

CHAPTER 285B

BARBADOS PORT INC. (TRANSFER OF MANAGEMENT AND VESTING OF ASSETS)

2003-18

This Act came into operation on 19th December, 2003 by Proclamation (S.I. 2003 No. 163).

Amended by:

This Act has not been amended

Law Revision Orders

The following Law Revision Order or Orders authorized the insertion and removal of pages as the case may be under the Law Revision Act Cap.2 now repealed:

2003

CHAPTER 285B

**BARBADOS PORT INC. (TRANSFER OF MANAGEMENT AND VESTING
OF ASSETS)
2003-18**

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BARBADOS

BARBADOS PORT INC. (TRANSFER OF MANAGEMENT AND VESTING
OF ASSETS)
2003-18

An Act

- (a) *to provide for the Port of Bridgetown to be managed by the Barbados Port Inc., a company incorporated under the Companies Act, for the purpose of enabling the Port to operate as a commercial entity;*
- (b) *to transfer the assets and liabilities of the Government of Barbados in relation to the operation of the Port of Bridgetown to the Barbados Port Inc.;*
- (c) *to repeal the Barbados Port Authority Act; and*
- (d) *to provide for related matters.*

[Commencement: 19th December, 2003]

Short title

1. This Act may be cited as the *Barbados Port Inc. (Transfer of Management and Vesting of Assets) Act, 2003*.

Interpretation

2. In this Act,

“Authority” means the Barbados Port Authority established by section 3 of the former Act;

“Company” means the Barbados Port Inc., a company incorporated under the *Companies Act*, Cap. 308;

“former Act” means the *Barbados Port Authority Act*, Cap. 285B;

“harbour” means the area described in paragraphs (a) and (b) of the *First Schedule*;

“Port” means the Port of Bridgetown as described in the *First Schedule*.

Commencement of operation

3. The Port shall be operated by the Company from 19th December, 2003.

Lease of lands of Port

4. For the purposes of this Act, the lands of the Port which are described in the *First Schedule* shall be leased to the Company by the Crown for such period as the Crown determines.

Transfer of assets and liabilities

5.(1) All

(a) assets in relation to the operation of the Port that were vested in the Authority immediately before 19th December, 2003;

(b) liabilities that were incurred by or on behalf of the Authority in relation to the operation of the Port and subsisting immediately before that date;
and

- (c) rights to set, collect and retain port dues and charges for the provision and use of port facilities and services

are transferred to and vested in the Company, and by virtue of this Act and without further assurance, transfer or other formality are to be held with effect from 19th December, 2003 by the Company to the same extent and interest and in the same manner as they were vested in or held by the Authority.

(2) All contracts entered into by or on behalf of the Authority in relation to the operation of the Port before 19th December, 2003 shall be deemed to have been entered into by or on behalf of the Company from that date.

(3) In respect of the operation of the Port,

(a) all rights, privileges, duties or obligations conferred or imposed upon the Authority; and

(b) all powers and remedies as to the taking and resisting of legal proceedings for the ascertaining, perfecting or enforcing of all rights or liabilities vested in the Authority

immediately before 19th December, 2003 shall be deemed to be conferred or imposed on the Company.

Exemption from property transfer tax

6. The Company is exempt from the payment of the property transfer tax that is payable on the transfer of the assets of the Authority referred to in section 5(1).

Annual report and financial statements

7.(1) The Company shall within 3 months of the end of each financial year submit to the Minister the report, the audited financial statements and the auditor's report referred to in subsection (2).

- (2) The Minister shall as soon as possible after the end of each financial year and not later than 6 months after the end of that year lay in Parliament
- (a) a report of the operations of the Company during the preceding year, including a comparison of the performance of the Port with the relevant business plan;
 - (b) audited financial statements for the preceding year consisting of
 - (i) statements of profit, loss and cash flow;
 - (ii) such other statements as may be necessary to show the financial position of the Company and the financial results of the company's operations during the financial year, including any contingent liabilities of the Company; and
 - (c) an auditor's report on the financial statements.

Port master plan

- 8.(1) The Company shall once in every 5 years submit a Port master plan to the Minister for approval.
- (2) The Port master plan referred to in subsection (1) is a 10-year development plan for the Port that shall contain
- (a) the details of the objectives, strategies and policies of the Company;
 - (b) infrastructural and institutional activity schedules;
 - (c) a marketing plan;
 - (d) a land use and environmental management plan; and
 - (e) any other relevant information that may be required by the Minister.

Business plan

- 9.(1) The Company shall not later than 6 months after the end of each financial year submit to the Minister a business plan in respect of the ensuing financial year and for each of the 4 subsequent financial years.

(2) The business plan referred to in subsection (1) shall contain provisions for the implementation of the Port master plan and any other information that the Minister may require.

Staff of Company

10. The officers and other employees who are members of staff of the Authority on 19th December, 2003 shall upon that date comprise the staff of the Company.

Pension rights and pension plan

11.(1) There are hereby preserved to the staff of the Company to whom section 10 applies the pension and superannuation rights accruing to them at the time of their assumption of employment with the Company.

