

The Maritime Areas Act, 1984
Act No. 3 of 30 August 1984

AN Act to make provision with respect to the territorial sea and the continental shelf of Saint Kitts and Nevis; to establish a contiguous zone and an exclusive economic zone adjacent to and beyond the territorial sea; and for related purposes.

Commencement

Be it enacted by the Queen's most Excellent Majesty by and with the consent of the National Assembly of Saint Kitts and Nevis and by the authority of the same as follows:

PART I
PRELIMINARY

Short title and commencement

1. (1) This Act may be cited as the Maritime Areas Act, 1984.
- (2) This Act shall come into operation upon such date as the Minister may, by notice published in the Gazette appoint.

Definitions

2. In this Act, unless the context otherwise requires:

"baseline of the territorial sea" means the baseline from which the breadth of the territorial sea is measured as described in section 4;

"contiguous zone" means the contiguous zone of Saint Kitts and Nevis as described in section 6;

"continental shelf" means the continental shelf of Saint Kitts and Nevis as described in section 7 and, to the extent that section 9 applies, as delimited pursuant to section 9;

"exclusive economic zone" means the exclusive economic of Saint Kitts and Nevis as described in section 8 and, to the extent that section 9 applies, as delimited pursuant to section 9;

"foreign vessel" means a vessel that:

- (a) is registered in a foreign State;
- (b) belongs to an authority or instrumentality of a foreign State; or
- (c) is held by any person on behalf of, or for the benefit of, a foreign State;

"foreign State" means a State other than Saint Kitts and Nevis;

"internal waters" means the internal waters of Saint Kitts and Nevis as described in section 5;

"maritime areas of Saint Kitts and Nevis" means the internal waters, the territorial sea, the contiguous zone, the continental shelf and the exclusive economic zone;

"Master", in relation to vessel, means the person for the time being having command or charge of the vessel;

"Minister" means the Minister for Foreign Affairs;

"nautical mile" means the international nautical mile of 1,852 metres;

"resources" includes living and non-living resources;

"territorial sea" means the territorial sea of Saint Kitts and Nevis as described in section 3;

"the Regulations" means regulations made under this Act.

PART II MARITIME AREAS OF SAINT KITTS AND NEVIS

Territorial sea

3. (1) Subject to subsection (2), the territorial sea of Saint Kitts and Nevis comprises those areas of the sea having, as their inner limits, the baseline of the territorial sea and, as their outer limits, a line measured seaward from that baseline, every point of which is 12 nautical miles distant from the nearest point of that baseline.

(2) Whenever the equidistance line between Saint Kitts and Nevis and an adjacent State is less than 12 nautical miles from the nearest point of the baseline of the territorial sea, the delimitation of the territorial sea shall, if possible, be effected by agreement between Saint Kitts and Nevis and the adjacent State; but to the extent that no such agreement is effected, that equidistance line shall constitute the outer limits of the territorial sea.

(3) In this section, equidistance line as between Saint Kitts and Nevis and an adjacent State, means a line every point of which is equidistant from the nearest point of the baseline of the territorial sea and the corresponding baseline of the adjacent State.

Baseline of territorial sea

4. (1) Except as otherwise provided in this section, the baseline from which the breadth of the territorial sea is measured shall be the low-water mark along the coast of Saint Kitts and Nevis, including the coast of all islands.

(2) In the case of the sea adjacent to a bay, the baseline from which the breadth of the territorial sea is measured:

(a) Where the bay has only one mouth, shall be a straight line joining the low-water marks of the natural entrance points;

(b) Where, because of the presence of islands, the bay has more than one mouth, shall be a series of straight lines across each of the mouths so as to join those low-water-marks' points.

(3) For the purpose of delimiting the territorial sea, the outermost permanent harbour works which form an

integral part of any harbour system shall be treated as forming part of the coast, but for that purpose offshore installations and artificial islands shall not be considered as permanent harbour works.

(4) The Minister may, whenever he considers it necessary to do so having regard to international law and practice, by order published in the Gazette, direct that, to the extent set out, the baseline from which the breadth of the territorial sea is measured shall be as prescribed in, or determined by or in accordance with, the order.

(5) In this section, "bay" means an indentation of the coast such that its area is not less than that of the semicircle whose diameter is a line drawn across the mouth of the indentation.

