

Marine Boundaries and Jurisdiction Act, 1978 - 3, 25 February 1978

An Act to provide for the establishment of Marine Boundaries and Jurisdiction.

Commencement

(By Proclamation)

ENACTED by the Parliament of Barbados as follows--

**PART I
PRELIMINARY**

Short Title

1. This Act may be cited as the Marine Boundaries and Jurisdiction Act, 1978.

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Interpretation

2. For the purposes of this Act:

"Barbadian vessel" or "Barbadian structure" means a vessel or structure, as the case may be:

(a) wholly owned by a citizen of Barbados or by a body corporate whose members or, if that body corporate is a company, whose shareholders, as the case may be, are all citizens of Barbados, or

(b) certified in writing by the Cabinet as having such substantial economic connections with Barbados in relation to its ownership as to be deemed, for the purposes of this Act, to be a Barbadian vessel or Barbadian structure, as the case may be;

"Exclusive Economic Zone" or "Zone" means the marine zone established by section 3(1);

"fish" includes marine fishes, Crustacea, sea-eggs, whales, porpoises, Mollusca or other marine animals and includes marine plant life;

"fishing" means:

(a) the catching, taking or harvesting of fish;

(b) any activity reasonably expected to result in the catching, taking or harvesting of fish; or

(c) any operation at sea in connection with, or in preparation for, the catching, taking or harvesting of fish or an activity referred to in paragraph (b);

"fishing vessel" means any ship, vessel, boat or other craft used for, or of a type normally used for, fishing or aiding or assisting another vessel at sea in the performance of any activity relating to fishing;

"foreign fishing vessel", "foreign vessel", or "foreign structure" means a fishing vessel, vessel or structure, as the case may be, of a foreign State;

"marine conservation officer" means a person designated a marine conservation officer under section 14;

"ship" includes vessel, boat or other sea-going or ocean-going craft;

"Structure" includes any artificial island, off-shore terminal or off-shore installation.

PART II ECONOMIC ZONE

Exclusive Economic Zone

3. (1) There is established, contiguous to the territorial waters, a marine zone to be known as the Exclusive Economic Zone having as its inner limit the boundary line of the seaward limit of the territorial waters and as its outer limit a boundary line which, subject to subsection (3), at every point is a distance of 200 miles from the nearest point of the baselines of the territorial waters or such other distance from the nearest point of those baselines as the Minister responsible for External Affairs, by order, prescribes.

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

(3) Notwithstanding subsection (1), where the median line as defined by subsection (4) between Barbados and any adjacent or opposite State is less than 200 miles from the baselines of the territorial waters, the outer boundary limit of the Zone shall be that fixed by agreement between Barbados and that other State, but where there is no such agreement, the outer boundary limit shall be the median line.

(4) The median line is a line every point of which is equidistant from the nearest points of the baselines of the territorial waters, on the one hand, and the corresponding baselines of the territorial waters of any adjacent or opposite State as recognised by the Minister, on the other hand.

(5) An agreement entered into pursuant to subsection (3) shall be laid before Parliament, and shall be judicially noticed.

Making of boundary lines of Zone on charts or maps

4. (1) The Minister responsible for External Affairs shall cause the boundary lines of the Zone to be marked on a scaled map or chart, and that map or chart shall be judicially noticed.

(2) The Minister responsible for External Affairs shall make provision for the safe custody of the map or chart referred to in subsection (1), and shall, by notice, specify the place where any person may inspect that map or chart or purchase a certified copy thereof.

Rights in, and jurisdiction over, Zone

5. There is vested in the Government of Barbados -

(a) all rights in, and jurisdiction over, the Zone in respect of -

(i) the exploration, exploitation, conservation, protection or management of the natural living and non-living resources of the seabed, subsoil and superjacent waters;

(ii) the construction, maintenance or use of structures or devices relating to the exploration or exploitation of the resources of the Zone, the regulation and safety of shipping, or any other economic purpose;

(iii) the authorization, regulation or control of scientific research;

(iv) the preservation and protection of the marine environment and the prevention and control of marine pollution;

- (v) all other activities relating to the economic exploration and exploitation of the Zone; and
- (b) all other rights in, and jurisdiction over, the Zone recognized by international law.

Exploitation of resources of Zone

6. (1) Subject to this Act, no person shall within the Zone, except under or in accordance with an agreement with the Government of Barbados or a permit granted by the Cabinet -

- (a) explore or exploit any resources thereof;
- (b) carry out any search or excavation;
- (c) conduct any research;
- (d) drill in or construct, maintain or operate any structure or device; or
- (e) carry out any economic activity.

(2) This section does not apply to fishing by a citizen of Barbados in or from a Barbadian vessel.

(3) Any person who contravenes this section is guilty of an offence and liable:

- (a) on conviction on indictment, to a fine of \$50,000 or imprisonment for a term of 5 years or both; or
- (b) on summary conviction, to a fine of \$20,000 or imprisonment for a term of 2 years or both,

and, in addition, the court may order the forfeiture of any vessel, structure, equipment, device or thing in connection with which the offence was committed.

