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PORT AUTHORITY LAW

(1999 Revision)

Law 15 of 1976 consolidated with Laws 1 of 1980, 12 of 1981 (part), 9 of 1983, 26 of 1985, 13 of 1986, 17 of 1990 (part), 16 of 1993, 27 of 1993 and 3 of 1997.

Revised under the authority of the Law Revision Law (19 of 1975).

Originally Enacted-

Law 15 of 1976-7th September, 1976
Law 1 of 1980-17th March, 1980
Law 12 of 1981-29th May, 1981
Law 9 of 1983-24th February, 1983
Law 26 of 1985-10th September, 1985
Law 13 of 1986-2nd September, 1986
Law 17 of 1990-4th September, 1990
Law 16 of 1993-24th September, 1993
Law 27 of 1993-29th November, 1993
Law 3 of 1997-14th March, 1997

Consolidated and revised this 5th day of January, 1999.

Note (not forming part of the Law): This revision replaces the 1995 Revision which now should be discarded.

PORT AUTHORITY LAW

(1999 Revision)

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PORT AUTHORITY LAW

(1999 Revision)

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| 1. This Law may be cited as the Port Authority Law (1999 Revision). | Short title |
| 2. In this Law - | Definitions |
| “Act” means the Merchant Shipping Acts, 1894-1986; | U.K. Acts |
| “Authority” means the Port Authority established by this Law; | |
| “berth” includes anchorage, mooring, dock, jetty, wharf and every place within territorial waters where a vessel may be brought to rest and secured; | |
| “boat” means a vessel measuring not more than twenty feet and not less than eight feet from stem to stern; | |
| “Chairman” means the Chairman of the Authority; | |
| “crane” includes a derrick and every other load handling device of a like nature; | |
| “day marker” means a buoy, beacon or other mark or sign of the sea other than a lighthouse; | |
| “Director” means the Port Director appointed as such by the Authority under section 3(6) and includes every person acting under his authority; | |
| “diving” means remaining below the surface of the sea with the assistance of underwater breathing apparatus; | |
| “lighthouse” means any floating or other light exhibited for the guidance of vessels; | |
| “local” with reference to any vessel, means a vessel which does not normally enter a non-Caymanian jurisdiction; | |
| “master” means a person for the time being having charge or control of a vessel; | |
| “Member” means the Member of Executive Council charged with the administration of this Law in accordance with section 9 of the Constitution; | |
| “mile” means a nautical mile, being a distance of six thousand and eighty feet; | |
| “officer” means a port officer referred to in section 8; | |
| “pilotage dues” means the amount payable under this Law for piloting a vessel; | |
| “port” includes every part of the Islands prescribed as such; | |
| “port areas” means the areas vested in the Authority by section 5; | |

“port dues” includes dues for pilotage, berthing, handling charges, demurrage and all debts due to the Authority under this Law however arising;

“prescribed” means prescribed under this Law or any regulation;

“ship” means a vessel measuring more than twenty feet from stem to stern;

“ships papers” include the documentation and records required by this Law or any regulation to be produced for inspection by any person;

“territorial waters” means that part of the sea adjacent to the Islands being within twelve miles of the coast at low tide;

1998 Revision “uncustomed goods” has the meaning ascribed to it in the Customs Law (1998 Revision);

“vessel” is a device, including a hovercraft, capable of being navigated in water by any means by a crew of one or more persons but does not include an inflatable device unless such device is or is designed to be propelled by a power unit attached thereto; and

“wreck” means any sunken, foundered, waterlogged, grounded, stranded or abandoned vessel and also includes flotsam, jetsam, lagan and derelict located in territorial waters or upon beaches.

The Port Authority

3. (1) There is hereby established a body corporate called the Port Authority of the Cayman Islands which shall consist of the Member or his nominee who shall be Chairman, the Financial Secretary or his nominee, the Chief Engineer and the Collector of Customs who shall be *ex-officio* members and not more than six or less than two other members who shall be appointed from time to time by the Governor, one of whom be selected from nominees proposed by the Chamber of Commerce and one a shipping agent and shall hold office at his pleasure.

