

**An Act (No. 37 of 1993) respecting the territorial sea,
archipelagic waters, internal waters and the exclusive economic zone(1)**

Enacted by the Parliament of The Bahamas.

1. Short title and commencement

This Act may be cited as the Archipelagic Waters and Maritime Jurisdiction Act, 1993 and shall come into operation on such date as the Minister responsible for the Law of the Sea may appoint by notice published in the Gazette.

2. Interpretation

In this Act:

"**archipelagic baselines**" means the baselines drawn under section 3(2);

"**baseline**" means the line from which the width of the territorial sea of The Bahamas is measured;

"**Convention**" means the United Nations Convention on the Law of the Sea signed on 10 December 1982;

"**exclusive economic zone**" means the exclusive economic zone of The Bahamas as defined in section 8;

"**innocent passage**" means passage which is not deemed to be prejudicial to the peace, good order, or security of The Bahamas and is in conformity with the provisions of the Convention and such other relevant rules of international law;

"**island**" means a naturally formed area of land which is surrounded by and above water at mean high-water;

"**miles**" means international nautical miles of 1,852 meters each;

"**Minister**" means the Minister responsible for Lands and Surveys;

"**passage**" means the navigation of a ship in the territorial sea or archipelagic waters of The Bahamas without stopping or hovering, but includes stopping, hovering and anchoring in so far as the same are rendered necessary by force majeure or by reason of distress or for the purpose of affording assistance to persons, ships or aircraft in danger or distress;

3. Archipelagic waters

(1) The archipelagic waters of The Bahamas comprise those areas of the sea enclosed by the baselines established by this section.

(2) The Governor-General may by Order issue one or more lists by reference to physical features marked on official charts or to geographical coordinates of points between which archipelagic baselines may be drawn in accordance with international law for the purpose of determining the inner limits of the territorial sea of The Bahamas, and may as he deems necessary amend those lists.

(3) In respect of any area for which physical features marked on official charts or geographical coordinates of points have been listed in a list issued pursuant to subsection (2), subject to any exceptions in the list for the use of the low-water line along the coast as the baseline between given points, baselines are straight lines joining the consecutive geographical coordinates of points as listed.

(4) In respect of any other area, and until such time as physical features marked on official charts, or geographical coordinates of points have, for such other area, been listed in a list issued pursuant to subsection (2), baselines remain those applicable immediately before the coming into force of this Act.

4. Territorial sea

(1) The territorial sea of The Bahamas comprises those areas of the sea having as their inner limits the baselines described in this section and as their outer limits a line established seaward from those baselines every point of which is at a distance of twelve miles from the nearest point of the appropriate baseline.

(2) Where archipelagic baselines are drawn under section 3, those baselines shall be the baselines from which the breadth of the territorial sea of The Bahamas shall be measured.

(3) In all other cases the baselines from which the breadth of the territorial sea of The Bahamas is measured shall be the low-water line along the coast of each island.

(4) Where a low-tide elevation lies wholly or partly within the breadth of sea which would be the territorial sea of The Bahamas if all low-tide elevations were disregarded for the purpose of measurement of the breadth thereof, the low-tide elevation shall be treated as an island.

(5) For the purposes of this section, a low-tide elevation is a naturally formed area of land which is surrounded by and is above water at mean low-water but is submerged at mean high-water.

5. Right of innocent passage

(1) Subject to subsections (2) and (3) and section 13 and without prejudice to sections 7 or 11, a foreign ship shall be entitled to enjoy the right of innocent passage through the archipelagic waters and territorial sea of The Bahamas.

(2) The passage of a foreign ship shall be deemed to be prejudicial to the peace, good order or security of The Bahamas if, the ship while in the archipelagic waters or territorial sea of The Bahamas, engages in any of the following activities;

- (a) any threat or use of force against the sovereignty, territorial integrity or political independence of The Bahamas, or in any other manner in violation of the principles of international law;
- (b) any exercise or practice with weapons of any kind;
- (c) any act aimed at collecting information relating to the defence or security of The Bahamas;
- (d) any act of propaganda aimed at affecting the defence or security of The Bahamas;
- (e) the conveyance, taking on board or off-loading of any person, commodity or currency in breach of any law relating to exchange control, customs, immigration, health or drugs;
- (f) any act of pollution calculated or likely to cause damage or harm to The Bahamas, its resources or its marine environment;
- (g) any fishing activities other than in accordance with the Fisheries Resources (Jurisdiction and Conservation) Act;
- (h) any act aimed at interfering with systems of communication or telecommunication of The Bahamas;
- (i) such other activity as the Governor-General may by Order prescribe.

