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HEALTH SERVICES (AMENDMENT) ACT, 2024

OBJECTS AND REASONS

This Bill would amend the *Health Services Act*, Cap. 44 to

(a) make provision for administrative penalties; and

(b) revise the provisions concerning the removal and sanitary disposal of offensive matter.

HEALTH SERVICES (AMENDMENT) ACT, 2024

Arrangement of Sections

1. Short title

2. Amendment of section 2 of Cap. 44

3. Repeal and replacement of section 3 of Cap. 44

4. Amendment of section 10 of Cap. 44

5. Amendment of section 11A of Cap. 44

6. Repeal and replacement of section 11B of Cap. 44

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SCHEDULE

Consequential Amendments

BARBADOS

A Bill entitled

An Act to amend the *Health Services Act*, Cap. 44 to make provision for the imposition of administrative penalties and the removal and sanitary disposal of offensive matter.

ENACTED by the Parliament of Barbados as follows:

Short title

1. This Act may be cited as the *Health Services (Amendment) Act, 2024*.

Amendment of section 2 of Cap. 44

2. Section 2 of the Health Services Act, Cap. 44, in this Act, referred to as the principal Act, is amended by

(a) ***deleting the definition "district" and substituting the following:***

" "district" means a health district established by the Minister within an area under section 3;";

(b) ***deleting the full stop at the end of the definition "National Assistance Board" and substituting a semi-colon; and***

(c) ***inserting the following definitions in the appropriate alphabetical order:***

" "Chief Medical Officer" means the person assigned to the post of Chief Medical Officer, Ministry of Health and Wellness, as established in the *Public Service (General) Order, 2020* (S.I. 2020 No. 41);

"filth" includes any decomposing animal matter and vegetable matter;

"Medical Health Officer" means the person assigned to the post of Medical Officer of Health, Ministry of Health and Wellness, as established in the *Public Service (General) Order, 2020* (S.I. 2020 No. 41);

"Minister" means the Minister with responsibility for health;

"night soil" means human excreta;

"offensive matter" includes filth, animal excreta and night soil;

"Relief Board" means the Land Taxation Relief Board established by section 18 of the *Land Tax Act*, Cap. 78A . ".

Repeal and replacement of section 3 of Cap. 44

3. ***The principal Act is amended by deleting section 3 and substituting the following:***

"Minister to be responsible for health of inhabitants of Barbados and may divide Barbados into areas and districts.

3.(1) The Minister shall generally be responsible for the promotion and preservation of the health of the inhabitants of Barbados.

(2) The Minister may by order

(a) divide Barbados into such areas as he may determine;

(b) establish such health districts within any area; and

(c) assign duties to such officers in relation thereto as he thinks necessary,

to facilitate the preservation of the health of the inhabitants of Barbados.

(3) The order made under subsection (2) shall be subject to negative resolution. ".

Amendment of section 10 of Cap. 44

4. ***Section 10(1) of the principal Act is amended by inserting immediately after paragraph (y) the following paragraph:***

"*(y.1)*annexing to the contravention of or failure to comply with regulations made under section 10(1)*(f)* of the *Health Services Act*, Cap. 44 an administrative penalty. ".

Amendment of section 11A of Cap. 44

5. ***Section 11A of the principal Act is amended by deleting subsection (3) and substituting the following:***

"(3) Where any

(a) costs incurred in the execution of work on property; or

(b) administrative penalty imposed, for the contravention of or failure to comply with regulations made under section 10(1) *(f)* of the *Health Services Act*, Cap. 44,

is due to the act or omission of the owner of that property it shall be a charge on that property and be added to the land tax imposed under section 5(2) of the *Land Tax Act*, Cap. 78A.

(4) Where any

(a) costs incurred in the execution of work on property; or

(b) administrative penalty imposed, for contravention of or failure to comply with regulations made under section 10(1) *(f)* of the *Health Services Act*, Cap. 44,

is added to land tax under subsection (3) it shall be subject to the penalty and interest payable under section 28(3) of the *Land Tax Act*, Cap. 78A.

(5) Where any

(a) costs incurred in the execution of work on property; or

(b) administrative penalty imposed, for contravention of or failure to comply with regulations made under section 10(1) *(f)* of the *Health Services Act*, Cap. 44,

is due to the act or omission of an occupier of that property it shall be a debt to the State recoverable in the Magistrate's Court for District A.

(6) Where there is a dispute between the owner of property and an occupier of property in relation to the act or omission which results in any

(a) costs incurred in the execution of work on property; or

(b) administrative penalty imposed, for contravention of or failure to comply with regulations made under section 10(1) *(f)* of the *Health Services Act*, Cap. 44,

the Relief Board shall hear and determine the dispute.".

Repeal and replacement of section 11B of Cap. 44

6. ***The principal Act is amended by deleting section 11B and substituting the following:***

"Appeal

11B.(1) The owner or occupier of any property upon which work is executed by the Minister may within 42 days after receipt of the demand for repayment of costs incurred in the execution of work under section 11A, appeal to a Judge in chambers against the costs of any such work.

(2) The owner or occupier of any property upon which an administrative penalty is imposed, for contravention of or failure to comply with regulations made under section 10(1)*(f)* of the *Health*

Services Act, Cap. 44 may within 14 days of receipt of an administrative penalty notice appeal to the Relief Board. ”.

Amendment to certain enactments

7. ***The enactments set out in the first column of the Schedule are amended in the manner set out opposite thereto in the second column.***

SCHEDULE

(Section 7)

CONSEQUENTIAL AMENDMENTS

Column 1	Column 2
Enactments	*Amendments*
Land Tax Act, Cap. 78A	Insert after section 27, the following section: "**Appeals in respect of *Health Services (Nuisances) Regulations*** **27A**. The Relief Board shall hear and determine appeals made pursuant to regulations made under section 10(1)*(f)* of the *Health Services Act*, Cap. 44 in accordance with section 10(1)(*y*.1) of the *Health Services Act*, Cap. 44.".

Read three times and passed the House of Assembly this day of , 2024.

Speaker

Read three times and passed the Senate this day of , 2024.

President

CRIMINAL JUSTICE (PLEA NEGOTIATIONS AND AGREEMENTS) ACT, 2024

OBJECTS AND REASONS

This Bill would provide for plea negotiations and plea agreements between the accused and prosecutor in criminal cases and for related matters.

CRIMINAL JUSTICE (PLEA NEGOTIATIONS AND AGREEMENTS) ACT, 2024

Arrangement of Sections

1. Short title

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25. Accepted plea agreement to form part of record

26. Sentencing where plea agreement accepted

27. Post sentence negotiations and agreements

28. Review of sentence of convicted person

29. Power to reduce penalties for assistance rendered to the State

30. Withdrawal from agreement

31. Application by Prosecutor to set aside plea agreement

32. Admissibility of plea agreement, etc.

33. Sealing of records plea negotiations

34. Obligation for secrecy

35. Amendment of Schedule

SCHEDULE

BARBADOS

A Bill entitled

An Act to provide for plea negotiations and plea agreements in criminal cases and for related matters.

ENACTED by the Parliament of Barbados as follows:

Short title

1. This Act may be cited as the *Criminal Justice (Plea Negotiations and Agreements) Act, 2024*.

Interpretation

2. In this Act,

"Court" includes the Magistrate's Court;

"Director of Public Prosecutions" includes any attorney-at-law authorised in writing by the Director of Public Prosecutions to conduct plea negotiations and conclude plea agreements;

"improper inducement" includes

(a) the laying of a charge, or causing a charge to be laid without reasonable cause;

(b) the coercion of an accused person or suspect to enter into plea discussion or conclude a plea agreement, including a threat

(i) to lay a charge or cause a charge to be laid of the type described in paragraph *(a)*; or

(ii) that any plea of not guilty entered into by the accused person will result, upon the accused person's conviction, in the prosecutor asking for a sentence more severe than the sentence that is usually imposed upon an accused person who is convicted of a similar offence;

(c) the misrepresentation of a material fact either before a plea discussion is entered into or during the course of the discussion;

(d) the offer or promise, the fulfilment of which is not the function of the Director of Public Prosecutions; or

(e) an attempt to persuade the accused person or suspect to plead guilty notwithstanding the accused person's or suspect's denial;

"plea agreement" means an agreement made pursuant to section 9;

"plea negotiations" means negotiations conducted pursuant to section 5.

Application

3. This Act applies to plea negotiations for indictable offences only.

Declaration of certain existing rights

4. Nothing in this Act affects the right of an accused to plead guilty to a charge without entering plea negotiations or a plea agreement.

Plea negotiations

5. A plea negotiation may be held and a plea agreement concluded at any time before conviction, including, before charges are instituted.

No obligation on State to enter into plea negotiations

6.(1) There shall be no obligation on the State to enter into plea negotiations with any accused person.

(2) The Director of Public Prosecutions shall, at his sole discretion, determine whether he would engage into plea negotiations with an accused person or his attorney-at-law.

Powers of Director of Public Prosecutions

7. The powers of the Director of Public Prosecutions are to

*(*a*)* withdraw or discontinue the original charge against the accused; or

*(*b*)* accept the plea of the accused to a lesser offence, whether originally included or not, than that charged.

Legal representation

8.(1) Where an accused person is represented by an attorney-at-law, the Director of Public Prosecutions shall not initiate or engage in plea negotiations with an accused person in the absence of his attorney-at-law**.**

(2) The Director of Public Prosecutions shall not initiate or engage in plea negotiations with an accused person who is not represented by an attorney-at-law unless the Director of Public Prosecutions informs him of

(a) his right to be represented by an attorney-at-law during plea discussions;

(b) his right to protection against self-incrimination;

(c) his right to be presumed innocent; and

(d) the right of the accused to seek a sentence indication from the Court of the maximum sentence that the Court may impose if the accused pleads guilty to an offence.

(3) Where an accused person, after having been advised by the prosecutor of his rights under subsection (1), states that he desires to enter into negotiations and represent himself, Form 1 of the *Schedule* shall be signed by both parties in the presence of a Justice of the Peace and be filed with the Registrar.

(4) A plea agreement which has been concluded between the prosecutor and the attorney-at-law for the accused person shall be in the form set out as Form 2 of the *Schedule* and where such agreement is concluded, the agreement shall be filed with the Registrar.

(5) A plea agreement which has been concluded between the prosecutor and an unrepresented accused person shall be in the form set out as Form 6 of the *Schedule* and where such agreement is concluded it shall be signed by both parties in the presence of a Justice of the Peace and filed with the Registrar.

Plea agreements

9. Every plea agreement that is brought before a court shall be

(a) in writing; and

(b) signed by the Director of Public Prosecutions, the accused and his attorney-at-law as the case may be.

Form and filing of plea agreement with a represented person

10.(1) A plea agreement concluded between a prosecutor and the attorney-at-law for an accused person shall be in the form set out as Form 2 of the *Schedule*.

(2) Where an accused person is before a Magistrate, the plea agreement shall be filed with the clerk, along with the following documents:

(a) a statement by the accused person in the form set out as Form 3 of the *Schedule*;

(b) a statement by the attorney-at-law for the accused person in the form set out as Form 4 of the *Schedule*;

(c) if a court interpreter was used during plea negotiation, a certificate in the form set out as Form 5 of the *Schedule,* by the court interpreter as to the accuracy of the interpretation during the plea negotiation and the accuracy of the translation of the plea agreement;

(d) victim impact statements, if any; and

(e) the complaint or draft indictment in the case of committal proceedings.

(3) Where an accused person is before the High Court, the plea agreement shall be filed with the Registrar of the Court, along with the documents referred to in subsection (2)*(a)* to *(d)* and the indictment.

Form and filing of plea agreement with unrepresented person

11.(1) A plea agreement concluded between a prosecutor and

(a) an unrepresented accused person; or

(b) an unrepresented suspect,

shall be in the form set out as Form 6 of the *Schedule* and shall be signed by both parties in the presence of a Justice of the Peace.

(2) Where an unrepresented accused person is before a magistrate, the plea agreement shall be filed with the clerk, along with the following documents:

(a) a statement in the form set out as Form 3 of the *Schedule*, where applicable;

(b) if a court interpreter was used during plea negotiation, a certificate in the form set out as Form 5 of the *Schedule*, by the court interpreter as to the accuracy of the interpretation during the plea negotiation and the accuracy of the translation of the plea agreement;

(c) victim impact statements, if any; and

(d) the complaint or draft indictment in the case of committal proceedings.

(3) Where an unrepresented accused person is before the High Court, the plea agreement shall be filed with the Registrar of the Court, along with the documents referred to in subsection (2)*(a)* to *(c)* and the indictment.

Listing matters for plea agreement hearing

12.(1) Within 28 days of the date that a plea agreement is filed, the matter shall be listed for a plea agreement hearing.

(2) If a matter is not listed before the Court for a plea agreement hearing within the period required under subsection (1)

(a) the prosecutor;

(b) the attorney-at-law for the accused person; or

(c) the accused person,

may make an application either orally or in writing in the form set out as Form 7 in the *Schedule* to have the matter listed for a plea agreement hearing.

Plea agreements at committal proceedings

13.(1) If a plea agreement is filed at any time before an accused person is committed to stand trial in the High Court, the Magistrate shall

(a) cease conduct of the committal proceedings, if proceedings have commenced;

(b) transfer the matter to the High Court for a plea agreement hearing; and

(c) within 14 days of transferring a matter under paragraph *(b)*, forward the following documents to the High Court:

(i) the documents filed under section 10(2) or 11(2);

(ii) witness statements, if any;

(iii) documentary exhibits; and

(iv) any other documents filed during the conduct of the committal proceedings.

(2) Where a Magistrate transfers a matter under subsection (1)*(b)*, the Magistrate may grant bail to the accused person under the *Bail Act*, Cap. 122A.

(3) Within 14 days of receiving the documents forwarded by a Magistrate under subsection (1)*(c)*, the matter shall be listed for a plea agreement hearing before the Court.

Director of Public Prosecutions to prefer indictments

14. Notwithstanding any other law to the contrary, if a plea agreement is filed before the commencement or conclusion of committal proceedings, the Director of Public Prosecutions shall prefer an indictment and file the indictment

with the Registrar within 14 days of the date that the matter is transferred under section 11(1)*(b)*.

Victim impact statement

15.(1) Subject to section 16

(a) before a plea bargain is concluded the Director of Public Prosecutions shall permit the complainant to make representations to him in writing and may take such representations into consideration in concluding the plea agreement;

(b) where a plea agreement is concluded, the Director of Public Prosecutions shall, unless otherwise required by the compelling reasons in the interest of justice, as soon as is reasonably practicable, communicate with the complainant in respect of

(i) the substance of and of reasons for the plea agreement; and

(ii) the entitlement of the complainant to be present when the Court considers the plea agreement.

(2) Where the complainant had died or is incapacitated, the Director of Public Prosecutions shall communicate with a member of the victim's immediate family in respect of the matters set out subsection (1).

(3) Where the complainant is a child or a person labouring under a disability of the mind, he may be represented by

(a) a parent or guardian; or

(b) an officer of the Child Care Board, if a parent or guardian is not available.

Restriction on the content of a victim impact statement

16. A victim impact statement shall not include

*(*a*)* a restatement of the facts of the offence;

(b) criticisms about the accused person; or

(c) the victim's opinion about the type or severity of sentence to be imposed**.**

Duties of the prosecutor in respect of victim impact statements

17.(1) The prosecutor shall ensure that a victim impact statement complies with the requirements of section 16.

(2) If a victim impact statement contains material that is not permitted under section 16, the prosecutor shall redact that material from the victim impact statement before it is filed with the Court.

(3) A victim impact statement shall be filed with the Court at the time of the filing of the plea agreement.

(4) After receiving the victim impact statement, the prosecutor shall serve the victim impact statement on the accused person or his attorney-at-law as soon as it is reasonably practicable to do so and in any event, before it is filed with the Court.

Director of Public Prosecutions to notify Court of existence of plea agreement

18.(1) The Director of Public Prosecutions shall, in open court, but in the absence of the jury

(a) before the accused is required to plead; or

(b) at any time after the arraignment,

inform the Court of the existence of the plea agreement.

(2) The Court may, where circumstances require, question the accused in order to satisfy itself that the accused is aware of the existence of the agreement.

Procedure at plea agreement hearing

19.(1) A plea agreement hearing shall be held in open court unless, having taken all of the circumstances into consideration, the Court considers that the hearing should be held in camera.

(2) At a plea agreement hearing, the prosecutor shall disclose the following information to the Court in the presence of the accused person and his attorney-at-law or in the presence of the accused person who has elected to represent himself under section 11

(a) the substance of, and reasons for the plea agreement;

(b) whether a previous plea agreement has been disclosed to a Court in connection with the same matter and the substance of that plea agreement, if any;

(c) if no victim impact statement is filed, whether the victim was informed of his right to make a victim impact statement and of the matters mentioned in sections 15 and 16; or

(d) if a victim impact statement is filed, whether the victim would like to read his victim impact statement in open court or have the statement read by the prosecutor or an officer of the Court.

(3) Before accepting or rejecting a plea agreement, the Court shall make enquiries of the accused person in order to determine whether the accused person

(a) understands the nature and substance of the plea agreement, including the recommended sentence;

(b) received legal advice before signing the plea agreement;

(c) understands the nature of the offence with which he is charged and to which he is pleading;

(d) understands that this trial shall be conducted by a Judge and jury, where applicable;

(e) is aware of his rights, including the right to

(i) not incriminate himself;

(ii) plead not guilty;

(iii) be presumed innocent;

(iv) have the State prove its case beyond a reasonable doubt;

(v) be represented by an attorney-at-law at trial;

(vi) cross-examine witnesses; and

(vii) testify in his own defence or to remain silent;

(f) understands that the Court is not obligated to accept the plea agreement; and

(g) was offered an improper inducement to enter into plea negotiation or conclude a plea agreement.

(4) If a victim impact statement is filed with the Court, the Court shall consider the views expressed in the victim impact statement before accepting or rejecting a plea agreement and the Court may accept or reject all or any part of a victim impact statement.

(5) An accused person may, with leave of the Court, cross-examine the victim on the contents of his victim impact statement, to the extent that the Court allows.

(6) Where a victim impact statement contains information that

(a) is not permitted under section 16; or

(b) in the discretion of the Court should not be included in a victim impact statement,

the Court may rule the information is inadmissible and direct that it be redacted from the victim impact statement.

Plea Agreement not binding on the Court

20.(1) The Court may reject a plea agreement entered into between the prosecutor and the accused person if the Court considers that it is in the interest of justice to do so.

(2) Where the Court makes a determination that there was an improper inducement offered to the suspect or accused person, the Court shall reject the plea agreement.

(3) Where a Judge rejects a plea agreement under subsection (1), the Judge shall

(a) in open court, inform the accused person of his right to be tried again before another Judge;

(b) within 7 days of the rejection of the plea agreement, provide written notification to the Director of Public Prosecutions and the accused person of the reasons for rejecting the plea agreement; and

(c) list the matter for trial.

(4) The rejection of a plea agreement by a Court shall not operate as a bar to the conduct of any subsequent plea negotiation and plea agreement.

Cases to be heard by a different Judge where agreement is refused or withdrawn

21. Where the Court refuses to accept an agreement under section 20, or the accused withdraws from the agreement under section 30, and the case proceeds to trial, the matter shall be heard by any judge other than the judge who refused to accept the agreement or before whom an agreement is withdrawn.

Accused right to appeal rejection of plea agreement

22.(1) Subject to subsection (2), an accused person may appeal to the Court of Appeal against the Court’s rejection of a plea agreement.

(2) The accused person shall give notice of appeal in the form set out as Form 8 in the *Schedule* within 28 days of receiving written notification under section 20(3)*(b)* of the Court's reasons for rejecting the plea agreement.

Director of Public Prosecutions right to appeal rejection of plea agreement

23.(1) The Director of Public Prosecutions may appeal to the Court of Appeal against the Court's rejection of a plea agreement.

(2) The Director of Public Prosecutions shall give notice of appeal in the form set out as Form 9 in the *Schedule* within 28 days of receiving written notification under section 20(3)*(b)* of the Court's reasons for rejecting the plea agreement.

Effect of accepting plea agreement

24. Where a plea agreement is accepted by a court, the accused shall be required to plead to the charge.

Accepted plea agreement to form part of record

25. Subject to section 26,

(a) any written representation made by a complainant; and

(b) the fact that a plea agreement has been accepted and the contents thereof,

shall be entered on the record.

Sentencing where plea agreement accepted

26.(1) Where a court accepts a plea agreement, the court shall impose sentence in accordance with that plea agreement.

(2) Where the offence is punishable by life imprisonment, then notwithstanding any other provision to the contrary, the maximum sentence which may be imposed in relation to any such offence shall be 40 years.

Post sentence negotiations and agreements

27. A convicted person who is serving a sentence and wishes to assist the prosecutor may enter into post sentence negotiations and agreements with the view to a reduction in sentence or other benefit.

Review of sentence of convicted person

28.(1) A prosecutor may refer a sentence for review to the Court that entered the original sentence, if possible, if it is in the interest of justice to do so.

(2) The Court may review a sentence under subsection (1) where

(a) the convicted person received a reduced sentence on an undertaking to assist under the Act but knowingly failed to give any assistance in accordance with the agreement, or misled the prosecutor;

(b) the convicted person received a reduced sentence under an agreement, and has undertaken in a separate agreement to give further assistance; or

(c) the convicted person did not receive a reduced sentence, but subsequently gave, or undertook in an agreement to give assistance in connection with the investigation or prosecution of an offence.

(3) In reviewing a sentence under subsection (1), the Court that entered the original sentence shall have regard to the extent and nature of the assistance given or offered.

Power to reduce penalties for assistance rendered to the State

29.(1) A Judge may impose a lesser sentence than the Judge would otherwise impose on an accused person having regard to the degree to which the accused person has assisted, or undertaken to assist, the State in the prevention, detection or investigation of, or in State proceedings relating to, the offence concerned or any other offence, and having regard to the matters set out in subsection (2).

(2) In deciding whether to impose a lesser sentence for an offence and the nature and extent of the sentence he imposes, the Judge shall consider the following matters

(a) the significance and usefulness of the accused person's assistance to the State concerned, taking into consideration any evaluation by the State of the assistance rendered or undertaken to be rendered;

(b) the truthfulness, completeness and reliability of any information or evidence provided by the accused person;

(c) the nature and extent of the accused person's assistance or promised assistance;

(d) the timeliness of the assistance or undertaking to assist;

(e) any benefits that the accused person has gained or may gain by reason of the assistance or undertaking to assist;

(f) whether the accused person will suffer harsher custodial conditions as a consequence of the assistance or undertaking to assist;

(g) any injury suffered by the accused person or the accused person's family, or any danger or risk of injury to the accused person or the accused person's family, resulting from the assistance or undertaking to assist;

(h) whether the assistance or promised assistance concerns the offence for which the accused person is being sentenced or an unrelated offence;

(i) whether the accused person has agreed to compensate the victim; and

(j) whether the accused person offers to plead guilty soon after he has been charged or at the earliest possible time after the investigator's file is completed**.**

(3) A Judge that imposes a lesser sentence under this section on an accused person because the accused person has assisted, or undertaken to assist, shall

(a) indicate to the accused person and may make a record of the fact, that the lesser sentence is being imposed because the accused person has assisted, or undertaken to assist, the State, in the prevention, detection or investigation of, or in proceedings relating to, the offence concerned or any other offence; and

(b) state the sentence that it would otherwise have imposed.

(4) Subsection (3) does not limit any requirement that a Judge has, apart from that subsection, to record the reasons for his decisions.

(5) The failure of a Judge to comply with the requirements of subsection (3) with respect to any sentence does not invalidate the sentence.

Withdrawal from agreement

30.(1) An accused who enters into a plea agreement is entitled to withdraw from that agreement where

(a) it was entered into as a result of an improper inducement;

(b) the Court determines that the Director of Public Prosecutions has breached the terms of the plea agreement; or

(c) it was entered into as a result of a misrepresentation or misapprehension as to the substance or consequences of the plea agreement.

(2) The Director of Public Prosecutions is entitled to withdraw from a plea agreement before sentence where the Director of Public Prosecutions is satisfied that he was

(a) in the course of plea negotiations, misled by the accused or by his attorney-at-law in some material respect; or

(b) induced to conclude the plea agreement by conduct amounting to an obstruction of justice.

Application by Prosecutor to set aside plea agreement

31.(1) Upon application, the Director of Public Prosecutions, may appeal to the Court of Appeal, with the leave of the court to set aside an accused person's conviction or sentence pursuant to a plea agreement where

(a) the prosecutor, in the course of the plea negotiations was wilfully misled by the accused person or his attorney-at-law in some material respect;

(b) the prosecutor was induced to conclude the plea agreement by threats, force, bribery or any other means of intimidation or influence; or

(c) there are any other grounds upon which the plea agreement may be set aside in the interest of justice.

(2) Where in accordance with subsection (1), the Director of Prosecutions is granted leave to the Court of Appeal, the Director of Public Prosecutions shall give Notice of Appeal in the form set out as Form 10 in the *Schedule*, within 28 days of the sentence being passed.

Admissibility of plea agreement, etc.

32. Evidence of the following matters is not, in any civil or criminal proceedings, admissible against the accused who entered the agreement or is a party to the plea negotiation:

(a) a plea of guilty which was later withdrawn or any statement made in the course of any proceedings under this Act regarding the plea of guilty; or

(b) any statement made in the course of plea negotiations with the Director of Public Prosecutions which does not result in a guilty plea or which results in a plea of guilty that is later withdrawn or rejected.

Sealing of records plea negotiations

33. The Court may upon application by either party or in its discretion, as the case may be, order that the records of plea negotiations or a plea agreement be sealed, where the court is satisfied that the sealing of such records is in the interests of the effective administration of justice.

Obligation for secrecy

34.(1) A person having an official duty or being employed in the administration of this Act shall regard and deal with as secret and confidential, all information relating to a plea agreement

(a) before it is presented to the Court; or

(b) after the records thereof are sealed by the Court.

(2) A person referred to in subsection (1) who has in his possession or under his control any document, information or record, and who communicates or attempts to communicate anything contained in such document or record or any such information to another person otherwise than in accordance with this Act or pursuant to a Court order, is guilty of an offence and liable on summary conviction to a fine of $1 000 000 or to imprisonment for a term of **7** years or to both.

(3) Any person to whom information is communicated in accordance with this Act, shall regard and deal with such information as secret and confidential.

(4) A person referred to in subsection (3) who at any time communicates or attempts to communicate any information referred to in that subsection to any person otherwise than for the purposes of this Act, is guilty of an offence and liable on summary conviction to a fine of $1 000 000 or to imprisonment for a term of **7** years or to both.

Amendment of Schedule

35.(1) The Minister may by order amend the *Schedule*.

(2) An order made under subsection (1) is subject to negative resolution.

SCHEDULE

(Section 8(3))

Criminal Justice (Plea Negotiations and Agreements) Act, 2024
(Act 2024-)

FORM 1

(This Form applies if the accused does not wish to be represented by an attorney-at-law)

DECLARATION BY ACCUSED OF DESIRE TO
REPRESENT SELF IN PLEA NEGOTIATIONS

The State

v.

The Accused

WHEREAS the accused was on the ____ day of _____, 20___, charged with the following offence(s):

(a)

(b)

(c)

(d)

(e)

AND WHEREAS as the prosecutor has informed me of my right to representation by an attorney-at-law during plea negotiations and I have informed the prosecutor of my desire to represent myself.

Schedule - (Cont'd)

FORM 1 - *(Concl'd)*

NOW THEREFORE WHEREAS I have voluntarily and of my free will agreed to enter into plea negotiations with the prosecutor and

(a) I have (elected/not elected) to have a third party of my choice present during plea negotiations; and

(b) I have not been induced, threatened or forced in any way to enter into plea negotiations.

Dated this _____ day of _____, 20 ___.

_____	_____
(Signature)	*(Signature)*
_____	_____
(Prosecutor)	*(Accused)*

Schedule - (Cont'd)

(Sections 8(4) and 10(1))

Criminal Justice (Plea Negotiations and Agreements) Act, 2024
(Act 2024-)

FORM 2

(This Form applies if the accused is represented by an attorney-at-law)

PLEA AGREEMENT

No.

The State

v.

The Accused

WHEREAS the accused was on the ____ day of _____, 20___, charged with the following offence(s):

(a)

(b)

(c)

(d)

AND WHEREAS a plea agreement was on the ____ day of _____,20___, concluded between the prosecutor and the attorney-at-law for the accused:

Schedule - (Cont'd)

FORM 2 - *(Concl'd)*

AND WHEREAS it was agreed that the accused shall plead guilty to

(a)

(b)

(c)

(d)

(e)

and in consideration that the prosecutor shall take the course of action mentioned hereunder:

NOW THEREFORE it was agreed that as a result of the accused pleading guilty to the said offence(s), the prosecutor shall take the following course of action:

(a)

(b)

(c)

(d)

(e)

(f)

(g)

(h)

(i)

Dated this_____ day of_____, 20 ___.

_____
(Signature)

_____
(Prosecutor)

_____
(Signature)

_____
(Accused)

_____
(Signature)

_____
(Attorney-at-law for the Accused)

Schedule - (Cont'd)

(Sections 10(2)(a) and 11(2)(a))

Criminal Justice (Plea Negotiations and Agreements) Act, 2024
(Act 2024-)

FORM 3

STATEMENT BY THE ACCUSED

1. I have read this agreement and carefully discussed each paragraph with my attorney-at-law. I understand the terms of this agreement and agree to it without reservation.

2. I voluntarily and of my free will agree to those terms.

3. I am pleading guilty to the charge(s). My attorney-at-law has advised me of my rights, of possible defences, of the penalties and of the consequences of entering such an agreement.

4. No promises, agreements, understanding or inducements have been made to me other than those contained in this agreement.

5. No one has threatened or forced me in any way to enter into this agreement.

6. I have had sufficient time to confer with my attorney-at-law concerning the plea agreement.

7. I am satisfied with the representation of my attorney-at-law in this matter.

_____ _____
(Name of the Accused) *(Date)*

_____
(Signature)

Schedule - (Cont'd)

(Section 10(2)(b))

Criminal Justice (Plea Negotiations and Agreements) Act, 2024
(Act 2024-)

FORM 4

STATEMENT BY THE ATTORNEY-AT-LAW REPRESENTING THE ACCUSED

I am the Attorney-at-law for_____
(Name of the Accused)

I have read this agreement and carefully discussed each paragraph of this agreement with my client. Further, I have fully advised my client of his rights, of possible defences (if applicable), of the penalties and consequences of entering into this agreement. To the best of my knowledge and belief, my client's decision to enter into this agreement is an informed and voluntary one.

_____
(Name of the Attorney-at-law representing the Accused)

_____ _____
(Signature) *(Date)*

Schedule - (Cont'd)

(Sections 10(2)(c) and 11(2)(b))

Criminal Justice (Plea Negotiations and Agreements) Act, 2024
(Act 2024-)

FORM 5

INTERPRETER'S CERTIFICATE

I, _____, declare that I am
(Insert name of person translating)

(Check one)

☐ a Licensed Court Interpreter

☐ appointed by a Court to act as Interpreter in respect of the plea negotiations and plea agreement between The State *v.* The Accused Person.

I am licensed/appointed by the Court to interpret and translate from the _____ language to the _____ language.

I further declare that I have accurately translated the plea discussions between The State and The Accused Person and the attached Plea Agreement from the _____ language to the _____ language.

I declare to the best of my abilities and belief, that this is a true and accurate translation of the _____ language text of _____ the Plea Agreement between The State and The Accused.

_____ _____
(Signature of Interpreter) *(Date)*

Schedule - (Cont'd)

(Section 11(1))

Criminal Justice (Plea Negotiations and Agreements) Act, 2024
(Act 2024-)

FORM 6

(This Form applies if the accused is not represented by an attorney-at-law)

PLEA AGREEMENT

No.

The State

v.

The Accused

WHEREAS the accused was on the ____ day of _____, 20____, charged with the following offence(s):

(a)

(b)

(c)

(d)

AND WHEREAS the prosecutor informed the accused that he should be represented by an attorney-at-law:

AND WHEREAS the accused informed the prosecutor that he did not wish to be represented by an attorney-at-law and declared, *inter alia,* before a Justice of the Peace his desire to represent himself and (to elect/not elect) to have a third party of his choice present during plea negotiations:

AND WHEREAS the accused also declared, before a Justice of the Peace, *inter alia*, that he was informed of his right to be represented by an attorney-at-law and that he desired to represent himself and (to elect/not elect) to have a third party of his choice present during plea negotiations:

Schedule - (Cont'd)

FORM 6 - *(Cont'd)*

AND WHEREAS the accused agreed to have the plea negotiations recorded:

AND WHEREAS a plea agreement was on the ____ day of _____,20___, concluded between the prosecutor and the attorney-at-law for the accused:

AND WHEREAS it was agreed that the accused shall plead guilty to

(a)

(b)

(c)

(d)

(e)

(f)

in consideration that the prosecutor would take the course mentioned hereunder:

AND WHEREAS it was agreed that as a result of the accused pleading guilty to the said offence(s), the prosecutor shall take the following course of action:

(a)

(b)

(c)

(d)

(e)

(f)

(g)

(h)

(i)

Dated this _____ day of _____ , 20____.

_____	_____
(Signature)	*(Signature)*
_____	_____
(Name of Prosecutor)	*(Name of Accused)*

Schedule - (Cont'd)

FORM 6 - *(Concl'd)*

CERTIFICATION OF JUSTICE OF THE PEACE

I, _____, Justice of the Peace, hereby certify that the above plea agreement was signed by the Prosecutor _____, *(Name of Prosecutor)* and the accused _____ *(Name of Accused)* in my presence on the ____ day of _____, 20____.

_____
(Signature)

_____
(Justice of the Peace)

Schedule - (Cont'd)

(Section 12)

Criminal Justice (Plea Negotiations and Agreements) Act, 2024
(Act 2024-)

FORM 7

APPLICATION FOR LISTING PLEA AGREEMENT HEARING
A.B - The State/*Complainant*

v.

C.D. - The Accused Person/*Defendant/Suspect*

COURT DETAILS:

Court

Division

Registry

Case Number

TITLE OF PROCEEDINGS:

A.B. - The State/*Complainant v.* C.D. - The Accused Person/*Defendant/Suspect*

FILING DETAILS:

Person seeking hearing:

Contact Name and Address:

PERSON AFFECTED BY HEARING SOUGHT:
ORDER SOUGHT:

Case be listed for a plea agreement hearing

(Signature of Prosecutor/Attorney-at-law/Accused) *(Date)*

Schedule - (Cont'd)

(Section 22(2))

Criminal Justice (Plea Negotiations and Agreements) Act, 2024
(Act 2024-)

FORM 8

FORM OF NOTICE OF APPEAL IF APPELLANT
IS THE ACCUSED

To:

Registrar of the Supreme Court

Take notice that I, _____ ,aggrieved by
(Accused)
a rejection of plea agreement of _____

_____

_____ dated _____

against me the said _____ for having as therein alleged on the

_____ day of _____ (here state briefly rejection of plea agreement) do appeal

against such rejection of plea agreement on the ground(s) that _____

Dated this _____ day of _____, 20____.

_____
(Accused or his Attorney-at-law)

Schedule - (Cont'd)

(Section 23(2))

Criminal Justice (Plea Negotiations and Agreements) Act, 2024
(Act 2024-)

FORM 9

FORM OF NOTICE OF APPEAL IF APPELLANT
IS THE PROSECUTOR

To: Accused

Registrar of the Supreme Court

Take notice that I, _____, aggrieved by
(Prosecutor)
a rejection of the plea agreement of _____

_____

_____ dated _____

_____ for having as therein alleged on the _____ d a y

of _____ (here state briefly the rejection of plea agreement) do appeal against

such order of rejection of plea agreement on the ground(s) that _____

Dated this _____ day of _____, 20 ___.

_____
(Prosecutor)

Schedule - (Concl'd)

(Section 31(2))

Criminal Justice (Plea Negotiations and Agreements) Act, 2024
(Act 2024-)

FORM 10

FORM OF NOTICE OF APPEAL OF THE
DIRECTOR OF PUBLIC PROSECUTIONS

To: _____
(Registrar of the Supreme Court)

Take notice that I, _____, have cause to believe that, in the course of plea negotiations, I was wilfully misled by the accused on the ground that

_____

and do appeal the matter on the aforementioned ground(s).

Dated this ____ day of _____, 20 ___.

_____
(Prosecutor)

Read three times and passed the House of Assembly this day of , 2024.

Speaker

Read three times and passed the Senate this day of , 2024.

President

MARINE TRANSPORT (EMISSIONS CONTROL) ACT, 2024

OBJECTS AND REASONS

This Bill would provide for

(a) the implementation of the 1997 Protocol to the International Convention for the Prevention of Pollution from Ships (MARPOL) 1973, as modified by the Protocol of 1978 relating thereto and by the Protocol of 1997;

(b) the implementation of Article 212 of the United Nations Convention on the Law of the Sea, 1982;

(c) the implementation of the Technical Code on Control of Emission of Nitrogen Oxides from Marine Diesel Engines adopted by the International Maritime Organization;

(d) the control of emissions from ships that exceed 150 gross tons;

(e) the promotion of energy efficiency in shipping; and

(f) related matters.

MARINE TRANSPORT (EMISSIONS CONTROL) ACT, 2024

Arrangement of Sections

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2. Interpretation

3. Ambulatory reference

4. Act to bind State

5. Objects of Act

6. Application of Act

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23. Barbados vessel in emissions control area

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Administrative Penalties

BARBADOS

A Bill entitled

An Act to

(a) implement the 1997 Protocol to the International Convention on the Prevention of Pollution from Ships, 1973, as modified by the Protocol of 1978 and the Protocol of 1997;

(b) implement Article 212 of the United Nations Convention on the Law of the Sea, 1982;

(c) implement the Technical Code on Control of Emission of Nitrogen Oxides from Marine Diesel Engines adopted by the International Maritime Organization;

(d) control of emissions from ships that exceed 150 gross tons;

(e) promote energy efficiency in shipping; and

(f) provide for related matters.

