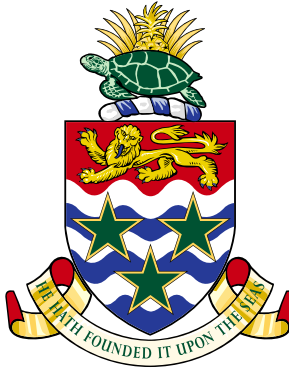


CAYMAN ISLANDS



**CAYMAN ISLANDS COAST GUARD BILL,
2021**

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A BILL FOR AN ACT TO PROVIDE FOR THE ESTABLISHMENT OF THE CAYMAN ISLANDS COAST GUARD; TO SPECIFY THE DUTIES AND POWERS OF THE CAYMAN ISLANDS COAST GUARD; AND FOR INCIDENTAL AND CONNECTED PURPOSES

PUBLISHING DETAILS

Sponsoring Ministry/Portfolio: Office of the Commissioner of Police (OCP)



Memorandum of OBJECTS AND REASONS

This Bill provides for the establishment of the Cayman Islands Coast Guard, specifies the duties and powers of the Cayman Islands Coast Guard, and provides for incidental and connected purposes thereto.

The Bill is divided into seven Parts and contains 35 clauses.

PART 1 - PRELIMINARY

Part 1 contains clauses 1 and 2 and provides for the preliminary provisions in the Bill.

Clause 1 provides the short title of the legislation.

Clause 2 provides the interpretation of certain words used throughout the legislation.

PART 2 - ESTABLISHMENT AND ADMINISTRATION OF THE COAST GUARD

Part 2 contains clauses 3 to 7 and provides for the establishment and administration of the Coast Guard.

Clause 3 provides for the establishment of the Coast Guard, which is responsible for, among other things, the maritime enforcement of local laws relating to ensuring the preservation of the safety and security of the Islands. This clause also clarifies that nothing contained in the legislation shall be construed so as to permit the Coast Guard to be organized as a military establishment or to function as such.

Clause 4 provides that the Coast Guard shall consist of the Commandant, Deputy Commandant and such ranks as may be specified in Schedule 1. This clause further provides that the Coast Guard shall consist of various detachments, including the Headquarters Detachment, the Sea Detachment, the Shore Detachment and the Sister Islands Detachment.

Clause 5 states that the Government shall provide on an annual basis such funding as is necessary for the Coast Guard to carry out its responsibilities.

Clause 6 provides for the command and administration of the Coast Guard. The Commandant shall be responsible for the strategic, administrative and operational command of the Coast Guard subject to such strategic directions with respect to the preservation of the maritime safety and the maritime security of the Islands as the Governor may give the Commandant. The Commandant shall also be subject to such strategic policy directions as the chief officer of the Coast Guard may give the Commandant.

Clause 7 provides for the delegation of the Governor's functions to the Premier or, after consultation with the Premier, any other member of Cabinet. The clause also provides that

the Governor may, by written notice to the Premier or the other member of Cabinet, at any time, revoke any functions so assigned or delegated.

PART 3 - POWERS, DUTIES AND PRIVILEGES

Part 3 contains clauses 8 to 13 and provides for the powers, duties and privileges of the Commandant and the Coast Guard.

Clause 8 provides for the general powers of the Commandant, who shall have the command, superintendence and direction of the Coast Guard. Among the general powers of the Commandant is the power to make such appointments and promotions in respect of non-commissioned officers of the Coast Guard as the Commandant may see fit.

Clause 9 provides for the duties of the Coast Guard, including the duty to —

- (a) patrol the territorial sea of the Islands and the high seas;
- (b) enforce, and assist in the enforcement of, any laws and international maritime conventions, treaties, and instruments relating to the maritime jurisdiction of the Islands, including those for the promotion of safety of life and property at sea, the enforcement of which may extend into the high seas, but shall not extend into the maritime jurisdiction of another state or territory, without that state's or territory's express permission;
- (c) render aid and assistance to persons or vessels in distress and subject to section 6(3)(b)(ix) of the Maritime Authority Act (2013 Revision), to conduct and coordinate all such search and rescue operations, within the search and rescue region of the Islands in accordance with the International Convention on Maritime Search and Rescue, 1979 and any other applicable international conventions;
- (d) inspect vessels to ensure and enforce compliance with local and international safety laws, regulations, rules and standards; and
- (e) assist local law enforcement agencies in the execution of their duties where that duty is to be executed in the maritime environment.

Clause 10 provides for the Coast Guard's power of arrest. An officer of the Coast Guard, in the execution of the officer's duties, may pursue and arrest with or without a warrant a person who commits an arrestable offence or who the officer reasonably suspects of having committed or being about to commit an arrestable offence against any law of the Islands, whether the person has landed or not. Further, an officer of the Coast Guard, in the execution of the officer's duties, may take such steps as are reasonably justified in the circumstances of the case in order to ensure compliance with any directions given in pursuance of this legislation.

Clause 11 provides for the general powers of the Coast Guard. This clause provides that an officer of the Coast Guard, in the execution of the officer's duties, may —

- (a) pursue any vessel in the territorial sea or in any harbour or port of the Islands that the officer suspects is being used in the commission of an offence or in any



- unlawful operation or enterprise and cause the vessel to be stopped and boarded, or to be stopped, boarded, searched and inspected;
- (b) search any vessel, and after demand and refusal of any key, break open any receptacle or break down any door, where the officer reasonably suspects that there is on board the vessel any property that has been stolen or unlawfully obtained, or any article prohibited to be exported or imported;
 - (c) direct, for the purposes of any lawful examination, inspection, investigation or inquiry, that the vessel be taken to such place as the officer specifies; and
 - (d) in accordance with clause 12, seize, take into custody and dispose of any vessel or structure the officer may have reason to believe was used in the commission of an offence.

It should also be noted that this clause also provides that where an officer of the Coast Guard, in the execution of the officer's duties, pursues a vessel suspected of being used in the commission of an offence or in any unlawful operation or enterprise, the pursuit of the vessel may extend into the high seas, but shall not extend into the territorial waters of another jurisdiction or breach the established protocols of any applicable international law, convention or treaty.

Clause 12 provides for the seizure, custody and disposal of a vessel or structure believed to have been used in the commission of an offence. This clause provides that where such a vessel or structure is seized, the officer shall retain it in secure custody except while it is being used in evidence or is in the custody of any court, until it is disposed of under this provision.

Clause 12 also provides that the court may order that the vessel or structure be delivered to the person appearing to the court to be entitled to it or that the vessel or structure be disposed of in such manner as the court thinks appropriate.

Clause 13 provides that where vessels or structures are taken into custody, or are being stored, by the Coast Guard, the owner or person last having control of the vessel or structure, unless otherwise determined by the court, shall pay to the Commandant such towing and storage fees as are set out in Schedule 4.

PART 4 - APPOINTMENTS, ENLISTMENTS, SERVICE, DISCHARGE AND TERMINATION

Part 4 contains clauses 14 to 21 and deals with appointments to, enlistments in, service in and discharge and termination from the Coast Guard.

