



## ST. CHRISTOPHER AND NEVIS

### CHAPTER 8.07

# SAINT CHRISTOPHER AIR AND SEA PORTS AUTHORITY ACT and Subsidiary Legislation

#### Revised Edition

showing the law as at 31 December 2017

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#### SAINT CHRISTOPHER AIR AND SEA PORTS AUTHORITY ACT

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Act 17 of 1998

Act 16 of 2006

Act 4 of 2008

Act 35 of 2008

Act 17 of 2011

Act 22 of 2011

Act 40 of 2012

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## **CHAPTER 8.07**

# **SAINT CHRISTOPHER AIR AND SEA PORTS AUTHORITY ACT**

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## **CHAPTER 8.07**

### **SAINT CHRISTOPHER AIR AND SEA PORTS AUTHORITY ACT**

AN ACT TO PROVIDE FOR THE ESTABLISHMENT OF AN AUTHORITY TO BE KNOWN AS THE SAINT CHRISTOPHER AIR AND SEA PORTS AUTHORITY; TO PROVIDE FOR CO-ORDINATED AND INTEGRATED SYSTEMS OF AIRPORTS AND SEAPORTS SERVICES; AND TO PROVIDE FOR RELATED OR INCIDENTAL MATTERS.

#### **PART I**

#### **PRELIMINARY**

##### **Short title.**

**1.** This Act may be cited as the Saint Christopher Air and Sea Ports Authority Act.

##### **Interpretation.**

**2.** (1) In this Act, unless the context otherwise requires—

“air carrier” means a person, or persons jointly, whose business includes the carriage of passengers by air;

*(Inserted by Act 22 of 2011)*

“aircraft” means any machine which flies, whether propelled by mechanical means or not, and includes any description of balloon;

“airport” means the Robert Llewellyn Bradshaw International Airport;

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

“Authority” means the Saint Christopher Air and Sea Ports Authority established by section 3;

“authorised officer” means a person authorised by the General Manager or by a 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 and includes aeronautical beacons and such other aids used in aviation;

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

“Chairperson” means the Chairperson of the Authority and includes any person, for the time being, performing the functions of Chairperson;

“charges” means rates, air service charge, rent, and any other charge levied by the Authority under this Act, except dues;

*(Substituted by Act 17 of 1998)*

“constable” means a constable appointed by the Authority pursuant to the provisions of section 85;

“dues” includes pilotage dues, port dues, tonnage dues levied under this Act, but does not include rates;

- “ferry” means any vessel plying within the limits of a seaport or the approaches thereto for the purpose of the carriage of goods or passengers;
- “financial year” means such period of twelve months as the Authority, with the approval of the Minister, may determine to be its financial year;
- “general aviation flight” means a flight other than a commercial air transport operation or aerial work operation;  
*(Inserted by Act 22 of 2011)*
- “General Manager” means the General Manager of the Authority appointed under section 12 and includes any person appointed to act as General Manager;
- “goods” means all kinds of movable property including animals;
- “IATA” means the International Air Transport Association;  
*(Inserted by Act 22 of 2011)*
- “Island Enhancement Fund Act” means the Island Enhancement Fund Act, Cap. 20.51;  
*(Inserted by Act 22 of 2011)*
- “Master”, in relation to a ship, means any person having charge for the time being of that ship;
- “member” means a member of the Authority;
- “Minister” means the member of Cabinet charged for the time being with responsibility for the subjects of civil aviation and maritime affairs;  
*(Substituted by Act 35 of 2008)*
- “operating carrier” means the specific air carrier on which a person departs from Saint Christopher and Nevis;  
*(Inserted by Act 22 of 2011)*
- “owner”, when used in relation to—
- (a) goods, includes any consignor, consignee, shipper or agent of the owner for the sale, custody, loading, handling, unloading or delivery of such goods;
  - (b) any ship or aircraft, 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, include fish, fruits, 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;
- “person in charge”, in relation to an aircraft, means the pilot or other person having for the time being charge, command or control of the aircraft and, in relation to a ship, the master or other person having for the time being charge, command or control of the ship;
- “port” means an airport or a seaport;
- “Port Manager” means a manager of an airport or a seaport appointed under section 12 and includes every person appointed to act as Port Manager;



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

“purposes of the Authority” means any purposes necessary or desirable for the performance of the services, or the provision of any facilities which the Authority is authorised to perform under this Act;

“regulations” means the regulations made under this Act;

“SCASPA” means the Saint Christopher Air and Sea Ports Authority established by this Act;

*(Inserted by Act 22 of 2011)*

“seaport” means—

(a) the port of Basseterre the limits of which are set out in the First Schedule; and

(b) any other port which may be declared to be a seaport for the purposes of this Act by an order made by the Minister in accordance with subsection (3);

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

“Solid Waste Management Act” means the Solid Waste Management Act, Cap. 11.05;

*(Inserted by Act 22 of 2011)*

“Tariff Book” means the Tariff Book prepared and published under section 55;

“ticketing carrier” means an air carrier on whose ticket stock the flight ticket is issued or whose numeric code is included in the ticket number;

*(Inserted by Act 22 of 2011)*

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

(2) In this Act—

(a) a reference to a section or Schedule is a reference to a section of or Schedule to this Act unless it is indicated that reference to some other enactment is intended; and

(b) a reference to a subsection, paragraph or sub-paragraph is to the subsection, paragraph or sub-paragraph of the provision (including a Schedule) in which the reference occurs unless it is indicated that reference to some other provision is intended.

(3) The Minister—

(a) may, by Order published in the *Gazette*, declare any seaport to be a seaport for the purposes of this Act;

(b) shall, in such Order specify the limits of that seaport.

## PART II

## ESTABLISHMENT, CONSTITUTION, MANAGEMENT AND STAFF

**Establishment of Authority.**

3. (1) There is established, for the purposes of this Act, a body corporate to be known as the Saint Christopher Air and Sea Ports Authority.

(2) The Authority shall be a body corporate with perpetual succession and a common seal and shall have power as such to enter into contracts, to sue and be sued in its corporate name, and to acquire, hold, mortgage, lease, and dispose of all kinds of property, movable and immovable, and to do and perform all such acts and things as a body corporate may by law do and perform, subject to the provisions of this Act.

**Constitution of the Authority.**

4. (1) The Authority shall consist of not less than seven nor more than eleven members appointed by the Minister.

(2) The Minister shall designate one member as Chairperson of the Authority.

(3) Every member shall be appointed by the Minister for such period not exceeding three years, as the Minister may direct and shall, on ceasing to be a member, be eligible for re-appointment.

(4) Where a member ceases to be a member for any reason, the Minister may appoint another member in his or her place for the remainder of the time for which the former member would have served but for his or her ceasing to be a member.

(5) In the event of incapacity from illness or other temporary cause, or of the temporary absence from Saint Christopher and Nevis of any member, the Minister may appoint some other person to act as a temporary member during the time such incapacity or absence continues.