ENACTED by the Parliament of Barbados as follows:

PART I

PRELIMINARY

Short title

1. This Act may be cited as the *Marine Transport (Emissions Control) Act, 2024*.

Interpretation

2. In this Act,

"air pollution" means contamination of the indoor or outdoor environment by any chemical, physical or biological agent that modifies the natural characteristics of the atmosphere;

"Administration" means the Barbados Maritime Transport Administration established by section 7 of the *Shipping (Domestic Vessels) Act, 2024* (Act 2024-) and having regulatory responsibility under this Act for MARPOL Annex VI;

"Barbados Maritime Single Window" has the meaning assigned to it by section 2(1) of the *Facilitation of International Maritime Traffic Act, 2024* (Act 2024-2);

"Barbados ship" means a ship registered in Barbados;

"Barbados waters" include

(a) the territorial sea;

(b) the contiguous zone;

(c) the exclusive economic zone; and

(d) the continental shelf;

"bunker delivery note" means the standard document containing information on fuel oil delivery required by section 59;

"Caribbean Trading Area" means an area bounded by a line from a point on the east coast of the United States of America in latitude 350 00° north, to a point 50 00° south, 330 00º west, then to a point 100 00º south, 330 00º west; then to a point on the coast of Brazil in latitude 100 00º south; then northward along the coast of Continental America to a point in latitude 350 00° north, on the east coast of the United States of America;

"classification society" means a recognized institution which specializes in ship classification, nominated by the Minister, after consultation with the Director to classify the condition of Barbados' vessels, in accordance with rules developed by the International Association of Classification Societies, and to conduct audits as the Director considers necessary for the purposes of this Act and any enactment made under this Act;

"Coast Guard" means the Barbados Coast Guard set out in Part X of the *Defence Act*, Cap. 159;

"company" means the owner of the ship or any other organization or person such as the manager, or the bareboat charterer, who has assumed the responsibility for operation of the ship from the owner of the ship and who, on assuming such responsibility, has agreed to take over all the duties and responsibilities imposed by the International Safety Management Code for the Safe Operation of Ships and for Pollution Prevention adopted by the IMO;

"contiguous zone" means that area of Barbados' waters that has as its inner limit the outer limit of the territorial sea and as its outer limit the line every point of which is a distance of 24 nautical miles from the nearest points of the baselines from which the breadth of the territorial sea is measured;

"Contracting Government" means the Government of a State for which the Protocol of 1997 is in force;

"Convention" means the International Convention for the Prevention of Pollution from Ships 1973 to which Barbados is a party, including its protocols, annexes and appendices, as amended by the protocols of 1978 and 1997, and includes

(a) all amendments adopted by the Marine Environment Protection Committee of the IMO on or before the commencement of this Act; and

(b) any subsequent amendment to that Convention, which is considered by the Minister to be relevant and is specified in a merchant shipping notice;

"deliberate emission" includes an emission occurring in the course of maintaining, servicing, repairing, or disposing of systems or equipment, but does not include minimal releases associated with the recapture of recycling of an ozone-depleting substance;

"Director" means the Director of Ocean Affairs in the Barbados Maritime Transport Administration;

"Designated Lead Port State Control Officer" means the officer designated by the Administration to lead on matters in respect of port state control;

"domestic vessel" has the meaning assigned to it by section 2 of the *Shipping (Domestic Vessels) Act, 2024* (Act 2024-);

"emissions" means any release of a substance subject to control by this Act from a vessel into the atmosphere or sea;

"EIAPP Certificate" means the Engine International Air Pollution Prevention Certificate issued in respect of a marine diesel engine of

(a) a Barbados registered vessel; or

(b) a foreign-registered vessel when in Barbados waters;

"EEDI" means the energy efficiency design index and represents the equivalent amount of carbon dioxide that a ship as a whole emits in relation to the amount of cargo carried per mile sailed;

"EEXI" means the energy efficiency existing ship index and is a measure of a ship's energy efficiency, expressed in grams of carbon dioxide per amount of cargo carried per mile sailed;

"exclusive economic zone" means the zone established by section 3(1) of the *Marine Boundaries and Jurisdiction Act*, Cap. 387;

"exhaust gas cleaning system" or "EGCS" means systems on board ships that are used to remove particulate matter, sulphur oxides, nitrogen oxides and other harmful substances from the exhaust gases generated as a result of combustion processes in marine engines;

"exhaust gas treatment systems" or "EGTS" means shipboard devices that treat exhaust gases to a level that reduces emissions of sulphur oxides, nitrogen oxides, particulate matter and other ship-generated emissions;

"foreign-registered vessel" means a vessel flying the flag of a country other than Barbados;

"green shipping corridor" means a shipping route between Barbados and a port where zero-emission shipping solutions are implemented using commercial, sustainable, technological or regulatory initiatives along the shipping route;

"gross tons" means gross tonnage or the measurement of vessels in respect of tonnage;

"IACS" means the International Association of Classification Societies;

"IAPP Certificate" means the International Air Pollution Prevention Certificate issued under section 28;

"IEE Certificate" means the International Energy Efficiency Certificate issued under section 41;

"IMO" means the International Maritime Organization;

"ISO" means the International Organization for Standardization;

"MARPOL Annex I" means the annex to the International Convention for Prevention of Pollution from Ships, concerned with the regulation of oil, which entered into force on the 2nd day of October, 1983;

"MARPOL Annex VI"

(a) means the Protocol of 1997 to the International Convention on the Prevention of Pollution from Ships, 1973, as modified by the Protocol of 1978 relating thereto and the Protocol of 1997 dated the 26th day of September, 1997; and

(b) includes all amendments to MARPOL Annex VI adopted by the Marine Environment Protection Committee (MEPC) of the IMO on or before the commencement of this Act any subsequent amendment to MARPOL Annex VI, which is considered by the Minister to be relevant and is specified in a merchant shipping notice;

"m/m" means mass by mass;

"maritime autonomous surface ship" means a seaborne vessel that transports either containers or bulk cargo over navigable waters with little or no human interaction;

"maritime law enforcement officer" means

(a) members of the Marine Police Unit of the Barbados Police Service; and

(b) officers and soldiers of the Barbados Defence Force serving as members of the Barbados Coast Guard;

"marine notice" means a notice made under section 129;

"master" means the person having command of a ship;

"MEPC" means the Marine Environment Protection Committee of the IMO;

"Minister" means Minister responsible for Shipping;

"NAPP Certificate" means a National Air Pollution Prevention Certificate issued under section 29;

"NEE Certificate" means a National Energy Efficiency Certificate issued undersection 42;

"NOx" means nitrogen oxides;

"NO_x Technical Code" means the Technical Code on Control of Emission of Nitrogen Oxides from Marine Diesel Engines adopted by the IMO;

"non-Barbados vessel" means a foreign-registered vessel;

"offshore terminal" means an installation situated away from the shore, where bulk, fluid or gas cargo is

(a) transferred between vessels;

(b) loaded onto a vessel after having been transported from the shoreline; or

(c) unloaded from a vessel for transport to the shoreline;

"ozone-depleting substance" means a controlled substance defined in paragraph 4 of Article 1 of the Montreal Protocol on Substances that Deplete the Ozone Layer, 1987;

"PAPEC Department" means the Port Air Pollution and Emissions Control Department within the Barbados Port Inc. which is responsible for the management of ship and port generated emissions and air pollution control at the Port of Bridgetown and any other port under the authority and management of the Barbados Port Inc;

"port" includes any port, terminal, offshore terminal, ship yard, repair yard or roadstead which is normally used for the loading, unloading, repair and anchoring of ships or any other place at which a ship can call;

"Port CEO" means the Chief Executive Officer of the Port of Bridgetown defined in the *First Schedule* to the *Barbados Port Inc (Transfer of Management and Vesting of Assets) Act*, Cap. 285B;

"platform" includes fixed and floating platforms and drilling rigs;

"recognized organization" means an organization recognized by the Director in accordance with

(a) guidelines for the authorization of organizations acting on behalf of the Administration; and

(b) specifications on the survey and certification functions of recognized organizations acting on behalf of the administration,

adopted by the IMO;

"SEEMP" means Ship Energy Efficiency Management Plan;

"SO_x" means sulphur oxides;

"statement of compliance" means a statement of compliance issued in accordance with section 40(10);

"sulphur oxide emission control area" includes

(a) the Baltic Sea area;

(b) the North Sea area; or

(c) any other area, including port areas, designated by the IMO;

"territorial sea" means the waters of Barbados up to a limit not exceeding 12 nautical miles, measured from the baseline determined in accordance with UNCLOS 1982;

"Technical Manager" means the Technical Manager (Maritime Sector Emissions Control and Maritime Energy Management);

"UNCLOS 1982" means the United Nations Convention on the Law of the Sea, 1982 signed by Barbados on 10th December, 1982 and ratified on 12th October, 1993;

"upset conditions" means conditions which lead to emissions being generated as a result of vessel equipment breakdown or malfunction or from an accident in respect of a vessel;

"vessel" includes every description of ship, watercraft or other man made contrivance used or capable of being used, as a means of transportation on water;

"volatile organic compound" or "VOC" means

(a) any compound of carbon;

(b) but does not include carbon monoxide, carbon dioxide, carbonic acid, metallic carbides or carbonates and ammonium carbonate which participates in atmospheric photochemical reactions;

"warship" means a ship belonging to the armed forces of a state bearing the external marks distinguishing such ship of its nationality, under the command of an officer commissioned by the Government of the State and whose name appears in the appropriate service list or its equivalent, and the crew of which is under regular armed forces discipline;

"World Health Organization" means the World Health Organization established by the International Health Conference held in New York from 19th June to 22nd July, 1946 and governed by the Constitution signed on 22nd July, 1946.

Ambulatory reference

3.(1) In this Act, a reference to MARPOL Annex VI shall be construed

(a) as a reference to that Annex as modified from time to time; or

(b) if that Annex is replaced by another instrument, as a reference to that instrument.

(2) For the purposes of subsection (1), MARPOL Annex VI is modified if

(a) omissions, additions or other alterations to the text take effect in accordance with Article 16 of the Convention; or

(b) supplementary provision made under Article 16 of the Convention takes effect.

Act to bind State

4. This Act binds the State.

Objects of Act

5.(1) The objects of this Act are

(a) to give effect to the MARPOL Annex VI in order to prevent and mitigate air pollution from vessels and promote energy efficiency in shipping;

(b) to give effect to applicable provisions in the UNCLOS 1982, to prevent, reduce and control air and marine pollution from offshore energy development and shipping activities;

(c) to give effect to the NO_x Technical Code; and

(d) to implement international obligations in respect of ships and ports to control and reduce emissions from maritime transport activities.

Application of Act

6.(1) Except where otherwise specified, this Act applies to

(a) all Barbados ships above 150 gross tons;

(b) all vessels, other than Barbados vessels, above 150 gross tons when in the waters of Barbados;

(c) platforms registered in, or entitled to fly the flag of a country whose Government is a Contracting Government to MARPOL Annex VI, which are or will be engaged in voyages to waters under the sovereignty or jurisdiction of that Contracting Government, other than Barbados;

(d) platforms registered in, or entitled to fly the flag of a country whose Government is a Contracting Government to MARPOL Annex VI, which are not or will not be engaged in voyages to waters under the sovereignty or jurisdiction of that Contracting Government, other than Barbados; and

(e) platforms registered in, or entitled to fly the flag of Barbados, which are not or will not be engaged in voyages to waters under the sovereignty or jurisdiction of a Contracting Government to MARPOL Annex VI, other than Barbados.

(2) This Act does not apply to

(a) any warship, naval auxiliary or other vessel owned or operated by Barbados or any other state and used for government non-commercial service; or

(b) domestic vessels.

Act not to apply to certain fuel oil and emissions

7. This Act shall not apply to

(a) fuel oil

(i) intended for the purpose of research and testing;

(ii) intended for processing prior to final combustion; or

(iii) to be processed for the refining industry;

(b) any emission necessary for the purpose of securing the safety of a vessel or saving life at sea;

(c) any emission resulting from damage to a vessel or her equipment, except to the extent that the emission is due to

(i) a failure to take all reasonable precautions after the occurrence of the damage or discovery of the emission, for the purpose of preventing or minimizing the emission; or

(ii) damage caused in consequence of the company or master either intending to cause damage, or recklessly not caring whether damage would result; and

(d) any emission resulting from the incineration of substances that are solely and directly the result of exploration, exploitation and associated offshore processing of seabed mineral resources, including

(i) the flaring of hydrocarbons and the burning of cuttings, muds and stimulation fluids during well completion and testing operations;

(ii) flaring arising from upset conditions;

(iii) the release of gases and volatile compounds entrained in drilling fluids and cuttings;

(iv) emissions associated solely and directly with the treatment, handling, or storage of seabed minerals; and

(v) emissions from marine diesel engines that are solely dedicated to the exploration, mining and associated offshore processing of seabed mineral resources.

Exempted emissions

8.(1) The Administration shall, in cooperation with other Maritime Administrations, consider applications for exemption from provisions of MARPOL Annex VI and may issue permits to ships to conduct trials for the development of vessel emission reduction and control technologies, and engine design programmes including engine control systems.

(2) Permits referred to in subsection (1) shall be provided only

(a) to the minimum number of vessels necessary for the conduct of trials required for the development of ship emission reduction and control technologies, and engine design programmes including engine control systems; and

(b) for the maximum periods specified in the permits issued under subsection (1).

PART II

ADMINISTRATION

Administration of Act

9.(1) The Director is responsible for the general management and administration of this Act.

(2) The Director shall administer this Act in consultation with the Technical Manager (Maritime Sector Emissions Control and Maritime Energy Management) and the PAPEC Department.

(3) The Director may, by instrument in writing, delegate any of the functions specified in this Act and any enactment made under this Act to the Technical Manager, except the function to delegate.

Duty of Administration in relation to shipping and climate change

10. It shall be the duty of the Administration to keep abreast of activities of the IMO on shipping and climate change and adopt appropriate programmes, strategies and initiatives to promote IMO led activities at the national level.

PART III

PREVENTION OF AIR POLLUTION FROM SHIPPING ACTIVITIES

Equivalents: vessels 400 gross tons and above and platforms

11.(1) The Director may permit the affixing of any fitting, material, appliance or apparatus to a Barbados vessel of 400 gross tons and above or to a platform as an alternative to that required under MARPOL Annex VI if that fitting, material, appliance or apparatus is at least as effective as that required under MARPOL Annex VI.

(2) The Director shall inform the IMO of action undertaken by the Director under subsection (1) for circulation to Contracting Governments to MARPOL Annex VI for their information and appropriate action.

Equivalents: ships less than 400 gross tons

12.(1) The Director may, after consultation with the Technical Manager, permit the affixing of any fitting, material, appliance or apparatus to a Barbados ship of less than 400 gross tons as an alternative to that required under the regulations or specified in a Merchant Shipping Notice if such fitting, material, appliance or apparatus is at least as effective as that required under MARPOL Annex VI.

(2) In the case of foreign-going vessels of at least 150 gross tons but less than 400 gross tons, the Director shall inform the IMO of action undertaken by the Director under subsection (1) for circulation to parties to MARPOL Annex VI for their information and appropriate action.

Annex VI approved equivalents

13.(1) An Annex VI approved equivalent in relation to a vessel is

(a) an exhaust gas cleaning system;

(b) another technological method for reducing SO_x emissions that is approved for use on board the vessel; or

(c) any other appliance, apparatus, fitting or material used on the vessel as an alternative to that required by this Act.

(2) The Administration may approve the use of alternative compliance methods being at least as effective in terms of emission reductions as that required by this Act or any other enactment made under this Act.

(3) The methods referred to in subsection (2) may include the use of SO_x emission reduction system (exhaust gas scrubbing, de-sulphuring of fuel or others), NO_x reduction apparatus, if not installed as part of the engine, or any other technology that is verifiable and enforceable to limit

(a) NO_x emissions to a level equivalent to that stipulated in the Technical Code on Control of Emission of Nitrogen Oxides from Marine Diesel Engines (NOx Technical Code); or

(b) SO_x emissions to a level not exceeding 0.5 percent m/m and where inside an emissions control area, to a level not exceeding 0.10 percent m/m.

(4) The equivalent arrangements to the specific provisions of MARPOL Annex VI and alternative compliance methods shall be considered on a case-by-case basis by the Administration.

(5) All applications for acceptance of equivalents and alternative compliance methods shall be sent to the Administration.

(6) Upon satisfactory review of the application, the Administration shall notify the IMO of the acceptance of the equivalent or alternative compliance by making an entry in the IMO Global Integrated Shipping Information System.

Issue of Annex VI approved equivalent certificates

14.(1) Where the Director approves an equivalent in respect of a Barbados vessel, under this Part, the Director shall issue a MARPOL Annex VI Approved

Equivalent Certificate to the owner of the vessel, to verify that the equivalent is acceptable.

(2) The fee for a MARPOL Annex VI Approved Equivalent Certificate is such as may be prescribed.

General obligation to prevent pollution from or through the atmosphere

15.(1) The owners and operators of vessels shall

(a) reduce and control pollution of the marine environment from or through the atmosphere in accordance with Article 212 of the UNCLOS 1982 and pollution of the atmosphere in accordance with MARPOL Annex VI in respect of

(i) ozone-depleting substances;

(ii) NOx;

(iii) SOx;

(iv) carbon dioxide;

(v) volatile organic compounds; and

(vi) particulate matter;

(b) prohibit the deliberate emission of an ozone-depleting substance from a vessel or platform; and

(c) maintain a list of equipment containing ozone-depleting substances.

(2) The owners or operators of vessels that have rechargeable systems which contain ozone-depleting substances shall maintain an ozone-depleting substances record book which shall be in accordance with section 17.

(3) Ozone-depleting substances carried on board vessels or platforms shall be discharged in appropriate reception facilities in accordance with Chapter III of MARPOL Annex VI.

(4) The masters and owners of foreign-registered vessels and foreign platforms transiting through Barbados' territorial sea which cause wilful and serious air and marine pollution to the local environment as a result of deliberate discharges of ozone depleting substances or other ship-source air pollutants shall be stopped by a maritime law enforcement officer, accompanied by a scientist or technical expert in the field of environmental science or air quality science, for inspection in accordance with Chapter II of MARPOL Annex VI and pursuant to paragraph *(h)* of Article 19 of UNCLOS 1982.

(5) A maritime law enforcement officer may stop and inspect any vessel transiting through Barbados' territorial sea which causes serious and wilful pollution during its passage contrary to this Act.

(6) In making a determination as to whether pollution is serious and wilful for the purposes of subsection (7), maritime law enforcement officers should be guided by the Environmental Protection Department and shall be accompanied by officers of that department when making a decision to stop and detain vessels.

(7) A maritime law enforcement officer may only detain foreign-registered vessels which wilfully and seriously commit air pollution, where such pollution significantly impacts the air and marine environment of Barbados, including causing ecosystem damage, death to marine life or other living creatures or harm to human health.

Ozone-depleting substances

16.(1) Deliberate emission of ozone-depleting substances inclusive of emissions occurring in the course of

(a) maintaining;

(b) servicing;

(c) repairing; or

(d) disposing,

of systems or equipment is prohibited.

(2) For the purposes of subsection (1), deliberate emissions do not include minimal releases associated with the recapture or recycling of ozone-depleting substances.

(3) Ozone-depleting substances and equipment containing such substances shall be delivered up to appropriate reception facilities when removed from a vessel.

(4) Nothing contained in this Act which regulates ozone-depleting substances applies to permanently sealed equipment where there are no refrigerant charging connections or potentially removable components containing ozone-depleting substances.

Ozone-depleting substances record book

17.(1) An ozone-depleting substances record book referred to in section 15(2) may form part of an existing log-book or electronic recording system as approved by the Director.

(2) An ozone-depleting substances record book shall be in the prescribed form.

(3) An entry in a vessel's ozone-depleting substances record book

(a) shall be made in the English language;

(b) if made in relation to a prescribed operation, shall be signed by the person in charge of the operation.

(4) An entry in the ozone-depleting substances record book shall be recorded in terms of mass of substance and shall be completed without delay on each occasion, in respect of the following:

(a) recharge, full or partial, of equipment containing ozone-depleting substances;

(b) repair or maintenance of equipment containing ozone-depleting substances;

(c) deliberate and non-deliberate discharge of ozone-depleting substances into the atmosphere;

(d) discharge of ozone-depleting substances into land-based reception facilities;

(e) supply of ozone-depleting substances to the vessel or platform; and

(f) supply, charge and discharge of system, repair and maintenance.

(5) The information recorded in accordance with subsection (4) shall be reported to the Director.

(6) Where a vessel does not have on board an ozone-depleting substances record book, the master and owner of the vessel shall be subject to the payment of an administrative penalty imposed under section 118.

(7) Where

(a) a specified operation or specified event is carried out or occurs in, or in relation to a vessel;

(b) the master of the vessel does not without delay, make appropriate entries in the ozone-depleting substances record book in accordance with subsection (4) as soon as may be practicable in the circumstances;

(c) a page of the vessel's ozone-depleting substances record book is completed; and

(d) the person in charge of the operation does not, as soon as may be practicable in the circumstances, sign the page in accordance with subsection (3),

the master is subject to the payment of an administrative penalty imposed under section 118.

(8) For the purposes of subsection (1), all Barbados ships, irrespective of gross tons, that have rechargeable systems containing ozone-depleting substances shall have an ozone-depleting substances record book.

False or misleading entries in ozone-depleting substances record book

18.(1) A person who makes a false or misleading entry in an ozone-depleting substances record book to which section 17 applies is guilty of an offence and is liable on conviction on indictment to a fine of $100 000 or to imprisonment for 5 years or to both.

(2) The master or owner of a vessel to which section 17 applies is subject to the payment of an administrative penalty imposed under section 118 if

(a) the vessel's ozone-depleting substances record book is not retained in the vessel until the end of one year beginning on the day after the day on which the last entry is made in the book; or

(b) the vessel's ozone-depleting substances record book is not readily available for inspection by an authorized officer at all reasonable times during that period.

(3) The owner of a vessel to which section 17 applies is subject to the payment of an administrative penalty imposed under section 118 if the vessel's ozone depleting substances record book

(a) is not retained in the vessel until the end of 2 years beginning on the day after the end of the period referred to in subsection (2)*(a)*;

(b) is not retained at the owner's registered office, or at a place or office whose address is notified under subsection (4), until the end of 2 years beginning on the day after the end of the period referred to in subsection (2)*(a)*;

(c) is not deposited in accordance with subsection (5) until the end of 2 years beginning on the day after the end of the period referred to in paragraph *(a)*; or

(d) is not readily available for inspection by an inspector at all reasonable times during the 2 year period referred to in paragraph *(a)*.

(4) The owner of a vessel, to which section 17 applies, who resides in Barbados or has an office or agent in Barbados, may give to a duly authorized officer notice in writing of

(a) the owner's address;

(b) the address of the owner's office in Barbados or, if the owner has more than one office in Barbados, the owner's principal office in Barbados; or

(c) the address of the office or place of residence of the owner's agent or, if the owner's agent has more than one office in Barbados, the principal office in Barbados of the owner's agent.

(5) If the owner of a vessel to which section 17 applies does not reside in Barbados and does not have an office or agent in Barbados, the owner may deposit the vessel's ozone-depleting substances record book with a duly authorized officer.

Prohibition on the carriage of non-compliant fuel for combustion purposes for propulsion or operation on board a vessel or platform

19. No master or owner of a vessel to which this Act applies shall carry on board that vessel any fuel for use, the sulphur content of which exceeds 0.5 per cent m/m.

Using fuel oil or carrying fuel oil for use: offences

20.(1) No person shall engage in conduct that results in fuel oil with a sulphur content of more than the limit set out in section 19 being used on board a vessel as fuel or carried on board a vessel for use as fuel if

(a) the vessel is in Barbados' territorial sea;

(b) the vessel is in the contiguous zone of Barbados, the offence was committed in Barbados' territorial sea and the vessel is trying to escape;

(c) the vessel is in the exclusive economic zone of Barbados; or

(d) the vessel is a Barbados vessel that is beyond the exclusive economic zone of Barbados but not within an emission control area.

(2) A person to whom subsection (1) applies is subject to the payment of an administrative penalty imposed under section 118.

(3) The master and the owner of a vessel are each guilty of an offence if fuel oil with a sulphur content of more than the limit prescribed is used on board the vessel as fuel or carried on board the vessel for use as fuel and

(a) the vessel is in Barbados' territorial sea;

(b) the vessel is in the contiguous zone of Barbados, the offence was committed in Barbados' territorial sea and the vessel is trying to escape;

(c) the vessel is in the exclusive economic zone of Barbados; or

(d) the vessel is a Barbados vessel that is beyond the exclusive economic zone of Barbados but not within an emission control area.

(4) A person guilty of an offence under subsection (3) is liable on conviction on indictment to a fine of $250 000 or to imprisonment for 10 years or to both.

(5) For the purposes of this section, fuel oil carried on board a vessel is presumed to be carried for use on board the vessel as fuel unless the contrary is proved.

(6) For the purposes of subsection (1), the result referred to in that subsection is presumed to have occurred in one of the circumstances referred to in paragraph *(a)* or *(b)* of that subsection unless it is proved that the result did not occur in any of those circumstances.

(7) For the purposes of subsection (3), paragraphs *(a)* to *(d)* are presumed to apply unless the contrary is proved.

Using fuel oil or carrying fuel oil for use: exceptions

21.(1) Section 22(1) and (3) do not apply to the use of fuel oil on board a vessel as fuel if the following requirements are satisfied:

(a) the fuel oil is used while a MARPOL Annex VI approved equivalent is operating on the vessel;

(b) any enactment made under this Act prescribes requirements in relation to the operation of the MARPOL Annex VI approved equivalent and the vessel is operating in accordance with the requirement;

(c) any enactment made under this Act prescribes requirements in relation to the discharge of waste streams arising from the operation of a MARPOL Annex VI approved equivalent and the waste streams are operating in accordance with this requirement.

(2) Section 22(1) and (2) do not apply to carrying fuel oil on board a vessel if a MARPOL Annex VI approved equivalent is installed on the vessel.

(3) Section 20(3) does not apply if

(a) the matters mentioned in that subsection occur as a result of securing the safety of a vessel or saving life at sea; or

(b) the requirements of subsection (1), (2) or (7) are not satisfied, but it is likely that those requirements would have been satisfied were it not for conduct engaged in for the purpose of securing the safety of a vessel or saving life at sea.

(4) Subsection (2) does not apply in relation to a vessel if

(a) either

(i) the matters referred to in that subsection occur as a result of unintentional damage to the vessel or her equipment; or

(ii) the requirements of subsection (1) or (2) are not satisfied, but it is likely that those requirements would have been satisfied were it not for unintentional damage to the vessel or her equipment; and

(b) an enactment made under this Act prescribes a level of total emission of SO_x

(i) after the occurrence of the unintentional damage, the total emission of SO_x from the vessel does not exceed that level;

(ii) after the occurrence of the unintentional damage, all reasonable precautions are taken to prevent the total emission of SO_x from exceeding that level, or to minimise the total emission of SO_x; or

(iii) if the discovery that the total emission exceeds that limit occurs before the discovery of the unintentional damage after the discovery of that total emission, all reasonable precautions are taken to prevent the total emission of sulphur oxides from exceeding that level, or to minimise the total emission of SO_x.

(5) For the purposes of subsection (4), damage to a vessel or to its equipment is not unintentional if the damage arose

(a) in circumstances where the master or owner of the vessel

(i) acted with intent to cause the damage; or

(ii) was reckless as to whether damage would be caused; or

(b) as a result of the negligence of the master or owner of the vessel.

(6) For the purposes of this section, damage to a vessel or to her equipment does not include

(a) deterioration resulting from failure to maintain the vessel or equipment; or

(b) defects that develop during the normal operation of the vessel or equipment.

(7) Section 23(1) and (2) do not apply to using or carrying fuel oil on board a vessel if the following requirements are satisfied:

(a) the person responsible for obtaining fuel oil for use on board the vessel took all reasonable precautions to obtain fuel oil with a sulphur content of not more than the limit prescribed for the purposes of section 22(1) *(b)*;

(b) a duly authorized officer is notified, in accordance with any requirements prescribed by any enactment made under this Act, that fuel oil with a sulphur content of not more than that limit could not be obtained for the vessel; or

(c) if the vessel's next port of destination after the high sulphur fuel oil was supplied to the vessel is a port in a foreign country, the government of that foreign country is notified, in accordance with any requirements prescribed by any enactment made under this Act, that fuel oil with a sulphur content of not more than that limit could not be obtained for the vessel.

Barbados vessel in emission control area: offences

22.(1) The owner or master of a vessel who, knowing that damage may be caused or is reckless as to whether damage is caused, takes a Barbados vessel into or permits it to enter an emission control area when the vessel does not meet the requirements of subsection (2) is guilty of an offence and is liable on conviction on indictment to a fine of $250 000 or to imprisonment for 10 years or to both.

(2) A vessel meets the requirements of this subsection while the vessel is in an emission control area if

(a) the sulphur content of the fuel oil used on board the vessel as fuel does not exceed MARPOL Annex VI limits;

(b) a MARPOL Annex VI approved equivalent is operating on the vessel;

(c) any enactment made under this Act prescribes requirements in relation to the operation of the MARPOL Annex VI approved equivalent and the vessel is operating in accordance with those requirements;

(d) any enactment made under this act prescribes requirements in relation to discharging waste streams arising from the operation of the MARPOL Annex VI approved equivalent, and the waste streams are discharged in accordance with those requirements; or

(e) the sulphur content of the fuel oil carried on board the vessel for use on board the vessel as fuel does not exceed MARPOL Annex VI limits.

(3) For the purposes of this section, fuel oil carried on board a vessel is presumed to be carried for use on board the vessel as fuel unless the contrary is proved.

Barbados vessel in emissions control area

23.(1) Section 22(1) does not apply

(a) if the matters referred to in that subsection occur as a result of securing the safety of a vessel or saving life at sea;

(b) to the use of fuel oil on board a vessel as fuel if

(i) the requirements of subsection (5) are not satisfied; and

(ii) it is likely that those requirements would have been satisfied were it not for conduct engaged in for the purpose of securing the safety of a vessel or saving life at sea; or

(c) to carrying fuel oil on board a vessel if

(i) the requirements of subsection (6) are not satisfied; and

(ii) it is likely that those requirements would have been satisfied were it not for conduct engaged in for the purpose of securing the safety of a vessel or saving life at sea.

(2) Section 22(1) does not apply in relation to a vessel if

(a) the matters referred to in that subsection occur as a result of unintentional damage to a vessel or her equipment;

(b) any enactment made under this Act prescribes a level of total emission of SOx

(i) after the occurrence of the unintentional damage, the total emission of SOx from the vessel does not exceed that level; or

(ii) after the occurrence of the unintentional damage, all reasonable precautions are taken to prevent the total emission of SOx from exceeding that level, or to minimise the total emission of SOx.

(3) For the purposes of this section, damage to a vessel or to her equipment is intentional if the damage arose

(a) in circumstances where the master or owner of the vessel

(i) acted with intent to cause the damage; or

(ii) acted recklessly with knowledge that the damage would result or not caring whether damage resulted; or

(b) as a result of the negligence of the master or owner of the vessel.

(4) For the purposes of this section, damage to a vessel or to her equipment does not include

(a) deterioration resulting from failure to maintain the vessel or equipment; or

(b) defects that develop during the normal operation of the vessel or equipment.

(5) Section 22(1) does not apply to the use of fuel oil on board a vessel as fuel if

(a) the person responsible for obtaining fuel oil for use on board the vessel took all reasonable precautions to obtain fuel oil with a sulphur content

of not more than the limit prescribed for the purposes of section 20(3) *(a)*;

(b) a duly authorized officer is notified in accordance with any requirements prescribed by any enactment made under this Act that fuel oil with a sulphur content of not more than that limit could not be obtained for the vessel;

(c) if the vessel's next port of destination after the high-sulphur fuel oil was supplied to the vessel is a port in a foreign country, the government of that foreign country is notified that fuel oil with a sulphur content of not more than that limit could not be obtained for the vessel;

(d) if any enactment made under this Act prescribes a level of total emission of SO_x

(i) after the occurrence of the unintentional damage, the total emission of SO_x from the vessel does not exceed that level;

(ii) after the occurrence of the unintentional damage, all reasonable precautions are taken to prevent the total emission of SO_x; or

(iii) if the discovery that the total emission exceeding that limit occurs before the discovery of the unintentional damage, after the discovery of that total emission, all reasonable precautions are taken to prevent the total emission of SO_x from exceeding that level, or to minimise the total emission of SO_x.

(6) For the purposes of section 22(1) , damage to a vessel or to her equipment is intentional if the damage arose

(a) in circumstances where the master or owner of the vessel

(i) acted with intent to cause the damage; or

(ii) acted recklessly not caring whether damage was caused; or

(b) as a result of the negligence of the master or owner of the vessel.

(7) Section 20(1) does not apply to carrying fuel oil (the high sulphur fuel oil) on board a vessel for use on board the vessel as fuel if the following requirements are satisfied

(a) the person responsible for obtaining fuel oil for use on board the vessel took all reasonable precautions to obtain fuel oil with a sulphur content of not more than the limit prescribed for the purposes of section 20(1) *(a)*;

(b) a duly authorized officer is notified that fuel oil with a sulphur content of not more than that limit could not be obtained for the vessel; and

(c) if the vessel's next port of destination after the high-sulphur fuel oil was supplied to the vessel is a port in a foreign country and the government of that foreign country is notified that fuel oil with a sulphur content of not more than that limit was not obtained by the vessel.

Flushing fuel oil service system

24.(1) The master of a Barbados vessel shall be liable on summary conviction to a fine of $100 000 or to imprisonment for 3 years or to both where

(a) the vessel enters an emission control area;

(b) separate fuel oils are used on board the vessel;

(c) at least one of the fuel oils has a sulphur content of more than the prescribed limit; and

(d) insufficient time is allowed for the vessel's fuel oil service system to be fully flushed of fuel oil with a sulphur content of more than the limit in paragraph *(c)* before the vessel enters the emission control area.

(2) The master of a Barbados vessel shall be liable on summary conviction to a fine of $100 000 or to imprisonment for 3 years or to both where

(a) the vessel enters an emission control area;

(b) more than one type of fuel oil is used on board the vessel;

(c) at least one of the fuel oils has a sulphur content of more than the prescribed limit; and

(d) when the vessel enters the emission control area, the vessel does not carry a written procedure showing how the vessel's fuel oil service system is to be fully flushed of fuel oil with a sulphur content of more than the limit prescribed before the vessel enters the emission control area.

Record of prescribed fuel

25.(1) The master and the owner of a Barbados vessel shall be subject to the payment of an administrative penalty imposed under section 118 where

(a) an entry in a prescribed record book is not made as soon as practicable after

(i) the completion of the last prescribed fuel-changeover operation on the vessel before the vessel enters an emission control area; or

(ii) the completion of the first prescribed fuel-changeover operation on the vessel after the vessel leaves an emission control area; or

(b) the record book is not

(i) retained on board the vessel for the prescribed period; or

(ii) readily available for inspection at all reasonable times.

(2) A person who makes an entry that is false or misleading in a prescribed record book is liable on summary conviction to a fine $100 000 or to imprisonment for 3 years.

Flag state inspections: air pollution from ships

26.(1) Barbados ships of 400 gross tons and above and platforms shall be subject to flag State inspections in order to verify that the fuel used or carried for use on board the vessel is compliant with MARPOL Annex VI.

(2) Subject to any enactment made under this Act and in accordance with MARPOL Annex VI, Barbados ships of 400 gross tons and above and platforms shall carry at all times a valid IAPP Certificate and IEE Certificate.

(3) Ship owners having more than one vessel sailing under the Barbados flag shall obtain an IAPP Certificate and an IEE Certificate for each vessel.

(4) The IAPP and IEE Certificates shall be in the form set out in the *First Schedule* and the *Second Schedule*, respectively.

Port state inspections: air pollution from ships

27. Ships, other than Barbados ships of 400 gross tons and above, calling at ports, and foreign platforms operating in maritime areas are subject to port state inspections to verify that fuel used or carried for use on board the vessel is compliant with MARPOL Annex VI and are required to produce their IAPP Certificate for inspection by authorized officers, in accordance with MARPOL Annex VI, and any enactment made under this Act.

Requirement for issue of IAPP certificates

28. The following ships and platforms shall be inspected and surveyed:

(a) Barbados ships of 400 gross tons and above which are or will be engaged in voyages to a port or offshore terminal under the jurisdiction of a Contracting Government to MARPOL Annex VI; and

(b) platforms registered in Barbados, which are or will be engaged in voyages to waters under the jurisdiction of a Contracting Government of MARPOL Annex VI, other than Barbados,

in order that IAPP Certificates may be issued in respect of vessels and platforms.

Requirement for issue of NAPP Certificates

29.(1) The following ships and platforms shall be surveyed and inspected:

(a) Barbados ships of 400 gross tons and above which are not or will not be engaged in voyages to a port or offshore terminal under the

jurisdiction of a Contracting Government to MARPOL Annex VI, other than Barbados; and

(b) platforms registered in Barbados, which are not or will not be engaged in voyages to waters under the jurisdiction of a Contracting Government of MARPOL Annex VI, other than Barbados,

in order that NAPP Certificates may be issued in respect of those vessels.

(2) A shipowner having more than one vessel of 400 gross tons and above or platform sailing under the Barbados flag, which is not or will not be engaged in voyages to waters under the jurisdiction of a Contracting Government of MARPOL Annex VI other than Barbados, shall obtain a NAPP Certificate for each vessel.

(3) A NAPP Certificate shall be in the form set out in the *Third Schedule*.

Port State Control, violations and enforcement

30.(1) In addition to any certificate issued under this Act, the following shall be made available to the officials:

(a) bunker delivery notes and samples including collection and analysis records, issued Fuel Oil Non-Availability Reports and related communications;

(b) the technical file for each applicable engine, including the record book of engine parameters, and EIAPP Certificate;

(c) documented procedures and records to ensure compliance while in a Sulphur Emissions Control Area;

(d) documented procedure for oily garbage screening and segregation;

(e) MARPOL Annex VI Record Book;

(f) the control and monitoring system data where EGCS is installed on board;

(g) an exemption permit referred to in section 8(1), where the Administration has agreed to allow the vessel to conduct EGCS on-board commissioning and trials.

(2) In exceptional circumstances when original records or documents or associated samples are removed by a duly authorized officer, the master or crew shall document the removal in the official logbook and appropriate section of the MARPOL Annex VI Record Book and obtain contact information of the port or coastal state authority that removed the original records or documents or associated samples.

PART IV

ENERGY EFFICIENCY FOR SHIPS

Energy efficiency measures for vessels

31.(1) Barbados ships of 5000 gross tons and above shall calculate their ship-specific EEDI and indicate the estimated performance of the vessel in terms of energy efficiency, in accordance with MARPOL Annex VI; and shall take into account the IMO Guidelines on the Method of Calculation of the attained EEDI for new ships.

(2) For the purposes of subsection (1), the following shall be classified as a new vessel:

(a) a new vessel;

(b) a new vessel that has undergone a major conversion;

(c) a new or existing vessel which has undergone a major conversion so extensive that the vessel is regarded by the Director as a newly constructed vessel; and

(d) a vessel which falls into one or more of the categories in Regulations 2.25 to 2.35 of the Annex to the 2011 Amendments to MARPOL Annex VI.

(3) The master of a vessel shall maintain and verify the energy efficiency of the vessel throughout her operational cycle in accordance with the vessel's energy efficiency management plan.

(4) The master of a vessel shall employ appropriate methods throughout the operational cycle of the vessel to monitor its energy efficiency, including the energy efficiency operation index.

(5) The vessel's energy efficiency management plan shall be developed in accordance with IMO Guidelines for the development of a ship energy efficiency management plan.

Attained EEDI

32.(1) For the purposes of this Part, the attained EEDI is a calculated value that represents the actual amount of emissions.

(2) The attained EEDI should be lower than the required EEDI set out in MARPOL Annex VI.

(3) The attained EEDI shall be calculated for every new vessel, which has undergone a major conversion and a new or existing vessel which has undergone a major conversion that is so extensive that the vessel is regarded by the Administration as a newly constructed vessel.

(4) The attained EEDI shall

(a) be specific to each vessel;

(b) indicate the estimated performance of the vessel in terms of energy efficiency;

(c) be accompanied by the EEDI technical file that contained the information necessary for the calculation of the attained EEDI; and

(d) show the process of calculation.

(5) The attained EEDI shall be verified, based on the EEDI technical file, by the recognized organization which classified the vessel, using relevant IMO guidelines.

(6) The attained EEDI shall be reported to the IMO in accordance with the MARPOL Annex VI requirements relating to attained EEDI.

Required EEDI

33.(1) For the purposes of this Part, the required EEDI is the maximum value of the EEDI allowed for the specific vessel type and vessel size.

(2) The required EEDI shall be calculated for each

(a) new vessel;

(b) new vessel which has undergone major conversion; and

(c) new or existing vessel which has undergone a major conversion that is so extensive the vessel is regarded by the Administration as a newly constructed vessel.

(3) For each new and existing vessel that has undergone a major conversion which is so extensive that the vessel is regarded by the Administration as a newly constructed vessel, the required EEDI shall be calculated and shall meet the requirement of subsection (2) with the reduction factor applicable corresponding to the vessel type and size of the converted vessel at the date of the contract of the conversion, or in the absence of a contract, the commencement date of the conversion.

(4) The required EEDI shall be reported to the IMO in accordance with the MARPOL Annex VI requirements relating to required EEDI.

Ship energy efficiency management plan

34.(1) This section applies to a Barbados vessel that

(a) is 400 gross tons or above; and

(b) is engaged on an international sea-going voyage.

(2) There shall be kept on board every vessel a ship energy efficiency management plan.

(3) A SEEMP shall form part of the vessel's safety management system and shall contain the information required under MARPOL Annex VI.

(4) Where a vessel does not have on board a SEEMP required by this section, the owner and master of the vessel are subject to the payment of an administrative penalty imposed under section 118.

EEXI Compliance

35. For the purposes of this Act,

(a) a Barbados vessel of 400 gross tons and above shall not be put into service or, if already in service, shall not be allowed to continue in service, unless it complies with the EEXI requirements as specified in MARPOL Annex VI;

(b) Barbados ships trading internationally to which EEXI requirements apply shall be surveyed and certified as compliant with EEXI requirements in order to be issued with an IEE Certificate;

(c) Barbados ships of 400 gross tons and above, operating domestically, shall comply with EEXI requirements, and shall be surveyed and certified as complying with those requirements, in order to be issued a NEE Certificate; and

(d) foreign-registered vessels of 400 gross tons and above when in a port or offshore terminal in Barbados shall comply with EEXI requirements and during port state control inspections foreign-registered vessels of 400 gross tons and above shall be inspected to verify compliance with EEXI requirements.

Attained EEXI

36.(1) The attained EEXI shall be calculated for every vessel of 400 gross tons and above, falling into one or more categories specified in MARPOL Annex VI, including ships which have undergone a major conversion, using Guidelines on the Method of Calculation of the Attained EEXI published by the IMO.

(2) If a vessel falls into more than one category referred to in subsection (1), the more stringent criteria in calculations shall apply.

(3) The process of calculation and the necessary information to produce the EEXI calculation shall be addressed in the vessel specific EEXI technical file.

(4) For vessels referred to in subsection (1), the verified attained EEDI may be taken as the attained EEXI if the value of the attained EEDI is equal to or less than that of the required EEXI.

(5) For the purposes of subsection (4), the attained EEXI shall be verified based on the EEDI technical file and the provisions contained within the EEDI technical file may be used in place of an EEXI technical file.

(6) For existing vessels, the International Energy Efficiency Certificate shall be re-issued at the first IAPP annual, intermediate or renewal survey, or the initial survey, in the case of existing vessels, falling under major conversion, that is so extensive that the vessels are considered by the Administration as newly constructed vessels.

Required EEXI

37. The required EEXI shall be calculated for every vessel, including ships that have undergone a major conversion, to which the provisions of MARPOL Annex VI apply and in accordance with relevant IMO Guidelines.