Clause 14 provides for the appointment of officers to the Coast Guard. The Governor shall, by commission under the Governor's hand, appoint fit and proper persons to be commissioned officers of the Coast Guard. The Commandant shall be responsible for appointing non-commissioned officers of the Coast Guard.

Clause 15 provides for the appointment of civilian support staff employees of the Coast Guard. These are persons who work with the Coast Guard but are not officers of the Coast

Guard. This clause provides that civilian support staff employees of the Coast Guard shall be recruited at the request of the Commandant and appointed by the chief officer of the Coast Guard in accordance with the Public Service Management Act (2018 Revision). This clause further provides that from the date of a person's appointment as a civilian support staff employee of the Coast Guard, the person's employment shall be governed by this legislation and any regulations made under this legislation.

Clause 16 provides for the secondment of civil servants and public officers to the Coast Guard. This clause provides that where a civil servant or a public officer is appointed to the Coast Guard, the civil servant or the public officer shall —

- (a) continue to enjoy remuneration and pension benefits which are not less favourable than the remuneration and pension benefits to which the civil servant or the public officer was entitled on the day immediately prior to the date of such appointment;
- (b) be subject to such other terms and conditions as are agreed between the civil servant or the public officer and the Commandant; and
- (c) from the date of such appointment, be a member of the Coast Guard and all matters relating to that civil servant or public officer shall be governed by this legislation and any regulations made under this legislation.

Clause 17 provides that an identity card signed by the Commandant shall be issued to every member of the Coast Guard and shall be evidence of such member's appointment.

Clause 18 provides for resignations from the Coast Guard, and indicates that an officer of the Coast Guard shall resign in accordance with the regulations made under this legislation in relation to personnel, management and discipline.

Clause 19 provides for the termination of appointment and discharge from the Coast Guard. This clause provides that the Governor may, in accordance with the regulations made under this legislation in relation to personnel, management and discipline, terminate the appointment of the Commandant or Deputy Commandant.

Clause 19 also provides that the Governor may, on the recommendation of the Commandant and in accordance with the regulations made under this legislation in relation to personnel, management and discipline, terminate the appointment of any commissioned officer of the Coast Guard at or below the rank of Lieutenant Commander.

The clause further provides that the Commandant may, in accordance with the regulations made under this legislation in relation to personnel, management and discipline, discharge any non-commissioned officer of the Coast Guard.

Clause 20 provides for retirement and pensions. This clause provides that a member of the Coast Guard who has attained the age of sixty years shall be retired but may, in special circumstances as determined by the Commandant and for temporary periods, be accepted for such service as may be fixed by contract, and where the member is an officer of the Coast Guard, upon the successful completion of a fitness and medical test by such officer.

This clause also provides that officers of the Coast Guard may be called upon to retire in the public interest, on medical grounds, or to improve the efficiency of the Coast Guard.



Clause 21 provides for medical privileges of members of the Coast Guard as well as their spouses or civil partners and any children of the family of a member and the member's spouse or civil partner. This clause also provides that those abovementioned persons are entitled to medical, dental, and optical treatment benefits no less favourable than those treatment benefits as may be applicable to the public service from time to time and any other treatment benefits as may be prescribed.

PART 5 - COAST GUARD RESERVE

Part 5 contains clauses 22 and 23 and deals with the Coast Guard Reserve.

Clause 22 provides that no person shall discriminate with respect to any other person's conditions of employment by reason of the other person applying to be a reservist, being a reservist, or carrying out duties or obligations as a reservist.

Clause 23 provides that a reservist may be called out for obligatory annual service at such place, for such periods and in such manner, as may be prescribed.

PART 6 - OFFENCES

Part 6 contains clauses 24 and 25 and provides for certain offences in the legislation.

Clause 24 provides for the offence of resisting or obstructing an arrest by an officer. A person who commits this offence is liable on summary conviction to a fine or to imprisonment for a term of ten years, or to both. Additionally, the person may be adjudged to make compensation to the officer in addition to or in substitution of that penalty.

Clause 25 provides that a person who uses or wears, without authority, the uniform or any decoration of the Coast Guard commits an offence and is liable on summary conviction to a fine of two thousand dollars or to imprisonment for a term of four years, or to both.

PART 7 - GENERAL

Part 7 contains clauses 26 to 35 and provides for general matters in the legislation.

Clause 26 provides that a Coast Guard vehicle, while engaged upon its duties, shall be deemed to be an emergency vehicle as defined under the Traffic Act (2021 Revision). This means that the Traffic Act (2021 Revision) and the regulations made under that Act in relation to emergency vehicles shall apply, with any necessary modifications, to such Coast Guard vehicles. This also means that any offences and penalties under the Traffic Act (2021 Revision) or under regulations made under that Act in relation to emergency vehicles shall apply, with any necessary modifications, to Coast Guard vehicles.

Clause 27 provides for ICT licensee's duties in respect of the Coast Guard. ICT licensees shall, upon the written request of an officer of the Coast Guard of the rank of Lieutenant or above, within the specified timeframe, provide information relating to the current or last known location of an ICT device known or likely to be on board a vessel, for the purposes

of the enforcement of any local laws, and other international maritime conventions, treaties and instruments relating to the maritime jurisdiction of the Islands.

Clause 28 provides for the regulations which are to be made under the legislation.

Clause 29 provides that the Cabinet may by Order amend the Schedules.

Clause 30 provides for appeals by members of the Coast Guard who have received disciplinary punishments under the legislation.

Clause 31 provides for the establishment of the Coast Guard Legal Protection Fund and the Coast Guard Legal Protection Fund Committee.

Clause 32 provides that where any notice, permission, request, or information is to be made in writing or in written form, the notice, permission, request or information may be recorded in electronic form and sent by electronic means.

Clause 33 provides that upon the commencement of this legislation, all property of, or assigned to, the Joint Marine Unit of the Royal Cayman Islands Police Service becomes the property of the Coast Guard without transfer, conveyance or assurance.

Clause 34 provides for the transition of officers of the Joint Marine Unit of the Royal Cayman Islands Police Service to the Coast Guard. Where such officers join the Coast Guard, the officers shall continue to enjoy remuneration, medical privileges and pension benefits which are not less favourable than the remuneration, medical privileges and pension benefits that applied to the officers in their previous employment. Such officers shall also be subject to such other terms and conditions as are agreed between the officer and the Commandant.

Clause 35 deals with the transitional provisions in respect of appointments to the Coast Guard prior to the date of commencement of this legislation. The clause provides that a person who is appointed or purported to be appointed to any position in the Coast Guard prior to the date of the commencement of the legislation shall be deemed on that date to have been appointed in accordance with the legislation.

Clause 35 also provides that all acts done or purported to be done in furtherance of the establishment and operation of the Coast Guard prior to the date of the commencement of the legislation shall be deemed on that date to have been done in accordance with the legislation.

Schedule 1 contains the ranks of the commissioned and non-commissioned officers of the Coast Guard.