(6) For the purpose of the definition of "bay" in subsection (5):

(a) The area of an indentation shall be taken to be the area bounded by the low-water mark around the shore of the indentation and the straight line joining the low-water marks of its natural entrance points;

(b) Where, because of the presence of islands, an indentation has more than one mouth, the length of the diameter of the semicircle referred to shall be the sum of the lengths of the straight lines drawn across each of the mouths; and

(c) In calculating the area of an indentation, the area of any islands lying within it shall be treated as part of the area of the indentation.

Internal waters

5. The internal waters of Saint Kitts and Nevis comprise any areas of the sea that are on the landward side of the baseline of the territorial sea.

Contiguous zone

6. (1) The contiguous zone of Saint Kitts and Nevis comprises those areas of the sea that are beyond and adjacent to the territorial sea having, as their outer limits, a line, measured seaward from the baseline of the territorial sea, every point of which is 24 nautical miles distant from the nearest point of that baseline.

(2) The contiguous zone shall not extend into any part of the territorial sea of a foreign State and, where appropriate, the operation of subsection (1) shall be modified to the extent necessary to meet the requirement of this subsection.

Continental shelf

7. (1) Subject to subsection (2) and section 9, the continental shelf of Saint Kitts and Nevis comprises those areas of the seabed and subsoil of the submarine areas that are beyond and adjacent to the territorial sea throughout the natural prolongation of the land territory of Saint Kitts and Nevis to the outer edge of the continental margin, or to a distance of 200 nautical miles from the nearest point of the baseline of the territorial sea when the outer edge of the continental margin does not extend up to that distance.

(2) For the purposes of subsection (1), wherever the continental margin extends beyond 200 nautical miles from the nearest point of the baseline of the territorial sea, the outer limit of the continental shelf shall be established with all due regard to the requirements and limitations of international law relevant to the establishment and delineation of the continental shelf beyond that distance.

(3) For the purposes of this section, the continental margin comprises the submerged prolongation of the land mass of Saint Kitts and Nevis consisting of the seabed and subsoil of the shelf, the slope and the rise, but does

not include the deep ocean floor with its oceanic ridges or the subsoil thereof.

Exclusive economic zone

8. Subject to section 9, the exclusive economic zone of Saint Kitts and Nevis comprises those areas of the sea that are beyond and adjacent to the territorial sea having, as their outer limit, a line measured seaward from the baseline of the territorial sea, every point of which is 200 nautical miles distant from the nearest point of that baseline.

Delimitation of the Continental shelf or exclusive economic zone in certain cases

9. (1) Wherever the equidistance line between Saint Kitts and Nevis and an adjacent State is less than 200 nautical miles from the nearest point of the baseline of the territorial sea:

(a) the delimitation of the continental shelf shall be effected by agreement between Saint Kitts and Nevis and the adjacent State on the basis of international law in order to achieve an equitable settlement; and

(b) the delimitation of the exclusive economic zone shall be effected between Saint Kitts and Nevis and the adjacent State on the basis of international law in order to achieve an equitable settlement.

(2) Where, in any case, an agreement of the kind referred to in paragraph (a) or (b) of subsection (1) cannot be reached, Saint Kitts and Nevis shall have the recourse to the procedures provided by international law for the settlement of any dispute.

(3) Pending the delimitation of:

(a) the continental shelf pursuant to subsection (1)(a) or (2); or

(b) the exclusive economic zone pursuant to subsection (1)(b) or (2), the equidistance line between Saint Kitts and Nevis and the adjacent State shall constitute the outer limits of the continental shelf or, as the case may be, the exclusive economic zone, unless Saint Kitts and Nevis and the adjacent State make other provisional arrangements with respect to those limits.

(4) For the purpose of implementing any agreement under subsection (1), any settlement pursuant to subsection (2) or any Provisional arrangements under subsection (3), the Minister may, from time to time, by order published in the Gazette, declare that the continental shelf or the exclusive economic zone shall not extend to any specified area of the sea, seabed or subsoil that would otherwise be included therein by virtue of section 7 or, as the case may be, section 8, and the order, while it remains in force, shall have effect according to its tenor, notwithstanding anything in this Act.

(5) In this section, "equidistance line", as between Saint Kitts and Nevis and an adjacent State, means a line every point of which is equidistant from the nearest point of the baseline of the territorial sea and the corresponding baseline of the adjacent State.

PART III

RIGHTS IN RESPECT OF MARITIME AREAS OF SAINT KITTS AND NEVIS

Sovereignty in respect of the territorial sea

10. The sovereignty in respect of:

- (a) The territorial sea;
- (b) The airspace over, and the seabed under, that sea; and
- (c) The subsoil of that seabed,

is, and shall be deemed always to have been, vested in Saint Kitts and Nevis, and, subject to international law, is exercisable by Saint Kitts and Nevis.

