

CHAPTER 13C

MARITIME INTERNATIONAL CO-OPERATION

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CHAPTER 13C

MARITIME INTERNATIONAL CO-OPERATION

An Act to enable Barbados to co-operate with other countries in maritime matters for the purpose of suppressing illicit traffic in narcotic drugs and psychotropic substances; and to provide for related matters. 1998-18.

[10th September, 1998] Commence-
ment.

1. This Act may be cited as the *Maritime International Co-operation Act*. Short
title.

2. (1) In this Act

Interpreta-
tion.

"Barbadian ship" means a vessel registered under the *Shipping Act*; Cap. 296.

"controlled drug" has the meaning assigned to it by section 3 of the *Drug Abuse (Prevention and Control) Act*; Cap. 131.

"Convention state" means a state that is a party to the Vienna Convention;

"law enforcement official" means

(a) a member of the Royal Barbados Police Force, in uniform;

(b) a special constable, within the meaning of section 2 of the *Police Act*, in uniform; Cap. 167.

(c) an officer of the Customs and Excise Department, in uniform; and

(d) a member of the Barbados Defence Force, in uniform;

"ship" includes any vessel used in navigation;

"territorial waters" has the meaning assigned to it by the *Barbados Territorial Waters Act*; Cap. 386.

"Vienna Convention" means the United Nations Convention against Illicit Traffic in Narcotic Drugs and Psychotropic Substances which was signed in Vienna on 20th December, 1988.

Cap. 131. (2) For the purposes of this Act, the expressions "drug trafficking", "traffic" and "trafficking" have the meanings assigned to them by section 18(1) of the *Drug Abuse (Prevention and Control) Act*.

(3) Where in any proceedings under this Act any question arises whether any country or territory is a state or is a party to the Vienna Convention, a certificate issued by the Minister responsible for Foreign Affairs is conclusive of the facts stated therein.

Offences on Barbadian ships. **3.** Anything which would constitute a drug trafficking offence if done on land in Barbados shall constitute that offence if done on a Barbadian ship.

Ships used for illicit traffic. **4.** (1) This section applies to

- (a) a Barbadian ship;
- (b) a ship registered in a Convention state; and
- (c) a ship not registered in any country or territory.

(2) A person is guilty of an offence if on a ship to which this section applies, wherever it may be,

- (a) he has a controlled drug in his possession; or
- (b) he is in any way knowingly concerned in the carrying or concealing of a controlled drug on the ship,

Cap. 131. knowing or having reasonable grounds to suspect that the drug is intended to be imported or has been exported contrary to section 4 of the *Drug Abuse (Prevention and Control) Act* or the law of any state other than Barbados.

(3) A certificate purporting to be issued by or on behalf of the government of any state to the effect that the importation or exportation of a controlled drug is prohibited by the law of that state shall be evidence of the matters stated.

(4) A person guilty of an offence is liable

(a) on summary conviction, to imprisonment for 7 years or a fine of \$250 000 or both; or

(b) on conviction on indictment, to imprisonment for life.

5. (1) The Minister responsible for Foreign Affairs may, either of his own motion or in response to a request from a Convention state, authorise a Convention state to exercise, in relation to a Barbadian ship, powers corresponding to those conferred on law enforcement officials by this Act but subject to such conditions or limitations, if any, as he may impose. International co-operation.

(2) Subsection (1) is without prejudice to any agreement made, or which may be made, on behalf of Barbados whereby Barbados undertakes not to object to the exercise by any other state, in relation to a Barbadian ship, of powers corresponding to those conferred by this Act.

(3) In the exercise of the powers conferred by this Act and pursuant to any agreement with a Convention state, law enforcement officials may embark upon a vessel of a Convention state.

6. (1) The powers conferred on a law enforcement official by this Act shall be exercisable in relation to any ship to which section 3 or 4 applies for the purpose of the detection of and the taking of appropriate action in respect of the offences mentioned in those sections. Enforcement powers.

(2) The powers referred to in subsection (1) shall not be exercised seaward of the territorial waters in relation to a ship registered in a Convention state except with the authority of the Minister responsible for Foreign Affairs; and he shall not give his authority unless that state has in relation to that ship

(a) requested the assistance of Barbados for the purpose mentioned in subsection (1); or

(b) authorised Barbados to act for that purpose.

(3) In giving his authority pursuant to a request or authorisation from a Convention state, the Minister responsible for Foreign Affairs shall impose such conditions or limitations on the exercise of the powers as may be necessary to give effect to any conditions or limitations imposed by that state.