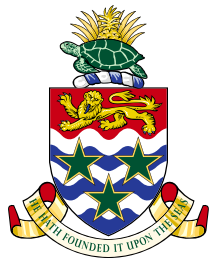
Schedule 2 contains the form of the commission conferring rank upon an officer of the Coast Guard.

Schedule 3 contains the form of the identity card which is to be issued to members of the Coast Guard.

Schedule 4 contains the fees for those vessels or structures in the custody of, or stored by, the Coast Guard.



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CAYMAN ISLANDS COAST GUARD BILL, 2021

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A BILL FOR AN ACT TO PROVIDE FOR THE ESTABLISHMENT OF THE CAYMAN ISLANDS COAST GUARD; TO SPECIFY THE DUTIES AND POWERS OF THE CAYMAN ISLANDS COAST GUARD; AND FOR INCIDENTAL AND CONNECTED PURPOSES

ENACTED by the Legislature of the Cayman Islands.

PART 1 - PRELIMINARY

Short title

1. This Act may be cited as the Cayman Islands Coast Guard Act, 2021.

Interpretation

2. In this Act —

“**armed**” means equipped for the use of firearms;

“**bullet-proof vest**” means a vest that is capable of providing protection from the penetration of bullets;

“**chief officer**” —

- (a) in relation to the Coast Guard, means the person appointed as chief officer pursuant to the *Public Service Management Act (2018 Revision)* who has oversight of the Coast Guard; and

(b) where the context otherwise requires, has the meaning assigned by section 2 of the *Public Service Management Act (2018 Revision)*;

“**civil servant**” means a person employed by an entity other than a public authority and is a public officer as defined by the *Constitution*;

“**Civil Service Appeals Commission**” means the Civil Service Appeals Commission appointed under section 58 of the *Public Service Management Act (2018 Revision)*;

“**civilian support staff employee of the Coast Guard**” means a person employed by the Coast Guard who is not an officer of the Coast Guard;

“**Coast Guard**” means the Cayman Islands Coast Guard established under section 3;

“**Coast Guard Medical Officer**” means the officer appointed under section 14(2)(b) who performs such duties as prescribed by regulations;

“**Coast Guard Reserve**” means the Cayman Islands Coast Guard Reserve established under section 3(2)(b) and which is the reserve component of the Coast Guard;

“**Coast Guard vehicle**” means any vehicle commissioned into the service of the Coast Guard and so recorded on the Coast Guard’s register of assets;

“**Commandant**” means the officer appointed by the Governor under section 14(2)(a) to have command of the Coast Guard;

“**commission**” means an instrument by which the authority of an officer of the Coast Guard is exercised and which is issued by the Governor;

“**commissioned officer**” means a person granted a commission by the Governor under section 14(1) and carrying rank and precedence within the Coast Guard in a rank specified in Part A of Schedule 1;

“**Commissioner of Police**” has the same meaning assigned to the word

“**Commissioner**” by section 2 of the *Police Act (2021 Revision)*;

“**decoration**” includes a medal, medal ribbon, clasp and good conduct badge;

“**Deputy Commandant**” means the officer appointed by the Governor under section 14(2)(a);

“**discharge**” means, in relation to a non-commissioned officer or a civilian support staff employee of the Coast Guard, to have that person’s employment with the Coast Guard terminated prior to retirement or resignation from the Coast Guard, in accordance with this Act and regulations made under this Act;

“**civil partner**” has the meaning assigned by section 2 of the *Civil Partnership Act, 2020*;

“**civil partnership**” has the meaning assigned by section 2 of the *Civil Partnership Act, 2020*;



“**enlist**” means to accept an offer of a contract of employment, or to agree to a secondment, to become a member of the Coast Guard;

“**entity**” means any body and includes a ministry, portfolio, statutory authority, government company, the Office of the Ombudsman, the Office of the Information Commissioner and the Audit Office;

“**firearm**” has the meaning assigned by section 2(1) of the *Firearms Act (2008 Revision)*;

“**fit and proper persons**” means persons who satisfy the prescribed criteria to be eligible for appointment to the Coast Guard;

“**government company**” means —

- (a) a company in which the Government has a controlling interest; and
- (b) in respect of each such company, includes all subsidiary entities of the company;

“**high seas**” means all parts of the sea that are not included in the territorial sea or in the internal waters of a state or territory;

“**identity card**” means a card issued to a member of the Coast Guard in the form set out in Schedule 3, and which is evidence of such member’s appointment;

“**local law enforcement agency**” means any of the following entities —

- (a) the Royal Cayman Islands Police Service established under the *Police Act (2021 Revision)*;
- (b) the Customs and Border Control Service established under the *Customs and Border Control Act (2021 Revision)*; and
- (c) any other agency in which powers similar to those exercisable by a constable appointed under the *Police Act (2021 Revision)* are lawfully vested;

“**maritime environment**” means the oceans, seas, bays, estuaries, islands, coastal areas and the airspace above these, including the littorals;

“**member of the Coast Guard**” means —

- (a) an officer of the Coast Guard; or
- (b) a civilian support staff employee of the Coast Guard;

“**military establishment**” means a military prison or any other establishment under the control of the Secretary of State or the Minister where persons may be required to serve military sentences of imprisonment or detention;

“**Minister**” means the member of Cabinet charged with responsibility for the Coast Guard;

“**non-commissioned officer**” means a person appointed by the Commandant under section 14(5) and carrying rank and precedence within the Coast Guard in a rank specified in Part B of Schedule 1;

“officer of the Coast Guard” or **“officer”**, when used in relation to the Coast Guard, means a commissioned officer or non-commissioned officer of the Coast Guard;

“port officer” means an officer referred to in section 8 of the *Port Authority Act (1999 Revision)*;

“protective equipment” includes batons, handcuffs and other means of restraints, body armour, bullet-proof vests, tasers and pepper spray;

“public authority” means a statutory authority or government company;

“public office” has the same meaning as in section 124 of the *Constitution*;

“public officer” means the holder of any public office, and includes a person appointed to act in any public office;

“rescue coordination centre” means a unit responsible for promoting efficient organization of search and rescue services and for coordinating the conduct of search and rescue operations within a search and rescue region;

“reservist” means an officer of the Coast Guard Reserve;

“search and rescue region” means an area of defined dimensions associated with a rescue coordination centre within which search and rescue services are provided;

“search and rescue services” means the performance of distress monitoring, communication, coordination and search and rescue functions, including the provision of medical advice, initial medical assistance, or medical evacuation, through the use of public and private resources including co-operating aircraft, vessels and other craft and installations;

“statutory authority” means an entity established by an Act to carry out functions which are capable under that Act, of being funded, partly or entirely, by money provided by the Cabinet, and for which the Governor or the Cabinet has the power to appoint or dismiss the majority of the board or other governing body;

“territorial sea”, in relation to the Islands, has the meaning assigned by the *Cayman Islands (Territorial Seas) Order, 1989*; and

“vessel” includes a ship, an aircraft and any other thing or device capable of being used for conveying goods or persons from one place to another, and includes a vessel being carried or towed by another vessel whether as cargo or for any other purpose.