(2) There are hereby preserved to the officers and employees of the Authority who

(a) were members of staff of the Authority at or prior to 19th December, 2003; and

(b) have not assumed employment with the Company at that date

all pension and superannuation rights that accrued to them by virtue of their employment with the Authority.

(3) The Company shall be responsible for paying any pension or superannuation to the officers and employees referred to in subsection (2) when the pension or superannuation accrues.

(4) Without affecting subsection (1), the service of the staff with the Authority referred to in that subsection shall be aggregated with their service with the Company and any other public service for the purpose of computing pension and other retiring benefits under this Act.

(5) Where a public officer is seconded or temporarily transferred from a pensionable office within the meaning of section 2(1) of the *Pensions Act*,

Cap. 25 to perform any service with the Company, the service of that officer shall, unless the Governor-General otherwise decides, count for pension under that Act as if the officer had not been so seconded or transferred.

(6) The Company shall, within a period of 2 years from 19th December, 2003 provide for the establishment and maintenance of a pension scheme for the benefit of officers and employees of the Company.

(7) Notwithstanding subsection (6), the Company shall for the purpose of computing pensions and other retirement benefits use the date of hire of an employee by the Company as the date for computing such pension and other benefits.

Savings

12. Nothing in this Act or in any regulation shall be or shall be deemed to be in derogation of any function conferred or imposed by any other law on customs officers, immigration officers, fire officers or members of the Police Force or the Defence Force, or duly authorised persons of the Ministry of Health or the Ministry of Agriculture.

Repeal etc.

13.(1) [*Subject to subsection (2), the Barbados Port Authority Act, Cap. 285B is repealed.*]

(2) The enactments specified in the *Second Schedule* shall continue in force until amended or revoked under this Act, and shall be so construed as to give effect to the provisions of this Act.

Amendment of Schedules

14. The Minister may by order amend the *Schedules*.

FIRST SCHEDULE

(Sections 2 and 4)

The Port of Bridgetown includes:

- (a) all the waters enclosed by the shoreline and the following lines from the point with Barbados Grid coordinates 24762.00m East, 63875.00 North (being the approximate centre of the top of Needhams Point Lighthouse), thence due West for a distance of 4002.00m, to the point with Barbados National Grid coordinates 20260.00m East, 63875.00m North, thence due North for a distance of 7685.00m to the point with Barbados National Grid coordinates 20260.00m East, 71560.00m North, thence due East for a distance of 1040.00mm to the point with Barbados National Grid coordinates 21300.00m East, 71560.00m North, including:

(i) *the Deep Water Harbour*

all the waters of the Deep Water Harbour, comprising the enclosed wharf area and water front of the Deep Water Harbour and Shallow Draught Facility; and

(ii) *the Careenage*

all the waters and subterranean areas containing by admeasurement 3.445 hectares of sea, comprising the Careenage and the Dry Dock as further described in paragraph (c)(ii);

- (b) other harbours and anchorages as described in paragraph (d);

- (c) other areas including:

(i) *the lands of the Deep Water Harbour*

comprising all that portion of land containing approximately 91 acres starting from the northern end of the breakwater; then along the seaward edge of the breakwater and rubble bank to the junction with the wire fence in line with the gatehouse; then along the line of the fence to its junction

with the North eastern corner of the Bulk Sugar Store including the Canteen and Molasses Terminal; then along the Northern wall of the Bulk Sugar Store to a point 100 feet East of the wire fence gate; then in a Northerly direction a distance of 495 feet along a line parallel to the fence; then in an Easterly direction a distance of 204 feet; then in a Northerly direction past the gatehouse to the Northern edge of University Row; then in an Easterly direction along the Northern edge of University Row to a point near to the junction of Prescod Boulevard and President Kennedy Drive a distance of 530 feet; then in a Northerly direction to the shoreline; then along the shoreline to the Southern edge of the Bulk Handling Facility; then in a Westerly direction along the Northern edge of the Bulk Handling Facility to its western extremity; then in a straight line back to the starting point;

(ii) *the lands reclaimed by the Port in 2001*

comprising all that land the property of the Crown situated at the Port of Bridgetown in the parish of St. Michael containing by admeasurements 3.819 hectares or thereabouts Abutting and Bounding on the south by lands of the Barbados Government which forms part of the Port of Bridgetown, on the east, west and north by the sea or however else the same may abut and bound as shown and delineated on a plan certified on the 23rd day of April, 2003 by Garrick L. Jenkins, Land Surveyor and recorded in the Lands and Surveys Department on the 25th day of April, 2003 as Plan No. 428/2003;

(iii) *the Careenage*

all waters, subterranean areas and adjacent land containing by admeasurement 3.445 hectares of sea and 0.374 hectares of land or thereabouts inclusive of boardwalk Abutting and Bounding on the south by lands now or of late of the Crown (Fort Willoughby, the Dry Dock and Independence Square), and the South Wharf Road, on the east by the Charles Duncan O'Neal Bridge, on the north by the North Wharf Road and lands of the Crown (Carlisle Car Park), and on the west by an

imaginary line drawn from the south eastern corner of the Heliport to the tip of the quay at Fort Willoughby or however else the same may abut and bound as shown and delineated on a plan certified on the 8th day of February, 2001 by Garrick L. Jenkins, Land Surveyor, and recorded in the Lands and Surveys Department on the 28th September, 2001 as Plan No. 952/2001;