Rights in respect of contiguous zone

11. Saint Kitts and Nevis has and may exercise in respect of the contiguous zone such rights as may be necessary to prevent, or punish, the infringement, within Saint Kitts and Nevis (including the territorial sea), of any enactment providing controls or prohibitions for or with respect to customs, excise immigration or sanitation.

Rights in respect of exclusive economic zone and continental shelf

12. (1) Saint Kitts and Nevis has and may exercise in respect of the exclusive economic zone

(a) sovereign rights:

(i) for the purpose of the exploration for and the exploitation, conservation and management of resources of the waters superjacent to the seabed and subsoil; and

(ii) for the production of energy from the waters, currents and winds;

(b) jurisdiction with regard to:

(i) the establishment and use of artificial islands, installations and structures;

(ii) marine scientific research; and

(iii) the protection and preservation of the marine environment;

(c) the exclusive right to construct and to authorize and regulate the construction, operation and use of:

(i) the artificial islands

(ii) installations and structures for the purpose provided for under paragraph (a) or any other economic purposes; and

(iii) installations and structures which may interfere with the exercise by Saint Kitts and Nevis of rights in respect of the exclusive economic zone; and

(d) the exclusive right to regulate, authorize and conduct marine scientific research.

(2) Saint Kitts and Nevis has and may exercise in respect of the continental shelf:

(a) sovereign rights for the purpose of the exploration for, and the exploitation, conservation and management of, natural resources;

(b) the exclusive right to construct and to authorize and regulate the construction, operation and use of:

- (i) artificial islands;
- (ii) installations and structures for the purposes provided for under paragraph (a) or any other economic purposes; and
- (iii) installations and structures which may interfere with the exercise by Saint Kitts and Nevis of rights in respect of the continental shelf; and
- (c) the exclusive right to regulate, authorize and conduct marine scientific research.

(3) In the exercise of jurisdiction and rights under subsection (1) in respect of the exclusive economic zone, Saint Kitts and Nevis shall have due regard to the rights and duties of foreign States and shall act in a manner compatible with international law.

- (4) In the exercise of:
 - (a) rights under subsection (1) (a) (i) in respect of the seabed and subsoil of the exclusive economic zone; or
 - (b) rights under subsection (2)(a) in respect of the continental shelf,

Saint Kitts and Nevis shall not infringe or unjustifiably interfere with rights of navigation or other rights and freedoms of foreign States, under international law.

(5) The sovereign rights conferred by this section in respect of the continental shelf shall be deemed always to have been vested in Saint Kitts and Nevis.

(6) In subsection (2)(a), "natural resources" means mineral and other non-living resources of the seabed and subsoil together with living organisms belonging to sedentary species, that is to say, organisms which, at the harvestable stage, either are immobile on or under the seabed or are unable to move except in constant physical contact with the seabed or subsoil.

Rights to lay cables and pipelines

13. (1) Subject to subsection (2), every foreign State may exercise, in accordance with international law, the right to lay cables and pipelines on the continental shelf or in the exclusive economic zone.

- (2) The right, under subsection (1), to lay cables or pipelines-
 - (a) shall not be exercised on any occasion unless there has first been obtained any consent required by or under the Regulations or any enactment in relation to the delineation of the course of the cables or pipelines to be laid on that occasion;
 - (b) shall be exercised in conformity with the provisions of the Regulations, and any enactment, for or with respect to the prevention, reduction and control, of pollution from pipelines; and
 - (c) is subject to the exercise of rights or jurisdiction pursuant to section 12 for or with respect to the control or prevention of the laying of cables or pipelines in connection with the exploration for or exploitation of, resources, or the use of artificial islands, installations or structures.

Prohibited activities

14. (1) No person shall:

(a) within the limits of the continental shelf:

(i) Explore for or exploit the resources, as defined in section 12(5);

(ii) Conduct any marine scientific research;

(iii) construct, operate or use any artificial island, or any installation or structure for the purpose of the exercise of any right referred to in section 12(2)(b)(ii) or which may interfere with the exercise of rights referred to in section 12(2)(b)(iii);

(b) within the limits of the exclusive economic zone -

(i) explore for or exploit the resources;

(ii) produce energy from the waters, currents or winds;

(iii) conduct any marine scientific research;

(iv) establish, construct, operate or use any artificial island, or any installation or structure for the purpose of the exercise of any right or purposes referred to in section 12 (i) (c) (ii) or which may interfere with the exercise of rights referred to in section 12 (1) (c) (iii); or

(c) Within the limits of the territorial sea engage in any of the activities referred to in paragraph (b),

except when authorized by, under or pursuant to this Act or any other enactment, or in any other lawful manner, to engage in the activity, and in accordance with the authorization.