PART 2 - ESTABLISHMENT AND ADMINISTRATION OF THE COAST GUARD

Establishment of the Coast Guard

3. (1) The Cayman Islands Coast Guard, in this Act referred to as “the Coast Guard”, is hereby established as a uniformed and disciplined department of Government, which is responsible for —
- (a) the maritime enforcement of local laws relating to ensuring the preservation of the safety and security of the Islands;
 - (b) subject to section 6(3)(b)(ix) of the *Maritime Authority Act (2013 Revision)* —
 - (i) the coordination of all maritime search and rescue response occurring within the territorial sea of the Islands and the Islands’ internationally agreed search and rescue region; and
 - (ii) the delivery of maritime search and rescue response occurring within the territorial sea of the Islands and the Islands’ internationally agreed search and rescue region, provided it is within the Coast Guard’s operational capability to do so;
 - (c) ensuring compliance with any applicable international law, conventions and treaties relating to ensuring the safety of life at sea and pollution prevention; and
 - (d) enforcing local laws and any applicable international law, conventions and treaties addressing the prevention, detection and disruption of illicit activity within the territorial sea of the Islands or on the high seas, provided that the enforcement does not extend into the territorial waters of another jurisdiction or breach the established protocols of any applicable international law, convention or treaty.
- (2) The Coast Guard shall consist of —
- (a) a regular Coast Guard to be known as the Coast Guard; and
 - (b) a reserve Coast Guard to be known as the Coast Guard Reserve.
- (3) Nothing contained in this Act shall be construed so as to permit the Coast Guard to be organized as a military establishment or to function as such.
- (4) Notwithstanding subsection (3), the members of the Coast Guard may receive training and other items of support from military organizations recognized as being allied to the United Kingdom of Great Britain.

Constitution of the Coast Guard

4. (1) The Coast Guard shall consist of the Commandant, Deputy Commandant and such ranks as may be specified in Schedule 1.
- (2) The Coast Guard shall consist of —
- (a) the Headquarters Detachment;
 - (b) the Sea Detachment;
 - (c) the Shore Detachment;
 - (d) the Sister Islands Detachment; and
 - (e) any other such detachments or units as the Governor, after consultation with the Commandant, may think fit to be formed, and the detachments or units shall be styled by such designations as may be prescribed by regulations made under section 28.

Financial provision for the Coast Guard

5. The Government shall provide on an annual basis such funding as is necessary for the Coast Guard to carry out its responsibilities under section 3(1).

Command and administration of the Coast Guard

6. (1) The Commandant shall be responsible for the strategic, administrative and operational command of the Coast Guard subject to —
- (a) such strategic directions with respect to the preservation of the maritime safety and the maritime security of the Islands as the Governor may give the Commandant; and
 - (b) such strategic policy directions as the chief officer of the Coast Guard may give the Commandant.
- (2) Subject to subsection (1), where an officer of the Coast Guard is appointed by the Commandant to be in charge of other officers of the Coast Guard in any place, the officer of the Coast Guard appointed to be in charge shall be responsible for the control of the other officers of the Coast Guard in that place.
- (3) The Commandant shall render the Commandant's services exclusively to the Coast Guard unless otherwise authorized by the Governor or the chief officer of the Coast Guard, and the Commandant shall be answerable to —
- (a) the Governor for the Commandant's acts and decisions in so far as those acts or decisions relate to the preservation of the maritime safety and the maritime security of the Islands; and
 - (b) the chief officer of the Coast Guard for the Commandant's acts and decisions in so far as those acts or decisions relate to matters involving the chief officer's power to give strategic policy directions.
- (4) Officers of the Coast Guard shall —



- (a) obey and carry out the lawful commands of the Commandant;
- (b) perform the duties assigned to officers of the Coast Guard under this Act; and
- (c) do other lawful things as may be necessary for the enforcement of this Act and the lawful commands of the Commandant.

Delegation of Governor's functions

7. The Governor may —

- (a) assign or delegate functions relating to the strategic directions with respect to the preservation of the maritime safety and the maritime security of the Islands of the Coast Guard to the Premier or, after consultation with the Premier, any other member of Cabinet; and
- (b) by written notice to the Premier or the other member of Cabinet, at any time, revoke any functions so assigned or delegated.

PART 3 – POWERS, DUTIES AND PRIVILEGES

General powers of the Commandant

- 8. (1)** Subject to this Act, the Commandant shall have the command, superintendence and direction of the Coast Guard and may —
- (a) make such appointments and promotions in respect of non-commissioned officers of the Coast Guard as the Commandant may see fit;
 - (b) make standing orders for the general governance of members of the Coast Guard in relation to their control, enrolment, testing, grading, and particular services, and such other orders as the Commandant may deem necessary to prevent neglect and to promote efficiency, good order and discipline; and
 - (c) issue a handbook, a code of practice or such other guidelines as the Commandant may see fit, for the guidance, governance and regulation of members of the Coast Guard.
- (2)** Where it appears to the Commandant that, having regard to an immediate or imminent threat to the maritime safety or maritime security of the Islands, there are reasonable grounds to believe that in the interest of public safety or public order it is necessary to establish a temporary maritime exclusion zone or a temporary maritime restricted zone within any area of the territorial sea of the Islands, the Commandant may —
- (a) after notifying the Governor of the immediate or imminent threat to the maritime safety or maritime security of the Islands; and
 - (b) with the written permission of the Governor,

establish a temporary maritime exclusion zone or a temporary maritime restricted zone.

- (3) Where, in accordance with subsection (2), the Commandant makes a decision with the written permission of the Governor to establish a temporary maritime exclusion zone or a temporary maritime restricted zone within any area of the territorial sea of the Islands —
 - (a) the Governor shall notify the Cabinet within twenty-four hours of the decision; and
 - (b) the exclusion or restriction shall endure for up to forty-eight hours, unless that period is extended with the written permission of the Governor.
- (4) Where the Governor permits the extension of the period of an exclusion or restriction in accordance with subsection (3), the extension shall endure for up to a further period of forty-eight hours, which period may be extended in increments of up to forty-eight hours, as long as the Governor is satisfied that an immediate or imminent threat to the maritime safety or maritime security of the Islands remains.
- (5) Where the Governor permits the extension of the period of an exclusion or restriction in accordance with subsection (3), the Governor shall notify the Cabinet within twenty-four hours of each decision to permit the extension of the period.
- (6) Where the period specified for a temporary maritime exclusion zone or temporary maritime restricted zone comes to an end, whether by effluxion of time or by a decision of the Governor to revoke the Governor's written permission, the Governor shall notify the Cabinet within twenty-four hours thereafter.
- (7) The Commandant may delegate the Commandant's powers to any officer of the Coast Guard, but the Commandant shall not delegate the Commandant's power under subsection (2) or the Commandant's power to hear any appeal relating to an offence against discipline or to impose upon a member of the Coast Guard any punishment which includes reduction in rank or discharge.
- (8) Standing orders issued by the Commandant pursuant to subsection (1)(b) shall be published in the *Gazette*.
- (9) For the purposes of this section —

“temporary maritime exclusion zone” means an area of the territorial sea of the Islands from which vessels or certain types or classes of vessels are excluded for a specified period; and

“temporary maritime restricted zone” means an area of the territorial sea of the Islands from which vessels or certain types or classes of vessels are restricted for a specified period.