Requirement for ships 400 gross tons and above

38.(1) A Barbados vessel of 400 gross tons and above shall have an approved SEEMP on board.

(2) The Minister, in consultation with the Director, may by a merchant shipping notice, specify any additional SEEMP requirements as required by the IMO for ships.

Fuel consumption data and reporting

39. Barbados ships of 5 000 gross tons and above shall maintain a data collection plan on fuel consumption in accordance with Chapter IV of MARPOL Annex VI, related guidelines of MEPC and any enactment made under this Act.

Collection and reporting of vessel fuel oil consumption data

40.(1) This section applies to Barbados ships of 5 000 gross tons and above.

(2) A company shall, in respect of each vessel, collect the data specified in Appendix 9 to MARPOL Annex VI for every calendar year or part thereof as appropriate, according to the methodology included in the SEEMP.

(3) At the end of each calendar year the company shall aggregate the data collected in that calendar year or part thereof pursuant to subsection (2), as appropriate.

(4) Within 3 months after the end of each calendar year the company shall report to the Director the aggregated value for each datum specified in Appendix 9 to MARPOL Annex VI, via electronic communication using a standardized format developed by the IMO.

(5) Where a vessel is transferred from the Barbados shipping register to the register of another Contracting Government, the company shall, on the day of completion of the transfer or as soon as practicable thereafter, report to the Director the aggregated data for the period of the calendar year corresponding to the time when the ship was a Barbados ship, as specified in Appendix 9 to MARPOL Annex VI and upon prior request of the Director of the disaggregated data.

(6) When there is a change of ownership or responsibility for the vessel, the former company shall, on the day of completion of the change or as soon as practicable thereafter, report to the Director

(a) the aggregated data for the portion of the calendar year corresponding to the period during which the former company was responsible for the vessel, as specified in Appendix 9 to MARPOL Annex VI; and

(b) upon request of the Director, the disaggregated data.

(7) Subsection (5) applies where a vessel ceases to be registered in Barbados and changes from one company to another concurrently.

(8) The data referred to in this section shall be verified according to procedures established by the Director, taking into account guidelines developed by the IMO.

(9) Subject to subsections (5), (6) and (7), the disaggregated data that underlies the reported data in Appendix 9 to MARPOL Annex VI for the previous calendar year shall be

(a) readily accessible for a period of not less than 12 months from the end of that calendar year; and

(b) made available to the Director upon request.

(10) The Director shall ensure that the data in Appendix 9 to MARPOL Annex VI reported by a Barbados vessel are transferred not later than one month after issuing a statement of compliance in relation to the vessel to the IMO Ship Fuel Oil Consumption Database via electronic communication and using a standardized format developed by the IMO.

(11) The statement of compliance referred to in subsection (10) shall be

(a) issued under this Act; and

(b) in the form set out in the *Fourth Schedule*.

(12) This section does not apply to platforms.

Surveys and certification: IEE certificate

41.(1) The following vessels shall be surveyed and inspected:

(a) Barbados ships 400 gross tons and above to which Chapter 4 of MARPOL Annex VI applies; and

(b) platforms registered in Barbados, which are or will be engaged in voyages to waters under the jurisdiction of a Contracting Government to MARPOL Annex VI, other than Barbados,

in order that an IEE Certificate may be issued in respect of such vessels.

(2) Notwithstanding subsection (1), vessels which are not required to keep a SEEMP do not require an IEE certificate.

Surveys and certification: NEE certificate

42.(1) The following vessels shall be surveyed and inspected:

(a) Barbados vessels 400 gross tons and above which are not or will not be engaged in voyages to a port or offshore terminal under the jurisdiction of a Contracting Government to MARPOL Annex VI, other than Barbados; and

(b) platforms which are not or will not be engaged in voyages to waters under the jurisdiction of a Contracting Government of MARPOL Annex VI, other than Barbados,

in order that a NEE certificate may be issued in respect of such vessels.

(2) Shipowners having more than one vessel of 400 gross tons and above or a platform sailing under the Barbados flag which are not or will not be engaged in voyages to waters under the jurisdiction of a Contracting Government of MARPOL Annex VI, other than Barbados, shall obtain a NEE certificate for such vessel.

(3) NEE certificates shall be in the form set out in the *Fifth Schedule.*

PART V

NOMINATION OF SURVEYORS AND CERTIFYING OF CERTIFICATES

Nomination of surveyors: air pollution prevention compliance verification

43.(1) The Director shall, with the written approval of the Minister, nominate a marine surveyor in respect of

(a) a Barbados vessel of 400 gross tons and above which is or will be engaged in voyages to a port or offshore terminal under the jurisdiction of a Contracting Government of MARPOL Annex VI, other than Barbados;

(b) a platform which is or will be engaged in voyages to waters under the jurisdiction of a Contracting Government of MARPOL Annex VI, other than Barbados;

(c) a vessel other than a Barbados vessel, 400 gross tons and above, belonging to another Contracting Government of MARPOL Annex VI, when the Minister is requested by that Contracting Government to issue an EIAPP certificate, IAPP certificate or IEE certificate on behalf of such ship;

(d) a Barbados vessel of 400 gross tons and above which is not or will not be engaged in voyages to a port or offshore terminal under the jurisdiction of a Contracting Government of MARPOL Annex VI, other than Barbados; and

(e) a platform which is not or will not be engaged in voyages to waters under the jurisdiction of a Contracting Government of MARPOL Annex VI, other than Barbados.

(2) The Director shall nominate a marine surveyor, in respect of

(a) a Barbados vessel of 150 gross tons or above but not exceeding 400 gross tons, which is or will be engaged in voyages to a port or offshore terminal under the jurisdiction of a Contracting Government of MARPOL Annex VI, other than Barbados; and

(b) any other Barbados vessel of 150 gross tons or above but not exceeding 400 gross tons, which is not or will not be engaged in voyages to a port or offshore terminal under the jurisdiction of a Contracting Government of MARPOL Annex VI, other than Barbados.

(3) The marine surveyor for ships of 400 gross tons and above and platforms shall be selected from an internationally recognized classification society.

(4) The Director shall, before recognizing a classification society referred to in subsection (3), and with the written approval of the Minister, review the competency and independence of the society concerned and determine whether the society has demonstrated, to the extent necessary for carrying out the activities covered by the authorization conferred on it, that

(a) it has the necessary knowledge of the requirements of MARPOL Annex VI, the law of Barbados, and relevant international instruments;

(b) it has an appropriate knowledge of vessel and platform operations;

(c) it is of the appropriate size, structure, experience and capability commensurate with the type and degree of authorization; and

(d) it has demonstrated the technical, administrative and managerial competence and capacity to ensure the provision of timely service of satisfactory quality.

(5) For the purposes of subsection (4), the Director shall determine whether the society

(a) has adequate technical, managerial and support staff;

(b) has sufficient qualified professional staff to provide the required service, representing an adequate geographical coverage;

(c) has proven ability to provide a timely service of satisfactory quality;

(d) is independent and accountable in its operations; and

(e) has the ability to maintain and update the expertise of its personnel.

(6) The Director, with written approval of the Minister, may conclude a written agreement with any organization that the Director recognizes for the purposes of an authorization.

(7) The agreement referred to in subsection (6) shall include the following elements:

(a) scope of application;

(b) purpose;

(c) general conditions;

(d) the execution of functions under the authorization;

(e) legal basis of the functions under the authorization;

(f) reporting to the Director;

(g) specification of the authorization from the Director to the recognized organization; and

(h) the Director’s supervision of activities delegated to the recognized organization or classification society.

(8) Any authorization granted with respect to inspections shall

(a) empower the organization recognized under subsection (6) to require the rectification of deficiencies that it identifies in relation to vessel-source emissions, and to carry out inspections in relation to vessel-source emissions; and

(b) stipulate in accordance with this Act that records of services performed by it be maintained such that they are able to demonstrate achievement of the required standards in the items covered by the services.

(9) The Director shall establish

(a) a system which includes information on all applicable national laws and relevant international instruments in order to ensure the adequacy of work performed by recognized organizations; and

(b) procedures for communication with and oversight of such organizations that take into account the Guidelines for the Authorization of Organizations Acting on Behalf of the Administration, adopted in the framework of the IMO.

(10) A surveyor of vessels of less than 400 gross tons shall be qualified and certified as competent in marine surveying by a recognized institution.

(11) A surveyor of vessels of more than 400 gross tons shall possess an academic qualification in marine surveying or a related discipline and have at least 5 years experience.

Certifying of certificates

44. Certificates and other documentation required pursuant to this Act or any enactment made under this Act may be certified by

(a) the Minister;

(b) the Director; or

(c) a recognized organization or classification society acting on behalf of the Administration.

PART VI

EMISSIONS REDUCTION MEASURES FOR VESSELS

Emissions reduction measures for vessels

45.(1) Barbados vessels of 400 gross tons and above and non-Barbados vessels of 400 gross tons and above calling at ports are required to reduce emissions from vessels by the following measures:

(a) installing open-loop, closed-loop or hybrid exhaust gas cleaning systems on board the vessel, or where more suitable, installing exhaust gas treatment systems to reduce emissions of SO_x, NO_x, particulate matter and other ship-source emissions;

(b) equipping vessels with a vapour emission control system;

(c) using NO_x, SO_x and particulate matter abatement technologies and NO_x, SO_x and particulate matter reducing devices to effectively control emissions of NO_x, SO_x, particulate matter and other ship-source emissions;

(d) minimizing all leakage from the vessel's refrigeration plant, using designs that are more resistant to corrosion, vibration and other stresses;

(e) reducing the impact of leaks by decreasing the refrigerant charge by using indirect systems for refrigerant charging;

(f) compartmentalizing the piping system to isolate leaks;

(g) retrofitting or replacing the vessel's refrigeration plant to use refrigerants with zero ozone-depletion potential;

(h) increasing usage of refrigerants with zero ozone-depletion potential; and

(i) employing any other economically feasible and environmentally safe technical or operational measure to reduce ship-source emissions.

(2) The owner of a vessel shall, in accordance with this Act and any enactment made under this Act and MARPOL Annex VI,

(a) reduce emissions of air pollutants; and

(b) increase energy efficiency.

(3) The owner of a vessel may decide which technologies or solutions the owner will use in order to comply with mandatory MARPOL Annex VI emissions levels.

Nitrogen oxides emissions

46.(1) The provisions of MARPOL Annex VI in respect of NO_x controls apply to any diesel engine with a power output of more than 130kW that has been installed on a vessel constructed on or after the 1st day of January, 2000 or if installed on a vessel constructed earlier, has undergone a major conversion.

(2) For the purposes of this Part, "major conversion" means a modification on or after the 1st day of January, 2000 of a marine diesel engine which has not already been certified to NO_x Technical Code Tier I, II or III standards where

(a) the engine is replaced by a marine diesel engine or an additional marine diesel engine is installed;

(b) any substantial modification, as defined in the revised NO_x Technical Code 2008, as amended, is made to the engine; and

(c) the maximum continuous rating of the engine is increased by more than 10 per cent compared to the maximum continuous rating of the original certification of the engine.

(3) Where a major conversion involves replacement of a marine diesel engine with a non-identical engine, or installation of an additional engine, the new engine

shall comply with the NO_x Technical Code Tier II or Tier III standards as applicable at the time of replacement.

(4) Where a replacement engine is fitted it shall if it is unable to demonstrate compliance with NO_x Technical Code Tier III standards, meet the applicable NO_x Technical Code Tier II standards and any additional engine shall demonstrate compliance with NO_x Technical Code Tier III emission limits.

(5) This section and any other section of this Act relating to nitrogen oxides emissions do not apply to diesel engines intended to be used solely in the case of emergency including lifeboat engines.

(6) Notwithstanding subsection (5), lifeboats used as tenders shall comply with this section and any provision in this Act relating to nitrogen oxide emissions.

(7) Emissions from engines of platforms that are solely dedicated to the exploration, exploitation and associated offshore processing of seabed mineral resources are exempt from anything contained in this Act or any other enactment made under this Act relating to nitrous oxide controls.

(8) Notwithstanding subsection (7), any emissions from engines that jointly supply power to exploration and processing machinery and the platform domestic load are not exempt from the provisions of this Act or any enactment made under this Act relating to nitrous oxide controls.

(9) Each engine on board a Barbados vessel that is subject to MARPOL Annex VI shall have an associated engine technical file.

(10) The technical file referred to in subsection (9) shall remain on board the vessel for as long as the engine remains on board and shall be available for inspection by authorized officers.

(11) The technical file referred to in subsection (9) shall include an on-board NO_x verification procedure, the parent engine’s emission test report and the EIAPP Certificate.

(12) The NO_x controls do not apply to boilers and gas engines.

(13) The requirements of NO_x Technical Code Tier III standard shall apply where

(a) the vessel was constructed on or after the 1st day of January, 2016 and is operating in the North America Emission Control Area or the United States Caribbean Sea Emission Control Area;

(b) the vessel was constructed on or after the 1st day of January, 2021 and is operating in the Baltic Sea Emission Control Area or North Sea Emission Control Area; and

(c) the vessel is operating in a new NO_x Emission Control Area, other than an area referred to in paragraph *(a)* or *(b)* and constructed on or after the date of designation of such an emission control area as may be specified in the designation of NOx Technical Code Tier III emission control area.

(14) The NO_x Technical Code Tier II standards apply where the vessel is operating outside of a NOx Emission Control Area.

(15) The NO_x Technical Code Tier II emission standards shall not apply to

(a) a marine diesel engine installed on a vessel with a length of less than 24 metres when it has been specifically designed, and is used solely, for recreational purposes;

(b) a marine diesel engine installed on a vessel with a combined nameplate diesel engine propulsion power of less than 750 kW if it is demonstrated to the satisfaction of the Administration that the vessel cannot comply with the standards set forth in this Act or any enactment made under this Act because of design or construction limitations of the vessel; or

(c) a marine diesel engine installed on a vessel constructed prior to the 1st day of January, 2021 of less than 500 gross tons, with a length of 24 metres or over if it has been specifically designed, and is used solely for recreational non-commercial purposes.

(16) Marine diesel engines with a power output of more than 5 000 kW and a per cylinder displacement of 90 litres or more, installed on or after the 1st day of January, 1990 but before the 1st day of January, 2000 shall comply with the NO_x Technical Code Tier I limits, if an approved method for that engine is commercially available and has been certified by an Administration of a Party to MARPOL Annex VI and notified to the IMO.

(17) The supplement to the IAPP certificate shall indicate whether

(a) the approved method has been applied pursuant to this Act or any enactment made under this Act;

(b) the engine has been certified in accordance with this Act or any enactment made under this Act; or

(c) an approved method is not yet commercially available.

Volatile organic compounds

47.(1) This section applies to

(a) tankers in designated ports and terminals where emission of VOCs is regulated; and

(b) gas carriers where the types of loading and containment systems allow safe retention of non-methane VOCs on board.

(2) Compliance with VOC emission control requirements may be achieved through the following:

(a) fitting vapour emission collection systems in accordance with relevant IMO Guidelines; and

(b) obtaining certification and class notation from a recognized organization.

(3) All tankers carrying crude oil shall have an approved VOC management plan implemented on board.

(4) Companies shall, when developing the VOC management plan, refer to relevant MEPC Guidelines.

(5) VOC management plans shall be approved by a recognized organization acting on behalf of Barbados.

(6) If the emissions of VOCs from a tanker are to be regulated in a port or terminal under the jurisdiction of Barbados, they shall be regulated in accordance with this section.

(7) The Administration, where regulating tankers for VOCs emissions, shall submit a notification to the IMO which shall contain the following:

(a) the size of tankers to be controlled;

(b) the cargoes requiring vapour emission control systems; and

(c) the date of such control.

(8) The notification referred to in subsection (7) shall be submitted at least 6 months before the effective date of control referred to in subsection (7)*(c)*.

(9) Where the Administration, in consultation with the Environmental Protection Department and PAPEC Department, designates ports or terminals at which VOC emissions from tankers are to be regulated, it shall ensure that vapour emission control systems, approved by it taking into account the safety standards for such systems developed by the IMO, are provided in any designated port and terminal and are operated safely and in a manner so as to avoid undue delay to a vessel.

(10) A tanker to which subsection (6) applies shall be provided with a vapour emission collection system approved by the Administration taking into account the safety standards for such systems developed by the IMO and shall use this system during the loading of relevant cargo.

(11) A port or terminal that has installed vapour emission control systems in accordance with this subsection may accept tankers that are not fitted with vapour collection systems for a period of 3 years after the effective date identified in subsection (7)*(c)*.

(12) A tanker carrying crude oil shall have on board and implement a VOC management plan approved by the Director.

(13) The plan referred to in subsection (12) shall be prepared taking into account guidelines developed by the IMO.

(14) The plan referred to in subsection (12) shall be specific to each vessel and shall

(a) provide written procedures for minimizing VOC emissions during loading, sea passage and discharge of cargo;

(b) give consideration to the additional VOC generated by crude oil washing;

(c) identify a person responsible for implementing the plan; and

(d) be written in the working language of the master and officers and, if the working language of the master and officers is not English, French or Spanish, include the translation into one of those languages.

(15) This section applies to gas carriers where cargo loading and containment systems are designed to allow retention of non-methane VOCs on board or their safe return to shore facilities.

Shipboard incineration

48.(1) This section applies as follows to all incinerators installed on or after the 1st day of January, 2000:

(a) incinerators with a capacity up to 1 500kW shall be type approved in accordance with relevant IMO Guidelines;

(b) incinerators with a capacity over 1 500kW and up to 4 000kW shall be approved in accordance with relevant IMO Guidelines.

(2) Existing incinerators installed before the 1st day of January, 2000 shall be deemed acceptable by the Administration, if they are type approved in accordance with relevant IMO Guidelines.

(3) Existing incinerators that are not type approved may be used except for the incineration of polyvinyl chlorides.

(4) Shipboard incineration of the following substances is prohibited:

(a) residues of cargoes subject to MARPOL Annex I, II and III or related contaminated packing materials;

(b) polychlorinated biphenyls;

(c) garbage, as defined by MARPOL Annex V, containing more than traces of heavy metals;

(d) refined petroleum products containing halogen compounds;

(e) sewage sludge and sludge oil which is not generated on the vessel; and

(f) exhaust gas cleaning system residues.

(5) Shipboard incineration of sewage sludge and sludge oil generated during normal operations of a vessel may also take place in the main or auxiliary power plant or boilers, but in such cases, shall not take place inside ports, harbours and estuaries.

(6) The operation of incinerators within the North America Emission Control Area or in the emission control area of any other coastal state shall be agreed with the individual port states and coastal states.

Carbon intensity requirements

49.(1) The Administration, in consultation with the PAPEC Department and relevant stakeholders, shall specify the carbon intensity requirements for

(a) Barbados-registered vessels; and

(b) foreign-registered vessels in Barbados' territorial sea,

in a Merchant Shipping Notice.

(2) The specified carbon intensity requirements shall align with relevant IMO requirements to the extent practicable.

Consistent implementation of sulphur limit

50. In accordance with the provisions of this Act relating to sulphur, Barbados vessels and foreign-registered vessels when in Barbados' waters shall consistently maintain the sulphur limit of 0.50 percent except where in an emissions control area it is specified that the sulphur limit shall not exceed 0.10 percent.

Flag state ship-specific approval

51.(1) EGCS and EGTS used on board Barbados ships require flag state ship-specific approval in the forms set out in the *Sixth* and *Seventh Schedule*s, to confirm that the equipment does not present an unacceptable risk to the vessel and the essential equipment required for the vessel's continued operation.

(2) The Minister may, after consultation with the Director, nominate a classification society to class-approve EGCS and EGTS in respect of Barbados ships.

(3) For the purposes of this section, "class-approve" means approved by the vessel's Classification Society.

Just-in-time and virtual arrival

52. The management of a port shall undertake necessary measures in accordance with the *Facilitation of International Maritime Traffic Act, 2024 (Act 2024-2)* and pursuant to this Act, to reduce unnecessary waiting and idle periods of shipping operations, *en route* to port, at port and pre-departure operations, to achieve emission reduction from ships.

Submission of EIAPP, IAPP and IEE certificates through Maritime Single Window

53.(1) All ships arriving at ports from within the Caribbean Trading Area shall, where practical to do so, electronically submit their EIAPP, IAPP and IEE

certificates through the Barbados Maritime Single Window, to the Designated Lead Port State control officer, 12 hours in advance of their arrival.

(2) All ships arriving at ports from outside the Caribbean Trading Area shall, where practical to do so, electronically submit their EIAPP, IAPP and IEE certificates through the Barbados Maritime Single Window, to the Designated Lead Port State control officer, 24 hours in advance of their arrival.

(3) Where it is not practical for EIAPP, IAPP and IEE certificates to be submitted in the manner required by subsections (1) and (2), those certificates shall be produced on arrival to the authorized officer conducting port state inspections.

Submission of other documents through the Barbados Maritime Single Window

54.(1) The Administration may require the submission of other emission control related documentation through the Maritime Single Window, for port state control purposes.

(2) Where the shipowner, master or agent finds it impractical to submit any documentation requested pursuant to subsection (1) through the Maritime Single Window, the shipowner, master or agent may, on arrival, submit the requested documentation to the authorized officer conducting port state inspections.

Air pollution prevention requirements: maritime autonomous surface ships

55. Maritime autonomous surface ships shall be equal to or better than conventionally manned merchant ships, in terms of their environmental and energy efficiency performance and shall be MARPOL Annex VI compliant.

PART VII

FUEL OPTIONS AND FUEL COMPLIANCE

Marine fuels

56.(1) Marine fuel suppliers may use the fuels listed in subsection (2) for propulsive and non-propulsive energy uses for vessels, based on

(a) vessel type;

(b) fuel storage requirements;

(c) purpose for use on board vessel;

(d) market availability; and

(e) other relevant factors peculiar to the vessel and the fuel.

(2) The fuels referred to in subsection (1) include

(a) diesel-quality fuels, namely

(i) heavy fuel oil produced from sweet (low sulphur) crude oil with a low sulphur content of 0.50 per cent or lower and on vessels with exhaust abatement technologies;

(ii) marine gas oil, only on vessels with a selective catalytic reduction unit;

(iii) low sulphur distillate fuels;

(iv) vegetable oils, combined with exhaust abatement technologies;

(v) hydro-treated vegetable oil;

(vi) pyrolysis oil;

(vii) biodiesel;

(viii) biomass-to-liquid or synthetic biodiesel;

(ix) gas-to-liquid or synthetic diesel;

(x) liquefied natural gas; and

(xi) liquefied biogas;

(b) gases, namely

(i) liquefied natural gas;

(ii) liquefied biogas;

(iii) dimethyl ether;

(iv) liquefied petroleum gas;

(v) compressed natural gas; and

(vi) hydrogen, produced from renewable sources or hydrogen with carbon capture and storage;

(c) alcohols, namely

(i) methanol;

(ii) ethanol;

(iii) butanol; and

(iv) OBATE fuel; and

(d) solid fuels, namely

(i) uranium;

(ii) coal; and

(iii) biofuels derived from wood or wood residues.

(3) Marine fuel suppliers shall select the best alternative to high sulphur fuel oils and provide fuels to vessels for their propulsive and non-propulsive purposes, as the case may be.

(4) For the purposes of this section, “OBATE fuel” means on board alcohol to ether fuel.

Register of regulated marine fuels

57.(1) The Administration shall maintain a register, in this Act referred to as the "Register of Regulated Marine Fuels", in which shall be listed

(a) prohibited marine fuels; and

(b) restricted marine fuels.

(2) The Register of Regulated Marine Fuels shall be administered by the Administration, in consultation with the Ministry responsible for Energy.

(3) The *Miscellaneous Controls Act*, Cap. 329 shall apply to items listed in the Register of Regulated Marine Fuels.

(4) No Barbados vessel and no foreign-vessel when in Barbados' waters shall use any marine fuel categorized in the Register of Regulated Marine Fuels as prohibited or restricted, except where those fuels comply with any specified requirements.

Selection of compliant marine fuels by local fuel suppliers to vessel

58.(1) Local fuel suppliers who supply marine fuels to ships shall ensure that such fuels are compliant with MARPOL Annex VI, this Act and any enactment made under this Act.

(2) Local fuel suppliers shall, when providing marine fuels to ships, take the following into account:

(a) technical criteria in relation to the system of the particular vessel associated with the fuel including

(i) engines;

(ii) storage tanks;

(iii) pumps;

(iv) pipes;

(v) exhaust systems;

(vi) bunkering of ships;

(vii) fuel storage terminal;

(viii) fuel pre-treatment requirements; and

(ix) any other relevant technical criteria;

(b) the environmental standards for ships as determined by the IMO in relation to marine fuels;

(c) the cost of marine fuels in relation to prevailing market prices;

(d) logistics, safety, security and other relevant considerations when selecting marine fuels; and

(e) international regulatory criteria for marine fuels as established by the IMO and ISO standards.

Obligations of local fuel suppliers

59.(1) Local suppliers of fuel oil for combustion purposes delivered to, and used on board vessels shall be registered in the Register of Local Suppliers of Fuel Oil and shall

(a) provide the master of the vessel or operator of the platform with a bunker delivery note containing the information set out in the *Eighth Schedule*;

(b) provide a declaration in the bunker delivery note that is signed by the fuel oil supplier's representative, that the fuel oil supplied conforms to the information contained in the bunker delivery note;

(c) retain a copy of the bunker delivery note for 3 years from the date of delivery; and

(d) not contaminate or blend the fuel so that it no longer conforms with the declaration required by paragraph *(b)*.

(2) In addition to the initial declaration to be submitted by local fuel suppliers in accordance with the *Ninth Schedule,* local fuel suppliers shall submit an annual declaration, in accordance with the *Tenth Schedule*.

(3) A person who is not registered on the Register of Local Suppliers of Fuel Oil is guilty of an offence and liable on summary conviction to a fine of $7 000 where the person supplies fuel oil to a vessel

(a) in the territorial sea of Barbados;

(b) in the contiguous zone of Barbados; or

(c) in the exclusive economic zone of Barbados.

Register of Local Suppliers of Fuel Oil to Ships

60.(1) The Director shall establish and maintain a register of persons who supply fuel oil to ships, in this Act, referred to as the "Register of Local Suppliers of Fuel Oil".

(2) A marine notice may

(a) prescribe the way in which the Register referred to in subsection (1) shall be established and maintained, including the details that the Director shall enter in the Register; and

(b) prescribe requirements that shall be complied with by

(i) persons seeking registration on the Register of Local Suppliers of Fuel Oil; and

(ii) persons registered on the Register of Local Suppliers of Fuel Oil.

(3) The register shall be made available for physical inspection by any member of the public on appointment and upon payment of such fee as the Director determines.

(4) A virtual inspection of the electronic register shall be facilitated through the Administration's online platform by any person who has paid such fee as the Director determines for access to the platform.

Using fuel oil that does not meet fuel oil quality requirements

61.(1) The master and the owner of a vessel are subject to the payment of an administrative penalty imposed under section 118 if

(a) the fuel oil used on board the vessel does not comply with the requirements set out in MARPOL Annex VI; and

(b) at least one of the following applies:

(i) the fuel oil is used while the vessel is in the territorial sea of Barbados;

(ii) the fuel oil is used while the vessel is in the contiguous zone of Barbados;

(iii) the fuel oil is used while the vessel is in the exclusive economic zone of Barbados; or

(iv) the vessel is a Barbados vessel and the fuel oil is used while the vessel is beyond the exclusive economic zone of Barbados.

Fuel oil supplied must be in accordance with the declaration

62.(1) A person who supplies fuel oil, other than gas fuel, to a vessel of 400 gross tons or above is responsible for the final blend of the components of the fuel supplied.

(2) A person referred to in subsection (1) is guilty of an offence and is liable on summary conviction to a fine of $50 000

(a) if the supply occurs while the vessel is

(i) in the territorial sea of Barbados;

(ii) in the contiguous zone of Barbados; or

(iii) in the exclusive economic zone of Barbados;

(b) if the person delivers, with the supply, a bunker delivery note that contains a declaration signed by the person or the person's representative certifying that the fuel oil meets the requirements set out in MARPOL Annex VI; and

(c) if the fuel oil supplied does not meet those requirements.

Obligations of masters and operators of vessels

63. The master of a vessel or operator of a platform shall

(a) ensure that the bunker delivery note is kept on board the vessel or platform in a place so as to be readily available for inspection at all reasonable times;

(b) certify, when requested by a duly authorized officer, that a copy of the bunker delivery note is a true copy of the original; and

(c) ensure that the bunker delivery note is retained for a period of 3 years from the date on which the fuel oil was delivered on board.

Obligations of local fuel supplier's representative

64.(1) The representative of a local supplier of fuel oil shall provide a sample of the fuel oil delivered with the bunker delivery note.

(2) On completion of the bunkering operations

(a) the representative of a local supplier and the master; or

(b) the representative of a local supplier and the officer in charge of the bunkering operation,

shall sign and seal the bunker delivery note.

(3) The master of the vessel, operator of the platform, or the company, shall retain control of the sample referred to in subsection (1), for not less than 12 months, commencing on the day of delivery or, until the fuel oil is substantially consumed, if the fuel oil is not consumed in less than 12 months.

(4) The bunker delivery note and the sample of fuel oil referred to in subsection (1) shall be available for inspection and verification at all reasonable times.

(5) The bunker delivery note referred to in subsection (1) shall be available at all reasonable times for copies to be made and as set out in the *Eighth Schedule*.

(6) A person who produces a false bunker delivery note to a maritime law enforcement officer, a port state control inspection officer or an officer designated by the Director to inspect ships and verify IMO compliance, other than, authorized officers of Customs, Immigration and Port Health, is guilty of an offence and is liable on conviction on indictment to a fine of $200 000 or to imprisonment for a term of 7 years or to both.

Offence of not retaining bunker delivery note

65.(1) Where a local supplier supplies fuel oil, other than gas fuel, to a Barbados vessel of 400 gross tons or above and

(a) a bunker delivery note for the supply of fuel oil to the vessel is provided to the master of the vessel;

(b) the bunker delivery note is not retained for 3 years after the supply; and

(c) the bunker delivery note is not readily available for inspection at all reasonable times,

the local supplier is subject to the payment of an administrative penalty imposed under section 118.

(2) Where fuel oil, other than gas fuel, is supplied to a Barbados vessel of 400 gross tons or above and

(a) a bunker delivery note for the supply of fuel oil to the vessel is provided to the master of the vessel;

(b) the bunker delivery note is not retained for 3 years after the supply; and

(c) the bunker delivery note is not readily available for inspection at all reasonable times,

the master and owner of the vessel are each subject to the payment of an administrative penalty imposed under section 118.

(3) Where fuel oil, other than gas fuel, is supplied to a foreign-registered vessel of 400 gross tons or above and

(a) a bunker delivery note for the supply of fuel oil to the vessel is provided to the master of the vessel;

(b) the bunker delivery note is not retained in the vessel for 3 years after the supply; and

(c) the bunker delivery note is not readily available for inspection at all reasonable times while the vessel is in a Barbados port or Barbados offshore terminal,

the owner and master of the vessel are each subject to the payment of an administrative penalty imposed under section 118.

(4) For the purposes of subsection (2), a bunker delivery note shall be retained

(a) on board the vessel; or

(b) at a place approved under subsection (6).

(5) The owner of a Barbados vessel that engages in scheduled services may apply in writing to the Director for approval to retain bunker delivery notes at a particular place.

(6) Where an application is made to the Director, the Director shall

(a) approve, or refuse to approve, the place referred to in subsection (5); and

(b) give the owner of the vessel a written notice of the decision, and, if the Director refuses to approve the place, give reasons for refusal.

Fuel oil sampling

66.(1) Every bunker delivery note shall be accompanied by a sample of the fuel supplied.

(2) The sample referred to in subsection (1) shall be 400 millilitres and shall be provided with a label with information stating the following:

(a) the place where the sample was taken;

(b) the sampling method;

(c) the bunker date;

(d) the name of the bunker, barge or pier;

(e) the receiving vessel's name and IMO number;

(f) the sample seal number; and

(g) the bunker grade.

(3) A sample referred to in subsection (1) shall be sealed by the supplier and the label shall be signed by the officer in charge of the bunkering and the representative of the supplier.

(4) Where the supplier referred to in subsection (1) does not provide a MARPOL Annex VI compliant sample or the bunker delivery note does not contain all the required information, a notification shall be issued to the vessel's flag State, if the vessel is not a Barbados vessel, and to the bunker port State, if the vessel was not bunkered in Barbados.

(5) Where a vessel was bunkered in Barbados, a notification shall be issued to the Director.

Offence of not retaining fuel oil sample

67. Where fuel oil, other than gas fuel, is supplied to a vessel of 400 gross tons and above and a representative sample of the fuel oil supplied is provided to the master of the vessel and the sample is not retained until

(a) the time at which the fuel oil supplied is substantially consumed; or

(b) for a period of 12 months commencing on the day on which the fuel oil is supplied,

whichever period is later, the master and the owner of the vessel are each guilty of an offence and liable on summary conviction to a fine of $75 000.

Offence: notification of sulphur content of gas fuel

68.(1) A person who

(a) supplies gas fuel to a vessel of 400 gross tons or above whilst the vessel is

(i) in the territorial sea of Barbados;

(ii) in the contiguous zone of Barbados; or

(iii) in the exclusive economic zone of Barbados; and

(b) does not provide documentation specifying the sulphur content of the gas supplied to the master of the vessel in connection with the supply,

is subject to the payment of an administrative penalty imposed under section 118.

(2) For the purposes of this Part,

"fuel oil supplier" means a person who is responsible for the final blend of fuel oil supplied to a local supplier of fuel oil;

"fuel oil supplier's representative" means a person appointed by a fuel oil supplier to provide a declaration on the bunker delivery note, that the fuel supplied complies with the provisions of MARPOL Annex VI; and

"local supplier of fuel oil " means a person who receives fuel oil from the fuel oil supplier with a view to its delivery to and use on board a vessel.

PART VIII

NATIONAL LEVEL MARITIME ENERGY GOVERNANCE

Development of a marine emissions permitting scheme: regional arrangements

69. Barbados may enter into regional arrangements for the development of a marine emissions permitting scheme to

(a) set a cap on air emissions from ships navigating in Barbados and the wider Caribbean;

(b) set a cap on air emissions from platforms operating in Barbados and the wider Caribbean;

(c) create permits up to the level of the cap;

(d) set costs of emissions per permit;

(e) create flexibility as to how and where ship-source pollution is reduced;

(f) set affordable emissions cuts; and

(g) manage the annual lowering of the cap.

Duties of the port

70.(1) All ports have a duty, in accordance with this Act or any enactment made under this Act to ensure the provision of adequate facilities for

(a) vessels using repair facilities of such ports for the reception of ozone-depleting substances and equipment containing such substances when the equipment is removed from the vessels; and

(b) vessels using its ports, terminals or report facilities for the reception of wash-water and residue from an exhaust gas cleaning system,

without causing undue delay to vessels.

(2) Where facilities referred to in subsection (1)*(a)* are not available in Barbados to manage and process the substances referred to in that subsection, the Director shall notify the IMO.

(3) Where any national port, at any time after the commencement of this Act, acquires adequate infrastructure to process and manage ozone-depleting substances and equipment containing such substances, the Director shall notify the IMO, in order that the IMO can notify other Member States of Barbados' capacity to deal with such substances at its ports.

Reports on reception facilities

71. Reports on unavailability or inadequacy of reception facilities shall be sent to the Technical Manager (Maritime Sector Emissions Control and Maritime Energy Management).

Adequate waste reception facilities for MARPOL Annex VI waste

72.(1) Waste reception facilities must be adequate to meet the needs of vessels carrying MARPOL Annex VI waste, namely, exhaust gas cleaning residues and ozone-depeleting substances removed from vessels.

(2) Exhaust gas cleaning residues are ship-generated waste and shall be appropriately disposed of into land-based reception facilities.

(3) Ozone-depleting substances when removed from vessels and delivered to reception facilities are operational waste, and therefore, ship-generated waste, and shall be appropriately disposed of into land-based reception facilities.

(4) Ports are prohibited from disposing of waste referred to in subsection (3) unless they have adequate waste reception facilities for MARPOL Annex VI categories of waste.

(5) For the purposes of this section, "adequate waste reception facilities" mean facilities that are capable of receiving the types and quantities of waste falling under MARPOL Annex VI from vessels, taking into account the

(a) operational needs of users of the port or terminal;

(b) size and geographical location of the port or terminal; and

(c) types of vessels calling at the port or terminal.

Port air quality strategies and management systems

73.(1) The Manager of the PAPEC Department shall develop a port air quality strategy and management system for

(a) the Port of Bridgetown;

(b) any other port under the authority and management of the Barbados Port Inc.; and

(c) a place designated as a port by the Minister responsible for Shipping.

(2) The management of a privately owned port in Barbados shall develop a port air quality strategy and management system in respect of that port.

(3) The port air quality strategy must take into account the specific nature of the port and must

(a) contain a statement of intent covering the overarching goals and commitment in relation to air quality and demonstrate that there is a contingency in place to deliver a port air quality strategy;

(b) contain a statement that includes a clear commitment from the port in respect of promoting and maintaining clean air quality in the port and immediate areas surrounding the port;

(c) establish baselines within the strategy to provide an insight of current impacts on air quality in the port and allow for monitoring of improvements;

(d) contain significant sources from emissions to air from port and port-related activities and any relevant actions to reduce them must be identified;

(e) define the geographical area relevant to the port's air quality strategy;

(f) set out actions to be delivered by associated third parties and tenants of the port, if relevant to the affected area as far as practicable to do so;

(g) set out actions with the greatest likelihood to produce improvements during and after the baseline year, whether or not they are already planned or implemented;

(h) co-operate with port tenants, users and other relevant stakeholders, in securing support from persons who may have the ability to contribute to the port's emissions reduction efforts;

(i) provide some detail on specific port air quality management system and monitoring programme, in order to prevent, reduce and control pollution of the atmosphere from port and port-related activities, as identified in the explanatory table set out in the *Eleventh Schedule*;

(j) identify performance indicators;

(k) indicate a time frame for implementation of other elements within the strategy;

(l) identify a monitoring and reporting mechanism in relation to the strategy itself, namely, a monitoring and action plan cycle, based on the following:

(i) cost-benefit assessment and action planning;

(ii) establishment of baseline;

(iii) action implementation;

(iv) monitoring and assessment; and

(v) review emissions reductions for further recommended actions; and

(m) contain a baseline inventory in order to give an understanding of current air quality impacts of port operations, including an identification of emission's sources beyond the port's influence, and provide a baseline against which future changes can be assessed.

(4) In addition to the matters referred to in subsection (3), in improving its port air quality standards, the port must take into account the World Health Organization guidelines for ambient air quality.

(5) The port air quality strategy and management system shall be submitted to the Environmental Protection Department for review and consideration.

(6) Where the Environmental Protection Department makes recommendations in respect of the port air quality strategy and management system, the relevant port shall implement the said recommendations and re-submit the revised port air quality strategy and management system to the Environmental Protection Department for approval.

Port energy audits and port energy efficiency certification

74.(1) Within 6 months after the commencement of this Act, ports shall conduct an initial internal energy audit, the findings of which shall be reported to the Technical Manager or officer designated by the Minister.

(2) The Technical Manager or other person or officer designated by the Minister shall produce a report and recommendations for improvement in respect of the port's internal energy audit and the report shall be sent to the Director.

(3) Internal energy audits shall be carried out after the audit mentioned in subsection (1).

(4) One year after the commencement of this Act, the port shall be externally audited for its energy and environmental performance by an independent auditor nominated by the Minister, after consultation with the Director, Technical Manager or officer designated under subsection (1) and the PAPEC Department.

(5) The port shall, within 3 years after the commencement of this Act, become ISO certified in relation to its energy and environmental performance in order to verify that its energy management system meets international standards.

(6) External port energy audits shall be conducted every 3 years.

Applicable ISO standards for port energy: environment compliance

75. Ports shall, in becoming energy efficient and environmentally compliant adhere to standards set by the ISO, in respect of the following:

(a) ISO 9001: Quality Management Systems;

(b) ISO 14001: Environmental Management Systems; and

(c) ISO 50001: Energy Management Systems.

Port carbon footprint reporting

76.(1) The port's carbon footprint reporting system shall be in use within 24 months after the commencement of this Act.

(2) The Port CEO or his designee shall make port carbon footprint reports available to the Administration at the end of every carbon footprint reporting period, that is to say, annually.

(3) The Technical Manager shall advise the Director of any necessary actions to be taken based on the carbon footprint report.