(4) The powers conferred by this Act shall not be exercised in the territorial waters of any state other than Barbados without the authority of the Minister responsible for Foreign Affairs and he shall not give his authority unless that state has consented to the exercise of those powers.

Application
of section 40
of Cap. 131.

7. Section 40 of the *Drug Abuse (Prevention and Control) Act* (relating to a certificate issued by or on behalf of the Government of a country and purporting to state the terms of a corresponding law) shall apply *mutatis mutandis* to this Act.

Jurisdiction
and prosecu-
tions.

8. Proceedings under this Act in respect of an offence on a ship referred to in section 4(1) may be taken, and the offence may for all incidental purposes be treated as having been committed, in Barbados.

Power to
stop, board,
divert and
detain.

9. (1) A law enforcement official may, if he has reasonable grounds for suspecting that a ship is engaged in the illicit trafficking of narcotic drugs or psychotropic substances, stop the ship, board it and, if he thinks it necessary for the exercise of his functions, require it to be taken to a port in Barbados and detain it there.

(2) Where a law enforcement official is exercising his powers with the authority of the Minister responsible for Foreign Affairs given under section 6(2) of this Act, the official may require the ship to be taken to a port in the Convention state in question or, if that state has so requested, to a port in any other country or territory willing to receive it.

(3) For any of the purposes mentioned in subsection (2), the law enforcement official may require the master or any member of the crew to take such action as may be necessary.

(4) If a law enforcement official detains a ship, he shall serve on the master a notice, in writing, stating that it is to be detained until the withdrawal of the detention by the service on him of a notice in writing to that effect signed by a law enforcement official.

10. (1) A law enforcement official may search the ship boarded or detained pursuant to section 9, anyone on it and anything on it, including its cargo or any attachment.

Power to search and obtain information.

(2) A law enforcement official may require any person on the ship to give information concerning himself or anything on the ship.

(3) Without prejudice to the generality of subsections (1) and (2), a law enforcement official may

- (a) open any containers;
- (b) make tests and take samples of anything on the ship;
- (c) require the production of documents, books or records relating to the ship or anything on it;
- (d) make photographs or copies of anything the production of which he has power to require.

11. Where a law enforcement official has reasonable grounds to suspect that an offence mentioned in section 3 or 4 has been committed on a ship to which that section applies he may

Powers in respect of suspected offences.

- (a) arrest without warrant anyone whom he has reasonable grounds for suspecting to be guilty of the offence; and
- (b) seize and detain anything found on the ship which appears to him to be evidence of the offence.

Assistants. **12.** (1) A law enforcement official may take with him, to assist him in exercising his powers,

- (a) any other persons; and
- (b) any equipment or materials.

(2) A person whom a law enforcement official takes with him to assist him may perform any of the official's functions but only under the official's supervision.

Use of reasonable force. **13.** A law enforcement official may use reasonable force, if necessary, in the performance of his functions.

Notice to Convention state. **14.** Where a law enforcement official has taken any action respecting a ship of a Convention state, the Minister responsible for Foreign Affairs shall promptly inform the Convention state of the results of that action.

Protection of officials. **15.** A law enforcement official shall not be liable in any civil or criminal proceedings for anything done in the purported performance of his functions under this Act if the court is satisfied that the act was done in good faith and that there were reasonable grounds for doing it.

Regulations. **16.** The Minister responsible for Foreign Affairs may make regulations

- (a) respecting
 - (i) the grant of authorisations under section 5 or 6 by the Minister responsible for Foreign Affairs;
 - (ii) the verification of the registration of ships of a Convention state;
 - (iii) boarding, searches, seizure or detention of ships of a Convention state;
 - (iv) requests for assistance from a Convention state; and
- (b) generally for giving effect to this Act.

17. (1) A person is guilty of an offence if he

Offences.

- (a) obstructs a law enforcement official in the performance of any of his functions under this Act; or
- (b) fails without reasonable excuse to comply with a requirement made by a law enforcement official in the performance of his duties.

(2) A person is guilty of an offence if he, in purporting to give information required by a law enforcement official for the performance of his functions,

- (a) makes a statement which he knows to be false in a material particular or recklessly makes a statement which is false in a material particular; or
- (b) intentionally fails to disclose any material particular.

(3) A person guilty of an offence under this section is liable on summary conviction to a fine of \$25 000 or imprisonment for one year or to both such fine and imprisonment.