(3) Without prejudice to subsection (2) the passage of a foreign ship shall also be deemed to be prejudicial to the peace, good order or security of The Bahamas if without the prior permission of the Minister obtained by the captain or person in charge of the ship, the ship while in the archipelagic waters or territorial sea of The Bahamas, engages in any of the following activities:

- (a) the launching, landing or taking on board of any aircraft;
- (b) the launching, landing or taking on board of any military device;
- (c) the carrying out of research or survey activities;
- (d) being a submarine or other underwater ship, underwater navigation.

6. Power of law enforcement officers to search foreign ships etc.

(1) Where a foreign ship engages in any of the activities specified in subsections (2) and (3) of section 5 or prescribed under paragraph (i) of section 5(2), as the case may be, or where a law enforcement officer suspects on reasonable grounds that a foreign ship is engaged in any such activity, such law enforcement officer may in the course of his duty:

- (a) stop, board and search the ship for the purpose of carrying out enquiries and investigations;
- (b) without warrant or other process seize and detain the ship and bring it into a port of The Bahamas;
- (c) without warrant or other process arrest the captain and any person on board the ship whom he reasonably suspects to be participating in the activity of the ship which is deemed to be prejudicial to the peace, good order or security of The Bahamas.

(2) Where a foreign ship is seized or detained or any person is arrested under this section, such ship or person shall forthwith be taken:

- (a) to the nearest or most convenient place in The Bahamas and delivered into the custody of the most senior police officer; or
- (b) before a magistrate to be dealt with according to law.

(3) Where the passage of a foreign ship is deemed to be prejudicial to the peace, good order or security of The Bahamas, the captain or other person in charge of such ship and any person participating in the activity of the ship which is deemed to be so prejudicial, is guilty of an offence and liable on summary conviction to a fine of ten thousand dollars or imprisonment for a term of five years or both.

(4) The Court may in addition to any penalty which it may impose under subsection (3) order the forfeiture to the Crown of any ship engaged, or equipment used, in any activity which is the subject of the offence.

(5) Any person who assaults or obstructs a law enforcement officer acting under the authority of this section is guilty of an offence and liable on summary conviction to a fine of ten thousand dollars or imprisonment for a term of five years or both.

(6) In this section:

"law enforcement officer" means any peace officer, a member of the Royal Bahamas Defence Force, an officer of Customs or an officer of the Department of Immigration.

7. Internal waters

(1) The internal waters of The Bahamas comprise those areas of the sea that are on the landward side of the closing lines referred to in this section.

(2) The Governor-General may by Order issue one or more lists of geographical coordinates of points from which the closing lines of the internal waters may be determined in accordance with international law and may, as he deems necessary, amend those lists.

8. Exclusive economic zone

(1) Subject to this section, the exclusive economic zone of The Bahamas comprises those areas of the sea, having as their inner limits the outer limits of the territorial sea of The Bahamas and, as their outer limits, a line drawn seaward from the baselines every point of which is at a distance of two hundred miles from the nearest point of the appropriate baseline.

(2) The Governor-General may by Order, for the purpose of implementing any international agreement or the award of any international body, or otherwise, declare that the outer limits of the exclusive economic zone of The Bahamas extend to such line, any point or which may be at a distance of less than two hundred miles from the nearest point of the appropriate baseline, as may be specified in such Order.

(3) Where the median line, as defined in subsection (4), is less than two hundred miles from the nearest baseline, and no other line is for the time being specified under the provisions of subsection (2), the outer limits of the exclusive economic zone of The

Bahamas extend to the median line.

(4) The median line is a line every point of which is equidistant from the nearest points of the baselines from which the breadths of the territorial sea of The Bahamas and of any neighbouring state are measured.

9. Sovereignty

(1) The sovereignty of The Bahamas extends over the territorial sea, the archipelagic waters, the internal waters, the seabed and subsoil thereof as well as the airspace over such sea and waters.

(2) Within the exclusive economic zone The Bahamas has:

- (a) sovereign rights for the purpose of exploring and exploiting, conserving and managing the natural resources, whether living or non-living of the seabed and subsoil and superjacent waters;
- (b) exclusive rights for the purpose of constructing and authorizing and regulating the construction, operation and use of artificial islands; and
- (c) exclusive jurisdiction over artificial islands including jurisdiction with regard to customs, fiscal, health, drugs, safety and immigration laws.