Responsibilities of Technical Manager

77. The Technical Manager shall be responsible for the following:

(a) climate change coordination for the maritime sector;

(b) conducting a rapid assessment of ship emissions in the national context, in accordance with the IMO's Guidance for Conducting a Rapid Assessment on Ship Emissions, so as to generate quantitative and qualitative information about Barbados' maritime emissions status at the time of analysis;

(c) conducting energy audits for the maritime sector, in consultation with port management;

(d) developing, in consultation with relevant stakeholders, a climate change adaptation plan and ship emissions reduction stragtegy for the national maritime sector, namely, ports, shipping and other emitting maritime development activities, such as offshore energy development;

(e) developing and implementing energy sustainability strategies for the maritime sector;

(f) developing, in accordance with IMO's Guidance on the Development of a National Ship Emissions Reduction Strategy, a national emissions reduction strategy for the shipping sector, namely

(i) a Barbados registered fleet;

(ii) a domestic fleet;

(iii) a fleet servicing Barbados' international transport demand;

(iv) a fleet passing through Barbados' territorial seas;

(v) a fleet owned by national shipowners; or

(vi) a hybrid fleet comprising fleets listed at subparagraphs (i) to (v);

(g) assisting in the

(i) continuous implementation of MARPOL Annex VI;

(ii) designation and monitoring of clean air spaces, coastal air quality zones and emissions control areas;

(iii) the development of emissions trading schemes for the maritime sector;

(iv) development of a green port concept, in consultation with port management;

(h) consulting with

(i) the Ministry responsible for the Environment;

(ii) the Ministry responsible for Energy; and

(i) generally performing any other task or function, in furtherance of the objectives of this Act and any enactment made under this Act, and in support of MARPOL Annex VI.

Senior Port Management Responsibilities

78. The PAPEC Department shall, in respect of energy efficiency at the ship-to-port interface

(a) direct and advise on internal port energy management regime;

(b) establish a port energy management system, in this Act referred to as "ENMS";

(c) provide resources to develop the ENMS;

(d) provide technical, financial and training resources to the energy management team, and other necessary resources for implementing the ENMS;

(e) define the scope and boundaries of the ENMS;

(f) communicate with employees and third parties affiliated with the port about matters relating to the ENMS;

(g) appoint a representative or port energy manager to allow for the establishment of an energy team;

(h) incorporate energy considerations in long term planning;

(i) promote greater usage of alternative energy sources in the port;

(j) ensure that the port attains ISO standard certification in relation to its energy efficiency and environmental performance; and

(k) perform any other function to support MARPOL Annex VI.

Port energy manager's responsibilities

79. The Port Energy Manager, shall

(a) develop and monitor ENMS, as directed by senior port management;

(b) review and approve relevant reports made by the port energy team;

(c) communicate periodically with senior port management;

(d) provide technical, financial and training resources to the Energy Management Team, and other necessary resources for implementing the ENMS;

(e) purchase energy products and services, as authorized by senior port management;

(f) conduct periodical internal energy audits;

(g) ensure that energy performance indicators are in place and in line with selected targets;

(h) monitor activities of the energy team and provide assistance and training activities;

(i) collect records including minutes of meetings and review management documents;

(j) facilitate the transition from convention to renewable energy sources in the port, generally and at the ship-to-port interface;

(k) increase awareness about energy efficiency in the port and shipping sector, and increase participatory involvement among employees; and

(l) do any other thing that is necessary to support MARPOL Annex VI and promote sustainability at the ship-to-port interface.

Port energy management team's responsibilities

80. The manager of the Port shall establish a port energy management team which shall

(a) implement and maintain the ENMS as directed by the Port Energy Manager;

(b) review and improve the essential documents, issues highlighted and decisions made by the team;

(c) conduct management reviews;

(d) communicate the importance of emissions reduction and promote port energy conservation and sustainability efforts;

(e) ensure appropriate energy performance indicators are in place;

(f) integrate energy efficiency into the long-term planning of the port; and

(g) do any other thing that is necessary to support MARPOL Annex VI.

Climate change coordinator

81.(1) For the purposes of this Act, "Climate Change Coordinator" means the public officer appointed in the Ministry responsible for Maritime Affairs, or any other public officer designated by the Minister, to manage climate change and marine environment matters.

(2) The Climate Change Coordinator shall be responsible for the following:

(a) conducting a rapid assessment of ship emissions in the national context, in accordance with the IMO's Guidance for Conducting a Rapid Assessment on Ship Emissions, so as to generate quantitative and qualitative information about Barbados' maritime emissions status at the time of analysis;

(b) developing, in consultation with relevant stakeholders, a climate change adaptation plan and ship emissions reduction strategy for the national maritime sector, namely ports, shipping and other emitting maritime development activities, such as offshore energy development;

(c) developing, in accordance with IMO's Guidance on the Development of a National Ship Emissions Reduction Strategy, a national emissions reduction strategy for the shipping sector, namely

(i) a Barbados registered fleet;

(ii) a domestic fleet;

(iii) a fleet servicing Barbados' international transport demand;

(iv) a fleet passing through Barbados' territorial seas;

(v) a fleet owned by national shipowners; or

(vi) a hybrid fleet comprising fleets listed at subparagraphs (i) to (v);

(e) consulting with

(i) the Ministry responsible for the Environment;

(ii) the Ministry responsible for Energy; and

(f) generally performing any other task or function, in furtherance of the objectives of this Act and any enactment made under this Act and in support of MARPOL Annex VI.

Climate change adaptation plan and ship emissions reduction strategy

82.(1) The climate change adaptation plan and ship emissions reduction strategy shall

(a) align to the extent practicable with the IMO Strategy on Reduction of GHG Emissions from Ships or such strategy as may be amended by the IMO; and

(b) take into account local circumstances.

(2) The measures to be undertaken in fulfilment of implementing

(a) mandatory elements of the climate change adaptation plan and ship emissions reduction strategy shall be published in a merchant shipping notice; and

(b) recommendatory elements of the climate change adaptation plan and ship emissions reduction strategy shall be published in a marine guidance note.

PART IX

VERIFIED CONTROL EMISSION IN-USE STRATEGY: MARINE DIESEL ENGINES

Administration of this Part

83. This Part shall be administered by the PAPEC Department, in consultation with the Chief Executive Officer of the Port of Bridgetown and the Environmental Protection Department of the Ministry responsible for the Environment.

Application of this Part

84. This Part applies to persons applying to have a marine diesel engine emission control strategy verified by the PAPEC Department.

Application process: initiating process

85.(1) A person who applies for the verification of a marine diesel engine emission control strategy for use with an emission control group, shall submit a preliminary verification application in such form as the PAPEC Department determines.

(2) The applicant referred to in subsection (1) shall, in order to obtain verification, conduct

(a) emission reduction tests;

(b) durability tests; and

(c) field demonstration,

and submit the results together with comments and other information in a final verification application to the PAPEC Department, in such form as the PAPEC Department determines.

(3) If the PAPEC Department grants verification of a marine diesel engine emission control strategy, the Port CEO shall issue an order to the applicant identifying the verified emission reduction and any conditions that must be met for the diesel emission control strategy to function effectively.

(4) Upon the grant of verification of a diesel emission control strategy, the applicant shall provide a warranty to the PAPEC Department.

(5) A marine diesel engine emission control strategy that employs 2 or more individual systems or components shall be tested and submitted for evaluation as one system.

(6) A verified marine diesel engine emission control strategy shall not be installed on an engine with another diesel emission control strategy that is not included in the order referred to in subsection (3).

(7) An applicant who seeks verification of an alternative diesel fuel shall follow any specifications provided by the PAPEC Department.

Application process: preliminary verification application

86.(1) The applicant shall submit a preliminary verification application in such form as the PAPEC Department determines for a marine diesel engine emission strategy to the PAPEC Department before submitting a final application for such a strategy.

(2) The PAPEC Department shall use the information in the preliminary verification application referred to in subsection (1) in order to determine

(a) whether the strategy relies on sound principles of science and engineering to control emissions;

(b) whether there is a need for additional analysis; and

(c) the appropriateness of allowing alternatives to the prescribed requirements.

(3) The preliminary verification application shall be in such form as the PAPEC Department determines and shall include:

(a) evidence of the identity, name, address and the phone number of the person submitting the preliminary verification application; and

(b) a description of the marine diesel engine emission control strategy's principles of operation and a schematic depicting the operation.

(4) If after reviewing the preliminary verification application, the PAPEC Department determines that the applicant has not made a satisfactory demonstration that the diesel emission control strategy relies on sound principles of science and engineering to achieve emission reductions, the Port CEO shall

notify the applicant of the determination in writing within 30 days of receiving the preliminary verification application.

(5) Where the PAPEC Department notifies the applicant that the applicant has not made a satisfactory demonstration, the applicant may

(a) withdraw from the verification process; or

(b) submit additional written material in support of the application within 60 days from the date of the notification letter from the Port CEO.

(6) Where

(a) after reviewing the additional materials referred to in subsection (5); or

(b) if the applicant fails to submit additional materials in the time mentioned in that subsection,

the PAPEC Department determines that the applicant has not yet made a satisfactory demonstration that its product relies on sound principles of science and engineering to achieve emission reductions, the preliminary verification application shall be suspended.

(7) The PAPEC Department shall review the additional materials mentioned in subsection (5) when deciding whether to suspend a preliminary or final application or revoke an existing verification.

(8) Where the PAPEC Department has reason to doubt the scientific or engineering soundness of the diesel emission control strategy, the PAPEC Department shall notify the applicant in writing and may require the applicant to submit additional supporting materials and clarifications no later than 60 days from the date of the notification letter.

(9) Where the additional materials are not received by the PAPEC Department within the period specified in the letter of notification, the preliminary or final application may be suspended or the existing verification may be revoked.

(10) A preliminary verification application that has been suspended, may be recommenced at the discretion of the PAPEC Department.

(11) The PAPEC Department shall work with the applicant to determine appropriate emission control group parameters for defining emission control groups that are appropriate for the marine diesel strategy.

(12) The applicant shall submit his proposed test plan for meeting the requirements of the NOx Technical Code and the existing data for consideration by the PAPEC Department.

(13) The preliminary verification application must focus on verification of the diesel emission control strategy for use with a single emission control group.

(14) The Manager of the PAPEC Department may, where deemed necessary, request the applicant to send a brief statement to the PAPEC Department, that the applicant acknowledges and agrees to do the following:

(a) provide a warranty, that within the warranty period, the verified marine diesel engine emission control strategy is free from defects in design, materials, workmanship, or operation of the marine diesel engine emission control strategy which may cause marine diesel engine emission control strategy to fail to conform to the emission control performance level to which it was verified, or to the other requirements of the NO_x Technical Code;

(b) submit any relevant information generated pursuant to this Part;

(c) keep records containing all relevant information; and

(d) provide all maintenance information for the marine diesel engine emission control strategy.

(15) When an applicant submits a preliminary verification application, the PAPEC Department,

(a) shall within 30 days of its receipt, determine whether the applicant has identified the information necessary to support an application for verification; and

(b) shall notify the applicant in writing that the applicant may submit an application for verification.

(16) Where an applicant for verification has submitted inadequate information, the PAPEC Department may suggest modifications to the proposed preliminary verification application to facilitate verification of the diesel emission control strategy.

(17) All applications, correspondence, and reports, with the exception of applications based on the use of fuel additives or alternative diesel fuels, locomotive applications, transport refrigeration units and marine applications, shall be submitted in writing.

(18) The following shall also be submitted to the PAPEC Department:

(a) all applications, correspondence, and reports for systems utilizing any form of fuel additive or alternative diesel fuel intended for locomotives; and

(b) all applications, correspondence, and reports for systems intended for transport refrigeration units or marine applications.

(19) The PAPEC Department may accept supporting data in electronic form as part of the application.

(20) The preliminary and final verification applications for a diesel emission control strategy shall be in accordance with section 87.

(21) Where requested information is not applicable to the diesel emission control strategy, the applicant must indicate and if the PAPEC Department concurs with the applicant's judgment that information is not applicable, the Port CEO may waive the requirement to provide the information requested.

(22) Final verification application including any additional information, updates, or changes, and all additional information required shall be submitted to the PAPEC Department.

Marine diesel engine emission control strategy

87.(1) The applicant shall test the marine diesel engine emission control strategy on an emission control group basis and identify the emission control group.

(2) The applicant shall identify the test marine diesel engines and, if applicable, by providing the engine family name, make, model, model year, and PM and NO_x certification levels.

(3) The applicant shall also describe the applications for which the marine diesel engine emission control strategy is intended to be used by giving examples of in-use vessels or equipment, characterizing typical duty cycles, indicating any fuel requirements, and providing any other related information.

Durability testing requirements

88.(1) The applicant must demonstrate, to the satisfaction of the Port CEO, the durability of the applicant's marine diesel engine emission control strategy through an actual field or laboratory based demonstration combined with engine dynamometer-based emission tests.

(2) If the applicant chooses a laboratory based durability demonstration, an additional field demonstration will be required to demonstrate field compatibility.

(3) Where the applicant has demonstrated the durability of the identical strategy in a prior verification or has demonstrated durability through field experience, the applicant may request that the PAPEC Department accept the previous demonstration in fulfilment of the requirement under subsection (1).

(4) In evaluating a request referred to in subsection (3), the PAPEC Department may consider all relevant information including the following:

(a) the similarity of baseline emissions and application duty cycles;

(b) the relationship between the emission control group used in previous testing and the current emission control group;

(c) the number of engines tested;

(d) evidence of successful operation and user acceptance; and

(e) published reports.

Verification of emission reductions for alternative marine diesel fuels and fuel additives

89.(1) This section applies to in-use strategies that include emission reductions from the use of alternative marine diesel fuels or fuel additives.

(2) For the purposes of subsection (1), the applicant for the verification of emissions reductions for alternative marine diesel fuels or fuel additives shall submit a proposed test protocol which includes

(a) references to criteria pollutant and toxic emissions sampling and analyses that are consistent with the requirements of subsection (3); and

(b) a description and parameters of alternative marine diesel fuels and fuel additives.

(3) Where operation or performance of a marine diesel engine emission control strategy is affected by fuel sulphur content, the sulphur content of the test fuel shall be no less than 66 per cent of the stated maximum sulphur content for the marine diesel engine emission control strategy, unless

(a) the testing is performed with fuel containing 15 parts per million weight or less sulphur for verification on 15 parts per million weight or less sulphur diesel fuel; or

(b) the testing is performed with diesel fuel commercially available in Barbados for verification.

(4) The applicant referred to in subsection (2) shall

(a) describe the applicability of the alternative marine diesel fuel or fuel additive to diesel engines;

(b) identify any requirements for engine or fuel system modification; and

(c) provide a general description of the alternative marine diesel fuel or fuel additive that includes the fuel type, fuel characteristics, fuel properties, fuel formulation and chemical compound.

(5) The applicant for the candidate alternative marine diesel fuel or fuel additive shall

(a) identify the chemical composition and concentration of fuel additives; and

(b) specify

(i) the sulphur content;

(ii) total aromatic content;

(iii) total polycyclic aromatic hydrocarbon content;

(iv) nitrogen content;

(v) API gravity (density);

(vi) distillation temperature distribution information, initial boiling point;

(vii) 10 percent recovered, 50 percent recovered, 90 percent recovered and end point;

(viii) viscosity (engine performance);

(ix) fuel volatility (engine performance);

(x) ignition quality (engine performance);

(xi) fuel operating temperatures (engine performance);

(xii) engine wear tendencies (engine wear);

(xiii) corrosion (engine wear);

(xiv) lubricity (engine wear); and

(xv) fuel flash point (safety).

(6) In addition to the matters required by subsection (5), the applicant shall

(a) provide information on the candidate alternative marine diesel fuel or fuel additive to determine if there are chemicals in the fuel additive that may increase levels of toxic compounds or form potentially toxic compounds in the fuel or fuel additive; and

(b) conduct an analysis for the following metals and elements by the a method specified by the applicant:

(i) copper;

(ii) iron;

(iii) cerium;

(iv) lead;

(v) cadmium;

(vi) chromium; and

(vii) phosphorus.

(7) The PAPEC Department may, after reviewing the chemical composition of the candidate alternative diesel fuel and its additives or fuel additive require additional analysis for other toxic compounds.

(8) With the approval of the PAPEC Department or a designated officer, an applicant may also specify different fuel parameters and tests methods that are appropriate to better characterize the candidate alternative diesel fuel or fuel additive.

(9) Upon review of the proposed test protocol, the PAPEC Department or a designated officer may require additional fuel components, parameters and specifications to be determined.

PART X

ENGINE INTERNATIONAL AIR POLLUTION PREVENTION CERTIFICATES

EIAPP Certificate to be on board

90. An EIAPP certificate shall accompany an engine referred to in section 91 throughout its lifetime and shall be available on board the vessel at all times.

Engines requiring an EIAPP Certificate

91.(1) Subject to subsection (2) and section 92, each marine diesel engine with a power output of more than 130kW installed on a vessel or an engine which undergoes a major conversion shall have an EIAPP certificate.

(2) Subsection (1) does not apply where the Director is satisfied that such an engine which has undergone a major conversion is an identical replacement to the previous engine.

Engines not required to have an EIAPP Certificate

92. The following engines do not require an EIAPP Certificate:

(a) a marine diesel engine intended to be used solely for emergencies or solely to power any device or equipment intended to be used solely for emergencies on the vessel on which it is installed;

(b) a marine diesel engine installed in lifeboats intended to be used solely for emergencies; and

(c) a marine diesel engine installed on a vessel solely engaged in voyages within waters subject to the jurisdiction of Barbados if that engine is

subject to an alternative NO_x control measure established by the Director.

Matters to be certified by the EIAPP Certificate

93. The EIAPP Certificate shall certify that

(a) a marine diesel engine has been surveyed for pre-certification in accordance with the requirements of the NO_x Technical Code; and

(b) the pre-certification survey shows that the engine and its technical file, prior to the engine's installation and service on board a vessel, fully comply with the requirements of the NOx Technical Code, this Act and any enactment made under this Act.

Validity of EIAPP Certificate

94. An EIAPP Certificate issued in respect of a Barbados vessel is valid for the life of the engine subject to surveys in accordance with this Act and any enactment made under this Act.

Information to be contained in EIAPP Certificate

95.(1) The EIAPP Certificate in respect of a Barbados vessel shall contain a table with the following headings:

(a) engine;

(b) manufacturer;

(c) model number;

(d) serial number;

(e) test cycle;

(f) rated power stated in kW and speed stated in RPM values and ranges; and

(g) engine approval number.

(2) A supplement to the EIAPP Certificate, namely, a record of construction, and its attachments shall be permanently attached to the EIAPP Certificate.

(3) The supplement referred to in subsection (2) shall contain

(a) particulars of the technical file;

(b) particulars of the engine; and

(c) specifications for the on-board NO_x verification procedures for the engine parameter survey.

(4) The following particulars of the technical file shall be recorded:

(a) the technical file identification or approval number; and

(b) the technical file approval date.

(5) The following particulars of the engine shall be recorded:

(a) the name and address of manufacturer;

(b) the place where the engine was built;

(c) the date when the engine was built;

(d) the place of pre-certification survey;

(e) the date of pre-certification survey;

(f) the engine type and model number;

(g) the engine serial number;

(h) the engine group details, if applicable;

(i) the approval reference;

(j) the rated power stated in kW and rated speed stated in RPM values or ranges;

(k) the test cycle;

(l) the parent engine test fuel oil specification;

(m) the applicable NO_x emission limit stated in g/kWh; and

(n) the parent engine emission value stated in g/kWh.

(6) The technical file required by Chapter 2 of the NO_x Technical Code and the technical file which forms an integral part of the EIAPP Certificate shall accompany an engine throughout its life and be available on board the vessel.

Documentary evidence to be presented

96. The owner, master or agent of a vessel shall present to the Director the following documents as evidence that a marine diesel engine has been certified and tested in accordance with the NO_x Technical Code:

(a) the EIAPP Certificate issued by a recognized classification society, recognized organization or a foreign authority recognized by the Director;

(b) the IMO NO_x Technical File from the engine manufacturer; and

(c) the record book of engine parameters, where component replacements which may influence NO_x emissions shall be recorded in accordance with the IMO NO_x Technical File.

PART XI

EXHAUST GAS CLEANING SYSTEMS OPERATIONS

Interpretation

97. For the purposes of this Part,

"bleed-off water" means the cleaning medium brought into contact with the exhaust gas stream for the reduction of SO_x and particulate matter;

"closed-loop EGCS" means cleaning systems that use alkaline-dosed seawater to scrub the exhaust gas from vessels;

"discharge water" means any water from an EGCS to be discharged overboard;

"EGCS residue" means material removed from the wash-water or bleed-off water by a treatment system or discharge water that does not meet the discharge criterion, or other residue material removed from the EGCS;

"EGCS wash-water" means the discharge water generated from a vessel's exhaust gas cleaning system;

"hybrid EGCS" means a system that uses both freshwater and seawater to scrub the exhaust gas from vessels;

"open-loop EGCS" means a cleaning system that uses seawater to scrub the exhaust gas from vessels;

"wash-water" means the cleaning medium brought into contact with the exhaust gas stream for the reduction of SO_x and particulate matter.

Application of this Part

98. This Part applies to

(a) Barbados registered vessels; and

(b) foreign-registered vessels when in Barbados waters.

Duty to protect the marine environment from EGCS discharges

99.(1) Ships in Barbados waters shall make every effort to prevent, reduce and control pollution of the marine environment from wash-water, bleed-off water, residue and other by-products generated from EGCS operations.

(2) Open-loop, closed-loop and hybrid EGCS operations shall be conducted in accordance with Guidelines for Exhaust Gas Cleaning Systems adopted by the MEPC of the IMO.

(3) For the purposes of this Part,

(a) the PAPEC Department shall consult the Environmental Protection Department and shall verify that EGCS wash-water approved for discharge into the marine environment is

(i) treated; and

(ii) compliant with EGCS discharge criteria specified in the relevant guidelines adopted by the MEPC of the IMO; and

(b) a vessel owner, vessel agent or master shall comply with any directions given in relation to the discharge of EGCS wash-water.

Prohibition on discharge of EGCS wash-water in port or in the territorial sea

100.(1) Subject to section 103, no EGCS wash-water shall be discharged in any waters within any port in Barbados or in Barbados' territorial sea.

(2) Any person who contravenes subsection (1) is guilty of an offence and is liable on conviction on indictment to a fine of $100 000 or to imprisonment for 5 years.

EGCS wash-water discharge in the EEZ

101.(1) Subject to the requirements set out in subsection (2), vessels arriving at a port, offshore terminal or any other place in Barbados may discharge EGCS wash-water into the exclusive economic zone.

(2) The requirements referred to in subsection (1) are as follows:

(a) the vessel owner, vessel agent or master shall notify the PAPEC Department prior to discharge through the EGCS Operations Notification Form;

(b) EGCS wash-water shall be treated before it is discharged;

(c) EGCS wash-water discharge shall be compliant with the EGCS discharge criteria specified in the relevant IMO MEPC guidelines; and

(d) the discharge shall take place in accordance with such directions as may be specified by the Environmental Protection Department.

EGCS wash-water discharge for transiting vessels

102.(1) Subject to the requirements set out in subsection (2), vessels transiting through Barbados waters but not calling at a port, terminal or any other place in Barbados may request to stop in Barbados for the purpose of discharging EGCS wash-water.

(2) The requirements referred to in subsection (1) are as follows:

(a) the vessel owner, vessel agent or master shall notify the PAPEC Department prior to discharge through the EGCS Operations Notification Form;

(b) EGCS wash-water shall be treated before it is discharged;

(c) EGCS wash-water discharge shall be compliant with the EGCS discharge criteria specified in the relevant IMO MEPC guidelines; and

(d) the discharge shall take place in accordance with such directions as may be specified by the Environmental Protection Department.

EGCS wash-water discharge options

103.(1) Notwithstanding section 100, EGCS wash-water may be discharged as follows:

(a) in a port waste reception facility;

(b) by a waste handling operator contracted by the port;

(c) in the marine environment where EGCS wash-water has been treated on board or in port to remove pollutants from EGCS wash-water prior to discharge;

(d) in the marine environment where the EGCS wash-water meets the discharge criteria established in guidelines on EGCS discharge concentration limits adopted by the MEPC of the IMO; or

(e) in accordance with alternative discharge arrangements

(i) specified in a merchant shipping notice; or

(ii) proposed by the vessel owner, vessel agent or master as specified on the EGCS Operations Notification Form and agreed to by the PAPEC Department, after consultation with the Environmental Protection Department.

(2) Where EGCS wash-water is discharged in a port waste reception facility or by a waste handling operator contracted by the port, MEPC guidelines regarding the management of EGCS wash-water by port reception facilities shall be followed.

Wash-water testing

104.(1) Wash-water testing in respect of Barbados registered vessels shall be conducted in respect of exhaust gas cleaning systems and repeated every 12 months.

(2) Foreign-registered vessels in Barbados waters shall provide data or evidence of samples that have been taken for analysis in relation to EGCS wash-water testing and shall provide such information as part of the vessel's evaluation during port State control inspection.

EGCS residue discharge

105.(1) Residue generated by EGCS shall be appropriately managed on board the vessel and delivered ashore to adequate reception facilities according to the relevant reception facilities guidelines adopted by the MEPC of the IMO.

(2) EGCS residue shall not be discharged anywhere in Barbados waters.

(3) EGCS residue shall not be mixed with other waste streams and shall not be burnt in the vessel's incinerators.

(4) Vessels shall have on board

(a) where applicable, evidence of a contract to prove that arrangements are in place to deliver the waste in the region where the ship is operating;

(b) waste receipts from the use of that contract to prove previous deliveries of such waste; and

(c) an estimation of the amount of EGCS residue produced on a daily basis, with records of the volume of solids and sludge produced,

to allow the master of the vessel to prove that there are appropriate mechanisms in place to dispose of the waste in an environmentally sound manner.

(5) A receipt referred to in subsection (4)*(b)* shall be kept on board for a period of 12 months after the delivery has been made.

EGCS residue discharge options

106.(1) EGCS residue may be discharged as follows:

(a) in a port waste reception facility;

(b) by a waste handling operator contracted by the port;

(c) in accordance with alternative discharge arrangements

(i) specified in a merchant shipping notice; or

(ii) proposed by the vessel owner, vessel agent or master as specified on the EGCS Operations Notification Form and agreed to by the PAPEC Department, after consultation with the Environmental Protection Department.

(2) Where EGCS residue is discharged in a port waste reception facility or by a waste handling operator contracted by the port, MEPC guidelines regarding the delivery of EGCS residue to port reception facilities shall be followed.

Notification of EGCS operation via Barbados Maritime Single Window

107.(1) The owner, agent or master of a vessel arriving at a port, offshore terminal or any other place in Barbados which needs shore-side support to dispose of EGCS wash-water or EGCS residue shall submit through the Barbados Maritime Single Window an EGCS Operations Notification Form for Ships to the PAPEC Department 48 hours in advance of the arrival of the vessel.

(2) The PAPEC Department shall notify the vessel owner, vessel agent or master within 12 hours in advance of the vessel's arrival to a port, terminal or any other place in Barbados waters, of the disposal options that will be available to the vessel.

(3) The EGCS Operations Notification Form shall be in the form set out in the *Twelfth Schedule*.

Merchant shipping notices may be issued for EGCS

108. The Director may, in consultation with the Minster, and after collaboration with stakeholders, provide for the following matters in respect of EGCS in a merchant shipping notice:

(a) exemptions;

(b) use of alternative mechanisms to prevent, reduce and control pollution from EGCS discharges; and

(c) any other matters in respect of EGCS operations, EGCS wash-water and EGCS residue management.

Penalties

109. The owner, master or agent of a vessel who contravenes the EGCS requirements set out in this Part is guilty of an offence and liable on conviction on indictment to a fine of $100 000 or imprisonment for 5 years or both.

PART XII

MISCELLANEOUS

Sustainable economic development initiatives

110.(1) A person from the shipping industry may formulate and submit a written proposal to the Administration for its consideration of a sustainable economic development strategy or initiative relating to

(a) scientific, technological and other developments in the field of shipping and emissions control; and

(b) matters within the scope of this Act or any enactment made under this Act.

(2) The proposed strategy or initiative shall be

(a) in alignment with MARPOL, Annex VI and related MEPC guidelines;

(b) economically viable;

(c) environmentally sustainable; and

(d) beneficial to the development of Barbados' shipping sector.

(3) The Director shall, in consultation with the PAPEC Department review a proposed strategy or initiative.

(4) Where the Director determines that a strategy or initiative meets the requirements of subsection (2), the Director shall, after consultation with the Minister and any relevant stakeholder, approve the implementation of the proposed strategy or initiative.

(5) Where the proposed strategy or initiative requires the imposition of regulatory measures to ensure the implementation and proper management of the strategy or initiative, the Director shall ensure the adoption of the appropriate regulatory measures.

(6) Where it is determined that the proposed strategy or initiative may have a significantly positive impact and is beneficial to the shipping industry, the Minister may provide incentives to the person for the person's innovation and implementation of the strategy or initiative.

(7) A proposed strategy or initiative may be eligible for incentives.

Agreement for green shipping corridors

111. Barbados may enter into an agreement with the government a foreign country for the purposes of establishing a green shipping corridor between Barbados and that country.

Establishment of green shipping corridors

112. The Minister may, by order, establish green shipping corridors between a port in Barbados and a port in a foreign country.

Components of green shipping corridors

113. Green shipping corridors shall have the following components:

(a) zero emitting fuels;

(b) port-side facilities to support fuel storage, bunkering and other fuel-handling activities;

(c) ship-specific energy efficiency technologies and other support;

(d) voyage optimization, including mechanisms to support just-in-time arrivals, ship-to-port interface optimization and other supporting mechanisms; and

(e) any other relevant components guided by international standards and best practices in the realm of green shipping.

Factors relevant to establishment of green shipping corridors

114. The following factors shall be taken into account in establishing green shipping corridors:

(a) marine geo-spatial data and other scientific data

(b) maritime safety, maritime security and marine environmental protection;

(c) marine spatial planning requirements; and

(d) any other relevant considerations.

Amendment of green shipping corridors order

115. The Minister may, after consultation with stakeholders amend an order made under section 112.

Market-based measures for emission reduction in the marine transport sector

116.(1) Market-based measures for emissions reduction in the marine transport sector shall

(a) be consistent with market-based measures

(i) endorsed by the IMO; or

(ii) generally adopted in the global shipping market;

(b) serve the purpose of

(i) providing an economic incentive for the marine transport sector to reduce its fuel consumption by investing in more fuel efficient ships and technologies and to operate ships in a more energy efficient manner; and

(ii) offsetting the wider impact of ship-generated emissions; and

(c) be developed in alignment with international best practice, while giving due consideration to local circumstances.

(2) The Minister responsible for Finance shall, in consultation with the Minister responsible for Shipping and the PAPEC Department, develop and implement a market-based measures plan for marine transport sector emissions regulation.

(3) The market-based measures plan referred to in subsection (2) shall

(a) be reviewed and endorsed by the Minister responsible for Shipping;

(b) be approved by the Minister responsible for Finance; and

(c) take effect upon publication of notice of the approval of the plan in the *Official Gazette*.

(4) The market-based measures plan referred to in subsection (2) shall be reviewed no more than 3 years after notice of approval is published in the *Official Gazette*.

(5) The market-based measures plan referred to in subsection (2) may be withdrawn if the Minister, after consultation with the PAPEC Department and the Director, considers it necessary to do so and the plan shall cease to have effect when notice of its withdrawal is published in the *Official Gazette*.

(6) Where the market-based measures plan is withdrawn, it shall be replaced with a new plan which shall comply with the procedure set out in subsection (3).

(7) For the purposes of this section, "market-based measures" means economic measures recognized by the IMO as part of the comprehensive package of measures for effective regulation of emission from the marine transport sector.

Designation of emissions control areas

117.(1) Where the Minister is desirous of designating an emissions control area within a national port or an offshore area, the Minister shall submit proposals to the IMO for the designation of an area.

(2) Emissions control areas may be designated to control

(a) emissions of NO_x;

(b) emissions of SO_x; and

(c) emissions of particulate matter.

(3) The Minister shall consult with the Coastal Zone Management Unit, the Port Authority and the Minister responsible for the Environment when considering the designation of an emissions control area.

(4) Where an emissions control area is designated in Barbados, vessels operating in that area shall use fuel that has a sulphur content not exceeding 0.10 percent m/m in accordance with MARPOL Annex VI.

(5) The Minister may make regulations to give effect to this section.

Administrative penalties

118. A person who contravenes a provision set out in Part I of the *Thirteenth Schedule* is liable to pay to the Director an administrative penalty in the amount specified.

Administrative penalty notice

119.(1) The Director shall issue an administrative penalty notice in the form set out in Part II of the *Thirteenth Schedule* to any person where the Director is satisfied that, that person has contravened a provision set out in Part I of the *Thirteenth Schedule*.

(2) In addition to the public interest, where the Director issues a notice pursuant to subsection (1), the Director shall have due regard to the following:

(a) the nature, gravity and duration of the contravention, taking into account whether any damage was sustained to the marine environment;

(b) the intentional or negligent character of the contravention;

(c) any action taken by the master or owner of a vessel or a fuel supplier to mitigate the damage to the marine environment;

(d) any relevant previous contraventions by the master or owner of a vessel or by a fuel supplier; and

(e) any other aggravating or mitigating factor applicable to the circumstances of the case, such as financial benefits gained, or losses avoided, directly or indirectly, from the contravention.

(3) An administrative penalty notice issued pursuant to subsection (1) shall specify the nature of the act constituting the contravention, the penalty to be paid and shall require the person to whom it is addressed to pay the penalty within 30 days of the date of the notice

(4) A person who is in receipt of an administrative penalty notice issued pursuant to subsection (1) shall pay the amount of the penalty set out in the notice on or before the date specified in the notice.

(5) Notwithstanding subsection (4), where the Director is satisfied on grounds of undue hardship or for any other reason that it would be just and equitable to do so, the Director may arrange with the person who is the subject of the penalty notice to pay the penalty set out in the notice in instalments.

Procedure for challenging an alleged administrative contravention

120. Notwithstanding section 119, a person to whom an administrative penalty notice is addressed and who wishes to challenge the alleged contravention, may instead of paying the amount of the administrative penalty, appeal to a judge in Chambers who may remit or vary the amount of the penalty and the decision of the judge shall be final.

Administrative penalty to constitute a debt to the State

121. The amount of an outstanding administrative penalty constitutes a debt to the State and is recoverable in civil proceedings before a magistrate for District 'A'.

Offence relating to fraudulent surveys

122.(1) A recognized organization of the Administration or marine surveyor shall not prepare or issue

(a) an untrue or inaccurate vessel survey conducted in relation to verifying MARPOL Annex VI compliance;

(b) a report or record on the MARPOL Annex VI without conducting a vessel survey;

(c) a report or record that falsely states a vessel is compliant with MARPOL Annex VI, as outlined in relation to surveys specified in this Act or any enactment made under this Act; or

(d) a vessel survey with false or inaccurate information.

(2) A person who contravenes subsection (1) is guilty of an offence and liable on conviction on indictment to a fine of $100 000 or 5 years imprisonment or to both.

(3) Where a recognized organization or marine surveyor contravenes subsection (1), the Director may terminate the services of the recognized organization or marine surveyor.

General penalty

123.(1) A person who commits an offence under this Act or any enactment made under this Act for which no penalty is specifically provided is guilty of an offence and liable on summary conviction to a fine of $50 000.

(2) Where an offence under this Act or any enactment made under this Act is a continuing offence, and no penalty is otherwise provided in this Act, in respect of the continuance, every person who commits that offence, in addition to any other penalty, is liable to a fine of $100 for every day or part thereof during which the offence continues after conviction is first obtained.

Enforcement

124.(1) Members of the Barbados Police Service and the Coast Guard may board and inspect any

(a) vessel;

(b) platform; or

(c) offshore energy production facility

in Barbados' territorial sea, contiguous zone, or exclusive economic zone for the purpose of ensuring the production of any documentation required by such vessels or facilities.

(2) Members of the Barbados Police Service or the Coast Guard may require a vessel, platform or offshore energy production facility referred to in subsection (1) to comply with this Act and any enactment made under this Act.

(3) Members of the Barbados Police Service or the Coast Guard may detain any vessel for further inspection or halt production by an offshore energy production facility in accordance with this Act or any enactment made under this Act until the vessel or offshore energy production facility corrects the deficiencies in respect of which it was non-compliant .

(4) A port state control officer, in this Act referred to as "PSCO" designated by the Director, may board and inspect a vessel in Barbados' waters to ensure that the condition of the vessel and her equipment comply with international emissions control requirements stipulated under MARPOL Annex VI and as part of such compliance verification process, require the production of any documentation required under MARPOL Annex VI.

(5) For the purposes of this section, a PSCO designated by the Administration may board and inspect any vessel in Barbados' waters to which NAPP and NEE certification requirements apply to ensure that the condition of the vessel and her equipment comply with national emissions control requirements.

(6) In conducting the inspection referred to in subsections (1), (4) and (5), the PSCO may require the production of NAPP and NEE certificates or any other required documentation specific for emissions control.

(7) The flag State of any detained vessel shall be notified immediately of the detention of its vessel.

Privileges and immunities of Coast Guard

125. Members of the Coast Guard when carrying out duties conferred under this Act or any enactment made under this Act shall have the same rights, powers and duties and shall enjoy the same privileges and immunities as are had and enjoyed by a member of the Barbados Police Service acting under the *Police Act*, Cap. 167.

Protection from personal liability

126. No liability shall lie personally against any authorized public officer or authorized entity who, acting in good faith and with reasonable care, does or omits to do anything in the execution or purported execution of duties conferred on the officer by this Act or any enactment made under this Act.

Regulations

127. The Minister, after consultation with the Director, may make regulations generally for giving effect to this Act and prescribing any matter or thing required by this Act to be prescribed.

Marine fuels safety regulatory framework

128. The Administration shall, in consultation with the Minister responsible for Energy, in order to support the safe transition and operation of

ships using new technologies and alternative marine fuels aimed at reducing ship-source emissions

(a) develop a marine fuels safety regulatory framework consistent with the safety regulatory framework of the IMO's Maritime Safety Committee; and

(b) maintain an up-to-date marine fuels safety work plan, to ensure continuous undertaking of measures in the maritime safety domain relevant to marine energy efficient technologies and alternative marine fuels.

Merchant shipping notice

129.(1) The Minister may, after consultation with the Director, make a merchant shipping notice and may publish in such a notice any mandatory information required to be complied with under this Act or any enactment made under this Act.

(2) It is an offence to contravene any mandatory requirements contained in a merchant shipping notice referred to in subsection (1).

(3) A merchant shipping notice shall contain information from the following sources:

(a) MARPOL Annex VI, as amended by the IMO;

(b) MEPC resolutions on MARPOL Annex VI;

(c) information specified in any enactment made under this Act to be contained in a merchant shipping notice;

(d) the IACS standards; and

(e) any source relating to emissions reduction in the marine transport sector specified by the Administration.

Marine guidance note and marine information note

130.(1) The Director may, after consultation with the Minister, publish

(a) marine guidance notes, in order to communicate significant advice and guidance relating to prevention, reduction and control of vessel emissions; and

(b) marine information notes, to a specific group in relation to time-limited information on climate change impacts from shipping on the marine environment and atmospheric protection from shipping and other marine development activities.

(2) A marine guidance note is advisory in nature and may not provide for penal or other sanctions.

(3) A marine guidance note shall contain information from the following sources:

(a) the sources set out at paragraphs *(a)* to *(e)* of section 129(3);

(b) MEPC Guidelines on MARPOL Annex VI as amended by the IMO;

(c) applicable rules and standards of the ISO; and

(d) information specified in any enactment made under this Act that is to be contained in a marine guidance note.

(4) A marine information note may contain information from the following sources:

(a) the sources set out at paragraphs *(a)* to *(e)* of section 129(3);

(b) a maritime law enforcement officer; and

(c) a maritime industry stakeholder to whom the specific information relates.

(5) A marine information note is valid for 12 months from the date of publication.

Emissions reductions standards and measures established after the commencement of this Act

131.(1) Emissions reductions standards and measures established by the IMO after the commencement of this Act shall supersede the emissions reductions standards and emissions reductions measures specified in this Act and any enactment made under this Act, where those standards and measures are inconsistent with the emissions reductions standards and measures adopted by the IMO after the commencement of this Act.

(2) The Administration shall publish the relevant requirements in respect of such standards and measures concerning Barbados registered vessels and visiting foreign-registered vessels, in a marine notice.

Amendment of Schedules

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

Transitional

133. Barbados vessels and foreign-registered ships in operation on the commencement of this Act shall within 18 months after such commencement comply with the provisions of this Act.

FIRST SCHEDULE

(Section 26(4))

Marine Transport (Emissions Control) Act, 2024
(Act 2024-)

INTERNATIONAL AIR POLLUTION PREVENTION CERTIFICATE
(IAPP Certificate)

Issued under the authority of the Government of Barbados

by_____
(Full designation of the competent person or organization authorized under the provisions of the convention)

Particulars of Vessel

Name of vessel: _____

Distinctive numbers or letters: _____

Port of registry: _____

Gross tonnage: _____

IMO number: _____

First Schedule - (Cont'd)

THIS IS TO CERTIFY:

1. That the vessel has been surveyed in accordance with Regulation 5 of MARPOL Annex VI; and

2. That the survey shows that the equipment, systems, fittings, arrangements and materials fully comply with the applicable requirements of MARPOL Annex VI.

Completion date of survey on which this Certificate is based: _____
(dd/mm/yyyy)

This Certificate is valid until _____ subject to such surveys in accordance with Regulation 5 of MARPOL Annex VI.