(2) Any person who contravenes sub-section (1) is guilty of an offence and liable on conviction to a fine not exceeding one hundred thousand dollars.

(3) Where the owner or master of a vessel which is detained pursuant to section 23 (1) (c) is convicted of an offence against this section, the court may, in addition to any other penalty imposed, order that the vessel, including any equipment on board the vessel used in the commission of the offence, shall be forfeited to the Crown, and in that event the vessel and any such equipment shall be disposed of in such manner as the Minister shall order.

PART IV
INNOCENT PASSAGE AND TRANSIT PASSAGE

Interpretation

15. (1) In this Part, unless the context otherwise requires, "competent authority", in relation to any provision in this Part, means the Minister, and any person, or person belonging to class or description of persons, designated pursuant to subsection (2) for the purposes of that provision:

...

"Prescribed activity" means:

(a) Any threat or use of force against the sovereignty, territorial integrity or political independence of Saint Kitts and Nevis, or acts in any other manner in violation of the principles of international law embodied in the Charter of the United Nations;

(b) Any exercise or practice with weapons of any kind;

(c) Any act aimed at collecting information to the prejudice of the defence or security of Saint Kitts and Nevis;

(d) Any act of propaganda aimed at affecting the defence or security of Saint Kitts and Nevis;

(e) The launching, landing or taking on board of any aircraft or military device;

(f) The loading or unloading of any person, commodity or currency contrary to the customs, fiscal, immigration or sanitary laws;

(g) Any wilful act of pollution calculated or likely to cause damage or harm to Saint Kitts and Nevis, its resources or its marine environment;

(h) Any fishing activities;

(i) The carrying out of research or survey activities;

(j) Any act aimed at interfering with any systems of communication or any other facilities or installations of Saint Kitts and Nevis; or

(k) Such other activity as may be prescribed.

(2) The Minister may, by notice published in the Gazette, designate any person, or class or description of persons, for the purposes of any provision of this Part; and the Minister may, in like manner, revoke any such designation.

(3) Where the Minister is satisfied that any strait between Saint Kitts and Nevis and an adjacent State is being used for international navigation between:

(a) one part of the high seas or an exclusive economic zone; and

(b) another part of the high seas or an exclusive economic zone

he shall, by order published in the Gazette, designate that strait as delimited in the order; and the Minister, if he ceases to be so satisfied, may, in like manner, revoke the designation of a strait.

Innocent passage

16. (1) Every foreign vessel may, subject to and in accordance with this section and international law, exercise the right under international law of innocent passage, that is to say, the right of passage by navigating through the territorial sea for the purpose of:

(a) Traversing the territorial sea without entering internal waters or calling at a roadstead or port facility outside internal waters; or

- (b) Proceeding to or from internal waters or a call at any such roadstead or port facility,

where the passage is innocent.

- (2) The passage of a foreign vessel:

- (a) Is innocent so long as it is not prejudicial to the peace, good order or security of Saint Kitts and Nevis; and

- (b) Is deemed to be prejudicial to the peace, good order or security of Saint Kitts and Nevis if the vessel, in the territorial sea, engages in any prescribed activity.

- (3) In exercising the right of innocent passage, a vessel shall comply with:

- (a) Generally accepted international regulations, procedures and practices for safety at sea which have effect in the territorial sea, or any part thereof;

- (b) The provisions of the Regulations, and any enactment, order or direction, which have effect in the territorial sea, or any part thereof, for or with respect to:

- (i) The safety of navigation and the regulation of maritime traffic, including the use of sea lanes and the operation of traffic separation schemes;

- (ii) The protection of navigational aids and facilities, and other facilities or installations;

- (iii) The protection of cables and pipelines;

- (iv) The conservation of resources;

- (v) Fishing and fisheries;

- (vi) The preservation of the environment and the prevention, reduction and control of pollution;

- (vii) Marine scientific research and hydrographic surveys; and

- (viii) Controls or prohibitions in relation to customs, excise, immigration or sanitation.