(6) The Minister may at any time revoke the appointment of any member if he or she considers it expedient so to do.

(7) 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 published in the *Gazette*.

**Seal of the Authority.**

5. (1) The Seal of the Authority shall be kept in the custody of the Chairperson or of the General Manager and may be affixed to instruments pursuant to a resolution of the Authority and in the presence of the Chairperson or of one other member authorised as in subsection 2, and the General Manager.

(2) The Seal of the Authority shall be authenticated by the signature of the Chairperson or a member authorised in writing by resolution of the Authority and the General Manager, and such seal shall be officially and 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 Chairperson or General Manager.

**Service of notice.**

6. (1) 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 General Manager or any authorised officer may be served—

- (a) by delivering it to the person;
- (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 or her usual or last known address.

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

- (a) by delivering the notice or other document to the General Manager or to the authorised officer;
- (b) by leaving it at the office of the General Manager; or
- (c) by sending it by registered post addressed to the General Manager at the office of the Authority.

**Meetings and proceedings 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 Chairperson may determine.

(2) The Chairperson 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 or her by any three members to consider the matters contained in such requisition.

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

(4) The decision of the Authority with regard to any question shall be determined by a majority vote of the members present and voting at a meeting of the Authority at which a quorum is present, and in any case when the votes of the members present in regard to any question shall be equally divided, the Chairperson presiding at the meeting shall have, in addition to a deliberative vote, a second or casting vote.

(5) In the absence of the Chairperson from any meeting the members present shall elect one of their number to be Chairperson of that meeting.

(6) Five members shall form a quorum at a meeting of the Authority.

(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 Chairperson as soon as practicable thereafter at a subsequent meeting.

(8) The Authority may have in attendance any one or more persons at any particular meeting of the Authority for the purpose of assisting or advising the Authority, but no person so attending shall have any right to vote at any such meeting.

(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.** If any member is present at a meeting at which a matter is considered or proposed to be considered in which he or she has directly or indirectly, any financial or other interest, he or she shall, as soon as practicable after the commencement of the meeting, disclose that fact and he or she shall not take further part in the consideration of that matter or vote on any question with respect to that matter and, if the majority of the other members present shall so determine he or she shall withdraw from the meeting during such consideration.

**Appointment of committees.**

**9.** (1) The Authority may appoint a committee of the Authority to examine and report to it on any matter 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 attends a meeting of the Authority under the provisions of subsection (8) of section 7, the Authority may, with the approval of the Minister, by resolution, declare the remuneration and allowances of such persons, and such sums shall properly be payable out of the funds 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.** (1) 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.

(2) The delegation referred to in subsection (1) shall not preclude the carrying out of the duties by the Authority itself.

**Remuneration of members.**

**11.** There shall be paid from the funds of the Authority to the Chairperson, and other members such, if any, remuneration, fees or allowances as the Authority, with the approval of the Minister, may determine.

**Appointment of General Manager, Port Manager and secretary.**

**12.** (1) The Authority shall, at such salary and upon such terms and conditions as it may determine, appoint—

- (a) a General Manager;
- (b) such number of Port Managers as it thinks fit; and
- (c) a secretary:

Provided that such appointments shall be subject to the approval of the Minister, and the General Manager and the Port Manager of any port may be one and the same person.

(2) The General Manager shall be the chief executive officer of the Authority and shall exercise all the functions entrusted to him or her by this Act and any regulations and (whether or not he or she is a member) shall be present at all meetings of the Authority unless he or she has obtained leave of absence from the Chairperson or is incapacitated by illness or other cause from attending such meetings.

(3) In the event of the absence from duty of—

- (a) the General Manager; or
- (b) the Port Manager of any port,

the Authority may, by instrument in writing, and with the approval of the Minister, appoint any person to act as General Manager or Port Manager, as the case may be, during the period of such absence upon such terms and conditions as it may determine.

(4) Any person who is appointed under subsection (3) may exercise all the powers and all the duties exercisable or to be performed by the General Manager or by a Port Manager, as the case may be, or as many of such powers and duties as may be specified in such instrument.

#### **Appointment of officers and servants.**

**13.** (1) The Authority may appoint and employ at such remuneration and on such terms and conditions as it thinks fit such officers and servants as it deems necessary for the proper carrying out of its functions under this Act.

(2) Any person appointed or employed under this section shall perform such duties as may be assigned to them by the General Manager, or by the Port Manager of the port at which the person is employed.

#### **Protection 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;
- (b) the failure by a member to comply with the provisions of section 8; or
- (c) any omission, defect or irregularity not affecting the merits of the case.

#### **Protection of members.**

**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 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 of the Authority.

#### **Policy.**

**16.** (1) The Minister may, after consultation with the Chairperson, give to the Authority directions of a general character as to the policy to be followed in the performance of its functions in relation to matters appearing to him or her to concern the public interest, and the Authority shall give effect to any direction so given.

(2) The Authority shall furnish the Minister with such returns, accounts and other information as he or she may require with respect to the property and activities of the Authority, and shall afford to him or her facilities for verifying such information in such manner and at such times as he or she may reasonably require.

### PART III

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

##### **Powers and duties.**

**17.** (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 airports, seaports, lighthouses and port services and to levy charges and dues for the use of the facilities and services provided.

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

(3) In particular and without prejudice to the generality of the provisions of subsections (1) and (2), it shall be the duty of the Authority—

- (a) to operate the ports as appears to it best calculated to serve the public interest;
- (b) to regulate and control navigation within the limits of such ports and their approaches;
- (c) to maintain, improve and regulate the use of such ports and the services and facilities therein as it considers necessary or desirable;
- (d) to provide for such ports and the approaches thereto such air traffic control services, beacons, buoys and other navigational services and aids as it considers necessary or desirable;
- (e) to exercise the duties and functions relating to shipping, aviation and navigation exercisable under the provisions of any other law; and
- (f) to carry out exclusively the loading, unloading, landing and carrying of all goods to and from all ships and aircraft in a port:

Provided that the Authority may, with the approval of the Minister, authorise in writing any person, corporation or other body to carry out the functions stated in this paragraph subject to such conditions, and restrictions as the Authority may consider desirable.

##### **Compulsory acquisition of land.**

**18.** (1) The Governor-General may, when land is required for the purposes of this Act, acquire either by private treaty or compulsorily, under the provisions of the Land Acquisition Act, Cap. 10.08 any lands, and may exercise all powers under the Act in relation to any acquisition or intended acquisition of such lands.

(2) The Governor-General may, upon such terms and conditions as he or she may determine, vest any lands acquired in the Authority by Order, declaring that such lands shall vest in the Authority as from the date thereof, and the Order shall be published in the *Gazette* and shall vest the lands absolutely in the Authority as from the date thereof, free from any encumbrances of any nature whatsoever.

(3) The Governor-General may, by Order, vest in the Authority any lands owned by the Crown upon such terms and conditions as he or she may deem fit.

(4) With the approval of Cabinet, the Authority may, by Order, vest any lands owned by it in the Crown or any statutory authority.

