ANGUILLA

REVISED STATUTES OF ANGUILLA

CHAPTER P56

PORTS, HARBOURS AND PIERS ACT

Showing the Law as at 15 December 2014

This Edition was prepared under the authority of the Revised Statutes and Regulations Act, R.S.A. c. R55 by the Attorney General as Law Revision Commissioner.

This Edition revises—

Act 20/2010, in force 24 December 2010

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PORTS, HARBOURS AND PIERS ACT

TABLE OF CONTENTS

SECTION

1. Interpretation
2. Designation of Superintendent
3. Duties of Superintendent
4. Powers of Superintendent
5. Dues, fees and charges
6. Time for payment of dues, fees and charges
7. Documentation of vessel
8. Detention of vessel
9. Disposal of vessels and goods
10. Power to control ships
11. Power in respect of wrecks, etc.
12. Abandoned vessels
13. Fire on board a vessel
14. Recovery of costs
15. Accidents
16. Overpayments or underpayments of dues, fees and charges
17. Foreshores
18. Permission to construct on foreshores
19. Licensing of piers, etc.
20. Duties of Superintendent for use of port
21. Powers of Superintendent re use of pier
22. Access to private piers
23. General right of access
24. Refusal to obey orders, etc.
25. Penalties
26. Superintendent may sue and be sued
27. Assignment of port, harbour or pier
28. Power to make regulations
29. Citation

PORTS, HARBOURS AND PIERS ACT

Interpretation

1. In this Act—

"foreshore" means that part of the coast and the sea contiguous thereto from the mean of the highest and lowest tides to the seaward edge of the furthest reef or 1,000 yards seawards where no such reef exists but does not include any area administered by the Anguilla Air and Sea Ports Authority;

"harbour" means a prescribed area of land and sea used by vessels for the embarkation and disembarkation of goods and passengers but does not include any harbour administered by the Anguilla Air and Sea Ports Authority;

"marina" means a harbour or boat basin where facilities and services such as docking, supplies, moorings or fuel are provided for small vessels, yachts and pleasure crafts;

"master" means the captain or other person in charge of a vessel and any agent appointed by him in writing;

"Minister" means the Minister with portfolio responsible for ports, harbours and piers;

"owner" includes every person for the time being entitled as agent or otherwise to the possession of any goods or vessels whether or not such goods or vessels are subject to any lien;

"pier" means any artificial structure built over or alongside the sea not being part of any port or harbour but does not include any structure administered by the Anguilla Air and Sea Ports Authority;

"port" means a prescribed area of land and sea used by vessels for the embarking and disembarking of goods and passengers at or on artificial structures but does not include any port administered by the Anguilla Air and Sea Ports Authority;

"prescribed" means prescribed by regulation under section 28;

"regulations" means regulations made under this Act;

"roadstead" means any part of the territorial sea of Anguilla, not being a port or harbour, where a vessel may ride at anchor but does not include any area administered by the Anguilla Air and Sea Ports Authority;

"Superintendent" means that person designated as Superintendent of Ports and Harbours under section 2 by the Governor in Council and includes any person acting under his express or implied authority;

"vessel" means any description of watercraft including air-cushion craft used or capable of being used as a means of transportation.

Designation of Superintendent

2. The Governor in Council, after consultation with the Minister may, designate a public officer in the Ministry of Infrastructure, Communications and Utilities to carry out the duties and exercise the powers of a Superintendent.

Duties of Superintendent

3. The Superintendent shall be responsible for—

(a) the supervision and the management of all marinas, ports, harbours and piers operated by the Government;

(b) the administration and implementation of this Act and regulations;

(c) the collection of the revenues of marinas, ports, harbours and piers operated by the Government; and

(d) the care of public and other property under his control but without having to account or pay for any damage to or loss thereof unless such damage or loss is due to his personal default or the default of any person acting under his direct or implied authority;

(e) the responsibility of the management of navigation aids;

(f) Port and Flag State Control; and

(g) receiving reports of security concerns from Port Facility Security Officers (PFSO), Ship Security Officers (SSO) and Company Security Officers.

Powers of Superintendent

4. Subject to the provisions of this Act and the regulations, the Superintendent is empowered to—

(a) operate the marinas, ports, harbours and piers owned by the Government as appears best calculated to serve the public interest;

(b) regulate and control navigation within the limits of any marina, port or harbour and the approaches thereto;

(c) regulate and control the use of any roadstead;

(d) regulate and control the use of any marina or pier;

(e) authorise port and flag state inspections; and

(f) review and authorise Port and Ship Security Plans.

Dues, fees and charges

5. There shall be charged, collected and paid into the Consolidated Fund on all vessels, cargo and passengers using the facilities of any marina, port, harbour or pier such dues, fees and charges as may be prescribed by regulation.