- (4) The Minister may, where he is satisfied that it is essential to do so for the protection of the security of Saint Kitts and Nevis, including weapons exercises, by order published in the Gazette, suspend, for such period as is specified in the order, the right of innocent passage through the territorial sea, or through any part of the territorial sea identified in the order.

- (5) An order made under subsection (4) shall not operate to suspend the right of transit passage of a designated strait.

Transit passage

17. (1) Every foreign vessel or aircraft may, subject to and in accordance with this section and international law, exercise in relation to a designated strait the right under international law of transit passage, that is to say, the right of freedom of navigation and overflight solely, for the purpose of continuous and expeditious transit of a designated strait between:

- (a) one part of the high seas or an exclusive economic zone; and
 - (b) another part of the high seas or another part of an exclusive economic zone.
- (2) For the purposes of subsection (1), a vessel or aircraft that engages in a designated strait in any prescribed activity shall be deemed to engage in an activity which is not an exercise of the right of transit passage.
- (3) In exercising the right of transit passage of a designated strait a vessel shall comply with:
- (a) generally accepted international regulations, procedures and practices for safety at sea, or for the prevention, reduction and control of pollution from vessels, which have effect in the strait; and
 - (b) the provisions of the Regulations, and any enactment, order or direction, which have effect in the strait, for or with respect to:
 - (i) the safety of navigation and the regulation of marine traffic, including the use of sealanes and the operation of traffic separation schemes;
 - (ii) fishing vessels, and the prevention of fishing including the stowage of fishing gear; and
 - (iii) customs, excise, immigration or sanitation controls in relation to the loading or unloading of any commodity, currency or person.
- (4) In exercising the right of transit passage of a designated strait, an aircraft:
- (a) shall observe the Rules of the Air established by the International Civil Aviation Organization as they apply to civil aircraft, and a state aircraft shall normally comply with such safety measures and shall at all times operate with due regard for the safety of navigation;
 - (b) shall at all times monitor the radio frequency assigned by the appropriate internationally designated air traffic control authority or the appropriate international distress radio frequency.

Engaging in prescribed activities prohibited

18. (1) No foreign vessel shall, while in the territorial sea, without the permission of a competent authority given to the master of the vessel, engage in any prescribed activity.
- (2) Where a foreign vessel, in contravention of subsection (1), engages in any prescribed activity, the master of the vessel and any other person on board the vessel participating in that activity are each guilty of an offence and liable on conviction to a fine not exceeding one hundred thousand dollars.
- (3) No prosecution for an offence against this section:
- (a) Shall be brought against a person who is entitled to State or other immunity recognized by law; or
 - (b) Shall be commenced without the consent in writing of the Attorney General.
- (4) Where the master of a foreign vessel which is detained pursuant to section 23(2)(d) is convicted of an offence against this section, the court may, in addition to any other penalty imposed, order that the vessel shall be forfeited to the Crown, and in that event the vessel shall be disposed of in such manner as the Minister shall order.
- (5) This section has effect notwithstanding that the area of the territorial sea, in which a vessel engages in

any prescribed activity, is within a designated strait.

PART V CHARTS AND CO-ORDINATES

Charts of maritime areas, etc.

19. The Minister shall cause to be prepared such charts or lists of geographical co-ordinates as he thinks fit showing all or any of the following matters, namely:

- (a) the maritime areas of Saint Kitts and Nevis, or any part thereof;
- (b) the baseline of the territorial sea;
- (c) the outer limits of the continental shelf or the exclusive economic zone; or
- (d) sea lanes or traffic separation schemes.

Evidence of charts etc

20. A document, purporting to be certified by the Minister to be a true copy of a chart or list of geographical co-ordinates prepared pursuant to section 19, shall be received in any Proceedings as evidence of any matter shown in the document, but without prejudice to the right to adduce evidence in rebuttal.

Publicity with respect to charts etc.

21. The Minister shall cause:

- (a) due publicity to be given to charts or lists of geographical coordinates prepared pursuant to section 19; and
- (b) a copy of each such chart or list to be deposited with the Secretary-General of the United Nations.

PART VI JURISDICTION OF COURTS AND OTHER LEGAL MATTERS

Jurisdiction

22. (1) The jurisdiction and powers of the courts of Saint Kitts and Nevis extend to the maritime areas of Saint Kitts and Nevis for the purpose of:

- (a) this Act, and
- (b) any enactment which applies or is applied pursuant to section 28 to maritime areas of Saint Kitts and Nevis, or any part thereof.