(5) Nothing herein contained shall prejudice the right of any person having any interest in any lands acquired under the provisions of the Land Acquisition Act, Cap. 10.08:

Provided however, that compensation for any lands acquired under this section shall be determined in accordance with the provisions of section 19 of the Land Acquisition Act, Cap. 10.08.

#### **Power to vest reclamations in the Authority.**

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

(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.**

**20.** 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 IV

#### FINANCIAL

#### **Funds of the Authority.**

**21.** (1) The funds 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 or any other 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 an account at a Bank approved by the Minister.

*(Amended by Act 4 of 2008)*

#### **Application of funds of the Authority.**

**22.** The receipts of the Authority on revenue account 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 towards the repayment of any loan made by the Government to the Authority;
- (c) the remuneration and allowances of members and of any committee of the Authority;
- (d) the salaries, remuneration, allowances, pensions, gratuities of the officers and servants, employed in or in connection 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 account;
- (f) such sums as the Authority may 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 to charge to revenue account;
- (h) sums to be appropriated to the reserve fund;
- (i) any other expenditure authorised by the Authority with the concurrence of the Minister and properly chargeable to revenue account.

#### **Temporary investment of funds.**

**23.** (1) The Authority may, from time to time, temporarily invest, with the approval of the Minister, and in such manner as the Minister 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 from such investment shall be paid to the credit of the Authority's account as provided in subsection (2) of section 21.

#### **Power to borrow.**

**24.** (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; or
- (b) from any other source with the consent of the Minister.



- (2) The power to borrow under this section may be exercised—
- (a) to borrow and re-borrow moneys by the issue and sale of debentures or debenture stock or other security for the purpose of raising the funds of the Authority for the effectual exercise by it of the powers conferred by this Act;
  - (b) to create and issue debentures or debenture stock or other security for any debentures or debenture stock or other security respectively issued in respect of moneys previously borrowed by the Authority, and not repaid;
  - (c) to create, issue and sell debentures or debenture stock or other security for the purpose of borrowing money for redeeming any loans owing by the Authority, and for paying the expenses incurred in the creation and issue of the debentures or debenture stock or other security and otherwise carrying out the provisions of this Act;
  - (d) to effect any conversion authorised by this section either by arrangement with the holders of the existing debentures or debenture stock or other security, or by the purchase of the debentures or debenture stock or other security out of moneys raised by the sale of the debentures or debenture stock or other security, or partly in the one way or partly in the other.

(3) Without prejudice to the provisions of section 25, 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 and approved by the Minister.

#### **Temporary borrowing.**

**25.** The Authority may, with the consent of the Minister, 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 purpose 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 purpose of defraying, pending the receipt of money due in respect of any loan authorised to be raised under subsection (1) of section 24, expenses intended to be defrayed by any such loan.

#### **Guarantee of borrowing by the Authority.**

**26.** (1) The Minister may, on behalf of the Government, guarantee, in such manner and on such conditions as he or she may think fit, the payments of the

principal and interest of any moneys borrowed by the Authority in exercise of the powers conferred by sections 24 and 25.

(2) Where the Minister is satisfied that there has been default in the payment of any principal moneys or interest guaranteed under the provisions of this section he or she shall direct the repayment out of the Consolidated Fund of the amount 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 Minister may direct, payments of such amounts as may be so directed in or towards 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 Minister may direct, and different rates of interest may be directed as regards different sums and as regards interest for different periods.

#### **Assignment of profits and debt service guarantee.**

27. (1) The Authority may, with the approval of the Minister, assign its profits and guarantee for the payment of any debt or obligation of Government or any Government company as defined in the Finance Administration Act, Cap. 20.13, and may give any form of security for such guarantee which the Authority is empowered to give for its own borrowings or obligations.

(2) The Authority, with the approval of the Minister, may postpone all debts, demands and rights of action to recover any debts due, owing or accruing to it under such terms and conditions as may be necessary.

*(Inserted by Act 8 of 1994 as section 26A Note: As a result of renumbering section 26A as section 27, sections 27 to 89 have been renumbered accordingly)*

#### **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 Minister.

#### **Application of surplus.**

29. Any balance 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 22 shall be paid to the credit of the Consolidated Fund.

#### **Estimates in respect of financial year.**

30. (1) The Authority shall cause to be prepared every year estimates of revenue and expenditure in respect of the ensuing financial year, and shall adopt such estimates in respect of that year.

(2) Supplementary estimates may be adopted at any meeting of the Authority.

(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 sent to the Minister.

**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 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 one or more persons who publicly carry on the profession of accountancy (hereinafter referred to as the auditors) appointed by the Authority.

(2) The Authority and the officers and servants of the Authority shall grant to the 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 may require any person holding or accountable for any such document to appear before them or one of them and make a signed statement in relation thereto, and may require from such person such information as they or one of them deem necessary.

(3) Any person to whom a request to produce a document or to enter an appearance and make and sign a statement or furnish information, who fails, without reasonable excuse to comply with such request, commits an offence under this Act and shall be liable, on summary conviction, to a fine not exceeding five hundred dollars or to a term of imprisonment not exceeding three months.

**Auditors' report.**

**33.** The auditors appointed by the Authority under subsection (1) of section 32 shall, as soon as practicable, and not later than three months after the accounts have been submitted for audit, send an audited statement of accounts and their report in respect of their audit for the financial year to the Authority.

**Report by the Authority to Minister.**

**34.** (1) The Authority shall, as soon as practicable, and not later than one month of the receipt of such accounts and report as provided in section 33, submit a report to the Minister containing—

- (a) a statement of such accounts of the Authority;
- (b) a report on the activities of the Authority during the preceding financial year in such form as the Minister may direct.

(2) The Minister shall cause a copy of the report referred to in paragraph (b) of subsection (1) together with a copy of the audited statement of the accounts and the auditor's report thereon to be laid on the table of the National Assembly as soon as may be after the receipt.

## PART V

## RESPONSIBILITY OF THE AUTHORITY AS A WAREHOUSEMAN

**Liability for loss of goods, etc.**

**35.** (1) Subject to the provisions of this Act, 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 custody of the Authority except where such loss, misdelivery, detention or damage is caused by the want of reasonable foresight and care on the part of the Authority or of any employee; or
- (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 the want of reasonable foresight and care on the part of any person employed by or on behalf of the Authority.

(2) In any event—

- (a) 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;
  - (iii) seizure under legal process;
  - (iv) act or omission of the consignor, consignee, depositor or of the servant or agent of any such person;
  - (v) fire, flood, tempest, riots, civil commotions, 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; or
  - (viii) insufficient or improper packing or leakage from defective drums, containers or packages;
- (b) the liability of the Authority for the loss, misdelivery or detention of or damage to goods accepted by the Authority for warehousing in relation to which an account has been given under subsection (1) of section 51 and which is false in any material particular shall not in any case exceed the value of the goods as calculated in accordance with the description contained in such false account.