Duties of the Coast Guard**9.** (1) The duties of the Coast Guard are to —

- (a) patrol the territorial sea of the Islands and the high seas;
- (b) in the event of a spill of oil or other hazardous chemical in the territorial sea, provide assistance to the department responsible for the environment by providing maritime transportation to, and collecting samples of the oil or chemical for assessment by, that department;
- (c) enforce, and assist in the enforcement of, any laws, and international maritime conventions, treaties, and instruments relating to the maritime jurisdiction of the Islands, including those for the promotion of safety of life and property at sea, the enforcement of which may extend into the high seas, but shall not extend into the maritime jurisdiction of another state or territory, without that state's or territory's express permission;
- (d) prevent persons from boarding, holding on to or clinging to any vessel without the permission of the master of the vessel, and where necessary, remove any such person from the vessel;
- (e) render aid and assistance to persons or vessels in distress and subject to section 6(3)(b)(ix) of the *Maritime Authority Act (2013 Revision)*, to conduct and coordinate all such search and rescue operations, within the search and rescue region of the Islands in accordance with the International Convention on Maritime Search and Rescue, 1979 and any other applicable international conventions;
- (f) grant, within its legal and operational capabilities, requests for assistance from local and international government agencies in the performance of their functions and which are consistent with the duties and functions of the Coast Guard;
- (g) organize, train and supervise the Coast Guard Reserve for the purpose of assisting the Coast Guard in carrying out its functions;
- (h) inspect vessels to ensure and enforce compliance with local and international safety laws, regulations, rules and standards, including the *Port Authority Act (1999 Revision)* and any regulations made under that Act;
- (i) assist any local law enforcement agency in the execution of its duties where that duty is to be executed in the maritime environment;
- (j) co-operate with local and international law enforcement agencies or the armed forces of another country by taking any necessary measures to ensure the suppression of illicit activities occurring in the territorial sea of the Islands or on the high seas, provided the measures do not extend into the maritime jurisdiction of another state or territory, without that state's or territory's express permission; and

- (k) perform such other functions and duties as may be necessary for carrying into effect the objectives of this Act.
- (2) For the purposes of carrying out duties under this Act, officers of the Coast Guard have the same powers, authorities and privileges as are conferred on —
 - (a) a constable by the *Police Act (2021 Revision)*;
 - (b) a customs and border control officer by the *Customs and Border Control Act (2021 Revision)*;
 - (c) a conservation officer by the *National Conservation Act, 2013*; and
 - (d) a port officer by the *Port Authority Act (1999 Revision)*.
- (3) An officer of the Coast Guard may, in the performance of the officer's duties, carry and use firearms and protective equipment with the authority of the Commandant given under and in accordance with the general or special directions of the Governor —
 - (a) in the territorial sea of the Islands;
 - (b) on property of the Coast Guard; or
 - (c) on land within the Islands not covered with water, where the officer is in hot or immediate pursuit and the pursuit extends to land within the Islands not covered with water.
- (4) Notwithstanding subsection (3)(b) and (c), an officer of the Coast Guard shall only carry and use firearms and protective equipment on land within the Islands not covered with water with the authority of the Commissioner of Police and in accordance with such terms and conditions as the Commissioner of Police may impose in relation to the carrying and use of the firearms and the protective equipment.
- (5) For the purposes of carrying out the duties under subsection (1)(e), the Commandant or Deputy Commandant may commandeer any vessel or conscript the services of any private person as may be necessary.
- (6) Where the Commandant or Deputy Commandant commandeers any vessel or conscripts the services of any private person under subsection (5) —
 - (a) the vessel or person is deemed to be temporarily afforded such insurance coverage as may exist for the Coast Guard with respect to damage to, or loss of, property or with respect to personal injury;
 - (b) financial compensation shall be paid to the owner of the vessel for any fuel used during the period the vessel was commandeered; and
 - (c) the private person is not liable for any loss or damage to any other vessel or structure or any loss or injury to any person or property on board any such vessel or structure, unless it is shown that the private person acted negligently or in bad faith.



Coast Guard power of arrest

- 10.** (1) An officer of the Coast Guard, in the execution of the officer's duties, may —
- (a) pursue and arrest with or without a warrant a person who commits an arrestable offence or who the officer reasonably suspects of having committed or being about to commit an arrestable offence against any law of the Islands, whether the person has landed or not; and
 - (b) take such steps as are reasonably justified in the circumstances of the case in order to ensure compliance with any directions given in pursuance of this Act.
- (2) Where an officer of the Coast Guard arrests a person with or without a warrant —
- (a) the officer of the Coast Guard shall do so in accordance with the *Police Act (2021 Revision)*; and
 - (b) the officer of the Coast Guard shall deliver the person within a reasonable time to the relevant officer to be dealt with in accordance with the relevant Act under which the person was arrested.
- (3) For the purposes of this section —
- “relevant Act”** means any Act under which a relevant officer —
- (a) may compel compliance with the Act; or
 - (b) is responsible for carrying out and enforcing the Act; and
- “relevant officer”** means —
- (a) a police officer;
 - (b) a customs and border control officer;
 - (c) a conservation officer; or
 - (d) a port officer.

General powers of the Coast Guard

- 11.** (1) An officer of the Coast Guard, in the execution of the officer's duties, may —
- (a) pursue any vessel in the territorial sea or in any harbour or port of the Islands that the officer suspects is being used in the commission of an offence or in any unlawful operation or enterprise and cause the vessel to be stopped and boarded, or to be stopped, boarded, searched and inspected;
 - (b) search any vessel, and after demand and refusal of any key, break open any receptacle or break down any door, where the officer reasonably suspects that there is on board the vessel any property that has been stolen or unlawfully obtained, or any article prohibited to be exported or imported;

