

ANTIGUA AND BARBUDA



ANTIGUA AND BARBUDA MERCHANT SHIPPING (AMENDMENT) BILL 2020

No. Of 2020

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AN ACT to amend the Antigua and Barbuda Merchant Shipping Act, 2006 No. 1 of 2006 and for other connected purposes.

ENACTED by the Parliament of Antigua and Barbuda as follows –

1. Short title

This Act may be cited as the Antigua and Barbuda Merchant Shipping (Amendment) Act, 2020.

2. Interpretation

In this Act –

“principal Act” means the Antigua and Barbuda Merchant Shipping Act 2006.

3. Amendment of section 2 – Interpretation

Section 2 of the principal Act is amended by inserting the names and meanings of the following Conventions to which Antigua and Barbuda is a Party in their correct alphabetical position within that section –

““FAL 1965” means the Convention on the Facilitation of International Maritime Traffic 1965, as amended;”

“SAR 1979” means the convention on Maritime Search and Rescue 1979, as amended;

“SUA” means the Convention for the Suppression of Unlawful Acts Against the Safety of Maritime Navigation 1988”

“SUA 2005” means the Protocol of 2005 to the Convention for the Suppression of Unlawful Acts Against the Safety of Maritime Navigation 2005

““SUA PROT” means the Protocol for the Suppression of Unlawful Acts Against the Safety of Fixed Platforms Located on the Continental Shelf”

““SUA PROT 2005” means the Protocol of 2005 to the Protocol for the Suppression of Unlawful Acts of Against the Safety of Fixed Platforms Located on the Continental Shelf”

4. Amendment of Section 8 – Regulations and directives to give effect in Antigua and Barbuda to maritime conventions

Section 8 of the principal Act is amended by adding after the words “Maritime Labour Convention” at the end of subsection (1) the following Conventions –

“FAL 1965 Convention

SAR 1979

SUA Convention

SUA 2005 Protocol

SUA PROT Protocol

SUA PROT 2005 Protocol”

5. Amendment of section 11 – Qualification to own Antigua and Barbuda ships

Section 11 of the principal Act is amended by repealing it in its entirety and replacing it as follows –

“11. Qualification to own Antigua and Barbuda Ships

(1) A ship shall on application be registered as an Antigua and Barbuda ship if the ship is wholly owned by or bareboat chartered to a –

(a) citizen of Antigua and Barbuda;

(b) national of a Member State; or

(c) A firm or company incorporated or registered under the laws of Antigua and Barbuda.

(2) Notwithstanding subsection (1), a ship may, regardless of the nationality of its owners, be registered as an Antigua and Barbuda ship if –

(a) the ship is one to which the SOLAS Convention applies; and

(b) the Owner of the ship has appointed a principal representative in Antigua and Barbuda.

(3) For the purposes of subsection (2), a principal representative is a person coming within any of categories (a), (b) or (c) of subsection (1) and possessing any of the following qualifications –

(a) an Attorney-at-Law qualified to practice law in Antigua and Barbuda;

(b) a corporate management and trust services provider appointed under the Corporate Management and Trust Service Providers Act; or

(c) any other qualification as may be prescribed by regulations; and

(d) have a power of attorney sufficient to satisfy the Director that the principal representative is authorised to act for the Owners of the ship in all matters to secure compliance with this Act and the Regulations

6. Repeal of section 14

The principal Act is amended in section 14 by repealing the entire section.

7. Amendment of section 24A – Provisional registration

Section 24A of the principal Act is amended in subsection (1) at paragraph (b) by deleting the words “is qualified or”.

8. Insertion of new sections 262A to 262D

The principal Act is amended by inserting after section 262, the following –

“262A Improvement notices

(1) An inspector may serve an improvement notice, where he is of the opinion that a person is in contravention of or has contravened one or more provisions of this Act.

(2) An improvement notice shall –

(a) state the provision that the inspector is of the opinion is being contravened;

(b) reasons for his opinion; and

(c) the time period to remedy the contravention.

“262B Prohibition notices

- (1) An inspector may serve a prohibition notice, where he is of the opinion that an activity which is being or likely to be carried on on board any ship or under the control of any person will involve the risk of –
 - (a) serious personal injury to any person, whether on board or not; or
 - (b) serious pollution of any navigable waters.
- (2) A prohibition notice shall –
 - (a) state the activity he is of the opinion will cause serious personal injury or serious pollution;
 - (b) state the provision, if any, that is being contravened
 - (c) reasons for his opinion outlining the risk;
 - (d) direct –
 - i. that the activity to which the notice relates shall not be carried on by or under the control of the person on whom the notice is served, or
 - ii. that the ship shall not go to sea; and
 - (e) period of the prohibition.

“262C Supplementary Provisions to 262A and 262B

- (1) An improvement or prohibition notice may include directions as to the measures to be taken to remedy any contravention or matter to which the notice relates.
- (2) Any measure to be taken to remedy a contravention, under an improvement or prohibition notice, should not be more onerous than those necessary to secure compliance with that provision.
- (3) An improvement notice or a prohibition notice may be withdrawn by an inspector at any time before the expiration of the period specified in the notice.

“262D Offences

- (1) Any person who contravenes any requirement imposed by an improvement notice commits an offence and is liable on conviction to a fine of five thousand dollars.
 - (2) Any person who contravenes any requirement imposed by a prohibition notice commits an offence and is liable on conviction to ten thousand dollars.”
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EXPLANATORY MEMORANDUM

Passed the House of Representatives on the _____ day of _____, 2020.

Passed the Senate on the _____ day of _____, 2020.

.....
Speaker.

.....
President.

.....
Clerk to the House of Representatives.

.....
Clerk to the Senate.

The principal objectives of this Bill are-

1. to enhance the ability of the Department of Maritime Services to give effect to Antigua and Barbuda Maritime Treaty obligations; and
2. to introduce a new avenue of registering ships under the Antigua and Barbuda Flag.

Clause 3 - inserts into the Interpretation Section of the principal Act, several Conventions to which Antigua and Barbuda became a party; while Clause 4 gives the Minister power to give effect to those provisions and any amendments thereto by regulations.

Clause 5 - amends section 11 dealing with the qualifications to own an Antigua and Barbuda registered ship. The amendment most repeats what existed before, but a new method that of appointing a Principal Representative in Antigua and Barbuda, has been added.

The Principal Representative is intended to function as the owner’s representative and to act on behalf of the Owners as if the Owners were persons falling within paragraphs (a) or (b) of section 11(1).

The amendment only applies to ships that fall under the SOLAS Convention.

Clause 6 repeals section 14 in an effort to expand the options for registration on the Ship Registry.

Clause 7 removes an ambiguity within section 24A which deals with Provisional Registration.

Along with this amendment to the principal Act, there will also be an amendment to the Antigua and Barbuda Merchant Shipping Regulations to specify the qualifications and obligations of a Principal Representative under the Act.

Clause 8 inserts four new sections. These sections allow for an inspector to issue an improvement notice or a prohibition requiring an individual to remedy a contravention of the Act or requiring an individual to desist from carrying on an activity that can result in serious personal injury or serious pollution of navigable waters.

*Hon. Gaston Browne
Prime Minister
Minister with responsibility for Merchant Shipping*