**Limitation of liability for loss, etc. of goods deposited in cloakroom.**

**36.** (1) The liability of the Authority for any loss or misdelivery of, damage to, or delay in the delivery of, any goods deposited in a cloakroom shall not in any case exceed one hundred dollars unless at the time of such deposit the person depositing the goods declared that the value thereof exceeded that amount and paid or agreed to pay, such additional charge as may be determined in the Tariff Book in respect of such excess value; and thereupon the liability of the Authority shall not in any case exceed such declared value.

(2) For the purpose of this section, the expression “cloakroom” means any place provided by the Authority as a facility for the temporary deposit of goods by persons using the services provided by the Authority.

### **Burden of proof in proceedings under section 35.**

37. In any proceedings brought under the provisions of section 35 against the Authority, it shall not be necessary for the person claiming damages or compensation to prove how the loss, misdelivery, detention or damage to goods was caused.

## PART VI

### DUES, CHARGES AND TARIFF BOOK

#### **Dues and charges.**

38. (1) Subject to this section, 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, and such dues and charges shall be deemed to have been demanded when they fall due in accordance with the regulations.

(2) There shall be paid by each air carrier in respect of each passenger departing Saint Christopher for any destination outside the Federation, an airport charge which said charge shall comprise an Air Service Charge and a Security Service Charge determined in accordance with section 52 of this Act and specified in the Second Schedule to this Act and payable as from the 1st day of September 2011.

(3) The monies paid as air service charge shall form part of the funds of SCASPA and shall be used to upgrade and maintain the airport infrastructure.

(4) The monies paid as security service charge shall form part of the funds of SCASPA and shall be used for the provision of security equipment and services at the Airport.

(5) An air carrier shall not be required to pay the Airport Charge in respect of the following persons, that is to say—

- (a) a child under the age of twelve years;
- (b) a member of the crew of a departing aircraft;
- (c) a positioning air crew member;
- (d) a person taking part in a training flight;
- (e) a passenger travelling on a domestic flight from Saint Christopher to Nevis or *vice versa*;
- (f) a person travelling on a military, scientific or meteorological flight and to whom no ticket has been issued;
- (g) persons on tourism excursions by air within the boundaries of the Federation, provided that the aircraft does not land in another territory;
- (h) passengers on vessels for the purpose of search and rescue;
- (i) passengers in transit for twenty-four hours or less;
- (j) a person travelling on a diplomatic passport,

or such other persons as the Minister may by Order exempt.

- (6) The airport charge shall be collected by—
- (a) the ticketing air carrier or its agent at the time when the ticket is issued; or
  - (b) the operating carrier, if not collected prior to the time the passenger boards the flight; or
  - (c) in the case of a general aviation flight, the local passenger handling agent at the time of departure from Saint Christopher;
  - (d) for the purpose of this section, “general aviation flight” means a flight other than a commercial air transport operation or aerial work operation.

(7) The amount of the airport charge shall be shown separately from the fare on the ticket if it is collected at the same time that the ticket is issued.

(8) Every air carrier shall, at the time of payment to the Authority, furnish the Authority with a list of names of all the passengers to be transported by the carrier in which list it shall be indicated the destinations of each passenger.

(9) Any amount of airport charges payable under this Act shall be due and payable without further demand immediately prior to the departure from the Federation of the aircraft transporting the passengers in respect of whom the amount of airport charge is payable, except that the regulations made under this Act may permit either generally or in any particular case payment of the amount of airport charge at such time after the departure of the aircraft as may be determined by the Authority.

(10) Every carrier shall, in relation to the airport charge, keep such records and furnish such returns in such form and to such persons as may be prescribed.

*(Substituted by Acts 17 of 1998 and 22 of 2011)*

### **Handling of airport charges.**

**39.** (1) An operating carrier shall, pursuant to subsections (3) and (4) remit to SCASPA, or to IATA the amount of the charges due for flights departing from Saint Christopher.

(2) The revenue from the airport charge shall be accounted for separately from the funds of the operating carrier.

(3) Where the operating carrier is a member of IATA then SCASPA shall collect the monies from IATA.

(4) Where the operating carrier is not a member of IATA and the passenger is departing from Saint Christopher, the operating carrier shall remit the airport charge directly to SCASPA.

(5) An operating carrier shall remit the monies collected as airport charge to SCASPA or to IATA as the case may be, within thirty days from the date on which a report under section 41 is due.

(6) An operating carrier that is in default of payment or settlement of the airport charge shall be charged a penalty of twenty percent of the outstanding amount for each month or portion of the month that the payment remains outstanding.

(7) Where an operating carrier fails to make a report in accordance with the period specified in section 41, it shall be liable to pay a penalty of two hundred and seventy dollars per month for each month or portion of the month that the report remains outstanding.

(8) Where a significant discrepancy arises in the reported fees collected in respect of departing passengers, SCASPA shall impose a penalty equal to two hundred percent of the amount in dispute.

(9) For the purposes of this subsection “significant discrepancy” means a discrepancy of five percent or more in the fees paid by the total number of passengers checked.

*(Inserted by Act 22 of 2011)*

#### **Collection and refund of airport charge.**

**40.** Where any change to the itinerary of a passenger involving a departure from Saint Christopher, requires an adjustment of the amount paid by the passenger, there shall be a collection or refund of the airport charge as the case may be, by the operating carrier or agent as appropriate.

*(Inserted by Act 22 of 2011)*

#### **Reporting requirement.**

**41.** (1) Subject to subsection (4) it shall be the duty of the operating carrier to submit to SCASPA or to IATA as appropriate, a weekly report of all fees, levies and charges collected, together with a copy of the passenger manifest for every flight departing from Saint Christopher.

(2) Each weekly report submitted by the operating carrier shall contain the following information—

- (a) name of the operating carrier;
- (b) flight number;
- (c) date of departure;
- (d) type of aircraft used including manufacture and series;
- (e) total number of passengers departing on the flight for whom the airport charge is payable;
- (f) number of passengers exempted from payment of the airport charge;
- (g) total airport charge collected.

(3) Every report shall be submitted no later than five days following the departure of the flight from Saint Christopher.

(4) The weekly report shall be submitted to IATA or SCASPA, whichever is the agency collecting the airport charge.

*(Inserted by Act 22 of 2011)*

#### **Dues and charges in respect of ships and aircraft.**

**42.** Subject to the provisions of this Act and the regulations made under this Act, there shall be payable to the Authority in respect of—

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

the dues and charges in respect of the ship or aircraft and for any service performed or facility provided in respect of the ship or aircraft in accordance with the Tariff Book.

*(Originally section 39. Amended by Act 22 of 2011)*

#### **Payment of dues and charges.**

**43.** All dues and charges payable under this Part shall be paid at the prescribed time, and where no such time is prescribed such dues and charges shall be paid on demand, and all dues and charges shall be deemed to have been demanded when they become payable.