Freedom of navigation, overflight, and laying of cables etc.

7. Subject to sections 8 and 11, ships and aircraft of all states are not, in or over the Zone, as the case may be, restricted in or prohibited from the enjoyment of the freedom of navigation, overflight, the laying of cables and pipelines and the other lawful use of the sea related to navigation and communication recognized by international law.

Application of certain enactments of Zone

8. (1) The Governor-General may, by order, with such exceptions and modifications as may be specified in the order, extend the application of any enactment to the Zone or any part thereof, and an enactment so extended shall have effect in relation to the Zone as if it had been enacted by this Act.

(2) An order made under this section is subject to affirmative resolution, and shall be judicially noticed.

Jurisdiction of courts

9. (1) The jurisdiction and powers of the courts extend to the Zone for the purpose of giving effect to the provisions of this Act and any other enactment extended to the Zone under section 8 as if the Zone were a part of the territory of Barbados.

(2) Where an offence is, by virtue of this Act or any enactment extended to the Zone under section 8, punishable on summary conviction or indictment, it may be enquired into or determined, as the case may be, by a magistrate assigned to any magisterial district, and that magistrate has, in respect of the offence, all the powers, privileges, rights and jurisdiction conferred on him by the Magistrates Jurisdiction and Procedure Act. (Cap. 116)

(3) The quasi-criminal and the civil jurisdiction conferred on a magistrate by the Magistrates Jurisdiction and Procedure Act is, in relation to the Zone, exercisable by a magistrate assigned to any magisterial district.

(4) The jurisdiction and power conferred on the courts under this Act do not affect any jurisdiction or powers conferred on, or exercisable by, those courts under any other law.

Locus of offence, etc

10. (1) In any proceedings in a court in relation to the Zone, the averment that an offence was committed or that an act was done within the limit of the Zone shall, until the contrary is proved, be deemed to be prima facie evidence that the locus in quo was within the Zone.

(2) An incident shall, for the purposes of any law conferring jurisdiction on a court in Barbados, be deemed to have occurred in Barbados if:

- (a) that incident occurs in, on, under, above or in relation to any vessel, structure or device or any waters within 500 yards of that structure or device, in the Zone; or
- (b) that incident, if having occurred in Barbados, would be an offence or give rise to quasi-criminal proceedings or a civil cause of action.

PART III
FISHING IN THE ZONE

Permission to fish in the Zone or territorial waters

11. (1) No person shall engage in fishing within the territorial waters unless:

- (a) he is a citizen of Barbados;
- (b) he is the holder of a valid permit granted under subsection (4) or
- (c) there is in existence in relation to him an agreement with the Government of Barbados.

(2) The master or other person in charge of a foreign vessel shall not permit that vessel to be used for the purpose of fishing in the Zone or the territorial waters unless there is on board that vessel a valid permit granted under subsection (4).

(3) The master or other person in charge of a foreign fishing vessel on board of which there is not a valid permit granted under this section in respect of that vessel shall not, except for the purpose of exercising the freedom of navigation referred to in section 7 or granted pursuant to an agreement under section 6, permit or cause that vessel to enter the Zone; and where a vessel enters the Zone in accordance with the terms of that permit or agreement, that master or other person shall not cause or permit the vessel to remain in the Zone after the purpose for which it entered the Zone has been fulfilled or the agreement has expired.

(4) The Cabinet may -

- (a) grant to a person, who is not a citizen of Barbados; or
- (b) grant in respect of a foreign fishing vessel

a permit to engage in fishing within the Zone, the territorial waters, or any designated part thereof.

(5) Any person who contravenes this section or a term or condition of a permit granted under this Act is guilty of an offence and liable on summary conviction to a fine of \$20,000 or imprisonment for a term of 2 years or both, and, in addition, the court may order the forfeiture of any vessel, fish, fishing gear, equipment, device or thing in connection with which the offence was committed.

Form, content of permit

12. (1) A permit granted under section 11 in respect of a foreign vessel may contain -

- (a) the name of the owner or charterer;

- (b) the name of the vessel;
- (c) a description of the vessel;
- (d) a description of the area designated for fishing;
- (e) the periods or times allowed for fishing and the number of voyages authorized;
- (f) the descriptions and quantities of fish permitted to be taken;
- (g) the method of fishing;
- (h) conditions respecting the landing of fish or parts of fish;
- (i) the name of the port or place for the landing of fish caught;
- (j) the permitted use of any fish caught;
- (k) any other term or condition, including fees and charges payable, approved by Cabinet.

Variation, revocation or suspension of permit

13. A permit granted under section 11 may be varied, suspended or revoked, if it appears necessary or expedient to the Cabinet.

PART IV
MARINE CONSERVATION OFFICERS

14. For the purposes of this Act, the following persons are designated marine conservation officers -

- (a) fisheries officers of the Ministry responsible for Fisheries;
- (b) members of the Defence Force of Barbados;
- (c) members of the Police Force;
- (d) officers of Customs;
- (e) officers of the Coast Guard, and
- (f) any other person approved by Cabinet.