- (c) direct, for the purposes of any lawful examination, inspection, investigation or inquiry, that the vessel be taken to such place as the officer specifies;
 - (d) remain on board any such vessel for such reasonable time as the officer thinks necessary;
 - (e) deliver any property that the officer reasonably suspects to have been stolen or unlawfully obtained, or any article prohibited to be exported or imported, and the person in whose possession the property or article is found, within a reasonable time, into the custody of a police officer to be dealt with in accordance with section 53 of the *Police Act (2021 Revision)*;
 - (f) seize, take into custody or dispose of subject to prescribed procedures, the *Merchant Shipping Act (2021 Revision)* or the *Port Authority Act (1999 Revision)*, any vessel or structure that the officer may have reason to believe poses a risk to the safety of life of maritime users or operators, or the maritime environment of the Islands;
 - (g) in accordance with section 12, seize, take into custody and dispose of any vessel or structure that the officer may have reason to believe was used in the commission of an offence;
 - (h) for the purposes of any lawful examination, inspection, investigation or inquiry, require the production of, inspect and make copies of or take extracts from, any license, permit, record, certificate or other document;
 - (i) require crew or passengers of a vessel to answer such questions as the officer thinks fit to ask, on matters related to the performance of the officer's duties;
 - (j) investigate any offence under any law of the Islands for which the Coast Guard has jurisdiction which the officer has reason to suspect is being committed, is about to be committed or has been committed; and
 - (k) use such force as is necessary to neutralize —
 - (i) imminent or direct threats to the health and safety of members of the Coast Guard while in the execution of their duty under this Act; or
 - (ii) imminent threats directed towards any other person.
- (2) Where an officer of the Coast Guard, in the execution of the officer's duties, pursues a vessel under subsection (1)(a), the pursuit of the vessel may extend into the high seas, but shall not extend into the territorial waters of another jurisdiction or breach the established protocols of any applicable international law, convention or treaty.
- (3) Nothing in this section authorizes an officer of the Coast Guard to —
- (a) detain a vessel within the territorial sea of the Islands if the passage of that vessel within the territorial sea of the Islands is an innocent passage; or
 - (b) unnecessarily prevent a ship from proceeding on a voyage.



- (4) For the purpose of this section, the passage of a vessel is an innocent passage if the passage is not prejudicial to the peace, good order, safety or security of the Islands and its residents.
- (5) An officer is not liable for any loss or damage to any vessel or structure referred to in subsection (1), or any loss or injury to any person on board any such vessel or structure, occasioned in the execution of the officer's duty, unless it is shown that the officer acted negligently or in bad faith.
- (6) In the exercise of any power conferred on an officer of the Coast Guard by this Act, the officer may use reasonable force, where necessary to ensure compliance.
- (7) A person who —
 - (a) assaults, obstructs, resists or wilfully delays an officer of the Coast Guard acting in pursuance of this section; or
 - (b) fails to comply, without reasonable excuse, with any directions given in pursuance of this section,commits an offence and is liable on summary conviction to a fine of four thousand dollars, or to imprisonment for a term of six months, or to both.
- (8) A person who is convicted of an offence under subsection (7) may be adjudged to make compensation to the officer of the Coast Guard injured by the person's offence or by any other similar offences committed by the person which are taken into consideration by the court in determining sentence.
- (9) The compensation referred to in subsection (8) may be in addition to or in substitution of the penalty for the offence under subsection (7).

Seizure, custody and disposal of a vessel believed to have been used in the commission of an offence

- 12.** (1) Where an officer seizes a vessel or structure pursuant to section 11(1)(g), the officer shall retain it in secure custody except while it is being used in evidence or is in the custody of any court, until it is disposed of under this section.
- (2) In any proceeding for an offence relating to a vessel or structure seized under section 11(1)(g), the court may order, either at the hearing or on application by an officer of the rank of Lieutenant or above, that —
- (a) the vessel or structure be delivered to the person appearing to the court to be entitled to it; or
 - (b) the vessel or structure be disposed of in such manner as the court thinks appropriate.
- (3) If no proceeding is taken in respect of an offence relating to the vessel or structure within three months after its seizure, or if a proceeding is taken but no

order of forfeiture is made, the vessel or structure shall be returned to the person from whom it was seized.

Fees in respect of vessels or structures taken into custody or stored by the Coast Guard

- 13.** (1) Where a vessel or structure is —
- (a) taken into custody under this Act; or
 - (b) being stored by the Coast Guard pursuant to any lawful authority,
- the owner or person last having control of the vessel or structure, unless otherwise determined by the court, shall pay to the Commandant the fees referred to in subsection (2), which are set out in Schedule 4.
- (2) The fees under subsection (1) are —
- (a) towing fees in respect of every hour or part of an hour where the vessel is towed by the Coast Guard; and
 - (b) storage fees in respect of every day or part of a day that the vessel or structure remains in the custody of, or stored by, the Coast Guard.
- (3) An officer is not liable for any loss or damage to any vessel or structure referred to in subsection (1), or any loss or injury to any person or property on board any such vessel or structure, unless it is shown that the officer acted negligently or in bad faith.

PART 4 - APPOINTMENTS, ENLISTMENTS, SERVICE, DISCHARGE AND TERMINATION

Appointment of officers to the Coast Guard

- 14.** (1) The Governor shall, by commission under the Governor's hand, appoint fit and proper persons to be commissioned officers of the Coast Guard.
- (2) The Governor shall appoint —
- (a) a Commandant and a Deputy Commandant; and
 - (b) a Coast Guard Medical Officer.
- (3) Commissioned officers of the Coast Guard shall hold such rank specified in Part A of Schedule 1 and every commission granted under subsection (1) shall be published in the *Gazette*.
- (4) A commission granted under subsection (1) shall be issued in the form set out in Schedule 2.
- (5) The Commandant shall appoint non-commissioned officers of the Coast Guard.



- (6) Non-commissioned officers of the Coast Guard shall be employed on a term of enlistment for a period of four years, and shall be governed by the regulations made under this Act.
- (7) Notwithstanding subsection (6), a non-commissioned officer of the Coast Guard may re-enlist in accordance with the regulations made under this Act.

Appointment of civilian support staff of the Coast Guard

- 15.** (1) At the request of the Commandant, the chief officer of the Coast Guard may, in accordance with the *Public Service Management Act (2018 Revision)*, recruit and appoint civilian support staff employees to work within the Coast Guard on such terms and conditions as may be agreed by all parties concerned.
- (2) From the date of a person's appointment as a civilian support staff employee of the Coast Guard, the person's employment shall be governed by this Act and any regulations made under this Act.

Secondment to the Coast Guard

- 16.** (1) At the request of the Commandant, a civil servant may, with the consent of that civil servant and the Deputy Governor, be temporarily appointed to the Coast Guard for such period as may be determined by the Commandant.
- (2) At the request of the Commandant, a public officer may, with the consent of that public officer and the relevant chief officer, be temporarily appointed to the Coast Guard for such period as may be determined by the Commandant.
- (3) Where a civil servant or a public officer is appointed to the Coast Guard in accordance with subsection (1) or (2), the civil servant or the public officer shall —
- (a) continue to enjoy remuneration and pension benefits which are not less favourable than the remuneration and pension benefits to which the civil servant or the public officer was entitled on the day immediately prior to the date of such appointment;
 - (b) be subject to such other terms and conditions as are agreed between the civil servant or the public officer and the Commandant; and
 - (c) from the date of such appointment, be a member of the Coast Guard and all matters relating to that civil servant or public officer shall be governed by this Act and any regulations made under this Act.

Identity card

- 17.** An identity card, in the form set out in Schedule 3, signed by the Commandant, shall be issued to every member of the Coast Guard and shall be evidence of such member's appointment.