#### **Appointment of agent.**

**44.** (1) The person in charge of every ship or aircraft shall appoint an agent who shall be responsible for the payment of the dues and charges without prejudice to the recovery by the agent from the owner or person in charge of the ship or aircraft of such sums paid on behalf of any such ship or aircraft.

(2) Notwithstanding subsection (1), the Authority may grant approval to the person in charge of any ship or aircraft to make payments of the dues and charges to the Authority on such terms and conditions as are determined by the Authority.

*(Substituted by Act 40 of 2012)*

#### **Security for charges.**

**45.** An agent who intends to incur a liability in respect of any of the dues and charges mentioned in section 42 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 such agent shall be liable to pay to the Authority.

#### **Detention of ship by authorised officer.**

**46.** (1) Where any sums in respect of dues and charges mentioned in section 42 are owing in respect of any ship or aircraft, any authorised officer may, with such assistance as he or she deems necessary, enter such ship or aircraft and may arrest the ship or aircraft and the tackle, apparel, fixtures, furniture and equipment 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 or aircraft and the tackle, apparel, fixtures, furniture and equipment thereof arrested to be sold, and out of the proceeds of such sale he or she shall retain the amount necessary to meet the expenses of the 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.

#### **Certificate of authorised officer required before requesting clearance.**

**47.** Before the person in charge of any ship or aircraft in a port shall obtain outward clearance from that port he or she shall first obtain from an authorised officer a certificate stating that—



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

**Power to determine conditions, and rates of carriage or warehousing.**

**48.** The Authority may, subject to the provisions of this Act and the regulations, determine—

- (a) the conditions upon which goods shall be carried or warehoused and different conditions may be determined in different cases;
- (b) 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 may retain goods until freight is paid.**

**49.** (1) Where a person who has been appointed under section 44 to be an agent responsible for the payment of dues and charges in respect of a ship or aircraft from which any goods have been landed at a port and accepted by the Authority for carriage or warehousing, or for delivery to the consignee, notifies the Port Manager of that port in writing that the dues or other charges payable to the agent 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 the goods and customs duties thereon;
- (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.

(2) Where the Port Manager causes any goods to be delivered 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 paragraph (a) or (b) 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 regulation or as requiring the Port Manager to inquire into the validity of any claim made for dues or any other sums made in any notice given by an agent under subsection (1).

**Consignor or consignee.**

**50.** The consignor of, or the 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 for 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.**

**51.** (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 an account in writing signed by such consignor, person or consignee, as the case may be, containing such description of the goods as may be sufficient 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 or her 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), 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 warehousing or carriage of the goods, a charge not exceeding double the highest charge payable for any class of goods is paid, without prejudice to any penalty that may be imposed under any other section of this Act.

**Authorised officer's power to levy charges, etc.**

**52.** In respect of all goods in the custody of the Authority, an authorised officer shall be entitled to levy such charges as may be determined in accordance with the regulations made under this Part, and he or she may do all such reasonable acts 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-renewal of goods.**

**53.** (1) Subject to the provisions of this section and without prejudice to the provisions of section 52 where any goods other than perishable goods are in the custody of the Authority on premises of the Authority, and are not removed from such premises within a period of fifteen days from the time when the goods were placed in or on such premises, the Port Manager of the port at which the goods are held 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 or her 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;
- (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 General Manager may, subject to the provisions of subsection (3), within a reasonable time, not being less than six weeks after the goods were accepted by the Authority, sell the goods by public auction.

(3) The General Manager shall, not less than seven days before the sale by public auction, publish in the *Gazette* a notice containing particulars of the goods to be sold and an indication of the circumstances in which they are to be sold.

(4) Where the goods under 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 General Manager thinks fit, and he or she may sell the goods without giving the said notice but shall as soon as practicable inform the owner or such other person appearing to be entitled thereto of the action that has been taken.

(5) 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 customs duty and any tax under any enactment.

#### **Application of the proceeds of sale.**

**54.** The proceeds of any sale under section 53 shall be applied by the Authority as follows, and in the following order—

- (a) in the payment of any duty payable in respect of the goods;
- (b) in the payment of the expenses of 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;
- (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 to the same of such owner or person shall be extinguished.

#### **Authority to prepare and publish Tariff Book.**

**55.** (1) Subject to the approval of the Minister, the Authority shall cause to be prepared and published in accordance with subsection (2) a Tariff Book containing—

- (a) the conditions, dues and charges—
  - (i) for the carriage or warehousing of goods;
  - (ii) for any other service or facility performed or provided by the Authority;
- (b) all matters which under this Act or any regulation are required to be contained therein; and
- (c) such other matters as the Authority may think fit.

(2) The Tariff Book—

- (a) shall be published in the *Gazette*; and
- (b) shall have effect from the date of publication in the *Gazette* or from such later date as may be specified therein.

(3) There shall be available for public inspection at every port office a copy of the Tariff Book containing all amendments for the time being in force.

## PART VII

### SPECIAL PROVISIONS IN RELATION TO PORTS

#### Supply of information.

**56.** (1) The person in charge of any ship or aircraft arriving in a port shall, if requested by an authorised officer, produce to that officer—

- (a) the papers and the register of the ship or aircraft;
- (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 or flight;
- (d) a list showing the stowaways, if any, on the ship or aircraft,

and shall also supply such information in relation to the ship or aircraft, passengers and cargo thereof, as such officer may reasonably require.

(2) The person in charge of any ship or aircraft departing from a port shall, if requested by an authorised officer, produce to that officer and supply such information in relation to the ship or aircraft and the persons and goods carried thereon as the authorised officer may reasonably require.

#### Power of General Manager in relation to ship and aircraft.

**57.** (1) Notwithstanding the provisions of any regulations made under section 64, the General Manager or an officer authorised by him or her may—

- (a) direct where any ship or aircraft shall be berthed, moored, anchored or parked and the method of anchoring of ships and parking of aircraft within the port and the approaches to the port;
- (b) direct the removal of any ship or aircraft from any berth, station, anchorage or position and the time within which such removal is to be effected within the port and the approaches to the port; and
- (c) regulate the moving of ships and aircraft 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 Authority may, without prejudice to any proceedings being instituted against any person, cause to be done all such acts 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.

(3) All expenses incurred in doing such acts shall be paid and borne by the person or persons who refuse, neglect or fail to comply with any direction given under subsection (1).

#### **Power in respect to wrecks, etc.**

**58.** (1) The General Manager may—

- (a) remove any wreck in or other obstruction to the port or its approaches, or any timber, raft or other thing floating or lying in a port, which endangers, or obstructs, or is likely to endanger or obstruct, the free navigation of the port or the use of any facility therein;
- (b) in the case of urgent necessity, take any action in a port which in his or her opinion may be necessary to prevent any danger to life or limb, or damage to goods or premises;
- (c) enter upon any ship or aircraft or into any building in a port if it is necessary for him or her to do so in the performance of any duty under this Act or any regulation or if he or she 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 General Manager under the provisions of paragraph (a) of subsection (1) shall, without prejudice to any other action which may be taken against him or her, be liable to pay the reasonable expenses of such removal, and such wreck or other thing shall be detained by the Port Manager until such expenses and customs duties, dues or charges payable in respect thereof are paid.