(2) For the purposes of the exercise of any jurisdiction and powers pursuant to sub-section (1), a court is a court of competent jurisdiction:

(a) for the purpose of any criminal proceedings, if it would have cognisance of the offence concerned if it had been committed within the limits of its ordinary criminal jurisdiction; and

(b) for the purpose of any proceedings, other than criminal proceedings, if it would have jurisdiction if the act, omission or other matter giving rise to the proceedings had occurred or arisen within the limits of its ordinary jurisdiction.

(3) The Minister, after consultation with the Attorney General, may make rules for carrying out or giving effect to this section.

(4) The jurisdiction and powers conferred by this section are in addition to and not in derogation of any other jurisdiction or powers exercisable by a court of Saint Kitts and Nevis.

Apprehension of certain offenders

23. (1) Subject to this section, where an authorized person has reasonable cause to believe and believes that an offence has been committed against section 14, he may exercise all or any of the following powers, namely:

(a) within the maritime areas of Saint Kitts and Nevis, stop, board, inspect and search any vessel, or enter, inspect and search any installation, which he has reasonable cause to believe is being used for or in connection with the commission of the offence;

(b) arrest with or without a warrant, any person on board the vessel, or on the installation, referred to in paragraph (a), or found elsewhere in Saint Kitts and Nevis, whom he has reasonable cause to believe has committed an offence against that section;

(c) detain the vessel, referred to in paragraph (a), if he has reasonable cause to believe that an offence against that section has been committed by the owner or master of the vessel; and

(d) enter, inspect and search any installation whose establishment, construction, operation or use would constitute the offence against that section and arrest, with or without a warrant, any person on the installation, or found elsewhere in Saint Kitts and Nevis, whom he has reasonable cause to believe has committed the offence.

(2) Subject to this section, where an authorized person has reasonable cause to believe and believes that an offence has been committed against section 18, he may, within the territorial sea, exercise all or any of the following powers, namely:

(a) stop, board, inspect and search the foreign vessel which, in contravention of that section, engaged in any prescribed activity;

(b) arrest, with or without a warrant, the master of the vessel;

(c) arrest, with or without a warrant, any other person on board the vessel whom he has reasonable cause to believe has committed an offence against that section; and

(d) detain the vessel.

(3) An authorized person may exercise any of the powers conferred on him by subsection (1) or (2) with the aid of such assistants as he considers necessary for the purpose.

(4) Where a vessel is detained pursuant to subsection (1) (c) or subsection (2) (d), it shall be held in the

custody of the Crown until:

(a) a decision is made not to bring a prosecution in respect of the alleged offence in relation to which the vessel was detained; or

(b) where such a decision is made to bring such a prosecution, the security required under subsection (6) is given in respect of the vessel.

(5) The decision whether or not to bring a prosecution in respect of an alleged offence in relation to which a vessel is detained shall be made with all due expedition.

(6) The security required in respect of any vessel for the purposes of subsection (4) shall be in such form and reasonable amount, and shall be given by such person, as the Minister may order.

(7) The release of a vessel from detention shall not affect any subsequent forfeiture of the vessel, pursuant to section 14 (3) or 18 (4).

(8) The power under subsection (1) or (2) shall not be exercised in relation to a vessel that is, or in relation to a person who is entitled to State or other immunity recognized by law.

(9) The powers and rights under this section are in addition to and not in derogation of any other powers and rights which Saint Kitts and Nevis may have under international law or otherwise.

(10) In the exercise under this section of the power of enforcement against a foreign vessel, an authorized person shall not endanger the safety of navigation or otherwise create any hazard to a vessel, or bring it to an unsafe port or anchorage, or expose the marine environment to an unreasonable risk.

(11) In this section:

"authorized person" means a person, or a person belonging to a class or description of persons, designated for the purposes of this section by the Minister by order made under this subsection and published in the Gazette;

"owner", in relation to any vessel, includes any body of persons, whether incorporated or not, by whom the vessel is owned, and any charterer or sub-charterer of the vessel.

Arrest on board foreign vessel in territorial sea etc.

24. (1) Subject to this section, where an offence is committed on board a foreign vessel (being a merchant ship or a government ship operated for commercial purposes) during its passage through the territorial sea, a prescribed power may be exercised in relation to the offence, on board the vessel during that passage, only if:

(a) The consequences of the offence extend to Saint Kitts and Nevis;

(b) The offence is of a kind likely to disturb the peace of Saint Kitts and Nevis or the good order of the territorial sea;

(c) The assistance of the Government or any public officer has been requested by the master of the foreign vessel or by a diplomatic agent or consular officer of the relevant foreign State; or

(d) It is necessary to exercise a prescribed power for the purpose of suppressing any illicit traffic in narcotic drugs or psychotropic substances.