Issued at _____
(Place of issue of certificate)

_____ _____
(dd/mm/yyyy) *(Signature of Authorized Official Issuing Certificate)*

This Certificate expires _____.
(dd/mm/yyyy)

First Schedule - (Cont'd)

Endorsement for Annual Intermediate Surveys

THIS IS TO CERTIFY that on a survey required by MARPOL Annex VI the vessel was found to comply with the relevant provisions of that Annex:

Annual Survey:

Signed:_____
(Signature of authorized official)

Place:_____

_____

Date:_____
(dd/mm/yyyy)

(Seal or stamp of the authority, as appropriate)

Annual Survey:

Signed:_____
(Signature of authorized official)

Place:_____

_____

Date:_____
(dd/mm/yyyy)

(Seal or stamp of the authority, as appropriate)

Annual Survey:

Signed:_____
(Signature of authorized official)

Place:_____

_____

Date:_____
(dd/mm/yyyy)

(Seal or stamp of the authority, as appropriate)

First Schedule - (Cont'd)

Annual/Intermediate survey:

Signed: _____
(Signature of authorized official)

Place: _____

_____

Date: _____
(dd/mm/yyyy)

(Seal or stamp of the authority, as appropriate)

Annual/Intermediate Survey in accordance with Regulation 9.8.3

THIS IS TO CERTIFY that, at an annual/intermediate survey in accordance with Regulation 9.8.3 of MARPOL Annex VI, the vessel was found to comply with the relevant provisions of the Annex.

Signed: _____
(Signature of authorized official)

Place: _____

_____

Date: _____
(dd/mm/yyyy)

(Seal or stamp of the authority, as appropriate)

First Schedule - (Cont'd)

Endorsement to extend certificate is valid for less than 5 years where Regulation 9.3 applies

The vessel complies with the relevant provisions of the Annex, and this certificate shall, in accordance with Regulation 9.3 of MARPOL Annex VI, be accepted as valid until _____.
(dd/mm/yyyy)

Signed: _____
(Signature of authorized official)

Place: _____

_____

Date: _____
(dd/mm/yyyy)

(Seal or stamp of the authority, as appropriate)

Endorsement where renewal survey has been completed and Regulation 9.4 applies

The vessel complies with the relevant provisions of the Annex, and this certificate shall, in accordance with Regulation 9.4 of MARPOL Annex VI, be accepted until _____.
(dd/mm/yyyy)

Signed: _____
(Signature of authorized official)

Place: _____

_____

Date: _____
(dd/mm/yyyy)

(Seal or stamp of the authority, as appropriate)

First Schedule - (Cont'd)

Endorsement to extend the validity of the certificate until reaching the port of survey for a period of grace where Regulation 9.5 or 9.6 applies

This certificate shall, in accordance with Regulation 9.5 or 9.6 of MARPOL Annex VI, be accepted as valid until _____ .
(dd/mm/yyyy)

Signed: _____
(Signature of authorized official)

Place: _____

_____

Date: _____
(dd/mm/yyyy)

(Seal or stamp of the authority, as appropriate)

Endorsement for advancement of anniversary date where Regulation 9.8 applies

In accordance with Regulation 9.8 of MARPOL Annex VI, the new anniversary date is _____.
(dd/mm/yyyy)

Signed: _____
(Signature of authorized official)

Place: _____

_____

Date: _____
(dd/mm/yyyy)

(Seal or stamp of the authority, as appropriate)

First Schedule - (Concl'd)

Endorsement for advancement of anniversary date where Regulation 9.8 applies

In accordance with Regulation 9.8 of MARPOL Annex VI, the new anniversary date is _____.
(dd/mm/yyyy)

Signed: _____
(Signature of authorized official)

Place: _____

_____

Date: _____
(dd/mm/yyyy)

(Seal or stamp of the authority, as appropriate)

SUPPLEMENT TO INTERNATIONAL AIR POLLUTION PREVENTION CERTIFICATE

- **The IAPP Certificate is required for:**

  (a) Barbados vessels 400 GT and above which are or will be engaged in voyages to a port or offshore terminal under the jurisdiction of a Contracting Government of MARPOL Annex VI, excluding Barbados;

  (b) fixed and floating drilling rigs and other platforms which are or will be engaged in voyages to waters under the sovereignty or jurisdiction of a Contracting Government of MARPOL Annex VI, excluding Barbados; and

  (c) Non-Barbados vessels 400 GT and above belonging to another Contracting Government of MARPOL Annex VI, when the Minister responsible for Shipping is requested by that Contracting Government to issue an IAPP Certificate on behalf of such vessels.

First Schedule - (Concl'd)

Endorsement for advancement of anniversary date where Regulation 9.8 applies

In accordance with Regulation 9.8 of MARPOL Annex VI, the new anniversary date is _____.
(dd/mm/yyyy)

Signed: _____
(Signature of authorized official)

Place: _____

_____

Date: _____
(dd/mm/yyyy)

(Seal or stamp of the authority, as appropriate)

SUPPLEMENT TO INTERNATIONAL AIR POLLUTION PREVENTION CERTIFICATE

- **The IAPP Certificate is required for:**

  (a) Barbados vessels 400 GT and above which are or will be engaged in voyages to a port or offshore terminal under the jurisdiction of a Contracting Government of MARPOL Annex VI, excluding Barbados;

  (b) fixed and floating drilling rigs and other platforms which are or will be engaged in voyages to waters under the sovereignty or jurisdiction of a Contracting Government of MARPOL Annex VI, excluding Barbados; and

  (c) Non-Barbados vessels 400 GT and above belonging to another Contracting Government of MARPOL Annex VI, when the Minister responsible for Shipping is requested by that Contracting Government to issue an IAPP Certificate on behalf of such vessels.

SECOND SCHEDULE

(Section 26(4))



Marine Transport (Emissions Control) Act, 2024
(Act 2024-)

International Energy Efficiency Certificate
(IEE Certificate)

Issued under the authority of the Government of Barbados

by_____
(Full designation of the competent person or organization authorized under the provisions of the Convention)

Particulars of Vessel

Name of vessel: _____

Distinctive number or letters: _____

Port of registry: _____

Gross tonnage: _____

IMO number: _____

Second Schedule - (Concl'd)

THIS IS TO CERTIFY:

1. That the vessel has been surveyed in accordance with Regulation 5.4 of MARPOL Annex VI.

2. That the survey shows that the vessel complies with the applicable requirements in Regulation 20, Regulation 21 and Regulation 22.

Completion date of survey on which this certificate is based: _____
(dd/mm/yyyy)

Issued at: _____
(Place of issue of certificate)

Date of issue: _____
(dd/mm/yyyy)

_____
(Signature of duly authorized official issuing the certificate)

(Seal or stamp of authority, as appropriate)

Supplement to the IEE Certificate

- **<u>The IEE Certificate is required for:</u>**

  (a) Barbados vessels 400 GT and above which are or will be engaged in voyages to a port or offshore terminal under the jurisdiction of a Contracting Government of MARPOL Annex VI, excluding Barbados;

  (b) fixed and floating drilling rigs and other platforms which are or will be engaged in voyages to waters under the sovereignty or jurisdiction of a Contracting Government of MARPOL Annex VI, excluding Barbados;

  (c) Non-Barbados vessels 400 GT and above belonging to another Contracting Government of MARPOL Annex VI, when the Minister responsible for Shipping is requested by that Contracting Government to issue an IEE Certificate on behalf of such ships.

THIRD SCHEDULE

(Section 29(3))



Marine Transport (Emissions Control) Act, 2024
(Act 2024-)

National Air Pollution Prevention Certificate
(NAPP) Certificate)

Issued under the authority of the Government of Barbados:

by_____
(Full designation of the competent person or organization authorized under the provisions of the Act and the regulations made under the Act)

Name of Vessel	Distinctive Numbers or Letters	IMO Number	Port of Registry	Gross Tonnage

Third Schedule - (Cont'd)

Type of vessel: ☐ Tanker

☐ Vessels other than a tanker

THIS IS TO CERTIFY:

1. That the vessel has been surveyed in accordance with the Act.

2. That the survey shows that the equipment, systems, fittings, arrangements and materials fully comply with the applicable requirements of MARPOL Annex VI.

Completion date of survey on which this Certificate is based: _____
(dd/mm/yyyy)

This Certificate is valid until _____ subject to surveys in accordance with the *Marine Transport (Emissions Control) Act, 2024* (Act 2024-).
(dd/mm/yyyy)

Issued at: _____
(Place of issue of Certificate)

Date of issue: _____ _____
(dd/mm/yyyy) *(Signature of duly authorized official issuing the Certificate)*

(Seal or stamp of authority, as appropriate)

Third Schedule - (Cont'd)

Endorsement for Annual and Intermediate Surveys

THIS IS TO CERTIFY that at a survey, the vessel was found to comply with the relevant provisions of MARPOL Annex VI:

Annual Survey:

Signed: _____
(Signature of duly authorized official)

Place: _____

Date: _____
(dd/mm/yyyy)

(Seal or stamp of authority, as appropriate)

Annual/Intermediate Survey:

Signed: _____
(Signature of duly authorized official)

Place: _____

Date: _____
(dd/mm/yyyy)

(Seal or stamp of authority, as appropriate)

Annual/Intermediate Survey:

Signed: _____
(Signature of duly authorized official)

Place: _____

Date: _____
(dd/mm/yyyy)

(Seal or stamp of authority, as appropriate)

Third Schedule - (Cont'd)

Annual Survey:

Signed: _____
(Signature of duly authorized official)

Place: _____

Date: _____
(dd/mm/yyyy)

(Seal or stamp of authority, as appropriate)

Third Schedule - (Cont'd)

SUPPLEMENT TO NATIONAL AIR POLLUTION PREVENTION CERTIFICATE

(NAPP CERTIFICATE)

RECORDS OF CONSTRUCTION AND EQUIPMENT

In respect of the provisions of Annex VI of the International Convention for the Prevention of Marine Pollution from Ships, 1973, as modified by the Protocol of 1978 related thereto (hereinafter referred to as "the Convention") as implemented in Barbados for vessels which are solely operating in Barbados' waters by the *Marine Transport (Emissions Control) Act, 2024* (Act 2024-) and any enactment made under the Act.

Notes:

1. This Record shall be permanently attached to the NAPP Certificate. The NAPP Certificate shall be available on board the vessel at all times.

2. Entries in boxes shall be made by inserting either a (x) for the answer "yes" and "applicable" or a dash (-) for the answers "no" and "not applicable" (N/A) as appropriate.

Third Schedule - (Cont'd)

1. Particulars of Vessel

Name of vessel: _____

Distinctive number or letters: _____

IMO number: _____

Port of registry: _____

Gross tonnage: _____

Date on which keel was laid or vessel was at a similar stage of construction: _____
(dd/mm/yyyy)

Date of commencement of major engine conversion, if applicable: _____
(dd/mm/yyyy)

2. Control of vessel-source emissions

2.1 Ozone-depleting substances (ODS)

2.1.1 The following systems containing ODS installed before 19th day of May, 2005 may not continue in service after [, 20].

System Equipment	Location on board

Third Schedule - (Cont'd)

2.2 Nitrogen Oxides (NOx)

2.2.1 The following diesel engines with power output greater than 130 kW, and installed on a vessel on or after 1st day of January, 2005, comply with the emission standards and in accordance with the NOx Technical Code: ☐

Manufacturer and Model	Serial Number	Use	Power Output (kW)	Rated Speed (rpm)

2.2.2 The following diesel engines with power output greater than 130 kW, and which underwent major conversion on or after 1st day of January, 2005, comply with the emission standards of the NOx Technical Code: ☐

Manufacturer and Model	Serial Number	Use	Power Output (kW)	Rated Speed (rpm)

Third Schedule - (Cont'd)

2.2.3 The following diesel engines with a power output greater than 130 kW installed on a vessel constructed on or after 1st day of January, 2000, with a power output greater than 130 kW, are fitted to a vessel with an exhaust gas cleaning system or other equivalent methods in accordance with the NOx Technical Code and comply with the emission standards: ☐

Manufacturer and Model	Serial Number	Use	Power Output (kW)	Rated Speed (rpm)

2.2.4 The following diesel engines from 2.2.1, 2.2.2 and 2.2.3 above are fitted with NOx emission monitoring and recording devices in accordance with the NOx Technical Code: ☐

Manufacturer and Model	Serial Number	Use	Power Output (kW)	Rated Speed (rpm)

Third Schedule - (Cont'd)

2.3 Sulphur Oxides (SOx)

2.3.1 When the vessel operates within an SOx emission control area, the vessel uses:

(a) fuel oil with a sulphur content that does not exceed 0.10% as documented by bunker delivery notes; ☐

or

(b) unit approved exhaust gas cleaning installation(s) issued with an approved Shipboard SOx Emission Compliance Plan and SOx Emission Compliance Certificate (if applicable) which demonstrates SOx emission is in compliance with the regulations; ☐

or

(c) other approved technology which demonstrates SOx emissions is in compliance the regulations; ☐

2.4 Volatile Organic Compounds (VOCs)

2.4.1 The tanker has a vapour collection system installed and approved in accordance with MSC/Circ.585 ☐

2.5 Incinerator

2.5.1 The vessel has an incinerator:

(a) which complies with IMO Resolution MEPC. 244 (66) – Standard Specification for Shipboard Incinerators;

(b) installed before 1st day of January, 2000 which does not comply with IMO Resolution MEPC. 244 (66) – Standard Specification for Shipboard Incinerators.

Note: The relevant SECA Compliance Certificate(s) and SECA Compliance Plan must be attached to this document, where applicable.

Third Schedule - (Concl'd)

THIS IS TO CERTIFY that this Record is correct in all respects.

Issued at: _____
(Place of issue of Record)

_____ _____
(Date of issue) *(Signature of duly authorized official issuing the Record)*

(Seal or stamp of authority, as appropriate)

- **The BARBADOS NAPP Certificate is required for:**

  (a) a Barbados vessel 400 GT and above which is **not** or will **not be** engaged in voyages to a port or offshore terminal under the jurisdiction of a Contracting Government to MARPOL Annex VI, except for Barbados; and

  (b) fixed and floating drilling rigs and other platforms which are **not** or will **not be** engaged in voyages to waters under the sovereignty or jurisdiction of a Contracting Government to MARPOL Annex VI, except for Barbados.

FOURTH SCHEDULE

(Section 40(11))

Marine Transport (Emissions Control) Act, 2024
(Act 2024-)

Statement of Compliance (SOC)

Issued under the authority of the Government of Barbados:

by _____
(Full designation of the competent person or organization authorized under the provisions of the Convention)

Particulars of Vessel

Name of vessel: _____

Distinctive number or letters: _____

Port of registry: _____

Gross tonnage: _____

IMO number: _____

Fourth Schedule - (Concl'd)

THIS IS TO CERTIFY:

1. That the vessel has submitted to this Administration the data required by Regulation 22A of MARPOL Annex VI, covering vessel operations from _____ to _____.
   (dd/mm/yyyy) *(dd/mm/yyyy)*

2. The data was collected and reported in accordance with the methodology and processes set out in the vessel's SEEMP that was in effect over the period from _____ to _____.
   (dd/mm/yyyy) *(dd/mm/yyyy)*

This Statement of Compliance is valid until _____
(dd/mm/yyyy)

Issued at: _____
(Place of issue of Statement)

Date of issue: _____ _____
(dd/mm/yyyy) *(Signature of duly authorized official issuing the certificate)*

(Seal or stamp of authority, as appropriate)

FIFTH SCHEDULE

(Section 42(3))

Marine Transport (Emissions Control) Act, 2024
(Act 2024-)

National Energy Efficiency Certificate
(NEE Certificate)

Issued under the authority of the Government of Barbados:

by_____
(Full designation of the competent person or organization authorized under the provisions of the Act and the regulations made under the Act)

Particulars of Vessel

Name of vessel: _____

Distinctive number or letters: _____

Port of registry: _____

Gross tonnage: _____

IMO number: _____

Fifth Schedule - (Cont'd)

THIS IS TO CERTIFY:

1. That the vessel has been surveyed in accordance with the *Marine Transport (Emissions Control) Act, 2024* (Act 2024-).

2. That the survey shows that the vessel complies with the applicable requirements of Regulations 20, 21 and 22 of MARPOL Annex VI.

Completion date of survey on which this Certificate is based: _____
(dd/mm/yyyy)

Issued at: _____
(Place of issue of Certificate)

Date of issue: _____ _____
(dd/mm/yyyy) *(Signature of duly authorized official issuing the Certificate)*

(Seal or stamp of authority, as appropriate)

Fifth Schedule - (Cont'd)

SUPPLEMENT TO NATIONAL ENERGY EFFICIENCY CERTIFICATE

(NEE CERTIFICATE)

RECORDS OF CONSTRUCTION AND EQUIPMENT

In respect of the provisions of Annex VI of the International Convention for the Prevention of Marine Pollution from Ships, 1973, as modified by the Protocol of 1978 related thereto (hereinafter referred to as "the Convention") as implemented in Barbados for vessels which are solely operating in Barbados' waters by the regulations.

Notes:

1. This Record shall be permanently attached to the NEE Certificate. The NEE Certificate shall be available on board the vessel at all times.

2. The Record shall be in English.

3. Entries in boxes shall be made by inserting either a (x) for the answer "yes" and "applicable" or a dash (-) for the answers "no" and "not applicable" (N/A), as appropriate.

4. Unless otherwise stated, regulations mentioned in this Record refer to regulations in Annex VI of the Convention, and resolutions or circulars refer to those adopted by the International Maritime Organization.

Fifth Schedule - (Concl'd)

- **Explanatory Note 1**: The details in the Record for NEE Certificates are the same as required for IEE Certificates, as outlined at Appendix VIII of the 2011 Amendments to MARPOL Annex VI. Hence the IEE Form of Supplement must be attached to the NEE Certificate. The only variation is the language requirement. The IEE is required to be in additional languages, where applicable. The NEE is only required to be in English as it pertains to vessels solely operating in Barbados.

- **Explanatory Note 2:** The NEE Certificate is valid throughout the life of the vessel and only ceases to be valid in circumstances in the regulations.

  - **<u>The NEE Certificate is required for:</u>**

    (a) a Barbados vessel 400 GT and above which is **not** or will **not be** engaged in voyages to a port or offshore terminal under the jurisdiction of a Contracting Government of MARPOL Annex VI, except Barbados; and

    (b) fixed and floating drilling rigs and other platforms which are not or will not be engaged in voyages to waters under the jurisdiction of a Contracting Government of MARPOL Annex VI, except Barbados.

SIXTH SCHEDULE

(Section 51(1))

Marine Transport (Emissions Control) Act, 2024
(Act 2024-)

Specific Approval for Exhaust Gas Cleaning Systems

To be delivered by: Classification Society acting as a Recognized Organization, nominated by the Minister

SOx Scrubber

Reviewed against:
1. IMO MEPC Guidelines for Exhaust Gas Cleaning Systems; and
2. MARPOL Annex VI Sulphur requirements

Additional requirements:

Scheme A:
- Technical and Operating Manuals, including SOx Emissions Compliance Plan (SECP)
- Initial shop or onboard test of scrubber
- Daily monitoring of SO_2/CO_2
- Continuous monitoring of key operating parameters
- Continuous monitoring of wash-water

Scheme B:
- Technical and Operating Manuals, including SOx Emissions Compliance Plan (SECP)
- No shop or onboard test of scrubber
- Continuous onboard monitoring of SO_2/CO_2
- Daily monitoring of key operating parameters
- Continuous monitoring of wash-water

Deliverable: Approved documentation, including Scheme A Certificate, is applicable, and post-installation initial survey

SEVENTH SCHEDULE

(Section 51(1))

Marine Transport (Emissions Control) Act, 2024
(Act 2024-)

Specific Approval for Exhaust Gas Treatment Systems

To be delivered by:	Classification Society acting as a Recognized Organization, nominated by the Minister
NOx reducing device	
Engine-specific	
Reviewed against:	the NOx Technical Code, 2008 The Technical File (including onboard NOx Verification Procedure) Engine group/family certification Pre-certification survey
Deliverable:	'Engine + device' certificate supported by approved documentation and post-installation initial survey

EIGHTH SCHEDULE

(Section 59(1) and 64(5))

Marine Transport (Emissions Control) Act, 2024
(Act 2024-)

Bunker Delivery Note (BDN)

INFORMATION TO BE INCLUDED IN THE BUNKER DELIVERY NOTE

1. Name and IMO number of receiving ship: _____
2. Port 1Harbour where delivery takes place: _____
3. Date of commencement of delivery: _____
4. Name, address and telephone number of fuel oil supplier or local supplier of fuel oil:

   _____

   _____

   _____

   _____
5. Product name: _____
6. Quantity in metric tons: _____
7. Density at 15°C (kg/m3) where the fuel has been tested in accordance with ISO 8675:

   _____

8. Sulphur content (%m/m) where the fuel has been tested in accordance with ISO 8754:

_____

9. Seal number of bunker sample label:

_____

THIS IS TO DECLARE that the fuel supplied to the vessel is in conformity with the fuel oil requirements of the *Marine Transport (Emissions Control) Act, 2024* (Act 2024-).

Name: _____

Signature: _____

Date: _____

NINTH SCHEDULE

(Section 59(2))

Marine Transport (Emissions Control) Act, 2024
(Act 2024-)

Local Fuel Supplier's Initial Declaration Form

1.	Name of company:	
2.	Company address:	
3.	Contact name:	
4.	Telephone number:	
5.	Fax number:	
6.	Email address:	
7.	Fuel oil supplier:	
8.	Local fuel oil supplier:	

Ninth Schedule - (Cont'd)

9.	Date registered with Ministry responsible for Shipping as local fuel oil supplier:	
10.	Date of declaration:	
11.	Ports supplied:	
12.	Delivery by bunker supply vessel:	
13.	Delivery from road tanker:	
14.	Delivery from direct shore supply:	
15.	Supplier of HFO:	
16.	Supplier of MGO:	
17.	Supplier of diesel:	

Ninth Schedule - (Concl'd)

THIS IS TO DECLARE that:

1. The fuel supplied to vessels comply with the fuel requirements stipulated under MARPOL Annex VI.

2. When supplying fuel to vessels, the master of the vessel is provided with a bunker delivery note containing the information set out in Appendix 5, MARPOL Annex VI.

3. A declaration is provided in the bunker delivery note that is signed by the fuel oil supplier's representative, that the fuel oil supplied conforms with Regulations 14(1) or 14(4)*(a)*, as applicable and 18(1) of MARPOL, Annex VI.

4. A copy of the bunker delivery note will be retained for 3 years from the date of delivery.

5. The fuel is not contaminated or blended so that it no longer conforms with the requirements of MARPOL Annex VI or the *Marine Transport (Emissions Control) Act, 2024* (Act 2024-).

Name: _____

Signature: _____

Date: _____

Note: Any changes to the Initial Declaration must be re-submitted with the new information.

Note also: The Initial Declaration is to be submitted within the first 3 months of the [commencement] of the Act.

TENTH SCHEDULE

(Section 59(2))

Marine Transport (Emissions Control) Act, 2024
(Act 2024-)

Local Fuel Supplier's Annual Declaration

1.	Name of company:	
2.	Company address:	
3.	Contact name:	
4.	Telephone number:	
5.	Fax number:	
6.	Email address:	

THIS IS TO DECLARE that for the calendar year _____ (yyyy):

1. The fuel supplied to vessels comply with the fuel requirements stipulated under MARPOL Annex VI.

2. When supplying fuel to vessels, the master of the vessel is provided with a bunker delivery note containing the information set out in Appendix 5, MARPOL Annex VI.

3. A declaration is provided in the bunker delivery note that is signed by the fuel oil supplier's representative, that the fuel oil supplied conforms with Regulations 14(1) or 14(4)*(a)*, as applicable and 18(1) of MARPOL Annex VI.

4. A copy of the bunker delivery note will be retained for 3 years from the date of delivery.

5. The fuel is not contaminated or blended so that it no longer conforms with the requirements of MARPOL Annex VI or the *Marine Transport (Emissions Control) Act*, *2024* (Act 2024-).

Name: _____

Signature: _____

Date: _____

Note: The annual period will commence [the 19th of May each year or the date of the commencement of the Act].

ELEVENTH SCHEDULE

(Section 73(3))

Marine Transport (Emissions Control) Act, 2024
(Act 2024-)

Port Air Quality Management and Monitoring

AIR POLLUTANTS	SOURCES	HEALTH AND ENVIRONMENTAL EFFECTS
Particulate Matter (PM) is discreet solid or aerosol particles in the air. Dust, dirt, soot, smoke and exhaust particles are considered PM. PM is typically categorized as totally PM, or just PM, or can be further divided into two smaller size categories: PM_{10},which consists of particles measuring up to 10 micro-metres in diameter and PM_{25}, which consists of particles measuring 2.5 micro-metres in diameter or smaller. Diesel Particulate Matter (DPM) is a species of PM considered very important.	Airborne PM is a mixture of solid particles and liquid droplets generated in numerous ways. The primary port-related PM sources are from exhaust of engines that power shore-side equipment and vehicles, marine vessels, non-renewable energy generation and other industrial and commercial sources that burn fuel. PM can also be generated from large open areas of exposed earth earth or dirt roads where vehicles and equipment can disperse PM into the air.	Fine particles are a concern due to their microscopic size, which enables them to travel more deeply into the lungs and blood stream, increasing health issues. Exposure to $PM_{2.5}$ is linked to respiratory disease, decreased lung function, asthma attacks, heart attacks and premature death.

Eleventh Schedule - (Cont'd)

AIR POLLUTANTS - *(Cont'd)*	SOURCES - *(Cont'd)*	HEALTH AND ENVIRONMENTAL EFFECTS - *(Cont'd)*
Oxides of Sulphur (SOx) is a group of colourless, corrosive gases, produced by burning fuels containing Sulphur.	SOx is group of gases released when fuels containing Sulphur are burned in the combustion process. The primary port-related SOx sources is exhaust from engines that power shore-side equipment and vehicles, marine vessels, non-renewable energy generation, other fossil-fuel based industrial and commercial activities in and around the port.	SOx is associated with a variety of respiratory diseases Inhalation of SOx can cause increased airway resistance by constricting lung passages. Some of the SOx become sulphate particles in the atmosphere, adding to measured PM levels. High concentrations of gaseous SOx can lead to the formation of acid rain, harming trees and plants by damaging foliage and decreasing growth.
Volatile Organic Compounds (VOCs) are any compound of carbon other than CO, CO_2, carbonic acid, metallic carbides, or carbonates and ammonium carbonate which participate in atmospheric photochemical reactions. Some VOCs are also considered PM.	VOCs are generated when fuel is burned in the combustion process. The primary port-related VOC sources are from the exhaust of engines that power shore-side equipment and vehicles, marine vessels, non-renewable energy-generation and other fossil-fuel based commercial and industrial activities in and around the port.	VOCs contribute to ozone depletion, and some are toxic and contribute to a wide range of adverse health effects.

Eleventh Schedule - (Concl'd)

AIR POLLUTANTS - *(Concl'd)*	SOURCES - *(Concl'd)*	HEALTH AND ENVIRONMENTAL EFFECTS - *(Concl'd)*
Carbon monoxide (CO) is a colourless, odourless toxic gas commonly formed when carbon containing fuel is not completely burned.	CO forms during incomplete combustion of fuels. The primary port-related CO sources are from the exhaust from engines that power shore-side equipment and vehicles, marine vessels, non-renewable energy generation and other fossil-fuel based commercial and industrial activities in and around the port.	CO combines with haemoglobin in red blood cells and decrease the oxygen-carrying capacity of the blood. CO weakens heart contractions, reducing the amount of blood pumped through the body. It can affect brain and lung function.
Greenhouse gases (GHGs) that are typically emitted from port-related sources include carbon dioxide (CO_2;), methane (CH_4), and nitrous oxide(N_20).	GHGs come from natural processes and human activities. The primary port-related GHG sources are from engines that power shore-side equipment and vehicles, marine vessels, non-renewable energy generation and other fossil-fuel based commercial and industrial activities in and around the port.	Most climate scientist agree that the main cause of the current global warming trend is the human expansion of the 'greenhouse effect'. Warming results when the atmosphere traps heat radiating from Earth towards Space. Certain gases in the atmosphere block heat from escaping, otherwise referred to as GHGs. Climate change results in extreme and unusual weather pattern shifts within the Earth's atmosphere.

TWELFTH SCHEDULE

(Section 107(3))

Marine Transport (Emissions Control) Act, 2024
(Act 2024-)

EGCS Operations Notification Form

Particulars of vessel

1. Name of vessel: _____
2. Distinctive numbers or letters: _____
3. Port of registry: _____
4. Gross tonnage: _____
5. IMO number: _____
6. Type of ship: ☐ oil tanker ☐ chemical tanker ☐ bulk carrier ☐ passenger ship ☐ container ☐ other cargo ship ☐ other (specify) _____

Details of shipowner or agent

7. Name of shipowner or agent: _____
8. Address of shipowner or agent: _____

   _____
9. Particulars of vessel's EGCS operations: ☐ open-loop ☐ closed-loop ☐ hybrid mode

Twelfth Schedule - (Concl'd)

10. Does vessel have onboard treatment EGCS facilities? ☐ yes ☐ no

EGCS wash-water discharge

11. State type and amount of waste for discharge:

    ☐ EGCS wash-water_____(m^3)

    ☐ EGCS residue_____(m^3)

12. Notwithstanding the discharge options specified at section 103 of the *Marine Transport (Emissions Control) Act, 2024* (Act 2024-) do alternative discharge arrangements need to be made for the vessel pursuant to section 103(1)*(e)*? ☐ yes ☐ no

    If yes, give additional details:

    _____

    _____

EGCS residue discharge

13. Notwithstanding the EGCS residue discharge options specified at section 106 of the *Marine Transport (Emissions Control) Act, 2024* (Act 2024-) do alternative discharge arrangements need to be made for the vessel pursuant to section 106*(c)(ii)*? ☐ yes ☐ no

    If yes, give additional details:

    _____

    _____

14. Estimated date and time of arrival of vessel into Barbados:_____
    (dd/mm/yyyy)

15. Estimated date and time of departure of vessel from Barbados: _____
    (dd/mm/yyyy)

Signature of shipowner, Agent or Master:_____

Date:_____
(dd/mm/yyyy)

THIRTEENTH SCHEDULE

(Section 118)

PART I

Administrative Penalties

Description of Contravention	Provision	Penalty
Failing to have on board an ozone-depleting substances record book, contrary to section 17(6)	Section 17(6)	$10 000
Failing to make entries in the ozone-depleting substances record book, contrary to section 17(7)	Section 17(7)	$7 000
Failing to retain or produce the ozone-depleting substances record book, contrary to section 18(2)	Section 18(2)	$7 000
Failing to retain the ozone-depleting substances record book, contrary to section 18(3)	Section 18(3)	$10 000
Failing to make an entry in or retain a fuel record book, contrary to section 25(1)	Section 25(1)	$10 000
Failing to have a ship energy efficiency plan on board, contrary to section 34(2)	Section 34(4)	$10 000
Using fuel oil that does not meet fuel oil quality requirements, contrary to section 61(1)	Section 61(1)	$15 000

Thirteenth Schedule - (Cont'd)

PART I - (Concl'd)

Administrative Penalties - (Concl'd)

Description of Contravention	Provision	Penalty
Failing to retain or produce bunker delivery note, contrary to section 65(1)	Section 65(1)	$7 000
Failing to retain or produce bunker delivery note, contrary to section 65(2)	Section 65(2)	$10 000
Failing to retain or produce bunker delivery note, contrary to section 65(3)	Section 65(3)	$10 000
Failing to notify sulphur content of gas fuel, contrary to section 68(1)	Section 68(1)	$10 000

Thirteenth Schedule - (Concl'd)

(Section 119(1))

PART II

Marine Transport (Emissions Control) Act, 2024
(Act 2024-)

Administrative Penalty Notice

On the _____ day of _____, 20____, at _____
(Time)

_____, you _____
(Location) *(Name of owner/master of vessel/local fuel supplier)*

*being the (owner)/(master)/*being the local fuel supplier of _____
(Name and particulars of vessel)

contravened section _____ of the *Marine Transport (Emissions Control) Act, 2024* (Act 2024-). The particulars of the contravention are that you:

_____

_____

_____

_____

Dated this _____ day of _____.

_____
Director of Ocean Affairs

*delete as appropriate

Read three times and passed the House of Assembly this day of , 2024.

Speaker

Read three times and passed the Senate this day of , 2024.

President

BARBADOS

The Official Gazette Part A 11th July, 2024

Act 2024–18

CHILD JUSTICE ACT, 2024–18

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BARBADOS

I assent
J. GIBSON
Acting President
5th July, 2024.

2024–18

An Act to provide for the reform of the criminal law applicable to children and the repeal of the

(a) *Juvenile Offenders Act*, Cap. 138; and

(b) *Reformatory and Industrial Schools Act*, Cap. 169.

[Commencement: by Proclamation]

ENACTED by the Parliament of Barbados as follows:

PART I

PRELIMINARY

Short title

1. This Act may be cited as the *Child Justice Act, 2024*.

Interpretation

2.(1) In this Act,

"acknowledge responsibility" means an admission of responsibility for an offence by a child without a formal admission of guilt;

"apprehension" means where a police officer arrests a child in conflict with the law;

"appropriate adult" means

(a) a member of the family of the child; or

(b) a custodian of the child,

who has attained the age of 18 years, but excludes a parent of the child;

"assessment" means the assessment of a child by a probation officer conducted in accordance with section 8;

"attorney-at-law" has the meaning assigned to it by the *Legal Profession Act*, Cap. 370A;

"child" means a person under the age of 18 years;

"Child Protection Authority" means the Authority established by section 8 of the *Child Protection Act, 2024* (Act 2024-17);

"Child Justice Board" means the Board appointed in accordance with section 72(1);

"child care centre" has the meaning assigned to it by section 2 of the *Child Protection Act, 2024* (Act 2024-17);

"child in conflict with the law" means a child who is alleged to have committed an offence;

"community based service" means work for a community organisation or other work of value to the community performed by a child without payment;

"community based sentence" means a sentence referred to in section 53;

"compulsory school attendance order" means an order requiring a child to attend school for a specified period of time, which attendance is to be monitored by a suitable person designated by the Court;

"correctional supervision" means the sentence referred to in section 56 requiring a child to be placed under the supervision and guidance of a probation officer;

"Court" means the Magistrate's Court or the Criminal Division of the High Court where applicable;

"Director" means the Director of a secure residential facility appointed under section 74;

"Director of Child Protection" means the Director in accordance with section 12 of the *Child Protection Act, 2024* (Act 2024-17);

"detention" includes confinement in a prison, secure residential facility or a place of safety;

"diversion" means the removal of cases of children alleged to have committed an offence from the formal court procedures and the adoption of informal procedures in relation to such children, pursuant to Part V;

"diversion option" means a plan or programme with a specified content and duration set out in three levels under section 36;

"family group conference" means a gathering convened by a probation officer as a diversion or sentencing option under section 55;

"family time order" means an order requiring a child to spend a specified number of hours with his family;

"good behaviour order" means an order requiring a child to abide by an agreement made between the child and his family to comply with certain standards of behaviour;

"initial inquiry" means the procedure conducted in accordance with Part V, which takes place after an assessment and before trial in a court;

"natural father" includes a man who has been adjudged to be the biological father of a child;

"natural mother" means a woman who gave birth to a child;

"natural parent" means a natural mother or a natural father;

"parent" includes

(a) a natural parent or adoptive parent who has the parental responsibility of the child;

(b) a person, who has stood in *loco parentis* to a child for a period of not less than 12 months and who has a continuing relationship with the child; or

(c) a legal guardian of the child who has custody or guardianship rights in relation to the child,

but does not include a person acting as a care giver on behalf of the Child Protection Authority;

"parental responsibility"

(a) means the duties, powers, responsibilities and authority; and

(b) includes the rights and obligations

which by any relevant enactment in force, the parent of a child has in relation to that child;

"place of assessment" means a place or institution selected by a probation officer to conduct an assessment;

"place of safety" means

(a) a child care centre designated by the Child Protection Authority;

(b) a hospital;

(c) an institution or a place designated as a place of safety by the Child Protection Authority;

(d) an institution or a place where the person in charge will temporarily receive and take care of a child in conflict with the law and which, in the opinion of the Court, may be a safe and secure place to keep such a child; or

(e) a residential protection and treatment centre

but does not include a secure residential facility or a prison;

"police officer" means a member of the Police Service;

"Police Service" has the meaning assigned to it by the *Police Act*, Cap. 167;

"positive peer association order" means an order requiring a child to associate with a person whom the probation officer has reason to believe can contribute to the positive behaviour of the child;

"prison" has the meaning assigned to it by the *Prisons Act*, Cap. 168;

"probation officer" means an officer appointed under the *Probation of Offenders Act*, Cap. 146;

"prosecutor" shall refer to the Director of Public Prosecutions in relation to indictable offences or a police prosecutor in relation to summary offences;

"Reintegration Board" means the Board established in accordance with section 94;

"reintegration order" means the order granted by the Reintegration Board pursuant to section 103;

"residential requirement" means compulsory residence in a secure residential facility, prison or a place other than the home of the child;

"residential protection and treatment centre" has the meaning assigned to it by section 2 of the *Child Protection Act, 2024* (Act 2024-17) ;

"reporting order" means an order requiring a child to report to a person specified by a magistrate at a time specified in such order so as to enable the person to monitor the behaviour of the child;

"restorative justice" means the promotion of reconciliation, restitution and responsibility through the involvement of a child, the parents of a child, the members of family of the child, the victim and the community;

"secure residential facility" means a residential facility described under section 68;

"social media" means websites or applications that enable users to create and share content or to participate in social networking;

"supervision and guidance order" means an order placing a child under the supervision and guidance of a mentor or peer in order to guide the behaviour of the child; and

"symbolic compensation" means the giving of an object owned, made or bought by a child to a person, or group of persons or an institution as compensation for the harm caused by the child.

(2) For the purposes of this Act, where a "place of safety" is determined to be a place of detention, it shall be a place that

(a) is suitable for the detention of a child;

(b) provides for a child to be detained separately from an adult; and

(c) provides for a female child to be detained separately from a male child.

Purpose

3. The purpose of this Act shall be to ensure compliance with

(a) the United Nations Convention on the Rights of the Child;

(b) the Universal Declaration of Human Rights;

(c) the United Nations Standard Minimum Rules for the Administration of Juvenile Justice ("The Beijing Rules");

(d) the United Nations Rules for the Protection of Juveniles Deprived of their Liberty; and

(e) the United Nations Guidelines for the Prevention of Juvenile Delinquency (The Riyadh Guidelines).

PART II

APPLICATION AND CRIMINAL RESPONSIBILITY

Application of Act

4. This Act shall apply to

(a) a child who is alleged to have committed an offence and who at the time of commission of that offence was under the age of 18 years; or

(b) a person referred to in paragraph *(a)* who attained the age of 18 years before proceedings that were instituted against him, pursuant to this Act, have been concluded.

Age of criminal responsibility

5. A child under the age of 12 years is not capable of committing a criminal offence.

Principles to be applied when dealing with children

6.(1) The Court or a person performing any function pursuant to the provisions of this Act shall be guided by the following principles:

(a) the safety, welfare and well-being of the child shall be the paramount consideration;

(b) a child shall, as far as possible, be given an opportunity to respond before any decision is taken which affects the child;

(c) a child shall be addressed in a manner appropriate to his age, maturity and intellectual development;

(d) a child shall be treated in a manner which takes into account his beliefs;

(e) all procedures to be carried out pursuant to this Act shall be conducted and completed in a timely manner;

(f) the parents and families of a child shall have the right to assist the child in proceedings under this Act and, wherever possible, to participate in decisions affecting the child;

(g) all consequences arising from the commission of an offence by a child shall be proportionate to the

(i) circumstances of the child;

(ii) nature of the offence; and

(iii) interests of society,

and a child shall not be treated more severely than an adult would have been in the same circumstances;

(h) a child lacking in family support, educational or employment opportunities shall have equal access to available services; and

(i) every effort shall be made to ensure that a child receives equal treatment in relation to other children who have committed similar offences.

(2) A Court shall consider the following principles when making a decision regarding the release of a child in detention:

(a) preference shall be given to the release of the child into the care of a parent or an appropriate adult, with or without the imposition of conditions;

(b) where the release of a child into the care of a parent or an appropriate adult is not feasible, the release of the child on bail or a bond, upon the recommendation of the prosecutor, shall be considered; or

(c) where the child must be detained as a measure of last resort, the least restrictive form of detention appropriate to the child and the offence shall be selected.

(3) A child who is detained under this Act

(a) shall be detained

(i) separately from adults;

(ii) with children of the same sex; and

(iii) in conditions which will reduce the risk of harm to that child, including the risk of harm caused by other children;

(b) shall have the right

(i) to adequate food and water;

(ii) to medical treatment;

(iii) to a reasonable number of visits by a

(A) parent;

(B) appropriate adult;

(C) attorney-at-law;

(D) social worker;

(E) probation officer;

(F) health worker;

(G) religious counsellor;

(iv) of access to reading material;

(v) to adequate exercise;

(vi) to access to recreational activities;

(vii) to access suitable equipment and assistive devices where the child has a disability; and

(viii) to adequate clothing.