(3) Where any wreck or thing is removed under the provisions of paragraph (a) of subsection (1) and the expenses of removal have not been paid within seven days of such removal, the General 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, dues or charges payable in respect thereof, and shall deliver the balance, if any, to the person appearing to him or her to be entitled thereto.

#### **Fire on board ship.**

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

(2) If such orders are not forthwith carried out by the person in charge of such ship or aircraft, the General Manager or Port Manager may himself or herself 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 person in charge, or the owner of the ship or aircraft concerned as a civil debt.

**Accidents to be reported to Minister.**

- 60.** (1) Where any accident occurs in any 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;
  - (b) involves any collision between ships or aircraft; or
  - (c) is of such other kind as the Minister may specify,

the General Manager shall, as soon as practicable, give notice of the occurrence of the accident to the Chairperson for submission to the Minister.

(2) The General Manager may order such inquiry into any accident which occurs in a port as he or she may think fit and shall order such inquiry as the Minister thinks fit into any such accident when so required by the Minister.

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

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

**Non-liability for demurrage.**

**61.** The Authority shall not be liable for any demurrage or other charge which may occur or be due on any ship or aircraft howsoever such demurrage or charge may have been caused.

**Execution of orders.**

**62.** (1) All acts, orders or directions under this Part or 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 on that behalf.

(2) Any person authorised in writing, in accordance with subsection (1), to do any acts or give any orders or directions may call to his or her aid such assistance as is necessary.

**Liability of the authority for acts, etc. of Managers.**

**63.** The Authority shall be liable for any act, omission or default of the General Manager, or a Port Manager, except where the act, omission or default is a result of *male fide* or wilful neglect.

**Regulations.**

**64.** (1) The Authority may, with the approval of the Minister, make regulations generally with respect to the maintenance, control and management of the ports and the approaches thereto, the services performed, the lighthouses, communication, navigation and other facilities provided by the Authority, and for the maintenance of order in any ship or aircraft, or on any premises used by or for the purposes of the Authority, or in any ship, aircraft or vehicle used by or for the purposes of the Authority, and for the carrying out of the provisions of this Act, and without prejudice to the generality of the foregoing, may make regulations with respect to—

- (a) the proper control and management of the foreshores of any port and the entrances 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 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 any thing or class of things within the limits of any port or any specified part or parts of any 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 any port;
- (e) the regulation of traffic and navigation of ships and aircraft within the limits and approaches to a 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 the parking of aircraft and their removal from a mooring, anchorage, berth or position to another mooring, anchorage, berth, or position and the time within which such removal shall be effected;
- (g) the protection of ships and aircraft and their cargoes, and the removal, destruction, sale or abandonment of stranded ships, aircraft and their cargoes and appurtenances which obstruct or are likely to obstruct the fairway or runway of any port, the payment of expenses including salvage incurred in connection therewith and the levy and recovery of a charge for the right of a hulk or wreck or wreckage to lie in any port;
- (h) the examination, licensing, duties and obligations, the conduct and discipline of Authority pilots and the charges to be paid for pilotage;
- (i) the regulating of the times, places, order and mode of shipping, unshipping, loading, unloading, warehousing, storing and the depositing of goods;
- (j) the fixing of dues and charges payable in respect of any ship or aircraft with different charges being applicable in respect of different ships or aircraft or classes of ships or aircraft, the exemption or the remission thereof or part thereof;
- (k) the fixing of the dues and charges payable in connection with the carriage or warehousing of goods and for any service performed or any facility provided by the Authority, the exemption from payment, refund or remission thereof;
- (l) the fixing of the scale of charges payable in respect of any other service performed or facility provided by the Authority;
- (m) the licensing of shipping agents, customs brokers, landing agents, forwarding agents, baggage and parcel agents, porters, contractors for

supplies and victualling and other persons concerned in or engaged in or performing any service or work in connection with the port; and

- (n) anything required to be prescribed by this Act and any matter in respect of which it may be expedient to make regulations to give effect to the purposes of this Act.

(2) The Authority may, with the approval of the Minister, 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 and parking of aircraft carrying dangerous goods;
- (c) the regulating 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;
- (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 dangerous to the public;
- (f) the fixing of places and times at which dangerous goods are to be loaded 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 generally, of persons and property from danger.

(3) Subject to the provisions of any enactment relating to merchant shipping or air navigation, the Authority may, with the approval of the Minister, make regulations with respect to—

- (a) the taking of measures for the prevention of ships or aircraft from leaving any port if over-loaded, improperly loaded, 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 not seaworthy or airworthy, as the case may be;
- (b) the examination, certification and licensing of masters, mates and engineers of ships and of tugs conducting ships in and out of ports, dredges and light craft and pilots of aircraft and the licence fees payable in respect thereof;
- (c) the inspection, licensing, registration or certification of ships, ferries, tugs, launches, hulks, ferry boats, aircraft or other craft, the charges to be paid therefor and the number of passengers to be carried therein.

(4) The power of the Authority to make regulations under this section in relation to any matter, shall not be construed to be in conflict with or as derogating from any other powers conferred upon it under this Act or any regulation to make provisions in relation to any such matter in any different manner.



(5) Regulations made under this section in relation to the use of a roadway in any port, shall take effect notwithstanding that such roadway may be a road which is subject to the provisions of the Vehicles and Road Traffic Act, Cap. 15.06 and regulations thereunder.

(6) Regulations made under this section may provide that any breach or contravention of any such regulations shall be punishable, on summary conviction, by a fine not exceeding five hundred dollars or imprisonment for a term not exceeding six months or both such fine and imprisonment and in the case of a continuing breach or contravention a fine not exceeding fifty dollars a day for every day after the first during which the breach or contravention continues, or a term of imprisonment with or without hard labour not exceeding six months or both such fine and such term of imprisonment.

## PART VIII

### PROVISIONS RELATING TO OFFENCES

#### **Damaging property likely to endanger life.**

**65.** Any person who unlawfully damages or in any way interferes with any lighthouse, buoy, beacon, ground light or other property of the Authority in such manner as to endanger, or as might endanger the life of any person, commits an offence and shall be liable, on conviction, to imprisonment for a term not exceeding ten years.

#### **Persons endangering safety of operations.**

**66.** Any person who, whether on duty or lawfully employed or not, on any premises of the Authority or upon any ship, aircraft or vehicle in any port, endangers the safety of any other person by—

- (a) contravening any of the provisions of this Act or of any regulations; or
- (b) contravening any lawful order or direction given to such person;
- (c) being under the influence of alcohol or drugs; or
- (d) any rash or negligent act,

commits an offence and shall be liable, on summary conviction, to a fine not exceeding one thousand dollars or to a term of imprisonment not exceeding six months or to both such fine and imprisonment.