(2) The Governor shall designate one of the members of the Authority as Deputy Chairman of the Authority, who shall serve as such for a period of up to one year and may be re-designated.

(3) The Authority shall have perpetual succession and a common seal and may buy, sell, hold and deal with land and other property and may sue and be sued in its corporate name; the seal shall be authenticated by the Chairman and one of the members authorised by the Authority in that behalf; and documents not required by law to be under seal may be signed by the Chairman or any member or officer of the Authority authorised by the Chairman in that behalf.

(4) The Authority shall meet at least once in every month and at such other times as meetings may be convened by the Chairman.

(5) The Chairman or, in his absence, the Deputy Chairman, or in the absence of both of them, a member appointed by the other members to act as

Chairman shall preside at all meetings and five members present shall form a quorum at any meeting where decisions shall be arrived at by a majority vote, the Chairman or acting Chairman having a casting vote in the event of a tie but not an original vote.

(6) The members of the Authority who are not civil servants shall be paid such emoluments as may be determined by the Governor from time to time.

(7) The Authority shall perform its functions through an executive officer called the Port Director who shall be appointed by the Authority.

(8) The Director shall be secretary to the Authority and shall be present at all meetings and take minutes of the business transacted, but shall take no other part in the proceedings unless specifically invited by the Chairman so to do.

(9) Subject to section 4, the Authority may, in all other respects, regulate its own procedure.

4. (1) The revenue of the Authority shall be classified under the following heads of receipt- Financial procedure

- (a) dues and charges received by virtue of this Law;
- (b) amounts borrowed by the Authority; and
- (c) miscellaneous receipts including interest on and service of investments,

and such revenue shall within seven days of receipt thereof be paid into a bank account approved by the Financial Secretary.

(2) The revenue of the Authority shall be applied to meet the following heads of expenditure-

- (a) repayment of overdraft, if any, on current account;
- (b) interest on loans;
- (c) sinking fund on loan redemption;
- (d) payment with interest to the Government of the consideration provided by section 5;
- (e) salaries and wages;
- (f) reserve against liabilities for pensions, gratuities, etc.;
- (g) repairs and maintenance of buildings and equipment and other current expenses;
- (h) reserve fund for depreciation and renewals;
- (i) general reserve fund; and
- (j) miscellaneous expenditure approved by the Financial Secretary.

(3) The Authority may, with the approval of the Financial Secretary, invest its reserve funds at interest.

(4) The Authority may, for the purpose of the performance of its functions, raise loans-

- (a) from the Government; or
- (b) with the approval of the Governor in Council, from outside sources.

(5) When the Authority raises loans under paragraph (b) of subsection (4) it may, subject to subsection (6) and to any contractual obligations entered into by it or on its behalf-

- (a) create, issue, sell or negotiate debentures and other securities;
- (b) redeem, fund or convert its existing liabilities; and
- (c) do all things necessary for the accomplishment of paragraphs (a) and (b).

(6) Before taking action under subsection (4), the Authority shall publish in the Gazette a prospectus showing-

- (a) the amount and particulars of the proposed loan;
- (b) the rate or rates of interest to be paid;
- (c) the classes of persons who may subscribe;
- (d) the proposed application of the amount raised; and
- (e) provisions for repayment of the loan.

(7) The Authority shall keep proper accounts of all its transactions to the satisfaction of the Financial Secretary and such accounts shall be made up to the thirty-first day of December of each year, and audited by the Government Auditors who shall report thereon to the Authority and the Financial Secretary.

(8) Any balance of account in favour of the Authority up to the amount of one hundred thousand dollars may be carried forward to the account of the following year and any balance in excess of that sum shall be paid into the general revenue of the Islands.

(9) The Authority shall cause estimates of expenditure and revenue to be prepared and adopted each year in respect of the financial year following and such estimates, when adopted, shall be published as a supplement to the Gazette.