10. Baselines charts

The Minister may cause charts to be issued indicating baselines referred to in sections 3 and 4.

11. Sea lanes and air routes

(1) The Governor-General may by Order prescribe sea lanes and air routes above archipelagic waters suitable for the continuous and expeditious passage of foreign ships and aircraft through or over the archipelagic waters and the adjacent territorial sea.

(2) Subject to section 5 all ships and aircraft shall enjoy the right of archipelagic sea lanes passage in the sea lanes and air routes prescribed under subsection (1).

(3) Archipelagic sea lane passage shall be the exercise in accordance with international law and with any laws of The Bahamas of the rights of navigation and overflight in the normal mode solely for the purpose of continuous, expeditious and unobstructed transit between one part of the high seas or an exclusive economic zone and another part of the high seas or an exclusive economic zone.

(4) Sea lanes shall be defined by a series of continuous axis lines from the entry points of passage routes to the exit points and ships and aircraft in archipelagic sea lanes passage shall not deviate more than twenty-five miles to either side of such axis lines during passage nor navigate closer to the coast of the islands of The Bahamas than ten percent of the distance between the nearest points on islands bordering the sea lane or air route.

(5) Where there is no designation made pursuant to subsection (1) the right of archipelagic sea lane passage may be exercised through the routes normally used for international navigation.

12. Traffic separation routes

The Governor-General may by Order prescribe traffic separation routes within archipelagic sea lanes for the passage of ships and make alterations to those routes.

13. Ships to use prescribed sea lanes and traffic

Where sea lanes and traffic separation routes have been prescribed under sections 11 and 12:

- (a) foreign ships exercising the right of innocent passage through the archipelagic waters and territorial sea of The Bahamas; and
- (b) ships exercising archipelagic sea lane passage,

shall use the sea lanes and traffic separation routes so prescribed.

14. Alteration of seaward limit

The Governor-General may, whenever he considers it necessary or expedient so to do having regard to international law, by Order alter the seaward limit of the territorial sea of The Bahamas.

15. Territorial sea of The Bahamas meets with territorial sea etc. of another State

Where the territorial sea of The Bahamas meets with the territorial sea of another State to the extent only to which such limits are recognized by The Bahamas to be validly established pursuant to international law, the Governor-General may initiate and conduct negotiations with that State to establish the boundary of the territorial sea of The Bahamas and in the absence of agreement the boundary of the territorial sea of The Bahamas shall not extend beyond the median line every point of which is equidistant from the nearest points on the baselines from which the breadths of the territorial seas of The Bahamas and that other State are measured.

16. Charts

(1) The Minister may cause charts to be issued delineating the territorial sea of The Bahamas as settled by agreement under section 15 or any portion thereof as may be delineated consistent with the nature and scale of the charts.

(2) In any proceedings in any court a certificate purporting to be signed by the Minister or a person authorized by him that the chart issued pursuant to section 10 or to this section is for the time being an authorized and accurate chart shall be admissible as conclusive evidence of the matter stated in the certificate.

(3) Every person signing any such certificate shall, in the absence of proof to the contrary, be presumed to be duly authorized to sign it.

17. Savings

(1) Nothing in this Act shall be construed or have the effect of prejudicing the prerogative powers or privileges of the Crown, including any authority conferred by any treaty or agreement concluded thereby by the Commonwealth of The Bahamas with any foreign State or agency of such State prior to or after the commencement of this Act.

(2) For the purpose of any law references to the territorial sea or the waters of The Bahamas shall, unless the context otherwise requires, be construed and have effect as including the archipelagic waters of The Bahamas.

18. Repeal

The Territorial Waters Jurisdiction Act 1878 enacted by the Parliament of The United Kingdom in so far as that Act is applicable to The Bahamas is repealed.

The Archipelagic Waters and Maritime Jurisdiction Act, 1993 (Act No. 37 of 1993)(2)

In exercise of the powers conferred by section 1 of the Archipelagic Waters and Maritime Jurisdiction Act, 1993 the 4th day of January, 1996 is appointed the day on which the Archipelagic Waters and Maritime Jurisdiction Act, 1993 shall come into operation.

Endnotes

1 (Note - Note)

Communicated by the Permanent Mission of the Commonwealth of the Bahamas to the United Nations in a note verbale dated 10 January 1996.

2 (Note - Note)

The archipelagic waters and maritime jurisdiction Act, 1993 (appointed day) notice dated 29 December 1995.