#### **Failure to comply with directions under section 57, etc.**

**67.** Any person who, without lawful excuse, refuses or neglects to obey any direction lawfully given under section 57 or under any regulation made under Part VII of this Act, commits an offence and shall be liable, on summary conviction, to a fine not exceeding one thousand dollars or to imprisonment for a term not exceeding three months, or to both such fine and imprisonment.

#### **Failure to give information or giving false information.**

**68.** Any person in charge of a ship or an aircraft who fails to comply with the provisions of section 56, or gives any information which is false in any material particular, commits an offence and shall be liable, on summary conviction, to a fine

not exceeding one thousand dollars or in default of payment thereof, to imprisonment for a term not exceeding three months.

**Refusing entry to authorised officer.**

**69.** Any person in charge of a ship or an aircraft who, without lawful excuse, refuses to allow entry to his or her ship or aircraft in contravention of paragraph (c) of subsection (1) of section 58, commits an offence and shall be liable, on summary conviction, to a fine not exceeding five hundred dollars, or in default of payment thereof, to imprisonment for a term not exceeding three months.

**False returns.**

**70.** 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 any regulations, commits an offence and shall be liable, on summary conviction, to a fine not exceeding three thousand dollars, or to imprisonment for a term not exceeding two years, or to both such fine and imprisonment.

**Evasion of dues and charges.**

**71.** Any person who, by any means, eludes or evades any dues or charges leviable under this Act or regulations, commits an offence and shall be liable, on summary conviction, to a fine not exceeding one thousand dollars or to imprisonment for a term not exceeding six months, or to both such fine and imprisonment.

**Demanding improper account.**

**72.** 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 or she should demand or receive commits an offence and shall be liable, on summary conviction, to a fine not exceeding one thousand dollars, or to imprisonment for a term not exceeding three months, or to both such fine and imprisonment.

**Miscellaneous offences.**

**73.** Any person who—

- (a) being on any premises of the Authority or on any ship, aircraft or vehicle in a port—
  - (i) refuses when called upon by an authorised officer, police officer or constable to give his or her name and address or gives a false name and address, for the purpose of avoiding prosecution;
  - (ii) without lawful excuse the proof whereof shall lie on him or her, discharges any firearm or does anything which may cause injury to any person on such premises, or upon such ship, aircraft or vehicle; or
  - (iii) without lawful excuse, contravenes any lawful direction given by any authorised officer;

- (b) defaces the writing on any board or notice authorised by or on behalf of the Authority to be maintained upon any premises of the Authority or upon any ship, aircraft or vehicle in a port;
- (c) damages or without lawful excuse interferes with any property of the Authority;
- (d) wilfully obstructs or impedes any other person in the discharge of his or her duties arising out of his or her employment with the Authority; or
- (e) gives or offers to any other person money or money's worth for the purpose of avoiding payment of any sum due to the Authority,

commits an offence and shall be liable, on summary conviction, to a fine not exceeding five hundred dollars or to imprisonment for a term not exceeding three months or to both such fine and imprisonment.

#### **Powers of arrest.**

**74.** (1) Any person who commits any offence mentioned in sections 65, 66, or 73 may be arrested without warrant by any authorised officer, or police officer or constable.

(2) Any person who commits any offence against this Act or regulations other than an offence mentioned in subsection (1) may be arrested by any authorised officer or police officer if—

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

Provided that, where there is reason to believe that such person will not abscond, he or she shall, if his or her true name and address are ascertained, be released on his or her executing a bond for his or her appearance before a magistrate when required.

#### **Place of trial.**

**75.** Any person charged with any offence against this Act, other than an offence mentioned in section 65 or 70, may be proceeded against, tried and punished in any place in which he or she may be in custody for that offence as if the offence had been committed in such place, and the offence shall, for the purposes incidental to, or consequent upon, the prosecution, trial or punishment thereof, be deemed to be committed in that place:

Provided that nothing herein contained shall preclude the prosecution, trial and punishment of such person in any place in which, but for the provisions of this section, such person might have been prosecuted, tried and punished.

#### **General Manager may confer power on officers.**

**76.** The General Manager may, by notice in writing, authorise any officer of the Authority to maintain order upon any premises used by the Authority or in any place in the port, or on any ship, aircraft or vehicle in a port, 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 IX  
LEGAL PROVISIONS**Notice of claims.**

77. (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 be necessary is given to the General Manager within six months of the date upon which such goods were accepted by the Authority; and
- (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 General Manager through the Port Manager of the Port at which the goods entered is notified of such fact in writing within four days of the date on 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 General Manager through the Port Manager of that port within one month of such date.

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

**Limitation.**

78. Where, after the commencement of this Act, any action or other legal proceeding is commenced against the Authority for any act done in pursuance or execution or intended execution of this Act, or 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, such 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 General Manager by the plaintiff or his or her 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.

**Limitation on execution against property of the Authority.**

**79.** Notwithstanding anything to the contrary in this Act, any regulations or in any other enactment—

- (a) where any judgment or order has been obtained against the Authority, no execution or attachment, or process in the nature thereof, shall be issued against the Authority or against any property of the Authority, but the General Manager shall, without delay, cause to be paid out of the funds of the Authority such amounts as may, by the judgment or order, be awarded against the Authority 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 without the previous written permission of the General Manager.

**Overpayment or underpayment of dues and charges.**

**80.** (1) 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 be reasonably necessary is given—

- (c) by the person claiming such overpayment to the General Manager through the Port Manager of the port at which the payment was made; or
- (d) by the General Manager to the person against whom the underpayment is claimed,

within six months after the goods were accepted or the services rendered, as the case may be, by the Authority, so however, that where such underpayment is caused by information or description subsequently found to be incorrect, such period of six months shall commence from the date of the discovery by the General Manager of the correct information or description.

(2) Where the person claiming a refund under subsection (1) proves, to the satisfaction of the General Manager, that it was impracticable for him or her to notify the General Manager of his or her claim within the time specified in that subsection, and that such notification was made, or given, in reasonable time, nothing in that subsection shall prejudice the right of such person to obtain such refund.

## PART X

## MISCELLANEOUS PROVISIONS

**Transfer of assets.**

**81.** (1) Upon the commencement of this Act—

- (a) all lands and other property within the limits of the ports including the bed and shores vested immediately before the commencement of this Act in the Authority are hereby vested in the Saint Christopher Air and Sea Ports Authority;
- (b) all lands of the Crown within the boundaries of the airport and all warehouses, buildings, machinery, plant, tools and other property at the airport which immediately before the commencement of this Act were the property of the Government of Saint Christopher and Nevis are hereby transferred to and vested in the Air and Sea Ports Authority.

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

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

(4) A reference in any deed, contract, bond or security or other document subsisting immediately before the commencement of this Act, against or in favour of the Government in relation to any airport or of the Authority shall have full force and effect against or in favour of the Air and Sea Ports Authority and be enforceable as fully and effectually as if, instead of the Government or the Authority or any person acting on behalf thereof, the Air and Sea Ports Authority had been named therein and had been a party thereto.