(10) The Authority shall, within one month of its receipt of the Government Auditors' report, prepare a report of its activities during the period to which the Government Auditors' report relates and the audited accounts, together with the Government Auditors' report and the Authority's report shall be published as soon as practicable as a supplement to the Gazette.

Vesting of property

5. There is hereby vested in the Authority-

- (a) the parcels of land with the buildings and works there situate as set forth in the Schedule which, together with such other parcels of land as may in future be vested in the Authority shall be known as “port areas”; and
- (b) the plant, equipment and tools, the property of the Government used in connection with such port areas prior and up to the coming into effect of this Law, which shall be recorded in an inventory prepared at the direction of the Financial Secretary and approved by the Authority and entered as assets in the accounts of the Authority.

6. The functions of the Authority include the following-

Functions of the Authority

- (a) the general management and control of all ports;
- (b) the establishment and control of lighthouses and day markers;
- (c) the establishment and control of berths;
- (d) the provision, maintenance and control of cranes, launches, lighters, rafts, trucks, capstans, winches, windlasses, bollards and other machinery, apparatus, tackle and gear used in ports and territorial waters for the securing, loading, unloading and maintenance of vessels;
- (e) the establishment, maintenance and control of transit sheds, offices and all other buildings in ports other than buildings under the control of the Collector of Customs, the Chief Immigration Officer or the Chief Medical Officer;
- (f) the general supervision of territorial waters and of vessels and wrecks located therein;
- (g) the loading and unloading of vessels;
- (h) the establishment and supervision of safety measures in respect of vessels or classes of vessels in ports and in territorial waters;
- (i) the enforcement of this Law and the Act wherever they have application; and
- (j) the inspection of vessels for the purpose of checking and enforcing compliance with this Law.

7. The duties of the Director in addition to carrying out the functions of the Authority as set forth in section 6 shall, subject to the exclusion of any officer seconded from the public service and subject to the general supervision of the Authority, include the control, recruitment, testing, grading and disciplining of officers.

Duties of the Director

8. Port officers, who may be members of the public service on secondment, are officers of the Authority and have within a port or port area the powers of constables and may be employed upon a full or part time basis in such grades and at such rates of pay as may from time to time be determined by the Authority.

Port officers

- Constables as officers 9. All constables shall be *ex-officio* officers, and constables may be seconded to port duties but constables so seconded shall remain under the authority of the Commissioner of Police for disciplinary purposes.
- Labourers 10. The Authority may employ casual labourers under such conditions and at such rates of pay as it may from time to time determine.
- Masters to comply with this Law and the directions of the Director and to pay dues 11. All masters present in the jurisdiction and owners of vessels which are within the jurisdiction shall comply with this Law and the directions of the Director as to navigation, berthing and as to such compliance with this Law and shall pay such port dues as may be prescribed for their classes of vessels.
- Lien on vessels in respect of dues Regulations 12. The Director has a lien on every vessel for the recovery of port dues.
13. The Governor in Council may make regulations prescribing-
- (a) ports;
 - (b) tariffs of port dues;
 - (c) fire precautions in ports and port areas;
 - (d) permitted ballast which may be taken on and discharged by ships in territorial waters;
 - (e) rules of navigation in territorial waters;
 - (f) rules for the loading and unloading of vessels;
 - (g) rules of procedure in dealing with wreck and salvage;
 - (h) safety equipment to be carried by vessels or classes of vessels in ports and territorial waters;
 - (i) rules for the discipline of officers who are not civil servants;
 - (j) anything required or permitted to be prescribed under this Law, and for the control of-
 - (i) ports;
 - (ii) berths;
 - (iii) cargo handling and storage;
 - (iv) lighthouses;
 - (v) day markers;
 - (vi) stevedorage;
 - (vii) pilotage;
 - (viii) ships' chandlers, operating within a port area;
 - (ix) stevedores, ships' chandlers, clearing and forwarding agents and ship repairers within port areas; and
 - (x) garbage and sewage disposal in territorial waters.
- Offences 14. (1) Whoever maliciously-
- (a) sets adrift or attempts to set adrift any vessel which is berthed or lying on the foreshore;