(iv) *Central Purchasing Property*

all that land the property of the Crown situate at the corner of the Spring Garden Highway and President Kennedy Drive in the parish of Saint Michael containing by admeasurement 7596 square metres or thereabouts, Abutting and Bounding on the Spring Garden Highway on President Kennedy Drive and on lands now or late of the Crown or however else the same may abut and bound as shown and delineated on a plan certified on the 1st day of February, 2000 by Mark Gary Fields, Land Surveyor and recorded in the Lands and Surveys Department on the 22nd day of February, 2000 as Plan No. 158/2000;

(v) *Trevor's Way*

all that land the property of the Crown situate at Princess Alice Highway in the parish of Saint Michael containing by admeasurement 1.268 hectares or thereabouts Abutting and Bounding on the Princess Alice Highway on the Bridgetown Fisheries Complex on the sea and on lands of the Barbados Port Authority or however else the same may abut and bound as shown and delineated on a plan certified on the 28th day of March, 2000 by Lennox J. Reid, Land Surveyor and recorded in the Lands and Surveys Department on 30th day of March, 2000 as Plan No. 300/2000;

(vi) *South Point Lighthouse*

all that land the property of the Crown situate at Enterprise in the parish of Christ Church containing by admeasurement 1.391 hectares or thereabouts Abutting and Bounding on a public road that leads to

Enterprise Coast Road in one direction and to Atlantic Shores in the other direction on lands now or late of Nazamudin on lands now or late of Blair E. Haynes on lands now or late of Ivan Bradshaw on lands now or late of Winfield Bascombe on lands now or late of Fanny Pillersdorf on lands now or late of Randall Grosvenor on lands now or late of Samuel L. Taylor *et ux* on lands now or late of Marina Manvela Atkinson on lands now or late of Ronald J. Turk *et ux* on lot number 121 and on Bow Bells Limited or however else the same may abut and bound as shown and delineated on a plan certified on the 26th day of September, 1997 by R. Blackett, Land Surveyor, and recorded in the Lands and Surveys Department on the 30th day of October, 1997 as Plan No. 952/97;

(vii) *North Point Lighthouse*

all that land the property of the Crown situate at Harrison's in the parish of Saint Lucy containing by admeasurement 5284.0 square metres or thereabouts Abutting and Bounding on two sides on lands now or late of Fairfield Investments Ltd., and on two sides on lands of the Crown and on an access road which leads to a public road or however else the same may abut or bound as shown and delineated on a plan certified on the 4th day of August, 1994 by G. D. Walcott, Land Surveyor and recorded in the Lands and Surveys Department on the 17th day of August, 1994 as Plan No. 790/94;

(viii) *Ragged Point Lighthouse*

all that land the property of the Crown situate at East Point in the parish of Saint Philip containing by admeasurement 4080 square metres or thereabouts Abutting and Bounding on three sides on lands of Lolita Manning deceased on an access road that leads to Marley Vale and on lands now or late of Augustus Dickon Adair IV or however else the same may abut and bound as shown and delineated on a plan certified on the 16th day of October, 1997 by R. Blackett, Land Surveyor and recorded in the Lands and Surveys Department on the 12th day of November, 1997 as Plan No. 983/97.

(d) *other harbours and anchorages:*

- (i) the Cement Plant and Arawak Jetty port zone, an area bounded on the seaward side by an imaginary line formed by a radius of 2 kilometres from on the seaward side of the jetty and on the east by the shoreline at mean high water ordinary spring tides;
- (ii) the Speightstown Bay port zone, an area bounded on the seaward side by an imaginary line formed by a radius of 2 kilometres from St. Peter's Church, on the east by the shoreline at mean high water ordinary spring tides;
- (iii) the petroleum products berth and moorings at Spring Garden;
- (iv) the oil and molasses berth and its moorings off Needham's Point in Carlisle Bay;
- (v) the petroleum products berth and moorings at Oistins Bay port zone, including the petroleum products berth and moorings, an area bounded on the seaward side by an imaginary line formed by a radius of 3 kilometres from the South Point lighthouse and on the north and east by the shoreline at mean high water ordinary spring tides;
- (vi) any other areas that may be designated as harbours or ports of entry.

SECOND SCHEDULE

(Section 13(2))

No. Enactments

L.N. 14 of 1961	<i>The Barbados Harbours Regulations, 1961</i>
S.I. 1987 No. 168	<i>The Barbados Port Authority (Tariff Book of Dues and Charges) Regulations, 1987</i>
S.I. 1990 No. 43	<i>The Barbados Port Authority (Watersports) Order, 1990</i>
S.I. 1990 No. 44	<i>The Barbados Port Authority (Watersports) Regulations, 1990</i>
S.I. 2002 No. 47	<i>The Barbados Harbours (Amendment) Regulations, 2002</i>
S.I. 2002 No. 48	<i>The Barbados Port Authority (Port St. Charles) Order, 2002</i>