(4) For the purposes of this section, "disability" includes a long-term physical, mental, intellectual or sensory impairment which, in interaction with various barriers, may hinder a person from fully and effectively participating in society on an equal basis with others.

PART III

ASSESSMENT OF A CHILD

Apprehension

7.(1) A police officer on apprehending a child shall promptly notify the parent of the child, or if the parent cannot be found, an appropriate adult, of the apprehension of the child.

(2) Where a police officer has notified a parent or an appropriate adult of an apprehension, that police officer shall inform the child and a parent or appropriate adult in the presence of the child of the right of the child

(a) to be informed of the nature of the offence or offences alleged to have been committed by the child;

(b) to seek the advice of an attorney-at-law;

(c) to have a parent or an appropriate adult present where the child is questioned, interviewed or assessed in respect of an offence or offences alleged to have been committed by the child;

(d) to remain silent; and

(e) to be informed of the procedures to be followed pursuant to this Act and any other relevant enactment that is in force.

(3) The police officer who has apprehended a child, or any other police officer shall not later than 24 hours after the apprehension, inform a probation officer of the apprehension.

(4) The police officer responsible for the investigation of a case with respect to a child, apprehended in accordance with subsection (1), shall ensure that the child is assessed by a probation officer, before the commencement of the initial inquiry into the offence alleged to have been committed by the child.

(5) Where

(a) the police officer is unable to inform the probation officer of the apprehension as required under subsection (3); or

(b) the police officer responsible for the investigation of a case is unable to have the child assessed as required under subsection (4),

a written report shall be submitted to a magistrate at the initial inquiry stating the reasons for non-compliance.

(6) Where a child, who is accused of an offence referred to in the *First Schedule* has not been released from police custody before appearing at an initial inquiry, the police officer who apprehended the child shall provide a magistrate with an oral report, pending a submission of a written report, stating the reasons why the child could not be released.

(7) A police officer shall not apprehend a child under the age of 12 years who is alleged to have committed an offence but

(a) shall inform a probation officer and the Director of Child Protection of the following particulars of the child:

(i) the name of the child;

(ii) the age of the child;

(iii) the offence alleged to have been committed by the child; and

(iv) the name, address and telephone number of the parent or appropriate adult; and

(b) may remove the child to a place of safety where the police officer has reason to believe that it is necessary to do so for the safety of the child and he may arrange for proceedings to be commenced under the *Child Protection Act, 2024* (Act 2024-17).

Assessment

8.(1) Where a probation officer who receives a notification from a police officer that a child has been apprehended in accordance with section 6, the probation officer shall assess the child in a place of assessment within 96 hours prior to the child appearing at an initial inquiry relating to that child.

(2) A probation officer may select a place of assessment for the temporary reception of a child in conflict with the law, prior to or pending an initial inquiry regarding the child.

(3) Where a probation officer conducts an assessment of a child in conflict with the law, he shall collect the information required for the preparation of the assessment report set out in subsection (4).

(4) At the end of an assessment, a probation officer shall complete an assessment report which shall include

(a) the following particulars in relation to the child

(i) the name of the child;

(ii) the age of the child;

(iii) the offence alleged to have been committed by the child;

(iv) the name, address and telephone number of the parent or appropriate adult;

(v) the name, address and telephone number of the attorney-at law representing the child;

(vi) whether the child

(A) has been released into the custody of a parent or appropriate adult;

(B) is being detained in a place of safety; or

(C) is being detained in a secure residential facility; and

(b) any information concerning the child which will assist the magistrate at the initial inquiry in determining

(i) the prospects of diversion;

(ii) the possible release of the child into the care of a parent of the child or an appropriate adult, if the child is in detention;

(iii) the placement, where applicable, of the child in a particular secure residential facility or in a place of safety,

giving due consideration to the age, physical and mental status of the child and the degree of the alleged offence.

(5) Where it appears to the probation officer that the child does not intend to acknowledge responsibility for the alleged offence, this information shall be included in the assessment report.

(6) The probation officer shall submit the assessment report to the magistrate conducting the initial inquiry prior to the commencement of the initial inquiry.

Persons to attend assessment

9.(1) Subject to subsections (3) and (6) of section 10, the parent of the child or an appropriate adult shall attend the assessment of the child.

(2) A child shall be present at his assessment.

(3) The following persons may attend the assessment of a child:

(a) a prosecutor;

(b) the attorney-at-law representing the child; or

(c) a police officer.

Powers and duties of probation officer prior to assessment

10.(1) A probation officer may at any time before the assessment of a child issue a notice in the prescribed form to the parent of the child or to an appropriate adult to appear at the assessment.

(2) A notice issued pursuant to subsection (1) shall be delivered by a police officer on the request of the probation officer in the prescribed manner.

(3) A person notified pursuant to subsection (1) may apply to the probation officer for permission to be absent or excluded from the assessment, and where the probation officer grants such permission, the permission shall be in writing.

(4) A probation officer may request a police officer to

(a) obtain any documentation required for the completion of the assessment of a child;

(b) locate the parent of a child or an appropriate adult; and

(c) provide transport, in order to secure the attendance of the child and his parent or an appropriate adult, for the assessment.

(5) A probation officer shall make every effort to locate a parent of the child or an appropriate adult for the purposes of concluding the assessment of the child.

(6) Where all reasonable efforts to locate a parent of the child or an appropriate adult have failed, the probation officer shall conclude the assessment in the absence of such persons.

Powers and duties of probation officer at assessment

11.(1) A probation officer shall

(a) explain the purpose of the assessment to

(i) the child; and

(ii) the parent of the child or an appropriate adult;

(b) inform the child of his right to

(i) be informed of the nature of the offence or offences alleged to have been committed;

(ii) seek the advice of an attorney-at-law;

(iii) have a parent or an appropriate adult present where he is to be questioned, interviewed or assessed in respect of an offence or offences alleged to have been committed;

(iv) remain silent; and

(v) be informed of the procedures to be followed pursuant to this Act and any other relevant enactment that is in force;

(c) explain the procedures to be followed under this Act to

(i) the child; and

(ii) the parent of the child or an appropriate adult; and

(d) inquire from the child whether he intends to acknowledge responsibility for the offence in question.

(2) The probation officer, shall, at any stage during the assessment,

(a) consult individually with any person at the assessment;

(b) contact or consult any person who is not present at the assessment and who may have information relating to the assessment and where such information is obtained, the child shall be informed of the information.

(3) Where a child is accused with another child, the probation officer may conduct the assessment of the children simultaneously.

(4) The probation officer shall encourage participation of the child during the assessment process.

PART IV

SECURING ATTENDANCE OF A CHILD AT INITIAL INQUIRY

Methods of securing attendance of a child at initial inquiry

12.(1) The methods which may be used by a police officer for securing the attendance of a child in conflict with the law, at an initial inquiry, are by

(a) apprehension;

(b) a summons; or

(c) a written notice.

(2) Before a police officer uses any of the methods for securing the attendance of a child in conflict with the law referred to in subsection (1), the police officer shall consult with the prosecutor as to whether or not the matter should be set down for an initial inquiry.

Summons

13.(1) A summons issued in respect of a child shall specify the place, date and time of the initial inquiry.

(2) A copy of the summons relating to the alleged offence by the child shall be served on the parents of the child or on the appropriate adult.

(3) A police officer shall,

(a) not later than 24 hours after the service of the summons referred to in subsection (1) inform a probation officer of the service of the summons in the prescribed manner;

(b) as soon as is reasonably possible, but prior to the commencement of the initial inquiry, inform the child

(i) of the nature of the offence or offences alleged to have been committed;

(ii) of his right to

(A) seek the advice of an attorney-at-law;

(B) have a parent or an appropriate adult present where he is to be questioned, interviewed or assessed in respect of an offence or offences alleged to have been committed;

(C) remain silent; and

(D) be informed of the procedures to be followed pursuant to this Act and any other relevant enactment that is in force.

Written Notice

14.(1) A police officer may direct a child to appear at an initial inquiry at a specified time, on a specified date, and to remain in attendance at the initial inquiry relating to the offence in question.

(2) A police officer who directs a child pursuant to subsection (1), shall

(a) direct the parent of the child or an appropriate adult to bring the child or cause the child to appear at the initial inquiry and to have the child remain in attendance at the initial inquiry relating to the offence in question; and

(b) complete and hand to the child and to the parent of the child or to an appropriate adult, a written notice on which shall be entered

(i) the offence in respect of which the initial inquiry will be conducted; and

(ii) the time and place at which the child shall appear.

(3) The notice referred to subsection (2)*(b)* shall be written in a manner that can be understood by a child.

(4) Pursuant to subsection (2)*(b)*, the police officer shall

(a) when he hands the written notice to a child, the parent of the child or an appropriate adult, inform them of

(i) the nature of the offence or offences alleged to have been committed;

(ii) the child's right to

(A) seek the advice of an attorney-at-law;

(B) have a parent or an appropriate adult present where he is to be questioned, interviewed or assessed in respect of an offence or offences alleged to have been committed;

(C) remain silent;

(D) be informed of the procedures to be followed pursuant to this Act and any other relevant enactment that is in force; and

(b) not later than 24 hours after handing the written notice to the child, the parent of the child or the appropriate adult inform a probation officer that he has done so.

Uncertainty as to age of person

15. Where a police officer is uncertain as to the age of a person suspected of having committed an offence but has reason to believe that the age would render a person a child, the police officer shall treat the person as a child for the purposes of this Part, subject to the ascertainment of the age of the person at the initial inquiry.

Release of child into care of the parent or the appropriate adult before the initial inquiry

16.(1) A police officer shall release a child who is in detention in police custody and who is accused of an offence referred to in the *First Schedule*, into the care of the parent of the child or an appropriate adult, before the child appears at the initial inquiry unless

(a) exceptional circumstances warrant detention;

(b) the parent of the child or an appropriate adult cannot be located or is not available and all reasonable efforts have been made to locate the parent or appropriate adult; or

(c) there is a substantial risk that the child may be a danger to any other person or to himself.

(2) A police officer may, in consultation with the prosecutor, release a child who

(a) is accused of an offence referred to in the *First Schedule* but who has not been released pursuant to subsection (1); or

(b) is in detention in police custody and who is accused of an offence referred to in the *Second Schedule*,

into the care of a parent of the child or an appropriate adult on any one or more conditions referred to in subsection (3).

(3) A child may be released pursuant to subsection (2) on the condition that the child

(a) appears at a specified place and time for assessment;

(b) does not

(i) interfere with a witness;

(ii) tamper with evidence; or

(iii) associate with a person or group of people specified by the police officer in consultation with the prosecutor; and

(c) resides at a particular address.

Director of Public Prosecutions may authorise the release of a child

17.(1) Notwithstanding the decision of a police officer under section 16(1), the Director of Public Prosecutions may, authorise the release of a child from detention in police custody into the care of the parent of the child or an appropriate adult on any of the conditions referred to in section 16(3).

(2) Where a release is authorised under subsection (1), the written notice referred to in section 14, shall be handed to the child and to the person into whose care the child is released.

Duty of police officer and person into whose care a child is released

18. A police officer who releases a child from detention in accordance with section 16 or who releases a child on the direction of the Director of Public

Prosecutions in accordance with section 17, and places the child in the care of a parent or an appropriate adult, shall

(a) at the time of release of the child, complete and hand to the child and to the person into whose care the child is released, a written notice in the prescribed form on which shall be entered the

(i) offence in respect of which the child is being accused;

(ii) conditions relating to the release of the child; and

(iii) place, date and time at which the child shall appear for the initial inquiry;

(b) direct a parent of the child or appropriate adult to bring the child or cause the child to appear at the initial inquiry at a specified place, date and time and to remain in attendance and, if any conditions referred to in paragraph *(a)* have been imposed, to ensure that the child complies with the said conditions; and

(c) direct the child to appear at the initial inquiry at a specified place, date and time and to remain in attendance and, if any conditions referred to in paragraph *(a)* have been imposed, to comply with those conditions.

Release of child on recognizance prior to initial inquiry

19.(1) Where a child is taken into police custody with or without a warrant, and cannot be brought before a magistrate immediately, the police officer in charge of a police station to which the child is brought shall inquire into the matter and shall in any case

(a) unless the child is accused of an offence referred to in the *Third Schedule*; or

(b) unless it is necessary in the interest of the child to remove him from association with any undesirable person,

release the child on recognizance, with or without sureties, for such an amount as will, in the opinion of the police officer, secure the attendance of the child at the initial inquiry.

(2) The recognizance provided pursuant to subsection (1) may require the attendance at the initial inquiry of the parent or the appropriate adult and the child.

(3) The Commissioner of Police may, after consultation with the Director of Public Prosecutions, issue directives regarding the conditions to be set for recognizance of bail.

(4) The Director of Public Prosecutions may, in consultation with the police officer charged with the investigation with respect to a child, authorise the release of a child accused of an offence referred to in the *Second Schedule* on recognizance prior to the appearance of the child at the initial inquiry, subject to reasonable conditions where the release of the child into the care of a parent of the child or an appropriate adult is deemed appropriate.

Child accused of certain offences not to be released from detention

20. Subject to section 21, a police officer shall not release a child accused of an offence referred to in the *Third Schedule* from detention.

Detention in a secure residential facility

21. Where a child cannot be released, pursuant to section 20,

(a) into the care of a parent or an appropriate adult; or

(b) on recognizance,

the child shall be detained in a secure residential facility.

Death, injury or illness of a child in policy custody

22.(1) Where a child in detention in police custody complains that he is ill or that he has sustained an injury during apprehension or whilst in detention, the police officer to whom such complaint is made shall report the complaint to the police officer in charge of the police station where the child was apprehended,

and the police officer in charge of the police station shall delegate a police officer to

(a) take the child to a medical doctor for examination; and

(b) notify the parent or appropriate adult of the child

as soon as possible but not later than within 24 hours of the complaint.

(2) The report of the medical doctor in respect of a child who is injured while in detention in police custody shall be included in the appropriate police docket in the police station where the child was apprehended and the report may be examined by a magistrate, an attorney-at-law representing the child or the Director of Public Prosecutions.

(3) Where a child in detention in police custody dies the police officer in charge of the police station shall immediately notify

(a) the Coroner; and

(b) the parent or appropriate adult of the child.

Register of children waiting to attend an initial inquiry

23.(1) The police officer in charge of a police station shall keep a register regarding the children who are to attend an initial inquiry.

(2) The register referred to in subsection (1) shall contain the following particulars:

(a) the name of the child;

(b) the age of the child;

(c) the offence alleged to have been committed by the child;

(d) the name, address and telephone number of the parent or the appropriate adult;

(e) the name and number of the attorney-at-law representing the child;

(f) whether the child

(i) is being detained in a secure residential facility;

(ii) is being kept at a place of safety; or

(iii) has been released into the custody of a parent or an appropriate adult.

(3) The register referred to in subsection (1) may be examined by a magistrate, an attorney-at-law representing the child or the prosecutor.

PART V

INITIAL INQUIRY AND DIVERSION

Nature and objectives of an initial inquiry

24.(1) An initial inquiry shall be held in respect of a child after an assessment is completed pursuant to Part III.

(2) The appearance of a child at an initial inquiry before a magistrate shall be the equivalent of a first appearance before a Court.

(3) The objectives of an initial inquiry are to

(a) establish whether the matter can be diverted before a trial;

(b) identify a suitable diversion option, where applicable;

(c) provide an opportunity for the prosecutor to assess whether there are sufficient grounds for the matter to proceed to trial;

(d) ensure that all available information relevant to the child, his circumstances and the offence are considered in order to make a decision on diversion and placement of the child;

(e) ensure that the views of all persons, required to be present pursuant to section 25(1), shall be considered before a decision is taken;

(f) encourage the participation of the child and his parent or an appropriate adult in decisions concerning the child; and

(g) determine the release or placement of the child pending

(i) the conclusion of the initial inquiry; or

(ii) the appearance of the child in Court.

(4) An initial inquiry shall be held in such place as a magistrate may determine having regard to privacy and confidentiality.

(5) A magistrate shall conduct the proceedings in an informal manner by asking questions, interviewing persons at the initial inquiry and obtaining information.

(6) A magistrate in conducting proceedings in an informal manner pursuant to subsection (5) may seek the assistance of a social worker when asking questions, interviewing persons at the initial inquiry and obtaining information.

Persons to attend an initial inquiry

25.(1) The following persons shall attend an initial inquiry

(a) the child;

(b) the parent of the child or an appropriate adult;

(c) the probation officer who conducted the assessment of the child;

(d) the prosecutor;

(e) any other person whose attendance may be considered necessary by the magistrate conducting the inquiry.

(2) A magistrate may exclude the parent of the child or an appropriate adult from attending the initial inquiry where their presence at the initial inquiry is not in the best interest of the child.

(3) Where an initial inquiry proceeds in the absence of the probation officer who conducted the assessment of the child, the assessment report shall be made available at the initial inquiry.

(4) The following persons may attend an initial inquiry

(a) the attorney-at-law representing the child;

(b) a police officer;

(c) any other person whose attendance may be considered necessary by the magistrate conducting the inquiry.

Procedure relating to an initial inquiry

26.(1) At the commencement of an initial inquiry a magistrate shall

(a) determine the age of the child;

(b) explain the purpose of the initial inquiry to the child;

(c) inform the child of the nature of the offence or offences alleged to have been committed;

(d) inform the child of his right

(i) to seek the advice of an attorney-at-law;

(ii) to have a parent or an appropriate adult present at the initial inquiry; and

(iii) to be informed of the procedures to be followed pursuant to this Act and any other relevant enactment that is in force; and

(e) explain to the child the immediate procedures to be followed pursuant to this Act.

(2) A prosecutor shall ensure that the magistrate has a copy of the assessment report, if available.

(3) A prosecutor or a probation officer attending an initial inquiry may submit to the magistrate information regarding a previous diversion or conviction of the child concerned.

(4) A child, the attorney-at-law representing the child, the parent of the child, an appropriate adult and the prosecutor, shall each be given an opportunity to question the probation officer who prepared the assessment report on the child or any other person sharing information at the initial inquiry.

(5) Where the child in respect of whom an initial inquiry is being conducted, is a co-accused with another child, a joint initial inquiry may be held.

(6) Where a joint initial inquiry is held pursuant to subsection (5), different decisions may be made in respect of each child.

(7) Where a child does not acknowledge responsibility for the offence with which he is being charged, no further questions regarding the offence may be put to the child and the prosecutor may set the matter down for trial in the Court.

(8) Information furnished at an initial inquiry shall not be used in subsequent proceedings, against the person who furnished the information.

(9) A magistrate shall keep a record of all proceedings relating to an initial inquiry.

Powers and duties of a magistrate with respect to an initial inquiry

27.(1) A magistrate shall conduct all initial inquiries and discuss all relevant considerations of a child's case with the probation officer who prepared the assessment report in respect of the child before making a decision pursuant to this Part.

(2) A magistrate may

(a) summon or cause to be summoned any person whose presence is necessary for the conclusion of an initial inquiry;

(b) permit the attendance of any other person who may be able to contribute to the initial inquiry;

(c) request any further documentation or information which may be necessary or relevant to the initial inquiry;

(d) after consideration of the information contained in an assessment report, elicit any information from any person attending the initial inquiry to supplement or clarify the information in the assessment report;

(e) take such steps as may be necessary to establish the truth of any statement or the correctness of any submission; and

(f) where the conduct of the proceedings of the initial inquiry or any aspect of it is in dispute, rule on the conduct of the initial inquiry in a manner consistent with this Act.

(3) Where a child has not been assessed at the commencement of the initial inquiry, the magistrate shall make arrangements with the Chief Probation Officer to have the assessment conducted in the manner set out in section 8.

(4) The magistrate may dispense with the assessment if it is in the best interests of the child to do so.

(5) A magistrate shall ensure that the child, the attorney-at-law representing the child and the parent of the child or an appropriate adult

(a) know of the recommendations in the report prepared by the probation officer; and

(b) are informed of any diversion option and the aims and content of such option.

(6) The probation officer who prepared the assessment report in respect of a child shall be present at the initial inquiry of that child and the magistrate may request him to explain, elaborate upon or justify any recommendation or statement made in the assessment report, and he may also be asked to provide additional information.

(7) A magistrate shall consider the reports regarding the apprehension of the child and the detention in police custody provided by the police officer who apprehended the child.

Failure to appear at an initial inquiry

28.(1) A parent or an appropriate adult who has been directed to appear at an initial inquiry and who fails to do so is liable to pay to an administrative penalty of $5 000 to the Director of Child Protection.

(2) Subsection (1) shall apply with the changes required by the context and subject to sections 56 and 57 to a child who has been released in the care of his parent or an appropriate adult and who fails to comply with the direction contained in the written notice referred to in section 14 or with any condition imposed pursuant to section 16(3).

Release of child into care of parent or appropriate adult

29.(1) A magistrate shall release a child who is in detention, into the care of the parent of the child or an appropriate adult where

(a) the initial inquiry is not disposed of at the first appearance of the child before a magistrate; and

(b) it is in the interest of justice to release the child.

(2) In considering whether or not it would be in the interest of justice to release a child into the care of the parent of the child or an appropriate adult, a magistrate shall have regard to the recommendation made by the probation officer and other relevant factors, including

(a) the best interests of the child;

(b) whether the child has any previous convictions;

(c) the availability of the parent of the child or the appropriate adult;

(d) the likelihood of the child returning to the initial inquiry for a further appearance;

(e) the period for which the child has already been in detention since apprehension;

(f) the imposition of a curfew on release;

(g) the probable period of detention of the child until conclusion of the initial inquiry;

(h) the risk that the child may be a danger to himself or to any other person;

(i) the state of health of the child;

(j) the reason for any delay in the disposal or conclusion of the initial inquiry and whether such delay was due to any fault on the part of the Government or on the part of the child or his attorney-at-law;

(k) whether detention would prejudice the child in the preparation of his case;

(l) the likelihood that, where the child is found guilty of the offence he will be detained for a substantial period; and

(n) the receipt of a written confirmation by the Director of Public Prosecutions that he intends to charge the child with an offence referred to in the *Third Schedule*.

(3) A magistrate may, in releasing a child pursuant to subsection (1), require the child

(a) to appear before the magistrate at a specified place and time;

(b) to report periodically to a specified person or place;

(c) to attend a particular school;

(d) to reside at a particular address;

(e) to be placed under the supervision of a person specified by the magistrate; or

(f) not to interfere with a witness, tamper with any evidence or associate with any person or group of persons specified by the magistrate.

(4) Where a magistrate releases a child into the care of a parent of the child or an appropriate adult, the magistrate shall direct the parent or the appropriate adult, as the case may be, to bring the child or ensure that the child appears at a specified time and place and, where a condition has been imposed pursuant to this section, to ensure that the child complies with the condition.

(5) A parent or appropriate adult into whose care a child is placed who fails to comply with a direction issued under subsection (4) is liable to pay an administrative penalty of $5 000 to the Director of Child Protection.

(6) Where a child has been released into the care of his parent or an appropriate adult and the child fails to comply with a condition imposed pursuant to subsection (3), the magistrate may direct that the child be detained in a secure residential facility.

(7) A magistrate may, after consideration of the facts release a child on bail or recognizance having regard to the factors referred to in subsection (2) and subject to one or more of the conditions referred to in subsection (3).

(8) A magistrate may refuse to release a child on bail where

(a) the magistrate is satisfied that there are substantial grounds for believing that the child, if release on bail, whether subject to conditions or not, would

(i) fail to surrender to custody;

(ii) commit an offence; or

(iii) interfere with witnesses; or

(b) the child is charged with an offence alleged to have been committed while he was released on bail.

Detention of child after first appearance before a magistrate

30.(1) A magistrate may direct the detention of a child in a secure residential facility where

(a) the proceedings of the initial inquiry are postponed pursuant to section 31 or 32;

(b) the release of the child into the care of his parent or an appropriate adult is for any reason not possible; or

(c) the child is to appear for trial pursuant to section 41.

(2) A magistrate shall have regard to the recommendations made by the probation officer when deciding where to place the child pursuant to subsection (1).

(3) A child of 14 years or older who is charged with an offence referred to in the *Third Schedule* shall be detained in a prison where a magistrate feels there is a substantial risk that the child may cause harm to other children in a secure residential facility.

(4) Where a magistrate issues a direction that a child be detained in prison, the magistrate shall record the reasons for issuing such a direction.

(5) Where a magistrate issues a direction for the detention of a child pursuant to subsection (1)*(c)*, the child shall appear before the Court at a time and place to be determined by the Court.

(6) Where a child appears before a Court pursuant to subsection (5), a magistrate shall

(a) determine whether or not the detention remains necessary;

(b) where ordering further detention of the child, record the reasons for his decision;

(c) consider a reduction of the amount of bail or recognizance, where applicable;

(d) inquire whether or not the child is being properly treated and kept under suitable conditions; and

(e) where he is satisfied that the child is not being properly treated and kept under suitable conditions, inspect and investigate the treatment and conditions and make appropriate remedial recommendations to the Minister.

Postponement of an initial inquiry

31.(1) A magistrate may postpone the proceedings of an initial inquiry for a period not exceeding 14 days for the purposes of

(a) securing the attendance of a person necessary for the conclusion of the initial inquiry;

(b) obtaining information necessary for the conclusion of the initial inquiry;

(c) establishing the attitude of the victim regarding diversion;

(d) planning a diversion option;

(e) finding alternatives to pre-trial residential detention;

(f) assessing the child, where no assessment has previously been undertaken and it is found that assessment is required;

(g) noting a confession;

(h) noting an admission;

(i) holding an identity parade;

(j) securing an attorney-at-law to represent the child; or

(k) any other matter which a magistrate deems necessary.

(2) Where the proceedings of an initial inquiry are postponed pursuant to paragraphs *(g)*, *(h)* or *(i)* of subsection (1), a magistrate shall inform the child of his right to have his parent or an appropriate adult present during the proceedings.

(3) Where the initial inquiry is not concluded within 14 days and subject to section 32, the inquiry shall be closed and the prosecutor shall set the matter down for trial in the Court.

Postponement of initial inquiry for a more detailed assessment

32.(1) A magistrate may postpone the proceedings of an initial inquiry for a period not exceeding 14 days where there are exceptional circumstances warranting a further assessment of the child, and where these circumstances relate to

(a) the possibility that the child may be a danger to others or to himself;

(b) the fact that the child has a history of repeatedly committing offences or absconding;

(c) the social welfare history of the child;

(d) the possible admission of the child to counselling, a substance abuse programme, a therapeutic treatment programme or other intensive programme; or

(e) the possibility that the child may be a victim of sexual or other abuse.

(2) A magistrate may order that a psychiatrist be appointed to conduct the assessment referred to in subsection (1) and that assessment shall be conducted in the home of the child, unless this is not in the best interests of the child, or is impossible, in which case the assessment may be conducted at a secure residential facility or a place of assessment.

Decision regarding diversion

33.(1) A magistrate shall ascertain whether a matter before him may be diverted after consideration of the following:

(a) any recommendations made by the prosecutor;

(b) the assessment report;

(c) the views of all persons required to be present, pursuant to section 25(1), at the initial inquiry and any information provided by those persons;

(d) any information requested pursuant to section 27(2)*(c)*; and

(e) the willingness of the child to acknowledge responsibility for the offence.

(2) Where a magistrate decides that the matter may be diverted, the magistrate shall issue a direction for diversion in the prescribed manner in respect of the child concerned.

(3) In addition to the diversion options stated in section 36, a magistrate may, after consultation with the persons present at the initial inquiry, develop an individual diversion option which meets the purposes of and standards applicable to the diversion set out in section 36.

Purposes of diversion

34. The purpose of diversion is to

(a) encourage the child to be accountable for the harm which he has caused;

(b) meet the particular needs of the child;

(c) promote the reintegration of the child into the family and the community;

(d) provide an opportunity to those affected by the harm caused by the child, to express their views on how the harm has impacted them;

(e) encourage the rendering to the victim of some symbolic benefit or the delivery of some object as compensation for the harm caused by the child;

(f) promote the reconciliation between the child and the person or community affected by the harm caused by the child;

(g) prevent stigmatising the child and the adverse consequences flowing from being subject to the criminal justice system; and

(h) prevent the child from having a criminal record.

Child to be considered for diversion under certain circumstances

35. A child shall be considered for diversion where

(a) the child and his parent or an appropriate adult, consent to the diversion and the diversion option;

(b) the child understands his right to remain silent and has not been unduly influenced to acknowledge responsibility for an alleged act or omission; and

(c) there is sufficient evidence to prosecute the child.

Levels of diversion options

36.(1) At the initial inquiry, a magistrate, in directing a diversion option in respect of a child, may direct a level one, level two or level three diversion option and in selecting the level that is appropriate for the child, a magistrate shall consider the

(a) age and developmental needs of the child;

(b) background of the child;

(c) educational level, cognitive ability and the environmental circumstances of the child;

(d) proportionality of the option recommended or selected to the circumstances of the child; and

(e) nature of the offence and the interests of the community or society.

(2) A level one diversion option referred to in subsection (1) includes

(a) an oral or written apology to a specified person or institution;

(b) a formal caution in the prescribed form with or without conditions;

(c) placement under a supervision and guidance order in the prescribed form for a period not exceeding 3 months;

(d) placement under a reporting order in the prescribed form;

(e) the issue of a compulsory school attendance order in the prescribed form for a period not exceeding 3 months;

(f) the issue of a positive peer association order in the prescribed manner in respect of a specified person in a specified place for a period not exceeding 3 months;

(g) the issue of a family time order in the prescribed form for a period not exceeding 3 months;

(h) the issue of a good behaviour order in the prescribed form;

(i) the issue of an order prohibiting the child from visiting, frequenting or appearing at a specified place in the prescribed form;

(j) referral to counselling or therapy for a period not exceeding 3 months;

(k) compulsory attendance at a specified place for a specified vocational or educational purpose for a period not exceeding 5 hours each week, for a maximum of 3 months;

(l) symbolic compensation to a specified person or an institution; and

(m) restitution of a specified object to a specified victim of an alleged offence where the object concerned may be returned or restored.

(3) A level two diversion option referred to in subsection (1) includes

(a) the options referred to in subsection (2), except that the maximum periods referred to in that subsection, shall for the purposes of this subsection, be 6 months;

(b) compulsory attendance at a specified institution for a vocational or an educational purpose for a period not exceeding 8 hours each week, for a maximum of 6 months;

(c) the performance of some service without remuneration for the benefit of the community under the supervision or control of an organisation, institution, or a specified person or group identified by a probation officer effecting the assessment, for a maximum period of 50 hours, and to be completed within a maximum period of 6 months;

(d) provision of some service or benefit to a specified victim in an amount which the family of the child is able to afford; and

(e) where there is no identifiable person to whom restitution or compensation may be made, provision of some service or benefit or payment of compensation to an organisation, charity or welfare organisation for the benefit of the community.

(4) A level three diversion option referred to in subsection (1) includes

(a) a referral to a programme which does not exceed 6 months and which has a residential requirement that must not exceed 35 days in total and 21 consecutive days during the operation of the programme;

(b) the performance of some service without remuneration for the benefit of the community under the supervision and control of an organisation, institution, or a specified group of persons, identified by a probation officer and for a period not exceeding 160 hours which shall be completed within 12 months and no more than 35 hours per week;

(c) where the child is not attending formal schooling, compulsory attendance at a specified place for a specified vocational or educational purpose for a period not exceeding 6 months and no more than 35 hours per week; and

(d) referral to counselling or therapeutic intervention in conjunction with any of the options listed in this subsection.

(5) A level three diversion option shall apply to a child who is the age of 14 years or older where the relevant enactment under which the offence is committed imposes a sentence of detention.

(6) On the selection of a diversion option, the Court shall designate a probation officer or other suitable person to monitor the compliance of the child with the selected diversion option and where the child fails to comply with any condition of the diversion option, the probation officer or other suitable person shall notify the Court of the failure.

Minimum standards applicable to diversion and diversion options

37.(1) A child may be required to perform community services as an element of diversion, with due consideration being given to the age and development of the child.

(2) A diversion option shall

(a) promote the dignity and well-being of the child, and the development of his sense of self worth and ability to contribute to his community and society;

(b) not be exploitative, harmful or hazardous to the physical or mental health of the child;

(c) be appropriate to the age and maturity of the child; and

(d) not interfere with the education or schooling of the child.

(3) The Chief Probation Officer shall keep a register of all of the children who have been subjected to diversion.

Failure to comply with diversion direction

38.(1) Where a child fails to comply with a diversion option, a magistrate shall, on being notified of such failure in the prescribed manner, issue

(a) a warrant for the apprehension of the child; or

(b) a written notice to the parent to have the child appear before a magistrate.

(2) Where a child appears before the magistrate pursuant to subsection (1), a magistrate shall inquire into the reasons for the failure of the child to comply with the diversion direction and unless the prosecutor decides to proceed with the prosecution of the child concerned, a magistrate may, after consideration of the views of any person present at the initial inquiry

(a) apply the same diversion option with altered conditions;

(b) apply any other diversion option; or

(c) issue an appropriate direction that will assist the child and his family to comply with the diversion option initially applied.

(3) Where the prosecutor decides to proceed with the prosecution of the matter, the matter shall be set down for trial in the Court and section 43 shall apply with the necessary changes required by the context.

Development of diversion options

39. The Minister may make regulations to develop other suitable diversion options.

Protection proceedings

40.(1) Where it appears during proceedings at an initial inquiry that a child is in need of care and protection as described in section 5(1) of the *Child Protection Act, 2024* (Act 2024-17) , and that it is desirable to deal with the child under the provisions of that Act, a magistrate shall stop the initial inquiry and deal with the matter as if it were commenced under the *Child Protection Act, 2024.*

(2) Notwithstanding the generality of subsection (1), a magistrate shall stop the initial inquiry and deal with the matter as if it were commenced under the *Child Protection Act, 2024* where a child

(a) has previously been assessed on more than one occasion with regard to minor offences that were committed to meet the basic need of the child for food and shelter and in the initial inquiry in question it is again alleged that the child has committed such offences;

(b) is allegedly abusing dependence producing substances; or

(c) does not live at his family home or in an appropriate child care service and is alleged to have committed a minor offence, the purpose of which was to meet the basic need of the child for food and shelter.

Referral of matter for trial and detention pending trial

41.(1) Where a child has been charged with an offence listed in the *Third Schedule* the child shall appear in the Criminal Division of the High Court in accordance with the *Supreme Court of Judicature Act,* Cap. 117A.

(2) In relation to offences that are triable summarily or on indictment as listed in the *Second Schedule*, the magistrate shall determine that the offence be tried summarily.

(3) Any information obtained

(a) by a probation officer during the assessment of a child; or

(b) during the initial inquiry in respect of a child,

shall not be admissible in any court proceedings against the child pursuant to this Act.

(4) The magistrate may conduct proceedings to determine whether a child should be detained in a secure residential facility pending trial for offences listed in the *First Schedule* or the *Second Schedule*, where diversion has not taken place and the matter has not been handled in the manner specified by section 40.

(5) A child referred to in subsection (1) shall be detained in a secure residential facility pending trial.

PART VI

COURT PROCEEDINGS

Conduct of proceedings relating to child in Court

42.(1) At the commencement of the proceedings, the Court shall

(a) inform the child of the nature of the allegations against him;

(b) inform the child of his right to

(i) legal representation by an attorney-at-law;

(ii) the presence of his parent or appropriate adult at the proceedings;

(iii) remain silent; and

(c) explain to the child the procedures to be followed pursuant to this Act or any other relevant enactment

in a manner that can be understood by a child.

(2) The proceedings in the Court shall be conducted in an informal manner in order to encourage maximum participation by the child and his parents or an appropriate adult.

(3) Where a child refuses to have his parent or an appropriate adult present at the proceedings referred to in subsections (1) and (2), or where a parent of a child or an appropriate adult is not present or cannot be traced and an attorney-at-law is not available, the police officer in charge of the investigation relating to the child, shall request a person to act as an independent observer and such independent observer shall be present at the proceedings.

(4) For the purposes of this section an "independent observer" means a social worker, a child protection officer or such other person as may be authorized by the Court.

Treatment of a child in Court

43.(1) A child shall not be subjected to the wearing of leg irons when appearing in the Court, and handcuffs may only be used where there are exceptional circumstances that warrant their use.

(2) A child held at a police station or a Court shall be kept separate from adults and shall be treated in a manner and kept in conditions which take into account the age of the child.

(3) A female child shall be kept separate from a male child.

(4) Where a child is transported to and from the Court he shall be transported separate from adults.

(5) The Commissioner of Police shall issue directives concerning the treatment and conditions of a child while being held in detention at Court.

Criminal responsibility

44.(1) The criminal responsibility of a child shall be proved by the prosecution beyond reasonable doubt.

(2) The prosecutor or the attorney-at-law representing the child may request the Court to order an evaluation of the child by a suitably qualified person.

(3) The evaluation referred to in subsection (2) shall be conducted at the expense of the Government.

(4) Where an order has been made by the Court pursuant to subsection (2), the person identified to conduct an evaluation of the child shall furnish the Court with a written report of the evaluation within 30 days of the date of the order.

(5) The evaluation shall include an assessment of the cognitive, emotional, physical, psychological and social development of the child.

(6) The person who conducts the evaluation may be called to attend the Court proceedings and to give evidence and, if called, shall receive remuneration from the Government.

Separation and joinder of trials involving child and adult

45.(1) Where a child and an adult are alleged to have committed the same offence, they are to be tried separately unless it is in the interest of justice to join the trials.

(2) An application for joinder of trials under subsection (1) shall be made to the Court and the child shall appear after notice is given to him in the prescribed manner.

(3) Where the Court grants an application for a joinder of trials, the matter shall be transferred to the relevant Court, and that Court shall afford the child concerned all such benefits conferred on a child under this Act.

Time limits relating to conclusion of trials

46.(1) The Court shall conclude the trial of an accused child within a period not exceeding 6 months and shall ensure that adjournments of the trial are limited in number and duration.

(2) Sections 29 and 32, shall apply, with the necessary changes required by the context, to the Court where the child is appearing in the Court for the first time is in detention.

(3) Where a child remains in detention and the trial of the child is not concluded within 6 months from the date on which the child has pleaded to the charge, the child shall be released from detention, unless he is charged with an offence listed in the *Third Schedule*.

Court may divert matter

47.(1) Where at any time before the conclusion of a case for the prosecution it comes to the attention of the Court that a child acknowledges or intends to

acknowledge responsibility for an alleged offence, the Court may make an order for diversion in respect of the child where the prosecutor indicates that the matter may be diverted.

(2) Sections 33 to 38 shall apply with the changes required by the context where the Court makes an order for diversion.

(3) Where the Court makes an order for diversion, it shall postpone the proceedings pending the compliance of the child with the diversion order.

(4) The Court shall, acquit the child of all charges in question, on receipt of a report from a probation officer or suitable person referred to in section 36(6) that a child has successfully complied with a diversion order.

(5) An acquittal of the child may be made in the absence of the child.

(6) Where a child fails to comply with a diversion order, section 38 shall apply with the necessary changes required by the context.

Privacy and confidentiality

48. A person shall not be present at a sitting of the Court in a matter relating to a child unless

(a) the presence of the person is necessary in connection with the proceedings of the Court; or

(b) the Court has granted the person permission to be present.

Prohibition of the publication of certain matters

49.(1) A person shall not publish any information which reveals or may reveal the identity of a child or of any witness under the age of 18 years appearing at any proceedings before the Court.

(2) Subject to subsection (3), a probation officer, pursuant to this section, shall not preclude

(a) access to information pertaining to a child where such access would be in the interest, safety or welfare of the child;

(b) the publication, in the form of a report, of

(i) information for the purpose of reporting any question of law relating to the proceedings in question; or

(ii) any decision or ruling given by the Court on such a question; or

(c) the publication, in the form of any report of a professional or technical nature, of research results and statistical data pertaining to a child where such publication would be in the interest, safety or welfare of the child or children in general.

(3) The reports referred to in subsection (2)*(b)* and *(c)* shall not mention

(a) the name of the person charged;

(b) the person against whom or in connection with whom the offence in question is alleged to have been committed;

(c) any witness at such proceeding; or

(d) the place where the offence in question was alleged to have been committed.

(4) Subject to subsection (5), in relation to any proceedings in any Court

(a) no newspaper report, radio broadcast, television broadcast or post on a social media site in relation to proceedings under this Act shall reveal the name, address or school, or include any particulars calculated to lead to the identification of any child in respect of whom the proceedings are taken, or as being a witness in the proceedings; and

(b) no picture shall be published of any child so concerned in the proceedings.

(5) The Court may, in any case, where satisfied that it is in the interest of justice or the public to do so, by order dispense with the requirements of this section to such extent as may be specified in the order.

(6) A person who publishes in a newspaper, broadcasts by radio or television, posts on a social media site or shares via a messenger application any matter in contravention of this section, is guilty of an offence and is liable on summary conviction to a fine of $10 000 or to imprisonment for a term of 2 years or to both.