- (b) interferes or attempts to interfere with any lighthouse or day marker;
- (c) does damage to any vessel;
- (d) makes or attempts to make any signal to any vessel which if acted upon would involve injury or the risk of injury to any person or property; or
- (e) introduces any noxious or explosive matter into or over territorial waters or upon the foreshore,

proof of absence of malice being upon the person charged, is guilty of an offence and liable on conviction to a fine of five thousand dollars and to imprisonment with or without hard labour for five years.

(2) Whoever-

- (a) obstructs or resists any officer acting in the course of his duty;
- (b) personates any officer;
- (c) not being authorised in that behalf, enters upon any part of any port from which the public is excluded;
- (d) dumps any litter in territorial waters;
- (e) not being authorised by the Authority in that behalf, introduces or discharges any waste matter or effluent into territorial waters;
- (f) navigates any vessel in such a manner as to cause damage or risk of damage to any person or property;
- (g) loiters in any port area with intent to commit an offence, proof of absence of such intent being upon the person charged;
- (h) fails to comply with the lawful directions of the Director with respect to any cargo;
- (i) contravenes any provision of this Law or of any regulation for which no specific penalty is elsewhere in this Law provided;
- (j) fails to comply with the lawful directions of the Director with respect to any vessel; or
- (k) by any means gives or attempts to give any false information upon any matter touching this Law,

is guilty of an offence and liable on summary conviction to a fine of one thousand dollars and to imprisonment with or without hard labour for one year.

(3) Where any offence proved to have been committed against this section involves damage to any property of the Authority, the court may order the convicted person to make good such damage or to pay to the Authority the cost thereof and such order may be enforced in the same manner as the judgement of a civil court.

Port Authority Law (1999 Revision)

Authority not a bailee	This Law to prevail over Customs Law (1998 Revision)	15. The Authority is not, with respect to anything entrusted to its care, a bailee for reward and has no liability for loss or damage occasioned thereto unless such loss or damage is due to the wilful neglect or default of the Authority or its agent.
Director's power of arrest of vessels		16. The Director may enter, take control of and arrest any vessel over which he has a lien.
Director's power of arrest of goods		17. The Director may enter, and take into his control any goods over which the Authority has a lien.
		18. Where any provision of this Law relating to the custody and handling of goods located in a port area including a transit shed or transit area is at variance with or inconsistent with the Customs Law (1998 Revision), this Law shall prevail: Provided that no uncustomed goods shall be removed or released from a port otherwise than- (a) by authority of the Collector of Customs; (b) in case of emergency; or (c) in accordance with section 24.
Power to determine conditions, and rates of carriage and storage		19. The Authority may, subject to this Law and any regulations- (a) determine the conditions upon which goods shall be carried or stored in port areas and different conditions may be determined in different cases; and (b) determine its charges for the carriage and storage of goods and for any other service or facility performed or provided by it.
Director may retain goods until freight, etc., is paid		20. (1) Where the agent of a ship from which any goods have been landed at a port and accepted by the Authority for carriage or storage or for delivery to the consignee, notifies the Director in writing that the freight or other charges payable to the agent of the ship to the amount specified in the notice, remain unpaid in respect of the goods, the Director 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 such ship and 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; or (c) the payment of such amount by the person entitled to take delivery thereof. (2) Where the Director causes to be delivered any goods 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 paragraphs (b) or (c) thereof, 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 custody of the Authority any goods which would not otherwise be receivable by the Authority under this Law or any regulation, or as requiring the Director to enquire into the validity of any claim made for freight or any other sums made in any notice given by an agent under subsection (1).