Time for payment of dues, fees and charges

6. All dues, fees and charges payable shall be paid at the time specified in the regulations and where no such time is specified shall be paid on demand.

Documentation of vessel

7. The master of a vessel shall on arrival from any place outside Anguilla produce to the Superintendent the ship's register and such other documents as may be prescribed, and shall supply such other information as the Superintendent may reasonably require.

Detention of vessel

8. When any of the dues, fees and charges payable by a vessel have not been paid, the Superintendent may detain and immobilise such vessel, and the tackle, apparel, furniture and machinery thereof.

Disposal of vessels and goods

9. (1) The Superintendent may sell by public auction vessels or goods where the dues, fees and charges on any vessel detained under section 8 have not been paid 7 days after the detention thereof.

(2) For the purpose of securing favourable marketability, the Superintendent may postpone the sale of such vessel or all or any of the goods due for sale under subsection (1) but, any vessel detained under section 12 shall not be sold under this section if the total amount of dues, fees and charges payable by the vessel is less than ⅓ of the estimated value of the vessel.

Power to control ships

10. The Superintendent may—

(a) direct where any vessel shall be berthed, moored or anchored, and the method of anchoring within the marina, port or harbour and the approaches to the marina, port or harbour;

(b) direct the removal of any vessel from any berth, station or anchorage and the time within such removal is to be effected, within the marina, port or harbour and the approaches to the marina, port or harbour; and

(c) regulate the moving of vessels within the marina, port or harbour and the approaches to the marina, port or harbour.

Power in respect of wrecks, etc.

11. The Superintendent may—

(a) remove any wreck in or other obstruction to a marina, port or harbour or its approaches or any timber raft or other thing floating which endangers or obstructs or

is likely to endanger or obstruct free navigation in the marina, port or harbour or the use of any facility therein;

(b) in a case of urgent necessity take any action in a marina, port or harbour which he deems necessary to prevent any danger to life or limb; and

(c) board any vessel or enter into any building in a marina, port or harbour if it is necessary for him to do so in the performance of any duty under this Act or the regulations or if he believes that any offence against this Act or the regulations has been committed or is about to be committed.

Abandoned vessels

12. (1) Where any vessel is abandoned in any harbour or in any approach thereto, the Superintendent may—

(a) take possession of or raise, remove or destroy the whole or any part of the vessel; or

(b) light or buoy any vessel or part of such vessel until the raising, removal or destruction thereof.

(2) The Superintendent may, subject to subsection (3), sell in such manner as he thinks fit any vessel or part taken possession of or raised or removed, and also any other property recovered in the exercise of the powers of the Superintendent under this section, and out of the proceeds of the sale deduct any expenses incurred by him in the exercise of his powers under this section.

(3) The Superintendent shall hold the surplus, if any, of the proceeds of the sale under subsection (2) in trust for any persons entitled thereto, but, such surplus shall be paid into the Consolidated Fund, unless such person establishes a claim thereto within one year of such sale.

(4) A sale shall not, except in the case of property which—

(a) is of perishable nature; or

(b) would deteriorate in value by delay,

be made under this section, until at least 14 clear day's notice of the intended sale has been given by advertisement in the *Gazette* and by such other means as the Superintendent thinks fit.

(5) If the proceeds of the sale under subsection (2) are less than the costs incurred by the Superintendent when acting under this section, the Superintendent may recover the difference between such proceeds and costs by civil action.

(6) Without prejudice to the generality of subsection (1), for the purpose of this section a vessel shall be deemed to have been abandoned where—

(a) the Superintendent has directed the owner or agent of any vessel by a notification posted to the last known address of such owner or agent to remove the vessel from the harbour;

(b) such vessel has been in the harbour for more than one month after such direction by the Superintendent;

(c) the Superintendent has posted up a notice in some conspicuous place on the vessel, not less than one month after the direction under paragraph (a), declaring that he intends to take action against the vessel in accordance with the provisions of this section and has posted a copy of the notice to the last known address of the owner or agent of the vessel; and

(d) the vessel has not been removed from the harbour before the expiry of 2 weeks from the date of notice under paragraph (c).

Fire on board a vessel

13. If a fire breaks out on a vessel in any marina, port or harbour, the Superintendent may give such orders and take such action as he deems necessary for the protection of life and property and such action may include taking such vessel to sea and scuttling it.

Recovery of costs

14. Where the Superintendent incurs any expenses from action taken under section 8, 9 or 10, such expenses shall be recoverable from the master of the vessel, or the person causing the action taken and may be recovered by distraint on the vessel or as a civil debt.

