antigua and Barbuda

[4th January, 1996]

ENACTED by the Parliament of Antigua and Barbuda as
follows —

1. This Act may be cited as the Oil Pollution of Maritime Areas
Act, 1995. Short title

2. In this Act — Interpretation

"harbour" means the harbours referred to in section 31 and
specified in the Third Schedule to the Ports Authority Act, Cap. 333
1973;

"Maritime Areas" include the territorial sea and the internal
waters of Antigua and Barbuda as defined in the Maritime Cap. 260
Areas Act, 1982;

"Master" when used in relation to any vessel means the
person having the command or charge of the vessel for the
time being;

"oil" includes oil of any description, spirit produced from oil and oil mixed with water;

Cap. 333.

"Port Manager" has the same meaning assigned to it as in section 2 of the Port Authority Act, 1973 and includes any person acting for the Port Manger;

"vessel" includes ship, boat, tug, lighter or boat of any kind whatsoever whether the same is propelled by steam or otherwise or is towed and any other description of vessel used in navigation.

Application.

3. This Act applies to the Maritime Areas of Antigua and Barbuda.

Penalty for discharge of oil into the Maritime Areas.

4. (1) Where oil is discharged, or allowed to escape into any area to which this Act applies from any vessel, the owner or master of the vessel from which the oil is discharged or allowed to escape is liable on summary conviction to a fine of twenty thousand dollars or to imprisonment for two years.

(2) It is a good defence to proceedings for an offence under this section to prove that—

(a) the escape of oil was due to —

(i) an exceptional, inevitable and irresistible natural phenomenon;

(ii) the vessel being in collision;

(iii) the negligence or wrongful act by another person not being the servant or agent; and

that reasonable steps were taken by the master to prevent the escape, or

(b) the discharge of the oil is necessary by reason of the happening to the vessel of some damage or accident.

Place to discharge ballast water.

5. (1) The Port Manager may appoint a place within Antigua and Barbuda at which ballast water may, notwithstanding the provisions of section 4, be discharged.

(2) The times and conditions under which ballast water may be discharged under subsection (1) may be determined by the Port Manager.

6. (1) Where oil is discharged or allowed to escape into any area to which this Act applies the owner or master of the vessel is liable — Liability for pollution.

- (a) for any damage caused in the area of Antigua and Barbuda by contamination resulting from the discharge or escape;
- (b) for the cost of any measures taken after the discharge or escape for cleaning, preventing or reducing the damage in the area of Antigua and Barbuda;
- (c) for any damage caused in the area of Antigua and Barbuda by the measures so taken.

(2) Where oil is discharged or escaped from two or more vessels and —

- (a) liability is incurred under this section by the owner or the master of each of them, but
- (b) the damage or cost for which each of the owners or the masters would be liable cannot be reasonably separated from that for which the other would be liable,

each of the owners or the masters is liable jointly with the other for the whole of the damage or cost for which the owners or masters together would be liable under this section.

7. (1) Where an offence is alleged to have been committed under this Act by a master of a vessel, the master shall not be permitted to leave Antigua and Barbuda until — Legal Proceedings.

- (a) proceedings have been taken against him under this Act, or
- (b) he has deposited to the Magistrate a sum which the Magistrate considers reasonable in the circumstances.

(2) Where the master of any vessel alleged to have committed an offence under this Act deposits such sum as the Magistrate may consider reasonable under subsection 1 (b) proceedings for the offence may, notwithstanding anything in the Magistrate's Code of Procedure Act, be instituted against him at any time within three years of his return to Antigua and Barbuda.

(3) No proceedings shall be brought under this Act after three years of the committing of the offence.

(4) Where the master of a vessel who is alleged to have committed an offence under this Act is permitted to leave Antigua and Barbuda under section 7(1) (b) fails to return to Antigua and Barbuda within three years to be proceeded against, he shall forfeit any sum so deposited under that section to the Crown.

Recovery of fine
and cost of damage
and cleaning.

8. Where the owner or the master of the vessel fail to pay —

- (a) any fine imposed by the Magistrate in proceedings against the owner or the master of the vessel for an offence under this Act at the time and in the manner ordered by the Magistrate; or
- (b) the cost, for any damage caused by contamination, measures for cleaning, preventing or reducing damage in the area, or the damage caused by the measures taken in pursuance of section 6(1) (b)

the Magistrate shall, without prejudice to any other powers of the Magistrate for enforcing payment, have the power to direct the amount remaining unpaid to be levied by distress and sale of the vessel, her tackle and furniture.

Authority to institute
proceedings.

9. Proceedings for an offence under this Act shall be instituted by the Port Manger, any police officer or any person with the fiat of the Director of Public Prosecutions.

No. 14 of 1995.

*Oil Pollution of Maritime
Areas Act 1995.*

5 ANTIGUA
AND
BARBUDA

Passed the House of Representatives
this 13th day of November, 1995.

B. Harris,
Speaker.

S. Walker,
Clerk of the House of Representatives.

Passed the Senate this 27th day of
November, 1995.

M. Percival,
President.

S. Walker,
Clerk of the Senate.