21. The consignor of, or the person tendering any goods for carriage or storage by the Authority or the consignee of, or person receiving any goods which have been carried or stored by the Authority is liable in accordance with the regulations for the charges of such carriage or storage and any other services performed or facility provided by the Authority in respect thereof.

Consignor or consignee liable for payment of carriage and storage

22. (1) The consignor of, or the person tendering any goods for carriage or storage by the Authority, on request by any officer, the consignee of, or person receiving goods which have been carried or stored by the Authority, shall deliver to the officer the documents prescribed in the regulations to enable such officer to determine the dues payable in respect thereof.

Duty to deliver description of goods

(2) An 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 to examine such goods.

(3) If such consignor, person or consignee fails to deliver the documents referred to in subsection (2), an officer may refuse to accept the goods unless in respect thereof a charge, not exceeding the highest dues payable for any class of goods, is paid.

(4) If any document delivered under subsection (1) is found to be false in any material particular, an officer may refuse to deliver such goods unless a charge, not exceeding double the highest dues payable for any class of goods, is paid.

23. In respect of all goods in custody of the Authority, an officer shall be entitled to levy such charges as may be determined in accordance with the regulations and he 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 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.

Officer's power to levy charges, etc.

Effect of non-removal of goods 24. (1) Subject to this section and without prejudice to section 23, where any goods (except perishable goods) in the custody and on the premises of the Authority are not removed therefrom within a period of fifteen days from the time of deposit, the Director shall cause a notice to be served on the owner or other person appearing to be entitled thereto, requiring him to remove them.

(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 no compliance with any such notice,

the Director may, after the expiry of four weeks, sell the goods by public auction, provided seven days notice of the holding of such sale is published in the Gazette and in a local newspaper, listing the goods and showing the time and place of the auction.

(3) Where goods mentioned in paragraph (a), (b) or (c) of subsection (2) are perishable, the Director may deal with them at his discretion, having regard to the possible entitlement of any person thereto.

1998 Revision

(4) Imported goods sold under this section shall be entered for home use in accordance with the Customs Law (1998 Revision).

Application of the proceeds of sale

25. The proceeds of any sale under section 24 shall be applied by the Authority as follows, and in the following order of payment-

- (a) to customs duty;
- (b) to expenses of sale;
- (c) to dues to the Authority in respect thereof;
- (d) to freight and other allowable claims of which notice has been received by the Director;
- (e) to the owner, if traceable within one year; or
- (f) to the funds of the Authority.

Duty of masters to supply information

26. Masters of arriving ships shall produce to the Director-

- (a) the ship's register;
- (b) the ship's papers, including cargo manifest;
- (c) a list of passengers, if any, showing sex and occupation;
- (d) a list of births and deaths, if any, which have occurred during the voyage;
- (e) a list of stowaways, if any; and
- (f) such other information as the Director may reasonably require.

27. Claims against the Authority for damages shall be ineffective unless made within three months of the arising of the claim or of the damage coming to the notice of the person interested therein or having a duty to inform such person thereof. Limitation
28. Officers may appear in a Court of Summary Jurisdiction to prosecute offenders against this Law and for the purpose of conducting civil suits on behalf of the Authority. Officers may represent the Authority in the Summary Court
29. Where an offence is alleged to have taken place in a port area it shall be deemed so to have taken place unless the contrary is proved. Presumption of venue

SCHEDULE

(Section 5)

- (1) All that parcel of land situated in the George Town Commercial Registration Section and being Block and Parcel No. OPY 133 having an area of approximately 3.5 acres as shown on Boundary Plan No. 17 which may be inspected at the office of the Registrar of Lands, George Town, Grand Cayman together with all buildings and marine works and wharfs thereon situate.
- (2) All that parcel of land situated in the George Town Commercial Registration Section and being Block and Parcel No. OPY 136.
- (3) All that parcel of land situated at Spotts being Block and Parcel No. 25C 164.

Publication in consolidated and revised form authorised by the Governor in Council this 5th day of January, 1999.

Carmena H. Parsons
Clerk of Executive Council