Accidents

15. (1) The Superintendent shall keep a record of all accidents whether to persons or things occurring in any marina, port, harbour or pier and shall where any accident—

(a) caused or was of a kind likely to cause—

(i) death or serious injury to a human being, or

(ii) destruction or serious damage to property;

(b) caused a collision between vessels; or

(c) was of such a kind as may be prescribed by regulation,

report such accident to the Minister as soon as possible.

(2) The record of accidents shall be available for inspection by the Minister or other person acting under his authority.

Overpayments or underpayments of dues, fees and charges

16. (1) When any person has overpaid dues, fees or charges, such overpayments shall be refunded.

(2) When any person has underpaid any dues, fees or charges, such underpayment shall be recoverable on demand, and may be recovered as a civil debt or by lien on goods owned by such person and in the custody of the Superintendent at the time the demand is made.

Foreshores

17. (1) The Superintendent shall have a general responsibility for the management and protection of the foreshores and may—

(a) order the removal of or remove at the owner's expense any obstruction or construction thereon or therein; and

(b) take any necessary action, at the owner's expense, to prevent the pollution thereof and remove any pollution therefrom.

(2) The Governor in Council may by regulation—

(a) restrict or prohibit access to any part thereof;

(b) prohibit the removal of sand, gravel or stone from any part thereof;

(c) restrict any part thereof to a particular use; or

(d) prevent, restrict or minimise the pollution thereof.

Permission to construct on foreshores

18. Notwithstanding the provisions of any other written law, no person shall construct or install any marina, pier, boat servicing or boat handling facility on any part of the foreshore without the written permission of the Minister.

Licensing of piers, etc.

19. The owner of any private marina, pier or permanent construction or installation on any foreshore, shall apply to the Superintendent in the prescribed form for a licence therefor. Such licence shall be issued annually on the first Tuesday of April of each year upon payment of the prescribed annual licence fee.

Duties of Superintendent for use of port

20. The Superintendent shall maintain such records of the arrivals and departures of all vessels and such records shall be available for inspection by any customs officer.

Powers of Superintendent re use of pier

21. The Superintendent may refuse the use of any marina or pier by any vessel and may impose such conditions as he deems fit before any vessel uses such marina or pier.

Access to private piers

22. The Superintendent shall have the right of access at all times to any private marina or pier.

General right of access

23. The Superintendent shall have the right at any time to cross any private land by the most direct or convenient route for the purpose of access to any marina or pier.

Refusal to obey orders, etc.

24. Any person who—

(a) refuses to obey any lawful order given under section 7, 10, 13 or 18;

(b) obstructs or impedes any lawful thing being done under section 8, 10, 13, 18 or 19; or

(c) contravenes any other provision of this Act,

is guilty of an offence.

Penalties

25. Any person who commits an offence under this Act is liable on summary conviction to a fine of not more than $50,000 or to imprisonment for a term of not more than one year, or to both.

Superintendent may sue and be sued

26. In any dispute touching any matter arising out of this Act, the Superintendent may sue and be sued in his own name, and shall be entitled to recover and liable to pay costs in the same manner as any other litigant.

Assignment of port, harbour or pier

27. (1) The Minister may, by contract, assign the management and development of a marina, port, harbour or pier to a private or public entity but such assignment shall not remove the regulatory capacity of the Superintendent.

(2) An assignment under subsection (1) shall take place on the approval of the Governor in Council.

Power to make regulations

28. (1) The Governor in Council may make regulations for the purpose of carrying out and giving effect to the principles and provisions of this Act.

(2) In particular, and without prejudice to the generality of the powers conferred by subsection (1), the Governor in Council may make regulations for all or any of the following matters—

(a) the safety of employees of any marina, ports, harbours or piers, the prevention of damage to or pollution of premises of the marina, ports, harbours and piers and the pollution of the water in the harbours of any specified marina or port;

(b) the regulation of the entry of persons into any marina, pier or port;

(c) the regulation and issue of licences to persons who provide engineering, surveying, ship chandling, ship repairing, clearing, forwarding and similar services in any specified marina or port;

(d) the handling of petroleum, petroleum products and lubricating oil to and from vessels between depots and bunkers in or around any specified marina or port;

(e) the prohibition of chipping, scaling, noisy work or underwater repairs on vessels or the breaking up of vessels except at such places and at such times and by such persons as may be specified;

(f) providing that penalties be imposed in accordance with section 17 for a contravention of a provision of the regulations; or

(g) the matters required by this Act to be prescribed or in respect of which regulations are authorised to be made.

Citation

29. This Act may be cited as the Ports, Harbours and Piers Act, Revised Statutes of Anguilla, Chapter P56.