(2) The limitations in subsection (1) shall not apply in any case where a foreign vessel is passing through the

territorial sea after leaving internal waters.

(3) Subject to this section, where a foreign vessel, proceeding from a port outside Saint Kitts and Nevis, is passing through the territorial sea without having entered internal waters, a prescribed power may be exercised, in relation to any offence committed before the ship entered the territorial sea, on board the ship during that passage only if:

(a) there are clear grounds for believing that the vessel has, in the exclusive economic zone, committed a violation of:

(i) applicable international rules and standards for the prevention, reduction and control of pollution from vessels; or

(ii) any provision of the Regulations or any enactment conforming to and giving effect to any such rules and standards; and

(b) there:

(i) are clear grounds for believing that that violation has resulted in a substantial discharge causing or threatening significant pollution of the marine environment; or

(ii) is clear objective evidence that that violation has resulted in a discharge causing major damage or the threat of major damage to the coastline of Saint Kitts and Nevis, or to any resources of its territorial sea or exclusive economic zone.

(4) Nothing in this section shall affect the exercise of any power under section 23.

(5) The decision to exercise, and the exercise of, a prescribed power in circumstances of the kind referred to in subsection (1) or (3) shall be made or, as the case may be, carried out, with due regard to the interests of navigation.

(6) The prescribed power referred to in subsection (8) (a) shall not be exercised in relation to a vessel unless the vessel has refused, when lawfully required to do so, to give information regarding its identity and port of registry, its last and next port of call and other relevant information required to establish whether a violation of the kind referred to in subsection (3) (a) has occurred.

(7) The prescribed power referred to in subsection 8(b) shall not be exercised in relation to a vessel whenever appropriate procedures, which bind Saint Kitts and Nevis, have been established, either through the competent international organization or as otherwise agreed, whereby compliance with requirements for landing or other appropriate financial security has been assured in relation to the vessel.

(8) For the purposes of this section, "prescribed power" means the power lawfully to arrest any person or to conduct an investigation into any alleged offence, and:

(a) for the purposes of subsection (3) (b) (i), includes a power to undertake a physical inspection of a vessel for matters relating to a violation of the kind referred to in subsection (3) (a); and

(b) for the purposes of subsection (3) (b) (ii), includes a power to detain a vessel.

Certificate Attorney General

25. Where, in any criminal proceedings, a question arises whether or not an act or omission occurred within the

limits of internal waters, the territorial sea, the contiguous zone, the continental shelf or the exclusive economic zone, a certificate, purporting to be signed by the Attorney General, to the effect that the act or omission did or did not so occur shall be received as evidence of that fact, but without prejudice to the right to adduce evidence in rebuttal.

Civil jurisdiction

26. (1) All questions and disputes of a civil nature concerning or arising out of acts or omission which occur within the limits of the continental shelf or the exclusive economic zone in connection with:

- (a) the exploration for or exploitation of resources;
- (b) the conduct of any research or survey activities;
- (c) the establishment, construction, operation or use of any artificial islands, installation or structure;
- (d) the laying of cables or pipe-lines; or
- (e) the production of energy from the waters, currents or winds, may be dealt with by a court of competent Jurisdiction.

(2) Subsection (1) shall not affect the validity of any agreement to submit a dispute to arbitration by any person outside Saint Kitts and Nevis.

(3) The jurisdiction conferred by this section is in addition to and not in derogation of any other jurisdiction exercisable by a court in Saint Kitts and Nevis.

Civil jurisdiction in relation to foreign vessels in the territorial sea

27. (1) No foreign vessel passing through the territorial sea shall be stopped or diverted for the purpose only of the exercise of any civil jurisdiction in relation to a person on board the vessel.

(2) Subject to subsection (3), no person shall arrest or levy execution against a foreign vessel passing through the territorial sea for the purpose of any civil proceedings, except where the proceedings are in respect of obligations or liabilities assumed or incurred in relation to the vessel in the course or for the purpose of its voyage through the territorial sea.

(3) Subsection (2), in so far as it prohibits the arrest of, or levying of execution against, a foreign vessel, shall not apply in the case of a foreign vessel which is lying in or passing through the territorial sea after leaving internal waters.