15. (1) A marine conservation officer may, in performing his duties, exercise all the powers conferred on him by this Act in respect of -

- (a) a Barbadian vessel or Barbadian structure that is at sea or in port; or
- (b) a foreign vessel or foreign structure that he reasonably suspects of being used in connection with fishing or any other activity carried on in contravention of this Act or the regulations.

- (2) In the performance of his duties under this section, a marine conservation officer may -

- (a) reasonably call on any person to assist him;

- (b) use such force as is reasonably necessary;
- (c) require any person to do anything that appears reasonably necessary for the purpose of facilitating the performance of those duties;
- (d) order that any vessel or structure be stopped;
- (e) board any vessel or structure;
- (f) search or examine any vessel or structure or any fish, equipment or thing on board thereof;
- (g) require any person on board a vessel or structure to produce any document or thing relating to that vessel or structure or the persons on board thereof.

(3) A marine conservation officer who has reasonable grounds to suspect that an offence has been committed under this Act or the regulations by any person, including any person on board a vessel or structure, may, without warrant or other process -

- (a) seize the vessel or structure together with any fish, fishing gear or other equipment suspected of being used in the commission of the offence; and
- (b) detain the person he suspects.

(4) Where a vessel, structure or thing is seized or a person is detained under subsection (3), a marine conservation officer shall, where possible, take the vessel, structure, thing or person as soon as practicable to a Barbadian port, and within a reasonable time cause the person detained to be brought before a magistrate's court to answer a charge in connection with the offence that gave rise to the seizure or detention.

(5) A court may order that any vessel, structure, fishing gear or other equipment, device or thing seized under subsection (3) be forfeited where the owner thereof is unknown and no claim thereto is made within 1 month of the seizure under that subsection.

Sale of fish likely to spoil

16. (1) A marine conservation officer may, to avoid spoilage or decay of any fish he seizes under section 15, sell that fish in such manner as a fisheries officer of the Ministry responsible for Fisheries directs.

(2) All moneys resulting from a sale of fish under subsection (1) shall be paid into the Consolidated Fund.

(3) A marine conservation officer who makes a sale of fish under subsection (1) shall give to the person from whom he seized the fish a receipt containing -

- (a) the date of the sale;
- (b) the quantity of fish;
- (c) the amount realized by the sale,

and the receipt shall be signed by the officer.

(4) Where a court dismisses a charge against a person brought before it under section 15, it shall, in any case where the fish in the possession of that person was sold, order compensation not exceeding the net amount realized by the sale to be paid to that person.

(5) Compensation payable under subsection (4) shall be charged on, and paid out of, the Consolidated Fund.

Exemption from liability

17. No liability attaches to the Crown, a marine conservation officer or fisheries officer in respect of acts done by that officer in good faith in the performance of his duties under this Act.

PART V GENERAL

General offences

18. Any person who -
- (a) assaults, resists, obstructs or intimidates a marine conservation officer or any person assisting him, in the execution of his duty;
 - (b) uses indecent, abusive or insulting language to a marine conservation officer in the execution of his duty;
 - (c) interferes with or hinders a marine conservation officer in the execution of his duty;
 - (d) by any gratuity, bribe, promise or other inducement, prevents a marine conservation officer from carrying out his duty;
 - (e) without the authority of a marine conservation officer, removes, alters or interferes with any articles seized under section 15;
 - (f) contravenes any provision of this Act for which no penalty is provided or the regulations,

is guilty of an offence and liable on summary conviction of a fine of \$5,000 or imprisonment for a term of 2 years or both and, in addition, the court may order the forfeiture of any vessel, structure, equipment, device or thing in connection with which the offence was committed.

Return of property seized

19. Subject to section 16, a court may order that property seized under subsection (3) of section 15 be returned to the person from whom it was taken or to a person named by that person where -
- (a) the court dismisses a charge brought against that person under this Act or the regulations, and it is of the opinion that the property can be returned consistently with the interests of justice; or
 - (b) no charge has been brought against any person within a reasonable time after a seizure has been effected under that subsection.

Regulations

20. (1) The Cabinet may make regulations generally for carrying into effect the provisions of this Act, and in particular respecting:

- (a) any activity relating to the exploration, exploitation and protection of the resources of the Zone;
- (b) any activity relating to the economic exploration or exploitation of the Zone;
- (c) the safety and protection of structures or devices in the Zone;
- (d) the authorization, control and regulation of scientific research in the Zone;
- (e) the customs and other fiscal matters relating to the Zone;
- (f) the duties, powers, functions and conditions of service of marine conservation officers; and
- (g) the fees to be paid under this Act.

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

Directions

21. The Minister responsible for External Affairs may give directions respecting the disposal or release of any vessel, structure, equipment, device or thing that is ordered by a court to be forfeited under this Act or the regulations.