PART VII

SENTENCING OF A CHILD

Child to be sentenced in accordance with this Part

50.(1) The Court shall, after a finding of guilt in relation to a child, impose a sentence on the child in accordance with this Part.

(2) Where the provisions of this Act regarding sentencing options, conflict with those provided for pursuant to any other relevant enactment, the sentencing options under this Act shall prevail.

Pre-sentence reports

51.(1) Prior to the imposition of sentence on a child, the Court shall

(a) request a pre-sentence report prepared by a probation officer; and

(b) hold a pre-sentence conference with the probation officer, where all considerations relevant to the child's case and possible sentencing options are discussed.

(2) Pursuant to subsection (1), the probation officer shall complete the report, as soon as possible, but no later than 8 weeks following the date upon which such report was requested.

(3) The Court may dispense with a pre-sentence report where

(a) a child is convicted of an offence referred to in the *First Schedule*; or

(b) requiring such a report would cause undue delay in the conclusion of the case to prejudice the child,

but the Court shall not impose a sentence with a residential requirement unless a pre-sentence report has been received and considered by the Court.

(4) Where a Court imposes a sentence involving detention in a secure residential facility, the Court shall certify on the warrant of detention that a pre-sentence report has been received and considered by the Court prior to the imposition of the sentence.

(5) For the purposes of subsection (3), "a sentence with a residential requirement" includes a sentence where the residential requirement is suspended.

Purposes of sentencing

52. The purposes of sentencing pursuant to this Act are to

(a) encourage the child to understand the implications of and be accountable for the harm caused;

(b) promote an individualised response which is appropriate to the circumstances of the child and proportionate to the circumstances surrounding the offence;

(c) promote the reintegration of the child into the family and community; and

(d) ensure that any necessary supervision, guidance, treatment or services which form part of the sentence, assist the child in the process of reintegration.

Community based sentences

53.(1) The Court may, as a requirement in relation to a penalty for an offence, sentence a child to detention in a secure residential facility for an initial period and thereafter require the child to serve the remainder of the period of the sentence providing a service in the community.

(2) A sentence which allows a child to remain in the community and which may be imposed pursuant to this Act includes

(a) any of the options referred to in section 36(3);

(b) placement under a supervision and guidance order in the prescribed form for a period not exceeding 3 years;

(c) in cases that warrant such specialised intervention, referral to counselling or therapy in conjunction with any of the options listed in this section for a period of time as the Court considers fit;

(d) where the child is over the age of compulsory school attendance, and is not attending formal schooling, compulsory attendance at a specified centre or place for a specified vocational or educational purpose, for no more than 35 hours per week;

(e) performance of some service without remuneration for the benefit of the community under the supervision or control of a specified person or institution identified by the Court for a maximum period of 160 hours and which shall be completed in 12 months; and

(f) any other sentence, subject to section 59, which is appropriate to the circumstances of the child and is in keeping with the principles of this Act and which, where it includes a period of time, shall not exceed 12 months.

(3) Before a child from the age of 12 years to 14 years is sentenced pursuant to subsection (2)*(e)*, due consideration must be given to the age, development and compulsory school attendance of the child.

Restorative justice sentences

54.(1) Where the Court makes a determination of guilt with respect to a child, the Court may refer the matter to a family group conference for a written recommendation.

(2) Section 55 shall apply where the Court has referred a matter to a family group conference.

(3) On receipt of the written recommendation from a family group conference, the Court shall

(a) confirm the recommendation by making it an order of the Court; or

(b) substitute or amend the recommendation and make it an appropriate order.

(4) Where the Court does not agree to the terms of the plan made at a family group conference, and imposes a sentence that is different in a material respect from that agreed to or decided upon at the family group conference, the Court shall note the reasons for deviating from the plan on the record of the proceedings.

(5) Where a child who has been sentenced in accordance with an order arising from a family group conference fails to comply with that order, the probation officer shall notify the Court of the failure as soon as possible and the Court shall issue a warrant for the apprehension of the child, and where the child appears before the Court pursuant to such warrant, the Court shall impose an appropriate sentence on the child.

Family group conference

55.(1) Where a child has been referred to appear at a family group conference pursuant to section 54, a probation officer shall be appointed by a Court to conduct the family group conference and he shall within 14 days, but not later than 21 days after such appointment, convene the family group conference by setting the time and place for such conference, and taking all necessary steps to ensure that all persons who are to attend the conference are adequately notified of the time and place of the conference.

(2) The following persons shall attend a family group conference

(a) the child and the parent of the child or an appropriate adult;

(b) any person reasonably requested by the child;

(c) the probation officer;

(d) a police officer;

(e) the victim of the alleged offence which the child committed and where the victim is under the age of 18 years, the parent of the victim or an appropriate adult;

(f) the attorney-at-law representing the child where applicable;

(g) a member of the community in which the child resides recommended by the probation officer; and

(h) any person authorised by the probation officer to attend the family group conference.

(3) The participants in a family group conference shall follow the procedure agreed upon by them and may agree to a plan in respect of the child pursuant to subsection (4) as they deem fit.

(4) A plan referred to in subsection (3)

(a) may include

(i) the application of any option contained in section 36(2) or (3); or

(ii) any other plan that is appropriate for the child, his family and the circumstance except that such a plan shall be consistent with the principles contained in this Act; and

(b) shall

(i) specify the objectives for the child and the period within which they are to be achieved;

(ii) contain the details of the services and the assistance to be provided for the child and for a parent of the child or an appropriate adult;

(iii) specify the persons or organisations to provide the services referred to in subparagraph (ii);

(iv) state the responsibility of the child and the parents of the child or an appropriate adult; and

(v) include such other matters relating to the education, recreation and welfare of the child as are relevant.

(5) The probation officer shall record the details of and reasons for any plan agreed to at the family group conference and shall furnish a copy of the record to the Court.

(6) Where a child fails to comply with any condition of the plan agreed to in a family group conference, the probation officer shall notify the Court in writing of such failure, and the Court may impose a sentence under section 56 or 58.

(7) Where the participants of a family group conference fail to agree on a plan, the probation officer shall close the family group conference and refer the matter back to the Court for consideration of another diversion option.

(8) The proceedings of a family group conference shall be confidential and no statement made by a participant in the family group conference may be used as evidence in any subsequent court proceedings.

Sentences involving correctional supervision

56.(1) The Court may impose a sentence of correctional supervision for a period not exceeding 3 years on a child over the age of 12 years.

(2) The whole or any part of the sentence imposed pursuant to subsection (1) may be postponed or suspended, with or without conditions referred to in paragraphs *(a), (b), (c), (d), (e), (f), (h)* and *(i)* of section 60(3).

Sentence with a compulsory residential requirement

57.(1) A sentence involving a compulsory residential requirement shall not be imposed on a child unless the Court is satisfied that such a sentence is justified by

(a) the seriousness of the offence, the protection of the community and the severity of the impact of the offence on the victim; or

(b) the previous failure of the child to respond to non-residential alternatives.

(2) A Court imposing any sentence involving a compulsory residential requirement on a child, shall note the reasons for the sentence on the record and explain them to the child in a language which the child can understand.

(3) A sentence involving a compulsory residential requirement shall include referral to

(a) a secure residential facility, subject to section 58; or

(b) a prison, subject to section 59.

Referral to secure residential facility

58.(1) A sentence which involves residing in a secure residential facility shall not exceed 3 years.

(2) A child shall not be required to reside in a secure residential facility beyond the age of 18 years.

(3) A person detained at a secure residential facility shall not be automatically transferred from a secure residential facility to a prison upon attaining the age of 18 years.

Referral to prison

59.(1) A sentence of imprisonment shall be used as a sentence of last resort and the sentence shall not be imposed unless

(a) the child is the age of 14 years or older at the time of the commission of the offence;

(b) substantial and compelling reasons exist for imposing a sentence of imprisonment, which may include

(i) conviction of an offence referred to in the *Second Schedule* or the *Third Schedule*; or

(ii) a previous failure to respond to alternative sentences, including sentences with a residential requirement; and

(c) the Court is of the opinion that none of the other methods in which the case may legally be dealt with is suitable,

and the Court may sentence the child to be detained for such period, not exceeding the maximum term of imprisonment with which the offence is punishable in the case of a person aged 18 years or over, as may be specified in the sentence.

(2) A sentence of imprisonment shall not be imposed on a child in respect of an offence referred to in the *First Schedule*.

(3) Where the Court imposes a sentence of imprisonment, the Court shall announce the term of imprisonment in open Court and the coming into effect of the term of imprisonment shall be antedated by the number of days that the child has spent in a secure residential facility prior to the sentence being announced in the Court.

(4) A child sentenced to imprisonment shall not be accommodated with adult prisoners.

(5) Corporal punishment and cruel, inhuman or degrading measures shall not be inflicted on a child detained in a prison pursuant to this section.

Postponement or suspension of passing sentence

60.(1) The passing of any sentence may be postponed, with or without one or more of the conditions referred to in subsection (3), for a period of 3 months.

(2) The whole or any part of any sentence may be suspended, with or without one or more conditions referred to in subsection (3), for a period not exceeding 12 months.

(3) The conditions referred to in subsections (1) and (2) may be any condition appropriate to the circumstances of the child which is in keeping with the principles of this Act and which promotes the reintegration of the child into his community or society and may include

(a) restitution, compensation or symbolic compensation;

(b) an apology;

(c) the obligation not to commit a further offence of a similar nature;

(d) good behaviour;

(e) regular school attendance for a specified period;

(f) attendance at a specified time and place of a family group conference;

(g) placement under the supervision of a probation officer;

(h) a requirement that the child shall appear before the Court on a date or dates to be determined by the Court for a periodic progress report; and

(i) referral to any diversion option referred to in paragraphs (*d), (e), (f), (g), (h), (i), (j)* or *(k)* of section 36(2).

(4) Where the Court has postponed the passing of a sentence pursuant to subsection (1) on one or more conditions, the Court may request the probation officer concerned to submit regular reports indicating the compliance of the child with the conditions referred to in this section.

(5) The conviction of a child in respect of whom passing of a sentence has been postponed shall be expunged from any record where the child has met all the conditions imposed or at the expiration of the period in question, as the case may be.

Penalty in lieu of fine or imprisonment

61. Where the Court convicts a child of an offence for which a fine or imprisonment is stated by an enactment as the penalty, the Court may impose any one of the following penalties in place of that fine or imprisonment

(a) symbolic compensation to a specified person or institution;

(b) payment of compensation not exceeding $5 000 to a specified person or institution if the child or his family is able to make that payment;

(c) an obligation on the child to provide a service or benefit or to pay compensation to a specified organisation identified by the child or by the Court, where there is no identifiable person to whom restitution or compensation could be made; or

(d) any other sentence as stated in this Act, except imprisonment.

Prohibition on certain forms of punishment

62.(1) The sentence of death shall not be pronounced on a child, recorded against a child or imposed on a child.

(2) A sentence of life imprisonment shall not be imposed on a child.

(3) A sentence of flogging or whipping shall not be imposed on a child.

Notice to parent of child

63.(1) Where it appears to a Court that finds a child guilty of an offence relating to property or against the person of another, on evidence admitted or submissions made in the case against the child

(a) that wilful failure on the part of a parent of the child or an appropriate adult to exercise proper care of, or supervision over, the child was likely to have substantially contributed to the commission of the offence; and

(b) that compensation may be paid to a person for any

(i) loss caused to the person's property, whether the loss was an element of the offence charged or happened in the course of the commission of the offence; or

(ii) injury suffered by the person, whether as the victim of the offence or otherwise, because of the commission of the offence,

the Court, on its own initiative or on application by the prosecutor, may decide to call on the parent or an appropriate adult to show cause, as directed by the Court, why the parent of the child or an appropriate adult should not pay the compensation.

(2) The Court may call on the parent of the child or an appropriate adult who is present in Court to show cause during the proceedings.

(3) The Court in all cases, instead of acting under subsection (2), may cause the Registrar of the Court to give written notice to the parent of the child or an appropriate adult to show cause why the parent of the child or an appropriate adult should not pay the compensation.

(4) Where the Court calls on the parent of a child or an appropriate adult under subsection (2) or the Registrar of the Court issues a notice under subsection (3),

(a) the Court shall put its reasons for so doing in writing; and

(b) a copy of the reasons for so doing shall be given, in accordance with the direction of the Court to the parent of the child or an appropriate adult within a reasonable time before the proceedings to show cause.

Proceedings to show cause

64.(1) At the proceedings to show cause referred to in section 63,

(a) evidence and submissions in the case against the child are to be treated as evidence and submissions in the proceedings to show cause;

(b) further evidence may be given and submissions made;

(c) the parent of a child or appropriate adult may require a witness whose evidence is admitted under paragraph *(a)* to be recalled to give evidence; and

(d) the parent of a child or an appropriate adult may require any fact stated in submissions mentioned in paragraph *(a)* to be proved.

(2) Subject to subsection (1),

(a) the determination of the issues at the proceedings to show cause shall be by way of fresh hearing on the merits; and

(b) the Court shall not be bound by a determination made by it pursuant to section 62.

(3) Where the parent is called on to show cause on the prosecution's application, the prosecution shall be a party to the proceedings to show cause.

(4) Where the parent is called on to show cause on the Court's own initiative, the prosecutor may at the proceedings

(a) appear and give the Court the assistance it may require; or

(b) intervene as a party with the permission of the Court.

(5) Where on consideration of the evidence and submissions mentioned in subsection (1)*(a)* and *(b)*, a Court is satisfied beyond reasonable doubt of the

matters mentioned in section 63(1)*(b)*(i), the Court may make an order requiring the parent to pay compensation.

(6) An order made pursuant to subsection (5) shall direct that

(a) the amount shall be paid by a time specified in the order or by instalments specified in the order; and

(b) the amounts shall be paid to the Registrar of the Court.

(7) In determining the amount to be paid by a parent by way of compensation, the Court shall have regard to the capacity of the parent to pay the amount, which shall include an assessment of the effect that any order would have on the capacity of the parent to provide for his child.

(8) The Court shall proceed under this section in the absence of the parent where the Court is satisfied that the parent has been given notice of the proceedings to show cause under section 63.

PART VIII

LEGAL REPRESENTATION

Child to be provided with legal representation

65. A child shall be provided with legal representation by the Government at all of the stages of any administrative or criminal proceedings under this Act.

Requirements to be complied with by attorney-at-law

66. An attorney-at-law representing a child shall

(a) conduct the best defence for the child at all of the stages of any administrative or criminal proceedings under this Act taking into account the best interests of the child;

(b) allow the child, as far as is reasonably possible, to give independent instructions concerning the case;

(c) inform the child of his right to

(i) be informed of the nature of the offence or offences alleged to have been committed;

(ii) seek the advice of an attorney-at-law;

(iii) have a parent or an appropriate adult present where he is to be questioned, interviewed or assessed in respect of an offence or offences alleged to have been committed;

(iv) remain silent;

(v) be informed of the procedures to be followed pursuant to this Act and any other relevant enactment that is in force;

(d) promote diversion where appropriate, but may not influence the child to acknowledge responsibility; and

(e) make reasonable efforts to ensure that the trial is conducted without delay.

PART IX

GENERAL PROVISIONS AS TO PROCEEDINGS IN COURT

Extension of power to take depositions

67.(1) Subject to subsection (2), where the Court is satisfied by the evidence of a medical practitioner that the attendance before the Court of any child in respect of whom the offence is alleged to have been committed would involve serious danger to his life or health, any deposition of the child taken under this Part shall be admitted in evidence either for or against the accused child without further proof if it is signed by the Judge or magistrate before whom it was taken.

(2) The deposition taken pursuant to subsection (1) shall not be admissible in evidence against the accused child unless it is proved that

(a) reasonable notice of the intention to take the deposition has been given to him; or

(b) it was taken in the presence of the accused child; and

(c) his attorney-at-law had the opportunity to question the child making the deposition.

PART X

SECURE RESIDENTIAL FACILITY

Secure residential facility

68. For the purposes of this Part, a "secure residential facility" means

(a) a residential facility designated under this Act for the purposes of the

(i) assessment under section 8;

(ii) detention of a child prior to or after an initial inquiry is conducted under this Act;

(iii) detention of a child pending trial pursuant to section 40;

(iv) reception and rehabilitation of a child who has been sentenced to a term of detention in a secure residential facility under this Act; and

(b) residential protection and treatment centre for the purposes of reception and rehabilitation of a child who requires psychiatric or psychological treatment or treatment for substance abuse pursuant to section 40 and section 70.

Designation of a secure residential facility

69. The Minister may by order designate and cause any lands or buildings that he may think fit to be used as a secure residential facility, and any lands or buildings authorised to be so used shall be subject to this Act.

Designation of the Government Industrial School as a secure residential facility

70.(1) The Government Industrial School is designated as a secure residential facility for the purposes of this Act.

(2) In this section, the Government Industrial School refers to the school situate at Dodds Plantation in the parish of Saint Philip.

Detention of a child

71. A child shall not be detained in custody in a secure residential facility unless that child

(a) is being detained before the making of an order or the imposition of a sentence by a judge or magistrate;

(b) has been committed to custody or detention by a sentence or an order of a judge or magistrate.

Child Justice Board

72.(1) The Minister shall appoint a Board to be known as the "Child Justice Board".

(2) The constitution of the Child Justice Board and matters related thereto are those set out in the *Fourth Schedule*.

(3) The members of the Child Justice Board shall be paid such remuneration as the Minister determines.

Functions of the Child Justice Board

73.(1) The Child Justice Board shall be responsible for the formulation of the policy of the secure residential facilities and shall give directions to the Director of a secure residential facility on the following:

(a) the management and supervision of the secure residential facility;

(b) the welfare of the children, including their education, training, recreation, conduct and safety;

(c) the welfare and conduct of the staff at a secure residential facility; and

(d) the proper maintenance of the secure residential facility.

(2) The Child Justice Board shall immediately notify the Minister of any abuses taking place at a secure residential facility of which the Board has knowledge.

Appointment of a Director

74.(1) The Minister shall appoint a Director of a secure residential facility designated as such under this Act.

(2) The Principal of the Government Industrial School shall for the purposes of this Act be considered to be a Director.

(3) The Director shall be the chief administrator and shall be responsible for the operation, maintenance, management and inspection of that secure residential facility.

Staff

75.(1) The Director shall be provided with such staff appointed in accordance with subsection (2), as is required for the purpose of carrying out the functions of a secure residential facility.

(2) The staff required for the purposes of subsection (1) shall be appointed in accordance with the *Public Service Act*, Cap. 29.

Status of certain officers of a secure residential facility

76.(1) An officer of a secure residential facility, who is in charge of

(a) any child who is sent to that facility under this Act for the purpose of conveying him to or from the facility; or

(b) bringing a child back to the facility in case of his escape or refusal to return,

shall, for such purpose and while engaged in the duties set out in paragraph *(a)* and *(b)*, have all such powers, authorities, protection and privileges of a constable under the *Police Act*, Cap. 167.

(2) For the purposes of subsection (1), an "officer" is a person appointed or employed in the manner set out in section 75(2).

Maintenance of records

77.(1) The Director shall keep in a secure place all records pertaining to a child who is or has been detained in custody in the secure residential facility.

(2) The Director and staff shall keep the records of a child who is or has been detained in custody in the secure residential facility confidential and shall not disclose those records unless required by an enactment or by an order of the court.

(3) A person who contravenes subsections (1) or (2) is guilty of an offence and is liable to a fine of $5 000 or to imprisonment for 12 months or to both.

Establishment of secure residential facility programmes

78. A Director shall establish and operate the following programmes:

(a) a curriculum appropriate to the needs of each child in accordance with the provisions of the *Education Act, Cap. 41*;

(b) voluntary recreational programmes that are appropriate for children;

(c) voluntary social and entertainment programmes that are appropriate for children;

(d) voluntary religious services;

(e) counselling programmes;

(f) medical and dental treatment programmes;

(g) visiting programmes; and

(h) compulsory or voluntary work programmes.

Medical or Psychiatric Treatment

79.(1) Where a child is moved from a secure residential facility to a

(a) hospital facility;

(b) psychiatric facility; or

(c) residential protection and treatment centre

for examination or treatment, the child is not discharged from custody and, during the time the child is hospitalized or treated, the child shall be deemed to be in the custody of the Director of the secure residential facility in which the child was detained before hospitalization or treatment.

(2) The time spent by a child in a hospital, a psychiatric facility or residential protection and treatment centre is considered to be the same as if the child had spent that time in the secure residential facility in which the child was detained before hospitalization or treatment.

(3) Where the date for the discharge of a child from a secure residential facility arises while the child is hospitalized or being treated, the child shall be discharged from custody of the secure residential facility on that date, and the Director of the secure residential facility in which the child was detained before hospitalization or treatment shall take the necessary steps to remove the child from custody of the a secure residential facility at that time.

(4) Notwithstanding subsection (3), no child who is hospitalized in a psychiatric facility shall be discharged from that psychiatric facility except in accordance with the provisions of the *Mental Health Act*, Cap. 45.

(5) The Director shall notify the

(a) parent of a child or an appropriate adult; and

(b) Director of Child Protection

where a child is moved from a secure residential facility to a hospital, a psychiatric facility or residential protection and treatment centre for examination or treatment.

(6) The Director may consent to medical treatment for a child who is detained in custody in a secure residential facility where the

(a) person is under the age of 16 years and requires medical treatment;

(b) consent of a parent of a child or an appropriate adult is required by an enactment and is refused or otherwise not obtainable.

Transfer of a child to another secure residential facility

80. The Director may apply to the Court for an order to transfer a child from one secure residential facility to another.

Emergency

81.(1) The Director may declare a situation to be an emergency where there is the occurrence of fire, riot or disturbance, contagious disease or a natural disaster.

(2) Where an emergency is declared by the Director under subsection (1), the Director may

(a) call off-duty staff to work;

(b) require on-duty staff to remain on-duty;

(c) give and enforce orders respecting the security and control of the secure residential facility to all persons who are on the premises during an emergency;

(d) confine children to their rooms or to such other places as the Director considers appropriate and necessary; and

(e) take such other steps and make such other orders as the Director considers appropriate and necessary in order to ensure that the secure residential facility remains secure and that the emergency is safely and satisfactorily dealt with.

Notification of death, injury or serious illness

82.(1) Where a child who is detained in a secure residential facility dies, the Director shall immediately notify

(a) the parent or the appropriate adult in respect of that child; and

(b) the Coroner and the Police Service.

(2) Where a child who is detained in a secure residential facility is injured or becomes seriously ill, the Director shall

(a) immediately notify the parent or the appropriate adult in respect of that child; and

(b) seek the appropriate medical treatment in respect of that child.

Resources of the secure residential facility

83. The resources of the secure residential facility are such money as Parliament may provide for the purpose of operating the secure residential facility.

Responsibilities of a child in custody

84.(1) A child shall, upon being admitted to a secure residential facility, be informed of the provisions of this Part and of the disciplinary action that may be

taken for violation of or failure to comply with a provision of this Part governing the conduct of a child detained in custody in a secure residential facility.

(2) A child who is detained in a secure residential facility

(a) is subject to the rules of conduct and discipline as set out in this Act or regulations made under this Act; and

(b) shall participate in the programmes devised by the Director under the authority of this Act or regulations made under this Act.

Infractions

85.(1) A child who is detained in a secure residential facility shall

(a) maintain the living and work areas in a clean and tidy condition;

(b) be prompt in the performance of regular duties of work that may be assigned to the child;

(c) comply with all reasonable instructions given by a member of staff;

(d) maintain a high level of personal cleanliness;

(e) respect the rights and dignity of other children in the facility; and

(f) make reasonable efforts to avoid behaviour that interferes with or is disturbing to any other person in the facility.

(2) A child who is detained in a secure residential facility and who violates or fails to comply with subsection (1) commits an infraction.

Misconduct

86.(1) No child detained in a secure residential facility shall

(a) assault or threaten to assault another person;

(b) engage in sexual contact;

(c) damage private or public property;

(d) have possession of drugs or deal in drugs with any other person;

(e) bring drugs into or take drugs out of a place of secure custody;

(f) escape or be unlawfully at large from a place of secure custody;

(g) give or offer a bribe or reward to any other person or receive a bribe or reward from any other person;

(h) disobey or fail to obey a reasonable order of a member of staff;

(i) refuse or fail to do assigned work;

(j) waste food;

(k) damage equipment or material;

(l) commit an indecent act by gesture, actions or in writing toward another person;

(m) gamble;

(n) create or incite a disturbance likely to endanger the security of a secure residential facility;

(o) use loud, indecent, abusive, profane or insulting language;

(p) fail or refuse to observe fire safety rules and regulations or alter, damage or interfere with any fire procedure, fire exit or equipment;

(q) interfere with the work performance of another child detained in a facility;

(r) take, or convert for personal use or for the use of another person, any property without the consent of the rightful owner of the property;

(s) leave an assigned area without proper authority;

(t) obstruct an investigation conducted or authorized by the Director;

(u) fail to abide by any term or condition of a reintegration order;

(v) fail to participate actively in a compulsory programme;

(w) violate or fail to comply with any enactment governing the conduct of a child detained in a secure residential facility;

(x) counsel, aid or abet another person to commit an act that constitutes a violation of or a failure to comply with any enactment;

(y) have in his possession an implement made, adapted for use or used for the purpose of facilitating his escape or the escape of another child;

(z) have in his possession an implement made, adapted for use or used for the purpose of causing or inflicting injury on another person in the facility; or

(aa) attempt to do anything referred to in paragraphs *(a)* to *(y)*.

(2) A child detained in a secure residential facility who violates or fails to comply with subsection (1) commits an act of misconduct.

(3) A member of staff may report a child in relation to an act of misconduct by delivering to the Director a written incident report.

(4) Where a child is accused of committing an act of misconduct, the Director shall

(a) advise the child of the nature of the accusation;

(b) conduct an investigation in respect of the accusation; and

(c) determine whether the child has committed an act of misconduct.

Power of the Director to impose discipline on a child in a secure residential facility

87.(1) Corporal punishment and cruel, inhuman or degrading measures shall not be inflicted on a child in a secure residential facility.

(2) The Director may impose disciplinary action on a child in a secure residential facility for any violation of or failure to comply with a provision of this Act or regulations made under this Act governing the conduct of the child in a secure residential facility.

(3) A Director who, after considering the circumstances, determines that a child in a secure residential facility has committed an infraction shall impose one or more of the following forms of disciplinary action:

(a) verbal warning;

(b) reduction or suspension of privileges for a definite period of time.

(4) A Director who, after considering the circumstances, determines that a child in a secure residential facility has committed an act of misconduct shall impose one or more of the following forms of disciplinary action:

(a) verbal warning;

(b) reduction or suspension of privileges for a definite period of time;

(c) payment of part or all of the cost of repairing the damage done by the child;

(d) performance of additional work; or

(e) confinement for a definite period of time to an area assigned by the Director.

(5) Notwithstanding subsection (4), a Director may recommend to the Director of Public Prosecutions that a court proceeding be instituted against a child in a secure residential facility.

(6) A Director who has taken disciplinary action against a child in a secure residential facility shall advise the child of the appeal procedures.

Searches

88.(1) An officer may conduct a search of a child in a secure residential facility where

(a) the child is being transferred from one part of a secure residential facility to another part of that facility; or

(b) the child is entering or departing from a secure residential facility.

(2) Where an officer believes, on reasonable and probable grounds, that a child has possession of or access to drugs, weapons or stolen property, the officer may at any time conduct a search of

(a) all or any part of a secure residential facility;

(b) a child detained in secure residential facility; or

(c) the property of a child detained in a secure residential facility.

(3) Where a Director believes, on reasonable grounds, that a member of staff or a visitor to a secure residential facility

(a) has possession of drugs, weapons or stolen property; or

(b) is bringing or attempting to bring drugs, weapons or stolen property into or is taking or attempting to take drugs, weapons or stolen property out of the secure residential facility,

the Director may authorize a search of the member of staff, visitor or the property of the member of staff or visitor, including a vehicle in the care and control of the member of staff or visitor, that is located on the premises of the secure residential facility.

(4) No child detained in custody in a secure residential facility shall be searched by a person of the opposite sex.

(5) A child detained in a secure residential facility who refuses to be searched or resists a search may be separated from other children in the facility until the child submits to the search or until there is no longer a need for the search.

(6) For the purposes of this section, an "officer" is a person appointed or employed in the manner set out in section 75(2).

Maintenance of order in secure residential facility

89.(1) An officer of a secure residential facility shall maintain control of the facility by employing such means of reasoning, delaying tactics and other methods that do not involve the use of force against a child detained in a facility.

(2) Notwithstanding subsection (1), officer of a secure residential facility may take the appropriate action necessary

(a) enforce maintain order within the secure residential facility;

(b) prevent the child from escaping from the secure residential facility or returning a child to the secure residential facility from which he escaped;

(c) protect the child or another person;

(d) prevent the child from damaging property; or

(e) conduct a search pursuant to section 88,

and such action shall be reasonable and not excessive having regard to the nature of the threat posed by the child and all other relevant circumstances of the case.

(3) An officer shall, where possible and practicable, arrange to have another officer present when taking any action pursuant to subsection (2).

(4) Where an officer takes any action against a child detained in secure residential facility pursuant to subsection (2), within 24 hours of the incident, that officer shall file a written report with the Director indicating the nature of the threat posed by the child and all other relevant circumstances of the case.

(5) For the purposes of this section, an "officer" is a person appointed or employed in the manner set out in section 75(2).

Grievance procedures

90.(1) Where a child detained in a secure residential facility believes that a member of staff has treated him in an unreasonable, unjust, oppressive, improperly discriminatory, arbitrary, unfair, unduly harsh or inappropriate manner, that child, his parent, appropriate adult or his attorney-at-law may file a grievance with the Director in the prescribed form within 10 days after the occurrence of the incident that gave rise to the grievance.

(2) Within 5 days after receiving the grievance referred to in subsection (1), the Director shall

(a) hold a meeting with the child, his parent, appropriate adult or his attorney-at-law and the child shall be given an opportunity to explain the circumstances and the grounds of the grievance;

(b) make a decision with respect to the grievance;

(c) deliver to the child, his parent, appropriate adult or his attorney-at-law, in writing, the original and a copy of the decision, including reasons; and

(d) indicate to the child, parent, appropriate adult or attorney-at-law that the appeal procedure under subsection (3) is available.

(3) A child who is aggrieved by a decision made under subsection (2) may appeal to a Judge in Chambers.

(4) Where the Director or a member of staff of the secure residential facility was involved in the incident that gave rise to the grievance, the child, his parent, appropriate adult or his attorney-at-law may appeal to a Judge in Chambers.

Discharge of child from a secure residential facility

91.(1) The Director shall discharge a child from a secure residential facility where

(a) a magistrate or judge orders the discharge;

(b) the term of the order or the custodial portion of the sentence made by a magistrate or judge has expired; or

(c) the term of detention in a secure residential facility has expired; or

(d) the Minister, upon consultation with the Director, approves the discharge pursuant to section 92.

(2) When a child is discharged from a secure residential facility, the Director

(a) may deliver to the child the remaining quantities of any medication currently being taken by the child; and

(b) shall deliver to the child any sums of money belonging to the child that are under the Director's control.

(3) Sums of money referred to in paragraph (2)*(b)* may be delivered to the child in the form of a cheque made jointly payable to the child and to an appropriate co-payee chosen by the Director.

(4) A Director may issue clothing to a child who is being discharged and who does not have suitable clothing.

(5) A Director may reimburse a child upon discharge in an amount that the Director considers fair and reasonable for any property of the child that has been lost or damaged by the secure residential facility.

(6) Where reasonably possible, upon a child's discharge the Director shall deliver to the child, parent or appropriate adult all of the child's property that is located in the secure residential facility.

(7) A child, parent or appropriate adult, as the case may be, shall upon request give to the Director a receipt for all medication, sums of money, clothing or other property received under this section.

(8) A Director may disburse funds in order to transport a child to the child's destination upon discharge.

Discharge approval by Minister

92. The Minister may, on consultation with the Director, approve the discharge of a child from a secure residential facility on application made to him in writing by an appropriate adult, attorney-at-law representing the child or a parent where that child has served two-thirds of his sentence or term of the order or the custodial portion of the sentence made by a magistrate or judge.

Appeal

93. A person who is aggrieved by a decision made under this Part may, within 14 days of the decision, appeal to a Judge in Chambers.

PART XI

REINTEGRATION

Establishment of Reintegration Board

94.(1) There shall be a Board to be known as the "Reintegration Board".

(2) The *Fifth Schedule* has effect with respect to the constitution of the Reintegration Board and otherwise in relation thereto.

Functions of the Reintegration Board

95. The functions of the Reintegration Board are to

(a) hear and consider an application for a reintegration order;

(b) grant, revoke or suspend a reintegration order;

(c) assign conditions to a reintegration order;

(d) maintain a register of its decisions;

(e) keep statistical and other records in relation to its work; and

(f) make annual reports to the Minister concerning its work.

Remuneration of the members of Reintegration Board

96. The members of the Reintegration Board shall be paid such remuneration as the Minister may determine.

Staff

97. The Reintegration Board may appoint and employ such other officers and employees as it deems necessary, on such terms and conditions as it thinks fit.

Expenses

98. The expenses of the Reintegration Board shall be defrayed out of the moneys voted for the purpose by Parliament.

Confidentiality

99.(1) All documents, information or matters disclosed in the discharge of the functions of the Board shall be regarded as secret and confidential and shall not be disclosed by a member of the Reintegration Board or any person concerned with the Reintegration Board except where those disclosures are made in compliance with

(a) an order of the High Court; or

(b) the Laws of Barbados.

(2) A person who contravenes this section is guilty of an offence and is liable on summary conviction to a fine of $10 000 or to imprisonment for 2 years or to both.

Protection of members of the Reintegration Board

100. No action, suit, prosecution or other proceeding shall be brought or instituted personally against any member of the Reintegration Board in respect of any act done *bona fide* in pursuance or execution or intended execution, of the provisions of this Act.

Eligibility for grant of reintegration order

101.(1) A child detained at a secure residential facility or a prison who has completed two-thirds of his sentence and has a record of good behaviour, shall be eligible for the grant of a reintegration order.

(2) The Director of a secure residential facility or the Superintendent of Prisons shall, at the end of each month or within such period as the Reintegration Board shall determine, submit to the Reintegration Board, a list of the children who will be eligible for the grant of a reintegration order.

(3) The Director of a secure residential facility or the Superintendent of Prisons shall give written notice of eligibility for the grant of a reintegration order to the child, parent or appropriate adult or attorney-at-law of the child who is the subject of the reintegration order within 2 months of the eligibility of the relevant child.

Application for a reintegration order

102.(1) A child who is eligible for the grant of a reintegration order under section 101, may apply in the prescribed manner to the Reintegration Board for the grant of that order.

(2) An application under subsection (1) shall contain the following particulars:

(a) the full name and age of the applicant;

(b) the nature of the offence of which the applicant was convicted and sentenced;

(c) any other information on which the applicant relies in support of his application; and

(d) any other information which may be requested by the Reintegration Board.

(3) The Director of a secure residential centre or the Superintendent of Prisons, as the case may be, shall furnish to the Reintegration Board,

(a) a report prepared by him in respect of the conduct of the applicant while in the secure residential facility or a prison, as the case may be; and

(b) a copy of a report containing an opinion by a psychiatrist or psychologist or any other person as may be designated by the Reintegration Board stating whether the applicant is fit to be released.

Grant of a reintegration order

103.(1) The Reintegration Board shall, in determining whether to grant a reintegration order may consider the following factors:

(a) the conduct of the child while in a secure residential facility or a prison;

(b) the availability of supervision and support for the child during the period stated in a reintegration order;

(c) the likelihood that the child will fail to abide by any of the terms and conditions of a reintegration order;

(d) the benefit of the reintegration order to the child, to the child's family or to other persons;

(e) the risk to the public posed by the reintegration order being granted to the child;

(f) the information contained in the reports referred to in section 101(3); and

(g) such other factors as the Reintegration Board considers relevant.

(3) Within 14 days after receipt of an application under section 101(1) for a grant of a reintegration order, the Reintegration Board shall

(a) advise the child, parent or appropriate adult or attorney-at-law of the child that is the subject of the reintegration order whether or not the reintegration order is granted;

(b) indicate any terms and conditions, where the reintegration order is granted; and

(c) give reasons where the reintegration order is not granted.

(4) The Reintegration Board may order the Director of a secure residential facility or the Superintendent of Prisons, as the case may be, to disburse funds to transport a child to and from the child's destination during the period covered in the reintegration order.

Reintegration order

104.(1) A reintegration order shall have effect for the period specified therein and shall require the holder of the reintegration order to submit during that period to the supervision of a probation officer appointed by the Chief Probation Officer and shall contain such requirements as the Reintegration Board considers necessary for securing the supervision and facilitating the rehabilitation of the holder of the reintegration order.

(2) Notwithstanding the generality of subsection (1), a reintegration order may include the following terms and conditions:

(a) attend a school or any other educational or training institution;

(b) obtain or continue employment or perform domestic or other duties required by the child's family;

(c) participate in a programme specified by the Director of a secure residential facility or the Superintendent of Prisons that will enable the child to better carry out employment or improve his or her education or training;

(d) attend an out-patient treatment programme where the child has a history of abusing drugs or alcohol or other like programme that would provide services that are suitable to addressing the child's needs; or

(e) attend a community based service programme.

Revocation or suspension of reintegration order

105.(1) The Reintegration Board may suspend or revoke an authorization of reintegration order where the Director is satisfied, on reasonable grounds, that

(a) the child is failing to abide by or is about to fail to abide by any of the terms and conditions of the reintegration order;

(b) the child has committed an offence while under the reintegration order; or

(c) the revocation is necessary in order to protect the best interests of the child or the public.

(2) Where the Reintegration Board intends to suspend or revoke a reintegration order, the Reintegration Board shall, within a reasonable time, give written notice of that intention to

(a) the Director of the relevant secure residential facility or the Superintendent of Prisons, as the case may be; and

(b) the child, parent or appropriate adult or attorney-at-law of the child that is the subject of the reintegration order.

(3) Where the reintegration order has been suspended or revoked, the order shall cease to have effect and on completion of the notifications required under subsection (2) the child shall be returned to the relevant facility or prison.

(4) Where the child is not returned to the secure residential facility, the Chairman of the Reintegration Board shall issue a warrant for the apprehension of the child, who shall, upon apprehension, be returned to the relevant facility or prison.

(5) A parent or appropriate adult or attorney-at-law of the child who is the subject of the reintegration order who receives the notification referred to in subsection (2)*(b)* and fails to return the child to the relevant secure residential facility or prison is guilty of an offence and is liable on summary conviction to a fine of $1 000 or to imprisonment for one year or to both.

(6) Where a child who is the subject of a reintegration order is returned to the relevant secure residential facility or prison in accordance with subsection (3), the period spent by that child in the relevant secure residential facility or prison while his reintegration order is suspended or revoked, as the case may be, shall be counted as a part of the sentence in respect of which the reintegration order was granted and shall be taken into account for the purpose of determining the date of the expiration of that sentence.

Forfeiture of reintegration

106.(1) A child who during the period of the reintegration order is convicted of an offence punishable by detention in secure residential facility for 12 months or more thereby forfeits his reintegration and such forfeiture shall take effect from the date of conviction.

(2) Where there is an appeal against a conviction referred to in subsection (1) and the conviction is quashed, the forfeiture shall be set aside.

(3) The court before which the child referred to in subsection (1) is convicted shall state whether the sentence in respect of an offence referred to in subsection (1) shall be concurrent with or consecutive to the sentence in respect of which the reintegration is being forfeited.

Reapplication

107.(1) Where an application for a reintegration order was refused under section 101(3) the child may reapply to the Reintegration Board after 4 months from the date of the refusal.

(2) A child, in respect of whom a reintegration order has been suspended or revoked, may reapply for a reintegration order after 4 months from the date of suspension or revocation or such lesser period as may be determined by the Reintegration Board.

(3) A child who forfeits reintegration under section 104 shall not be entitled to reapply for a reintegration order in relation to the sentence in respect of which the reintegration was forfeited.

Reintegration continuing education order

108.(1) A child detained in a secured residential facility who will turn 18 years of age before the completion of his sentence, has a record of good behaviour and is seeking to continue or complete his education may apply to the Reintegration Board in the prescribed form for the grant of a reintegration continuing education order.

(2) The Director of a secure residential facility shall give written notice of eligibility for the grant of a reintegration order to the child, parent or appropriate adult or attorney-at-law of the child who is the subject of the reintegration continuing education order within 6 months of the eligibility of the relevant child.

(3) Sections 101 to 106 shall apply to a reintegration continuing education order with such adaptations or modifications as the circumstances require.

PART XII

ADMINISTRATIVE PENALTIES

Administrative penalty

109. A person who contravenes a provision set out in Part I of the *Sixth Schedule* is liable to pay to the Director of Child Protection an administrative penalty in the amount so specified in the *Sixth Schedule*.

Administrative penalty notice

110.(1) The Director of Child Protection shall issue an administrative penalty notice in the form set out in Part II of the *Sixth Schedule* to any person where the Director of Child Protection is satisfied that the person has contravened a provision set out in Part I of the *Sixth Schedule*.