**Land vested in Authority to be free from rates and taxes imposed by local authority.**

**82.** All lands vested in the Air and Sea Ports Authority at and after the commencement of this Act shall be exempt from any rate, tax, or imposition which any local authority shall have power but for this section lawfully to levy or impose, but nothing herein contained shall preclude a local authority from levying and collecting rates, taxes and other lawful charges in respect of land, houses and buildings of the Air and Sea Ports Authority leased and occupied for private purposes.

**Transfer of General Manager, officers and servants.**

**83.** (1) The General Manager, the other officers and staff of the Saint Christopher Port Authority appointed under the provisions of the Port Authority Act, No. 8 of 1981 and who are in the service of the Authority immediately before the commencement of this Act shall, after the commencement of this Act, continue in the service of the Authority.

(2) Service with the Saint Christopher Port Authority is deemed to be service with the Authority.

(3) The Governor-General, acting with the advice of the Public Service Commission, and subject to such conditions as the Public Service Commission shall recommend, may approve the appointment of any officer in the public service to any office with the Authority if such officer consents thereto, and any officer so appointed

shall, in relation to pension, gratuity or other allowance, and in relation to other rights as an officer be treated as continuing in the public service.

(4) Where a transfer and appointment has been approved under subsection (3), arrangements shall be made by the Government or the Authority to pay to the Government or the Authority, as the case may be, such contributions as may be provided for in any existing rules or in rules made by the Minister in respect of pensions and gratuities and any such rules may make provision in different classes of cases.

#### **Exemption from taxes.**

**84.** Notwithstanding anything contained in any other law, the Authority shall not be liable to payment of any import duty, stamp duty, income tax or any other duty or tax whatsoever.

#### **Authority may appoint constables.**

**85.** (1) The Authority may, subject to Standing Orders made by the Authority and approved by the Minister, appoint persons to be constables.

(2) The constables so appointed shall be a supplemental body of police styled "Port Constabulary".

(3) Such Standing Orders shall provide for the terms and conditions of appointment, with provision for the duties of a constable 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.

(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 or her duties, have and exercise all the powers, rights, privileges and protection and be liable to the same responsibilities and discipline of a police officer.

#### **Power to shoot animals found trespassing.**

**86.** Notwithstanding anything to the contrary in any other law, it shall be lawful for any police officer or port constable or any other person authorised in writing by the General Manager or a Port Manager to destroy by shooting any animal found trespassing on any port.

#### **Suspected persons.**

**87.** (1) Where a person is suspected of contravening or of being about to contravene this Act or any regulation made under this Act, a police officer, port constable, or any person authorised in writing by the General Manager or by a Port Manager may request that person to state his or her name and address and the purpose for which he or she is at the port.

(2) A person who fails to state his or her name and address and purpose for being at the port upon being requested to do so by any person acting under subsection (1), may be removed from the port or from any part of the port by a police officer, port constable or person authorised by the General Manager.

**Removal of persons and things.**

**88.** (1) Any person who is found contravening this Act or any regulation under this Act, or any vehicle, animal or thing found in the area in contravention of this Act or any regulation under this Act, may be removed from the area by a police officer, port constable, or person authorised in that behalf by the General Manager.

(2) Where a person is convicted before a Magistrate of the contravention for which he or she was removed under subsection (1), the owner or the person in charge of the vehicle, animal or thing, may, in addition to any other penalty, be ordered by the Magistrate to pay the cost of the removal.

**Bonding warehouse.**

**89.** (1) If any warehouse of the Authority is licensed as a bonding warehouse, the Authority may, notwithstanding anything contained in any enactment, give general security by bond or otherwise for the payment of the customs duties payable in respect of goods stored in such bonding 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 shall be taken however to absolve any person who would have been liable to pay duties from paying any such duty as he or she would be compelled to pay in respect of any such goods.

**Proceedings for offences.**

**90.** Proceedings for offences arising out of the provisions of this Act shall be instituted in writing by the Port Manager of the port or by any officer duly authorised by him or her in writing.

**Proof.**

**91.** In any proceedings for any offence, 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.

**Recovery of sums.**

**92.** 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.

**Moneys recovered to be paid into account of the Authority.**

**93.** All fines, compensation, damages, costs or other sums directed to be paid in respect of any offence, proceeding or matter arising out of the performance of the duties, powers and functions of this Act or any regulations shall be paid into the account of the Authority.

**Amendment of Schedule.**

**94.** (1) The Minister may by Order amend the Second Schedule.



(2) The amendment to the Second Schedule pursuant to subsection (1) shall be subject to negative resolution of the National Assembly.

*(Inserted by Act 22 of 2011)*

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## **FIRST SCHEDULE**

*(Section 2(1))*

### **SEA PORT OF BASSETERRE**

THE LIMITS OF THE SEA PORT OF BASSETERRE ARE AS FOLLOWS:

From Latitude 17 17'52" N. Longitude 62 45'00" W. hence in the true direction of 180 T. for 2.8 miles, thence in the direction of 0.90 T. for 4.8 miles, thence in the direction of 000 T. for 1.8 miles to Latitude 17 16'48" N. Longitude 62 40'00" W., thence along the foreshore of Frigate Bay around the Point to Forth Smith hence all along the Bay to Point Fort Thomas including all marine works, wharves and upland property vested in the Crown. All around Limekiln Bay, hence all along the foreshore to Latitude 17 17'52" N. Longitude 62 45'00" W.

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## **SECOND SCHEDULE**

*(Section 38 (2))*

### **AIRPORT CHARGE**

An airport charge of XCD54.39 (USD22.00) payable by every air carrier in respect of each passenger departing from Saint Christopher, comprising—

- |                             |                        |
|-----------------------------|------------------------|
| (a) Air Service Charge      | XCD\$45.00 (USD.16.67) |
| (b) Security Service Charge | XCD\$14.39 (USD. 5.33) |

*(Inserted by Act 17 of 1988, amended by Act 16 of 2008 and replaced by Acts 17 of 2011 and 22 of 2011)*

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**THIRD SCHEDULE***(Sections 17(1) and 64(1))***SAINT CHRISTOPHER AIR AND SEA PORTS AUTHORITY  
(PASSENGER LEVY) ORDER****Citation.**

1. This Order may be cited as the Saint Christopher Air and Sea Ports Authority (Passenger Levy) Order.

**Interpretation.**

2. In this Order—

“Act” means the Saint Christopher Air and Sea Ports Authority Act;

“Authority” means the Saint Christopher Air and Sea Ports Authority established under section 3 of the Saint Christopher Air and Sea Ports Authority Act;

“Minister” means the Minister responsible for finance.

**Passenger Levy.**

3. (1) There is, in accordance with the provisions of sections 17(1) and 64(1) of the Act, imposed a passenger levy of EC\$1 in respect of each passenger travelling from Saint Kitts to Nevis.

(2) The passenger levy is imposed for the purpose of assisting in the operation and maintenance of port facilities.

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