Resignations

- 18.** An officer of the Coast Guard shall resign in accordance with the regulations made under this Act in relation to personnel, management and discipline.

Termination of appointment and discharge

- 19.** (1) The Governor may, in accordance with the regulations made under this Act in relation to personnel, management and discipline, terminate the appointment of the Commandant or Deputy Commandant.
- (2) The Governor may, on the recommendation of the Commandant and in accordance with the regulations made under this Act in relation to personnel, management and discipline, terminate the appointment of any commissioned officer of the Coast Guard at or below the rank of Lieutenant Commander.
- (3) Notwithstanding subsection (2), where a Deputy Commandant is at the rank of Lieutenant Commander, subsection (1) shall apply as it relates to termination of the Deputy Commandant's appointment.
- (4) The Commandant may, in accordance with the regulations made under this Act in relation to personnel, management and discipline, discharge any non-commissioned officer of the Coast Guard.

Retirement and pensions

- 20.** (1) A member of the Coast Guard who has attained the age of sixty years shall be retired but may, in special circumstances as determined by the Commandant and for temporary periods, be accepted for such service as may be fixed by contract, and where the member is an officer of the Coast Guard, upon the successful completion of a fitness and medical test by such officer.
- (2) Notwithstanding the age of retirement under subsection (1), an officer of the Coast Guard who has served for thirty years in the Coast Guard may retire but may, in special circumstances as determined by the Commandant and for temporary periods, be accepted for further service as may be fixed by contract.
- (3) The Governor may —
- (a) in the public interest;
 - (b) on medical grounds; or
 - (c) to improve the efficiency of the Coast Guard,
- call upon the Commandant or the Deputy Commandant to retire.
- (4) The Commandant may —
- (a) in the public interest;
 - (b) on medical grounds; or
 - (c) to improve the efficiency of the Coast Guard,



call upon any officer of the Coast Guard, other than an officer of the Coast Guard referred to in subsection (3), to retire on pension.

- (5) The officer of the Coast Guard called upon in subsection (3) or (4) may retire.
- (6) The *Public Service Pensions Act (2021 Revision)* shall, subject to this Act, apply to all members of the Coast Guard except a member of the Coast Guard employed upon contractual terms applicable to that member which provide for or specifically exclude pension rights.
- (7) An officer of the Coast Guard —
 - (a) who has attained the rank of Lieutenant Commander or above; and
 - (b) whose appointment has ended under conditions other than dishonourable,shall be permitted by the Commandant to retain the honorary use of the officer's last rank, in its abbreviated format, and the rank shall be accompanied by the word "Retired" or in its abbreviated format, "Ret."

Medical privileges

- 21.** (1) A member of the Coast Guard, the member's spouse or civil partner and any child of the family of a member and the member's spouse or civil partner are entitled to —
- (a) medical, dental, and optical treatment benefits no less favourable than those treatment benefits as may be applicable to the public service from time to time; and
 - (b) any other treatment benefits as may be prescribed.
- (2) For the purposes of this section, "**child of the family**" means a child who is the child, adopted or otherwise, of either party of a marriage or civil partnership or who has been brought up in the matrimonial home or the civil partnership home of such parties as a child of the family and is —
- (a) under the age of eighteen years, unmarried or not a party to a civil partnership and is not employed; or
 - (b) eighteen years of age or over but under twenty-three years of age, unmarried or not a party to a civil partnership and in full-time education at a university or other tertiary education institution.

PART 5 – COAST GUARD RESERVE

Discrimination based on becoming a member of the Coast Guard Reserve

- 22.** (1) No person (whether an employer or an employee) shall discriminate with respect to any other person's hire, promotion, dismissal, tenure, wages, hours or other conditions of employment, by reason of the other person —



- (a) applying to be a reservist;
 - (b) being a reservist; or
 - (c) carrying out the person's duties or obligations as a reservist.
- (2) Subsection (1) shall not be construed as prohibiting the taking of any personnel action genuinely related to an employee's ability to discharge the duties of the employment in question.
- (3) A person who contravenes subsection (1), commits an offence and is liable on summary conviction to a fine of five thousand dollars or to imprisonment for a term of one year, or to both.

Obligatory Annual Service

- 23.** A reservist may be called out for obligatory annual service at such place, for such periods and in such manner, as may be specified in the regulations made under this Act.

PART 6 - OFFENCES

Resisting or obstructing an arrest

- 24.** (1) A person who assaults, obstructs, resists or wilfully delays an officer of the Coast Guard in exercising the power of arrest under section 10 commits an offence and is liable on summary conviction to a fine or to imprisonment for a term of ten years, or to both.
- (2) A person who is convicted of an offence under subsection (1) may be adjudged to make compensation to the officer of the Coast Guard injured by the person's offence or by any other similar offences committed by the person which are taken into consideration by the court in determining sentence.
- (3) The compensation referred to in subsection (2) may be in addition to or in substitution of the penalty for the offence under subsection (1).

Unauthorized use of uniform and decorations

- 25.** (1) A person who —
- (a) not being an officer of the Coast Guard, wears in a public place, without authority, the uniform of the Coast Guard, or any attire having the appearance or bearing of any of the regimental or other distinctive marks of any such uniform;
 - (b) has in that person's possession, without authority, a uniform of the Coast Guard or part thereof, or any decoration, badge, wound stripe, emblem or equipment prescribed by regulations or supplied or authorized by the Government for the use of the Coast Guard;



- (c) uses or wears, without authority, any decoration, badge, wound stripe or emblem so nearly resembling any decoration, badge, wound stripe or emblem under paragraph (b), as to be calculated to deceive;
 - (d) falsely represents himself or herself to be a person who has or had the authority to use or wear any such decoration, badge, stripe or emblem; or
 - (e) in relation to a decoration awarded to an officer of the Coast Guard —
 - (i) purchases or pawns the decoration;
 - (ii) solicits or procures any other person to sell or pledge the decoration; or
 - (iii) acts for any person in the sale or pledging of the decoration,commits an offence and is liable on summary conviction to a fine of two thousand dollars or to imprisonment for a term of four years, or to both.
- (2) Nothing in subsection (1)(a), (b), (c) or (d) prevents or prohibits a person from —
- (a) wearing a uniform or dress, with the written permission of the Commandant, in the course of a stage play performed in a place duly licensed or authorized for the public performance of stage plays, or in the course of a music hall or circus performance; or
 - (b) using or wearing ordinary naval badges or brooches or ornaments representing those naval badges.
- (3) It is a defence for a person charged with an offence under subsection (1)(e) that at the time of the alleged offence, the officer of the Coast Guard to whom the decoration was awarded was deceased or had ceased to be an officer of the Coast Guard.
- (4) A member of the Coast Guard who contravenes this section in the carrying out of the member's duties commits an offence and is liable to be tried by a tribunal as prescribed by regulations and punished in accordance with those regulations.