Application of enactments to Maritime areas

28. (1) The Minister may by regulations made under section 29, extend to the maritime areas of Saint Kitts, or any part thereof, the application of any enactment, subject to:

(a) the limitations (if any) modifications (if any) to facilitate the application or enforcement of the enactment, as may be prescribed in the regulations, and the enactment shall apply accordingly.

(2) the power under subsection (1) includes a power to extend the application of an enactment to any artificial island, installation or structure for the purpose of the exercise of any rights or jurisdiction under section 12

PART VII
REGULATIONS, SAVING AND AMENDMENTS

Regulations

29. (1) The Minister may make regulations for carrying out or giving effect to this Act.
- (2) Regulations may be made with respect to the territorial sea for all or any of the following purposes, namely:
- (a) regulating the conduct of scientific research within the territorial sea;
 - (b) prescribing measures for the protection and preservation of the marine environment of the territorial sea;
 - (c) regulating the construction, operation, and use of artificial islands (whether permanent or temporary), and other installations and structures in the territorial sea, including the establishment of safety zones around such islands, installations, and structures;
 - (d) regulating the exploration and exploitation of the territorial sea for the production of energy from the water, currents, and winds, and for any other economic purposes;
 - (e) providing for such other matters as are necessary or expedient for giving full effect to the sovereignty of Saint Kitts and Nevis in relation to the territorial sea; and
 - (f) providing for such other matters as are contemplated by or necessary for giving full effect to the provisions of Part II, III, or IV.
- (3) Regulations may be made with respect to the continental shelf or the exclusive economic zone, or both, for all or any of the following purposes, namely.
- (a) regulating the conduct of scientific research within the continental shelf or the exclusive economic zone;
 - (b) prescribing measures for the protection and preservation of the marine environment of that shelf or zone;
 - (c) regulating, for the purposes of section 12, the construction, operation, and use of artificial islands (whether permanent or temporary), and other installations and structures within that shelf or zone, including the establishment of safety zones, but not exceeding 500 metres distance from, such islands, installations, and structures;
 - (d) regulating the exploration and exploitation of that shelf or zone for economic purposes;
 - (e) providing for such other matters as are necessary or expedient for giving full effect to the sovereign rights and jurisdiction of Saint Kitts and Nevis in relation to that shelf or zone; and
 - (f) Providing for such other matters as are contemplated by or necessary for giving full effect to the provisions of Part II, III, or IV
- (4) Regulations may be made with respect to the exclusive economic zone for the exploration and exploitation of that zone for the production of energy from the water, currents and winds.
- (5) Regulations may be made with respect to the investigation and institution of proceedings in respect of

any discharge from a vessel outside the maritime areas of Saint Kitts and Nevis in violation of applicable international rules and standards established through the competent international organization or general diplomatic conference.

(6) The regulations may provide that a breach of any of the regulations shall be a criminal offence, and may provide for the imposition of a fine not exceeding one hundred thousand dollars for any such offence.

(7) The power under this section to make regulations may be exercised:

(a) either in relation to all of the cases to which the power extends, or in relation to all those cases subject to specified exceptions, or in relation to any specified cases or class or description of cases; and

(b) so as to make, as respects the cases in relation to which it is exercised:

(i) the same provision for all those cases, or different provision for different cases or classes or description of cases, or different provisions as respects the same case or class or description of cases for different purposes of this Act; or

(ii) any such provision either unconditionally or subject to any specified condition.

Amendments

30. The enactments referred to in Column 1 of the Schedule are amended to the extent shown in Column 2 of the Schedule.

Repeal

31. The Territorial Waters Jurisdiction Act, 1878 of the United Kingdom Parliament and any Act of the United Kingdom Parliament altering that Act in so far as they form part of the Law of Saint Kitts and Nevis are hereby repealed.

SCHEDULE

(Section 30)

AMENDMENTS

Column 1
Interpretation
and General
Clauses Act.
Cap. 166.

Column 2
Amend section 2(1) by
inserting the following
definitions in the
appropriate place:

"contiguous zone" means the contiguous zone of Saint Kitts and Nevis as defined in section 2 of the Maritime Areas Act, 1984;

"continental shelf" means the continental shelf of Saint Kitts and Nevis as defined in section 2 of the Maritime Areas Act, 1984;

"exclusive economic zone" means the exclusive economic zone of Saint Kitts and Nevis as defined in section 2 of the Maritime Areas Act, 1984;

"territorial sea" means the territorial sea of Saint Kitts and Nevis as defined in

section 2 of the Maritime Areas Act, 1984.