(2) An administrative penalty notice shall specify the nature of the act constituting the contravention, the penalty to be paid and shall require the person to whom it is addressed to pay the penalty within 30 days of the date of the notice.

(3) A person who is in receipt of an administrative penalty notice issued pursuant to subsection (1) shall pay the amount of the penalty set out in the notice on or before the date specified in the notice.

Procedure for challenging an alleged administrative contravention

111. Notwithstanding section 109, a person to whom an administrative penalty notice is addressed and who wishes to challenge the alleged contravention, may instead of paying the amount of the administrative penalty, appeal to a judge in Chambers who may remit or vary the penalty and whose decision shall be final.

Administrative penalty to constitute a debt to the State

112. The amount of an outstanding administrative penalty constitutes a debt to the State and is recoverable in civil proceedings before a magistrate for District 'A'.

PART XIII

MISCELLANEOUS

Regulations

113. The Minister may make regulations generally to give effect to this Act.

Amendment of Schedules

114. The Minister may by order amend the *First, Second, Third, Fourth* and *Fifth Schedules* to this Act.

Transitional

115.(1) Where proceedings for an offence were commenced under the *Juvenile Offenders Act*, Cap. 138, the offence shall, after the coming into force of this Act, be dealt with, tried and determined in accordance with this Act.

(2) Where under this Act the penalty or punishment is mitigated or reduced in relation to the penalty or punishment that would have been applicable had this Act not come into force, the provisions of this Act relating to penalty or punishment shall apply.

Consequential amendments

116. The enactments set out in Column 1 of the *Seventh Schedule* are amended in the manner specified in Column 2 of the *Seventh Schedule*.

Repeal

117. The

(a) *Juvenile Offenders Act, Cap. 138*; and

(b) *Reformatory and Industrial Schools Act*, Cap. 169

are repealed.

Commencement

118. This Act comes into force on a date to be fixed by proclamation.

FIRST SCHEDULE

(Sections 7, 16, 41, 51, 59 and 114)

1. Making use of threatening, violent or obscene language
2. Riotous, indecent, disorderly or insulting behaviour in any public place
3. Trespass
4. Praedial larceny
5. Offences under section 62 of the *Police Act*, Cap. 167
6. Offences under the *Road Traffic Act*, Cap. 295
7. Summary offences carrying a penalty of 5 years imprisonment or less

SECOND SCHEDULE

(Sections 16, 19, 41, 59 and 114)

1. Summary offences under the *Criminal Damage Act*, Cap. 113B
2. Summary offences under the *Drug Abuse (Prevention and Control) Act*, Cap. 131
3. Summary offences under of the *Firearms Act*, Cap. 179
4. Summary offences under the *Theft Act*, Cap. 155
5. Offences that are triable summarily or on indictment
6. Indictable offences carrying a penalty of over 5 years but not exceeding 14 years imprisonment

THIRD SCHEDULE

(Sections 19, 20, 29, 30, 46, 59 and 114)

1. Murder
2. Manslaughter
3. Indictable offences under the *Criminal Damage Act*, Cap. 113B
4. Indictable offences under the *Drug Abuse (Prevention and Control) Act*, Cap. 131
5. Indictable offences under the *Firearms Act*, Cap. 179
6. Indictable offences under the *Theft Act*, Cap. 155
7. Indictable offences carrying a penalty of 15 years imprisonment or more

FOURTH SCHEDULE

(Sections 72 and 114)

Constitution of Child Justice Board

1. The Child Justice Board shall consist of the Superintendent of Prisons or his nominee, a magistrate, the Chief Probation Officer or his nominee and 6 other members appointed by the Minister by instrument in writing.

Tenure

2.(1) The members of the Child Justice Board shall hold office for a period of 3 years but shall be eligible for reappointment.

(2) The Minister shall appoint a member of the Child Justice Board as Chairman and another member as Deputy-Chairman.

(3) If a vacancy occurs in the office of the Chairman or Deputy Chairman the Minister shall fill the vacancy as soon as possible from among the members of the Child Justice Board.

Resignation of a member of the Child Justice Board

3. A member may at any time resign his office by instrument in writing addressed to the Chairman, who shall forthwith forward the instrument to the Minister, and upon the receipt by the Chairman of the instrument the member ceases to be a member of the Child Justice Board.

Resignation of the Chairman of the Child Justice Board

4.(1) The Chairman may at any time resign his office by instrument in writing addressed to the Minister, and the Chairman's resignation shall take effect upon the receipt of the instrument by the Minister.

(2) Where the Chairman ceases to be Chairman, he also ceases to be a member.

Publication in *Official Gazette*

5. The names of all members of the Child Justice Board as first constituted and every change in the membership thereafter shall be published in the *Official Gazette*.

Secretary

6. The secretary shall be selected from among the members of the Child Justice Board.

Quorum

7. Five members of the Child Justice Board constitute a quorum.

Meetings

8.(1) The Child Justice Board shall regulate its own procedure.

(2) The Chairman may, at any time, call a meeting of the Child Justice Board and shall call a meeting within 14 days

(a) of a request for that purpose addressed to him in writing and signed by 3 members of the Child Justice Board; or

(b) of a direction to that effect addressed to him in writing and signed by the Minister.

(3) The Chairman, or, in his absence, the Deputy Chairman, shall preside at meetings of the Child Justice Board.

(4) In the absence of the Chairman or Deputy Chairman, or in the event that the Chairman or Deputy Chairman is unable to act, the members of the Child Justice Board present and constituting a quorum shall elect one of their members to preside at that meeting.

(5) Subject to this Act, the functions of the Child Justice Board shall not be affected by any vacancy in the membership thereof.

Minutes

9. The Child Justice Board shall keep minutes of its proceedings and submit the minutes to the Minister within 2 weeks after each meeting.

Visits to secure residential facilities

10.(1) The members of the Child Justice Board shall pay frequent visits to the secure residential facilities and at least 2 members of the Child Justice Board shall visit at least once a month.

(2) Except at the request of the Child Justice Board, during a visit neither the Director of a secure residential facility nor the next senior member of staff shall accompany the members of the Child Justice Board.

(3) Subject to subparagraph (2), no person other than the Director of a secure residential facility or his nominee may be permitted to accompany members of the Child Justice Board.

FIFTH SCHEDULE

(Sections 94 and 114)

Constitution of Reintegration Board

1.(1) The President, by instrument under the Public Seal acting on the recommendation of the Minister shall appoint the members of the Reintegration Board.

(2) The Reintegration Board shall comprise the following persons:

(a) a present or former member of the Judiciary;

(b) the Permanent Secretary of the Ministry of Attorney-General or his nominee;

(c) the Permanent Secretary of the Ministry of Home Affairs or his nominee;

(d) the Superintendant of Prisons or his nominee;

(e) the Chief Probation Officer or his nominee;

(f) the Commissioner of Police or his nominee;

(g) the President of the Barbados Bar Association or his nominee;

(h) a psychiatrist;

(i) a criminologist or social worker;

(j) a psychologist;

(k) a representative from a religious institution;

(l) a representative from civil society; and

(m) a representative of the youth.

(3) The member of the Judiciary referred to in subparagraph (2)*(a)* shall be the Chairman and the Deputy Chairman shall be elected from among the members of the Reintegration Board.

(4) For the purposes of this paragraph, "youth" means a person who is under the age of 30 years but older than the age of 18 years.

Tenure

2.(1) A member of the Reintegration Board shall hold office for a period of 3 years and shall be eligible for reappointment.

(2) Where a vacancy is created by the death, resignation or removal from office of a member, a person may be appointed in accordance with paragraph 1(1) to fill that vacancy.

Resignation

3.(1) The Chairman or Deputy Chairman may at any time resign his office by instrument in writing addressed to the Minister and upon the date of receipt by the Minister of the instrument, the Chairman or Deputy Chairman ceases to be Chairman or Deputy Chairman and a member of the Reintegration Board.

(2) A member may at any time resign his office by instrument in writing addressed to the Chairman, who shall forthwith cause the instrument to be forwarded to the Minister and upon the date of the receipt by the Minister of the instrument, that member ceases to be a member of the Reintegration Board.

Publication in *Official Gazette*

4. The names of all members of the Reintegration Board as first constituted and every change in the membership thereafter shall be published in the *Official Gazette*.

Meetings

5.(1) The Reintegration Board shall regulate its own procedure and shall meet at least once every quarter and at such other times as may be necessary or expedient for the transaction of the business of the Reintegration Board.

(2) The minutes of the meetings of the Reintegration Board shall be kept in proper form.

(3) The decisions of the Reintegration Board shall be by majority vote and shall be issued in writing.

Quorum

6. Seven members of the Reintegration Board shall constitute a quorum.

Minutes

7. The Reintegration Board shall submit the minutes of the meetings of the Reintegration Board to the Minister within two weeks after they have been approved by the Reintegration Board.

SIXTH SCHEDULE

(Section 109)

PART I

Administrative Penalties

Description of Contravention	**Provision**	**Penalty**
Failed to appear at initial inquiry, contrary to section 28(1)	section 28(1)	$5 000
Failed to comply with direction issued under section 29(4), contrary to section 29(5)	section 29(5)	$5 000

Sixth Schedule - (Concl'd)

(Section 110(1))

PART II

Child Justice Act, 2024
(Act 2024-18)

Administrative Penalty Notice

On the ____ day of _____, 20____, you, _____
(Name of person)

*being a parent of/*an appropriate adult in relation to _____
(Name of child)

*failed to appear at an initial inquiry contrary to section 28(1) of the *Child Justice Act, 2024* (Act 2024-18)/*failed to comply with a direction, contrary to section 29(4) of the said Act.

For that contravention you are required to pay to the Director of Child Protection an administrative penalty of $5 000 within 30 days of the date of this notice.

If you wish to challenge this notice you may do so by making application to a judge in Chambers.

_____
Director of Child Protection

* Delete as appropriate.

SEVENTH SCHEDULE

(Section 116)

CONSEQUENTIAL AMENDMENTS

Column 1 *Enactments*	Column 2 *Amendments*
1. *Bail Act*, Cap. 122A	In section 2 delete *(a)* the definition of the word "child" and substitute the following: " "child" means a person under the age of 18;"; *(b)* the definition of the word "young person". In section 5, *(a)* delete paragraph *(b)* of subsection (1) and substitute the following: "*(b)* the court is satisfied that the defendant should be kept in custody (i) for his own protection; (ii) for the protection of the community; or (iii) if he is a child, for his own welfare;"; *(b)* in paragraph *(b)* of subsection (3) delete the words "or young person";

Seventh Schedule - (Cont'd)

CONSEQUENTIAL AMENDMENTS - (Cont'd)

Column 1	Column 2
Enactments	*Amendments*
1. *Bail Act*, Cap. 122A - (Cont'd)	*(c)* delete paragraph *(c)* of subsection (5) and substitute the following: "*(c)* references to a defendant being kept in custody or being in custody include, where the defendant is a child being detained pursuant to the provisions of the *Child Justice Act, 2024* (Act 2024-18);". In section 12, delete subsection (5) and substitute the following: "(5) If a parent or guardian of a child consents to be a surety for the child for the purposes of this subsection, the parent or guardian may be required to ensure that the child complies with any requirement imposed on him by virtue of subsection (4), but *(a)* no requirement shall be imposed on the parent or the guardian of a child by virtue of this subsection where it appears that the child will attain the age of 18 before the time to be appointed for him to surrender to custody; and *(b)* the parent or guardian shall not be required to secure compliance with any requirement to which his consent does not extend and shall not, in respect of those requirements to which his consent does extend, be bound in a sum greater than $500.".

Seventh Schedule - (Cont'd)

CONSEQUENTIAL AMENDMENTS - (Cont'd)

Column 1 *Enactments*	Column 2 *Amendments*
1. *Bail Act*, Cap. 122A - (Concl'd)	In section 18, delete subsection (7).
2. *Community Legal Services Act,* Cap. 112A	In Part I of the *First Schedule*, delete item *(f)* and substitute the following: "*(f)* all criminal and administrative proceedings involving a child as defined by the section 2 of the *Child Justice Act, 2024* (Act 2024-18);".
3. *Criminal Law (Arrestable Offences) Act,* Cap. 125A	In the *Schedule*, delete item 15 and substitute the following: 15. Section 76 of the *Child Justice Act, 2024* (Act 2024-18).".
4. *Criminal Records (Rehabilitation of Offenders) Act*, Cap. 127A	In section 3 delete subsection (4) and substitute the following: "(4) Notwithstanding subsection (2), where a person was under the age of 18 at the time of conviction of *(a)* a summary offence or offences and has not been convicted of any other offences between the time of his eighteenth year and twentieth year; or *(b)* an indictable offence or offences and has not been convicted of any other offence between the time of his eighteenth year and twenty-third year, then for the purpose of this Act, the person shall be treated as a rehabilitated person and the conviction shall be treated as spent.".

Seventh Schedule - (Cont'd)

CONSEQUENTIAL AMENDMENTS - (Cont'd)

Column 1 *Enactments*	Column 2 *Amendments*
4. *Criminal Records (Rehabilitation of Offenders) Act*, Cap. 127A - (Concl'd)	In section 5(4) delete the words "*Reformatory and Industrial Schools Act*" and substitute the words "*Child Justice Act, 2024* (Act 2024-18)." In Part III of the *First Schedule* delete the words "Juvenile Correctional Centres and Places of Safety" and substitute the following: "Child Correctional Centres, Places of Safety, Residential Protection and Treatment Centres and Secure Residential Facilities".
5. *Drug Abuse (Prevention and Control) Act*, Cap. 131	In section 2 delete *(a)* the definition of the word "child" and substitute the following: " "child" means a person under the age of 18;"; and *(b)* the definition of the word "young person". Delete all references in the Act to the words "or young person".
6. *Education Act*, Cap. 41	In section 64B delete subsections (3) and (4).

Seventh Schedule - (Cont'd)

CONSEQUENTIAL AMENDMENTS - (Cont'd)

Column 1	Column 2
Enactments	*Amendments*
7. *Magistrate's Courts Act*, Cap. 116A	Delete all references to the word "juvenile court" and substitute the words "child justice court" throughout the Act. In section 2, *(a)* in subsection (1), (i) delete the definition of the word "child" and substitute the following: " "child" means a person under the age of 18;"; and (ii) insert the following definition in the appropriate alphabetical order: " "child justice court" means a court sitting to hear charges against children."; and *(b)* delete subsection (6). Section 51 is deleted and substituted by the following: "**Summary trial of information against child for an indictable offence** **51.**(1) Where a child appears or is brought before a magistrate on an information charging him with an indictable offence, he shall be tried summarily unless *(a)* he is charged with an offence mentioned in the *Third Schedule* to the *Child Justice Act, 2024* (Act 2024-18); or

Seventh Schedule - (Cont'd)

CONSEQUENTIAL AMENDMENTS - (Cont'd)

Column 1	Column 2
Enactments	*Amendments*
7. *Magistrate's Courts Act*, Cap. 116A - (Cont'd)	*(b)* he is charged jointly with a person who has attained the age of 18 and the magistrate considers it necessary in the interests of justice to commit them both for trial, and accordingly in a case falling within paragraph *(a)* or *(b)*, the magistrate shall commit the accused for trial if either he is of the opinion that there is sufficient evidence to put him on trial or he has power under section 20 so to commit him without consideration of the evidence. (2) Where, in a case falling within subsection (1)*(b)*, a magistrate commits a child for trial for an offence with which he is charged jointly with a person who has attained the age of 18, the magistrate may also commit him for trial for any other indictable offence with which he is charged at the same time, whether jointly with the person who has attained the age of 18 or not, if that other offence arises out of circumstances that are the same as or connected with those giving rise to the first-mentioned offence. (3) If on trying a person summarily in pursuance of subsection (1) the magistrate finds him guilty, he may impose a sentence in accordance with Part VII of the *Child Justice Act, 2024* (Act 2024-18).". Delete the crossheading which states the words "Power to Remit Person Under 16 for Trial to Child Justice Court" and substitute the following: "**Power to Remit a child for Trial to Child Justice Court**".

Seventh Schedule - (Cont'd)

CONSEQUENTIAL AMENDMENTS - (Cont'd)

Column 1 *Enactments*	Column 2 *Amendments*
7. *Magistrate's Courts Act*, Cap. 116A - (Cont'd)	Delete section 56 and substitute the following: "**Power of magistrate to remit a child for trial to a Child Justice Court in certain circumstances** **56.**(1) Where *(a)* a child appears or is brought before a court other than a child justice court on information jointly charging him and one or more other persons with an offence; and *(b)* that other person, or any of those other persons, has attained the age of 18, subsection (2) shall have effect. (2) Where *(a)* the magistrate proceeds to the summary trial of the information in the case of both or all of the accused, and the older accused or each of the older accused pleads guilty; or *(b)* the magistrate (i) in the case of the older accused or each of the older accused, proceeds to inquire into the information as an examining magistrate and either commits him for trial or discharges him; and

Seventh Schedule - (Cont'd)

CONSEQUENTIAL AMENDMENTS - (Cont'd)

Column 1	Column 2
Enactments	*Amendments*
7. *Magistrate's Courts Act*, Cap. 116A - (Cont'd)	(ii) in the case of the child, proceeds to the summary trial of the information,

then, if in either situation the child pleads not guilty, the magistrate may before any evidence is called in his case remit him for trial to the child justice court.

(3) A person remitted to a child justice court under subsection (2) shall be brought before and tried by a child justice court accordingly.

(4) Where a person is so remitted to a child justice court

(a) he shall have no right of appeal against the order of remission; and

(b) the magistrate may give such directions as appear to be necessary with respect to his custody or for his release on bail until he can be brought before the child justice court.

(5) In this section "the older accused" means such one or more of the accused as have attained the age of 18.".

Delete the shoulder note of section 64 and substitute the following:

"Restriction on fines in respect of a child".

Section 71 is repealed.

Seventh Schedule - (Cont'd)

CONSEQUENTIAL AMENDMENTS - (Cont'd)

Column 1	Column 2
Enactments	*Amendments*
7. *Magistrate's Courts Act*, Cap. 116A - (Cont'd)	Delete section 115 and substitute the following:

"Enforcement of fines imposed where the offender is a child

115.(1) Where an offence has been committed by a child which involves a default consisting in failure to pay, or want of sufficient distress to satisfy, an amount adjudged to be paid by a conviction, the magistrate may, subject to the following provisions of this section, make

(a) an order requiring the defaulter's parent or guardian to enter into a recognizance to ensure that the defaulter pays so much of that amount as remains unpaid; or

(b) an order directing so much of that amount as remains unpaid to be paid by the defaulter's parent or guardian instead of by the defaulter.

(2) An order under subsection (1) shall not be made in respect of a defaulter

(a) in pursuance of paragraph *(a)* of that subsection, unless the parent or guardian in question consents;

(b) in pursuance of paragraph *(b)* of that subsection, unless the magistrate is satisfied in all the circumstances that it is reasonable to make the order.

Seventh Schedule - (Cont'd)

CONSEQUENTIAL AMENDMENTS - (Cont'd)

Column 1	Column 2
Enactments	*Amendments*
7. *Magistrate's Courts Act*, Cap. 116A - (Cont'd)	(3) A magistrate shall not make an order under subsection (1) in consequence of a default of a child consisting in failure to pay or want of sufficient distress to satisfy an amount adjudged to be paid by a conviction unless the magistrate has since the conviction inquired into the defaulter's means in his presence on at least one occasion. (4) A magistrate shall not make an order under subsection (1) unless the magistrate is satisfied that the defaulter has, or has had since the date on which the amount in question was adjudged to be paid, the means to pay the amount or any instalment of it on which he has defaulted, and refuses or neglects or, as the case may be, has refused or neglected, to pay it. (5) An order under subsection (1) may be made in pursuance of paragraph *(b)* of that subsection against a parent or guardian who, having been required to attend, has failed to do so but, save as aforesaid, an order under that subsection shall not be made in pursuance of that paragraph without giving the parent or guardian an opportunity of being heard. (6) A parent or guardian may appeal to the High Court against an order under subsection (1) made in pursuance of paragraph *(b)* of that subsection. (7) Any amount ordered under subsection (1)*(b)* to be paid by a parent or guardian may be recovered from him in like manner as if the order had been made on the conviction of the parent or guardian of an offence.

Seventh Schedule - (Cont'd)

CONSEQUENTIAL AMENDMENTS - (Cont'd)

Column 1 *Enactments*	Column 2 *Amendments*
7. *Magistrate's Courts Act*, Cap. 116A - (Concl'd)	(8) In this section " "amount adjudged to be paid by a conviction" means any fine, costs, compensation or other amount adjudged to be paid by an order made on a finding of guilt, including an order made under the *Child Justice Act, 2024* (Act 2024-18); "guardian", in relation to a child, means a person appointed, according to law, to be his guardian by deed or will, or by order of a court of competent jurisdiction.".
	In the *Fifth Schedule* *(a)* in the column entitled "Number" delete the words "Cap. 169"; *(b)* in the column entitled "Short title" delete the words "Reformatory and Industrial Schools Act"; and *(c)* in the column entitled "Proceedings to which section 85 applies" delete the words " section 43".
8. *Penal System Reform Act,* Cap. 139	In the long title *(a)* delete the semi-colon appearing after the words "powers of sentencing" and substitute a full-stop; and

Seventh Schedule - (Cont'd)

CONSEQUENTIAL AMENDMENTS - (Cont'd)

Column 1	Column 2
Enactments	*Amendments*
8. Penal System Reform Act, Cap. 139 - (Cont'd)	*(b)* delete the following: "by an amendment to the *Juvenile Offenders Act* to raise the age of criminal responsibility; and for connected and incidental purposes.". In section 2 delete the definition of "custodial sentence" and substitute the following: "custodial sentence" means a sentence of imprisonment or of detention in a secure residential facility or a residential protection and treatment facility as defined by the *Child Justice Act, 2024* (Act 2024-18);". Section 5 is repealed. Delete section 10 and substitute the following: "**Attendance centre orders** **10.**(1) Where a court has the power to deal with a person under section 9 of the *Probation of Offenders Act*, Cap. 146 for failure to comply with any of the requirements of a probation order, the court may, if it has been notified by the Minister that an attendance centre is available for the reception of persons of that person's description, order that person to attend at such a centre, to be specified in the order, for such number of hours as may be so specified. (2) An order under this section is referred to in this Act as an "attendance centre order". (3) An attendance centre order shall not be made in the case of an offender who has been previously sentenced to imprisonment.".

Seventh Schedule - (Concl'd)

CONSEQUENTIAL AMENDMENTS - (Concl'd)

Column 1 *Enactments*	Column 2 *Amendments*
8. *Penal System Reform Act,* Cap. 139 - (Concl'd)	In section 13 *(a)* subsection (1), delete the word "16" and substitute the word "18"; *(b)* delete subsection (2); *(c)* subsection (5), delete paragraph *(b)* and substitute the following: "*(b)* be more than 240.". In section 17(1) delete the word "16" and substitute the word "18".
9. *Magistrate's Courts (Criminal Procedure) Rules, 2001 (S.I. 2001/98)*	In rule 30, paragraph (1), delete *(a)* the semi-colon and the word "and" in sub-paragraph *(j)* and substitute a full-stop; and *(b)* sub-paragraph *(k)*. In the *Second Schedule* delete the words "The fees payable by juveniles shall be in the discretion of the magistrate." and substitute the following: "The fees payable by a person under the age of 18 years shall be in the discretion of the magistrate.".

BARBADOS

The Official Gazette Part A 11th July, 2024

Act 2024-19

CRIMINAL PROCEDURE (AMENDMENT) ACT, 2024-19

Arrangement of Sections

1. Short title

2. Repeal and replacement of section 3 of Cap. 127

3. Amendment of section 7 of Cap. 127

4. Insertion of sections 7B, 7C, 7D and 7E into Cap. 127

5. Repeal and replacement of section 8 of Cap. 127

6. Amendment of section 9 of Cap. 127

7. Repeal and replacement of section 9A of Cap. 127

8. Amendment of section 10 of Cap. 127

9. Insertion of Schedule into Cap. 127

10. Amendment to enactments

FIRST SCHEDULE

Forms

SECOND SCHEDULE

Consequential Amendments

BARBADOS

I assent
J. GIBSON
Acting President of Barbados
5th July, 2024.

2024-19

An Act to amend the *Criminal Procedure Act*, Cap. 127 in order to enable an accused person to opt to elect to be tried by a judge sitting alone.

[Commencement: 11th July, 2024]

ENACTED by the Parliament of Barbados as follows:

Short title

1. This Act may be cited as the *Criminal Procedure (Amendment) Act, 2024*.

Repeal and replacement of section 3 of Cap. 127

2. ***The Criminal Procedure Act, Cap. 127 in this Act referred to as the principal Act, is amended by deleting section 3 and substituting the following:***

"Mode of trial

3. Every person against whom a bill of indictment has been preferred shall, subject to the provisions of this Act, be tried by a Judge sitting with a jury unless he elects to be tried by a Judge sitting alone.".

Amendment of section 7 of Cap. 127

3. ***Section 7 of the principal Act is amended by deleting subsection (1) and substituting the following:***

"(1) The judge shall, if a person arraigned on indictment pleads "not guilty", inform the person that he may elect to be tried by a Judge sitting alone or a Judge sitting with a jury.

(1A) Where the person referred to in subsection (1) upon being arraigned, elects to be tried by a Judge sitting alone, the court shall only make an order that the person be tried by a judge sitting alone if it is satisfied that the person

(a) has sought and received legal advice from an attorney-at-law in relation to a trial by a Judge sitting alone; and

(b) has filed with the Registrar of the Supreme Court a certificate in the form set out as Form A in the *First Schedule*.

(1B) Where a person is not represented by an attorney-at-law and elects to be tried by a Judge sitting alone, the Court shall make an order that the person be tried by a Judge sitting alone if it is satisfied that the person

(a) is competent and has waived his right to consult an attorney-at-law for legal advice in relation to a trial by a Judge sitting alone; and

(b) has filed with the Registrar of the Supreme Court a certificate in the form set out as Form B in the *First Schedule*.

(1C) The Court shall not make an order for a trial by a Judge sitting alone unless it is satisfied that

(a) in the case of a joint trial, all other accused persons have elected to be tried by a Judge sitting alone and each accused person has filed a certificate in the form set out as Form A or B in the *First Schedule,* as the case may be, in accordance with subsection (1A) or (1B); and

(b) where 2 or more charges are to be tried together, the accused person has elected to be tried by a Judge sitting alone in respect of all the charges.

(1D) Subject to subsection (1E), where the first hearing after the filing of an indictment against an accused person took place before the commencement of this section

(a) the Registrar of the Supreme Court shall cause to be served on the accused person, a notice informing him that he may, at least 60 days before the date fixed for his trial, apply to the Court for a trial by a Judge sitting alone; and

(b) the person may apply to the Court for a trial by a Judge sitting alone.

(1E) The Court shall not proceed to try the person by a Judge sitting alone unless it is satisfied that the accused person understands the difference between a trial by a Judge sitting alone and a trial by a Judge sitting with a jury.

(1F) The Court shall not proceed to trial by a Judge sitting alone

(a) if there are 2 or more accused, unless all accused have elected to be tried by a Judge sitting alone; and

(b) if there are 2 or more charges in the indictment unless the accused has elected to be tried by a Judge sitting alone in respect of all charges.

(1G) An accused who has elected for trial by a Judge sitting alone may withdraw his election before his trial begins and elect to be tried by a Judge sitting with a jury.".

Insertion of sections 7B, 7C, 7D and 7E into Cap. 127

4. ***The principal Act is amended by inserting immediately after section 7A, the following new sections:***

"Jurisdiction of the Judge

7B. In a trial by a Judge sitting alone, the Judge shall have

(a) the power, authority and jurisdiction which he would have had in a trial by jury; and

(b) the power to determine any question and to make any finding which would have been required to be determined or made by a jury.

References to jury in other enactments

7C.(1) A reference in this Act or in any other enactment to a jury, the verdict of a jury or the finding of a jury shall be read, in relation to a trial by a Judge sitting alone, as a reference to the Judge, the verdict of the Judge or the finding of the Judge, as the case may be.

(2) For the purposes of a trial by a Judge sitting alone, the provisions of this Act or any other enactment, insofar as they are predicated on a trial by a Judge sitting with a jury, shall be read and construed with such modifications, adaptations, qualifications and exceptions as may be necessary to bring them into conformity with a trial by a Judge sitting alone.

Judge to give reasons for decision

7D.(1) When the case on both sides is closed in a trial by a Judge sitting alone, the Judge shall, as soon as reasonably practicable and in any event before the expiration of 14 days, deliver his verdict and, in the case of a conviction, he shall give a written judgment setting out

(a) the principles of law applied by the Judge; and

(b) the findings of fact on which the Judge relied.

(2) If any other law requires a warning to be given to a jury in any such case, the Judge sitting alone shall take the warning into account in dealing with the case.

(3) Subject to subsection (4), where an accused person is acquitted in a trial by a Judge sitting alone, the Judge may give reasons for his verdict.

(4) Where the prosecution requests reasons for an acquittal, the Judge shall give reasons within 14 days of that request.

(5) Where a Judge fails to deliver his judgment or give reasons for an acquittal within the period specified in subsection (1) or (4), as the case may be, he shall convene the Court and inform the parties of the further time required for completion.

Right of accused to elect to be tried by Judge alone

7E. An accused person against whom an indictment was preferred before the commencement of this section may elect to be tried by a Judge sitting alone.

Person indicted for high treason or treason

7F. A person indicted for high treason or treason is not entitled to elect to be tried by a Judge sitting alone. ".

Repeal and replacement of section 8 of Cap. 127

5. ***Section 8 of the principal Act is deleted and the following is substituted:***

"Addressing the jury or judge sitting alone

8. Upon every trial on indictment for an offence, whether the prisoners or defendants or any of them are defended by an attorney-at-law or not, each and every such prisoner or defendant, or his or their attorney-at-law respectively, may, before addressing the jury or the Judge, as the case may be, at his discretion, elect to examine such witnesses as he or they may think fit and, when all the evidence is concluded, to address the jury or the Judge, and the right of reply and practice and course of proceedings, save as hereby altered, shall be as at present.".

Amendment of section 9 of Cap. 127

6. ***Section 9 of the principal Act is amended by deleting***

(a) ***subsection (1) and substituting the following:***

"(1) Where, upon the trial of any indictment for any arrestable offence, except murder or manslaughter, the indictment alleges that the defendant did wound any person and the jury are, or the judge is, satisfied that the defendant is guilty of the wounding charged in such indictment but not satisfied that the defendant is guilty of the arrestable offence charged in such indictment, then and in every such case the jury or the Judge may acquit the defendant of such arrestable offence and find him guilty of unlawfully wounding and thereupon such defendant shall be liable to be punished in the same manner as if he had been convicted upon an indictment for the offence of unlawfully wounding."; and

(b) ***subsection (3) and substituting the following:***

"(3) Where, upon the trial of any person charged with any offence, it appears to the jury or the Judge, as the case may be, upon the evidence that the defendant did not complete the offence charged but that he was guilty only of an attempt to commit the same, such person shall not by reason thereof be entitled to be acquitted but the jury or the Judge shall be at liberty to return as the verdict that the defendant is not guilty of the offence charged but is guilty of an attempt to commit the same, and thereupon such person shall be liable to be punished in the same manner as if he had been convicted upon an indictment for attempting to commit the particular offence charged in the same indictment.".

Repeal and replacement of section 9A of Cap. 127

7. ***The principal Act is amended by deleting subsection 9A and substituting the following:***

> **"Special verdict where accused person found guilty, but insane at date of act charged**
>
> **9A.** Where, in an indictment, any act is charged against any person as an offence, and it is given in evidence on the trial of such person for that offence that he was insane, so as not to be responsible according to law for his actions at the time when the act was done, then, if it appears to the jury or the Judge, as the case may be, before whom such person is tried that he did the act charged, but was insane when he did the act, the jury or the Judge, shall return a special verdict to the effect that the accused person is not guilty of the act charged against him, by reason of insanity.".

Amendment of section 10 of Cap. 127

8. ***Section 10 of the principal Act is amended by inserting immediately after subsection (2) the following:***

> "(3) Subsection (1) does not apply to a trial by a Judge sitting alone.".

Insertion of Schedule into Cap. 127

9. ***The principal Act is amended by inserting as the Schedule to the principal Act, the Schedule as set out in the First Schedule to this Act.***

Amendment to enactments

10. ***The enactments set out in Column 1 of the Second Schedule are amended in the manner set out opposite thereto in Column 2.***

FIRST SCHEDULE

(Section 9)

"SCHEDULE

(Section 7(1A) and (1B))

FORM A

No.

IN THE SUPREME COURT OF JUDICATURE

HIGH COURT

(Criminal Division)

BETWEEN:

The State

v

A.B

CERTIFICATE OF WAIVER OF LEGAL ADVICE ON ELECTING FOR A TRIAL BY JUDGE SITTING ALONE

I,_____, confirm that I have sought and received advice from the
(Name of Accused Person)

undersigned Attorney-at-law on electing to be tried by a Judge sitting alone. The undersigned Attorney-at-law has advised me of my rights, of possible defences, of the penalties and of the consequences and the implications of electing to be tried by a Judge sitting alone. I have had sufficient time to confer with the undersigned Attorney-at-law concerning this mode of trial.

First Schedule - (Cont'd)

I understand the implications of electing to be tried by a Judge sitting alone and agree to this mode of trial without reservation. No promise, inducement, threat, coercion or force of any kind was employed to secure my election of this mode of trial. I voluntarily and of my free will agree to it.

Dated this_____day of _____, 20__.

.....	
Name of Accused Person	*Name of Attorney-at-Law*
Signature of Accused Person	*Signature of Attorney-at-Law*

First Schedule - (Concl'd)

FORM B

No.

IN THE SUPREME COURT OF JUDICATURE

HIGH COURT

(Criminal Division)

BETWEEN:

The State

v

A.B

CERTIFICATE OF CONFIRMATION OF LEGAL ADVICE ON ELECTING FOR A TRIAL BY JUDGE SITTING ALONE

I, _____, confirm that I have not sought and received advice from
(Name of Accused Person)

any Attorney-at-law on the matter of me electing to be tried by a Judge sitting alone. I have waived my right to consult an Attorney-at-law for legal advice in relation to a trial by a Judge sitting alone. I elect to be tried by a Judge sitting alone and agree to it without reservation. No promise, inducement, threat, coercion or force of any kind was employed to secure my election of this mode of trial. I voluntarily and of my free will agree to it. I am satisfied with representing myself in this matter.

Dated this_____day of _____, 20__.

_____
Name of Accused Person

_____
Signature of Accused Person".

SECOND SCHEDULE

(Section 6)

CONSEQUENTIAL AMENDMENTS

Column 1 *Enactments*	Column 2 *Amendments*
1. *Criminal Appeal Act,* Cap. 113A	1. In section 4(1)*(a)*, immediately after the word "jury" insert the words "or Judge, as the case may be.".
	2. In section 5, immediately after the word "jury" wherever it appears insert the words "or Judge".
	3. Delete section 7 and substitute the following: "**Conviction on special verdict** **7**. Where a special verdict had been found by a jury or a judge, then on an appeal against conviction, if the Court considers that a wrong conclusion was arrived at by the court of trial regarding the effect of the verdict, the Court may, instead of allowing the appeal, order such conclusion to be recorded as appears to the Court to be in law required by the verdict; and the Court may pass such sentence in substitution for the sentence passed at the trial as may be authorized by law.".
	4. In section 9(1), immediately after the word "jury" insert the words "or judge".
	5. In section 10(1), immediately after the word "jury" appearing in paragraphs *(a)* and *(b)* insert the words "or judge".

Second Schedule - (Cont'd)

CONSEQUENTIAL AMENDMENTS - (Cont'd)

Column 1	Column 2
Enactments	*Amendments*
1. *Criminal Appeal Act,* Cap. 113A - (Concl'd)	6. In section 10(3), immediately after the word "jury" insert the words "or judge".
	7. Delete section 12(1) and substitute the following: "(1) Where the question of a person's fitness to be tried is to be determined and the jury has returned, or the judge has made a finding of unfitness, the person may appeal to the Court against the finding.".
	8. In section 13(1)*(a)*, immediately after the word "jury" insert the words "or judge".
	9. Delete section 15(2)*(c)* and substitute the following: "*(c)* an offence charged in an alternative count of the indictment in respect of which the jury were discharged from giving or the judge declined to give a verdict in consequence of convicting him of the offence of which he was convicted at the original trial.".
	10. In section 17(1), immediately after the word "jury" insert the word "or judge".
2. *Evidence Act*, Cap. 121	1. Delete section 102(4) and substitute the following: "(4) Where *(a)* it is not reasonably open to find the accused guilty on the basis of identification evidence;

Second Schedule - (Cont'd)

CONSEQUENTIAL AMENDMENTS - (Cont'd)

Column 1	Column 2
Enactments	*Amendments*
2. *Evidence Act*, Cap. 121 - (Cont'd)	*(b)* there are no special circumstances of the kind mentioned in subsection (2)*(a)*; and *(c)* there is no evidence of the kind mentioned in subsection (2)*(b)* if there is a jury, the Judge shall direct the jury to acquit the accused or if the Judge is sitting alone, he shall acquit the accused.".
3. *Offences Against the Person Act*, Cap. 141	1. Delete section 4(6) and substitute the following: "(6) Where on a trial for murder *(a)* evidence is given that the accused was, at the time of the alleged offence, suffering from such abnormality of mind as is specified in subsection (1); and *(b)* the accused is convicted of manslaughter, the court shall, if there is a jury, require the jury to declare whether the accused was so convicted by them on the ground of such abnormality of mind, and, if the conviction was on that ground, the court may instead of passing such sentence as is provided by law for that offence, order the person so convicted to be detained in custody in such place as the Court appoints, until the State's pleasure is known and thereupon the State may give such order for the safe custody of the person during the State's pleasure.".

Second Schedule - (Cont'd)

CONSEQUENTIAL AMENDMENTS - (Cont'd)

Column 1	Column 2
Enactments	*Amendments*
3. *Offences Against the Person Act*, Cap. 141 - (Cont'd)	2. Delete section 5 and substitute the following: "**Provocation** **5**. Where on a charge of murder there is evidence on which the judge or jury, as the case may be, can find that the accused was provoked, whether by things done or by things said or by both together, to lose his self-control, the question whether the provocation was enough to make a reasonable man do as he did shall be left to be determined by the judge or jury; and in determining that question, the judge or jury shall take into account everything both done and said according to the effect which, in his or their opinion as the case may be, it would have on a reasonable man.". 3. Delete section 46 and substitute the following: "**Alternative verdicts** **46**. (1) If on the trial of an indictment for murder or manslaughter the jury are or the Judge is of the opinion that the accused aided, abetted, counselled or procured the suicide of the person in question, the jury or the Judge may find him guilty of that offence. (2) Where on the trial of a woman for the murder of her newly-born child the jury are or the Judge is of the opinion that she by any wilful act or omission caused its death, but at the time of the act or omission the balance of her mind was disturbed by reason of her not having fully recovered from

Second Schedule - (Cont'd)

CONSEQUENTIAL AMENDMENTS - (Cont'd)

Column 1	Column 2
Enactments	*Amendments*
3. *Offences Against the Person Act*, Cap. 141 - (Concl'd)	the effect of giving birth to the child or by reason of the effect of lactation consequent on the birth of the child, the jury or the judge may return a verdict of infanticide. (3) Where any person tried for the murder of any child is acquitted thereof, it shall be lawful for the jury or the Judge by whose verdict such person is acquitted to find, where it so appears in evidence, that the child had recently been born and that such person did, by some secret disposition of the dead body of such child, endeavour to conceal the birth thereof, and thereupon the court may pass such sentence as if such person had been convicted upon an indictment for the concealment of the birth.".
4. *Sexual Offences Act*, Cap. 154	1. Delete section 24(1) and substitute the following: "(1) Where at a trial for an offence under this Act the jury, if there is a jury has to consider whether a person believed that another was consenting to sexual intercourse or to any other sexual act, the Judge shall direct the jury that the presence or absence of reasonable grounds for such a belief, is a matter to which the jury is to have regard, in conjunction with any other relevant matter, in considering whether that person so believed.". 2. In subsections (1) and (2) of section 36 immediately after the word "jury" wherever it appears insert the words "or Judge".

Second Schedule - (Concl'd)

CONSEQUENTIAL AMENDMENTS - (Concl'd)

Column 1	Column 2
Enactments	*Amendments*
5. *Theft Act*, Cap. 155	1. Delete section 22(2) and substitute the following: "(2) Where on a trial of an indictment for theft, the jury or the Judge is not satisfied that the accused committed the theft, but it is proved to the satisfaction of the jury or the Judge that the accused committed an offence under subsection (1), the jury or the Judge may find the accused guilty of that offence.". 2. Delete section 30(2) and substitute the following: "(2) On the trial of 2 or more persons indicted for jointly handling any stolen property the jury or the Judge may find any of the accused guilty if the jury or the Judge is satisfied that he handled all or any part of the stolen property, whether or not he did so jointly with the other accused or any of them.".

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