PART 7 - GENERAL

Application of the Traffic Act (2021 Revision) to Coast Guard vehicles

- 26.** While engaged upon its duties, a Coast Guard vehicle shall be deemed to be an emergency vehicle, as defined under section 2 of the *Traffic Act (2021 Revision)*, and —
- (a) that Act and the regulations made under that Act in relation to emergency vehicles; and
 - (b) any offences and penalties under that Act or under regulations made under that Act in relation to emergency vehicles,

shall apply, with any necessary modifications, to Coast Guard vehicles.

ICT licensee's duties in respect of the Coast Guard

- 27.** (1) Upon the written request of an officer of the Coast Guard of the rank of Lieutenant or above, a licensee shall provide to the Coast Guard in such form as required, and within the timeframe referred to in subsection (2), information relating to the current or last known location of an ICT device known or likely to be on board a vessel, for the purposes of the enforcement of any local laws, and other international maritime conventions, treaties and instruments relating to the maritime jurisdiction of the Islands.
- (2) The timeframes within which the information requested under subsection (1) is to be provided to the Coast Guard are as follows —
- (a) where the request is headed “ROUTINE”, the licensee shall provide the information no later than ten working days after the date on which the request is sent;
 - (b) where the request is headed “URGENT”, the licensee shall provide the information no later than twenty-four hours after the time at which the request is sent; and
 - (c) where the request is headed “PRIORITY”, the licensee shall provide the information no later than fifteen minutes after the time at which the request is sent.
- (3) For the purposes of subsection (1), a licensee shall ensure that there are at least two designated persons in the Islands, one being the primary contact and the other being the secondary contact, whose responsibility it is to provide the Coast Guard with —
- (a) the information requested under subsection (1) in the timeframe referred to in subsection (2); and
 - (b) any other information requested in accordance with any other lawful authority.
- (4) A licensee shall provide the details of the persons so designated under subsection (3) to the Coast Guard, and the appointment of such designated persons shall be subject to satisfactory security clearance by the Coast Guard.
- (5) A licensee who —
- (a) without reasonable excuse, refuses or fails to provide the information required under subsection (1) in the timeframe referred to in subsection (2); or
 - (b) knowingly gives false or misleading information to an officer of the Coast Guard of the rank of Lieutenant or above requiring the information,
- commits an offence and is liable, on summary conviction, to a fine of ten thousand dollars, or to imprisonment for a term of one year, or to both.



(6) For the purposes of this section —

“ICT” has the meaning assigned by section 2 of the *Information and Communications Technology Act (2019 Revision)*; and

“licensee” has the meaning assigned by section 2 of the *Information and Communications Technology Act (2019 Revision)*.

Regulations

- 28.** (1) The Cabinet may, after consultation with the Commandant, make regulations for the good governance and organization of the Coast Guard, for ensuring maritime safety and maritime security in the Islands and for giving effect to this Act and the matters required by this Act to be prescribed, including the following —
- (a) the numerical establishment of the Coast Guard and the conditions of service in respect of the various grades, ranks and appointments of the Coast Guard;
 - (b) the constitution, governance, qualifications and command of the Coast Guard;
 - (c) the recruitment, enlistment and re-enlistment of members of the Coast Guard;
 - (d) the transfer of civil servants and public officers to the Coast Guard;
 - (e) the granting of commissions and the categories of commissions which may be granted;
 - (f) the duties to be performed by members of the Coast Guard and guidance in the performance or discharge of such duties;
 - (g) salary, retirement benefits and allowances;
 - (h) special pensions in the event of death or incapacity attributable to performance of duty;
 - (i) funeral expenses of members of the Coast Guard, including criteria for eligibility for the payment, or defraying the cost, of those funeral expenses, out of public funds;
 - (j) insurance coverage with respect to damage to, or loss of, property or with respect to personal injury where such damage, loss or injury is attributable to performance of duty;
 - (k) medical privileges of members of the Coast Guard, and for spouses or civil partners of, and children of the family in relation to, members of the Coast Guard;
 - (l) the description and issue of firearms, protective equipment, uniforms and any other articles to be supplied;

- (m) discipline and disciplinary procedure, including providing for deductions from, or forfeiture or stoppage of, pay;
 - (n) the establishment of a disciplinary tribunal to hear and determine certain offences under this Act;
 - (o) Coast Guard identification, including measurements, fingerprints, palm prints, photographs and the records thereof;
 - (p) the ranks, powers and authority of members of the Coast Guard;
 - (q) the discharge, retirement, resignation, release or promotion of members of the Coast Guard;
 - (r) the retention and use of uniforms, including any decoration, badge, wound stripe or emblem, by retired officers of the Coast Guard;
 - (s) the handing over of public property where a person ceases to be a member of the Coast Guard;
 - (t) the governance, discipline and pay of the Coast Guard Reserve;
 - (u) the discharge or termination of officers of the Coast Guard Reserve;
 - (v) the calling out of the Coast Guard Reserve on temporary service and permanent service, and for training, including the manner in which notification of the places and times appointed for training is to be given;
 - (w) requiring officers of the Coast Guard Reserve to report to their commanding officers;
 - (x) the appointment, composition, procedures and responsibilities of the Coast Guard Legal Protection Fund Committee;
 - (y) the control, administration, application and management of the Coast Guard Legal Protection Fund;
 - (z) the creation of an administrative penalty system in respect of any offence under this Act or regulations made under this Act, including —
 - (i) forms and procedures for imposing the administrative penalty; and
 - (ii) how the administrative penalty shall be paid and may be enforced, andsuch other matters that are necessary or convenient to give effect to the creation of the administrative penalty system; and
 - (aa) any other matter that by this Act is required or permitted to be prescribed or that is necessary or convenient to be prescribed for carrying out or giving effect to this Act.
- (2) Any power of the Cabinet to make regulations under this Act includes the power —
- (a) to make different provisions in relation to different cases or classes of case; and



- (b) to provide for such exceptions, limitations and conditions, and to make such supplementary, incidental, consequential, transitional and saving provisions,
as the Cabinet considers necessary.
- (3) The Cabinet may, after consultation with the Commandant, make regulations to ensure maritime safety and maritime security in the territorial sea of the Islands, including regulations to address criminal or anti-social behaviour within the territorial sea of the Islands.
- (4) Regulations made under this Act with respect to salaries, allowances, pensions or gratuities shall be subject to negative resolution of the Parliament and may be given retrospective effect.
- (5) Where regulations made under this Act provide that the contravention of a provision of the regulations constitutes a criminal offence, the regulations may —
 - (a) prescribe penalties for any such offence which shall not exceed penalties imposed under this Act; and
 - (b) provide for restitution in the case of damage or loss of any property caused by an offender in the commission of the offence.
- (6) Where regulations made under this Act provide that the contravention of a provision of the regulations constitutes a disciplinary offence, the regulations may prescribe a penalty of any one or a combination of not more than three of the following punishments —
 - (a) caution;
 - (b) reprimand;
 - (c) surcharge in respect of any loss sustained;
 - (d) fine not exceeding the equivalent of seven days' pay;
 - (e) reduction in rank;
 - (f) forfeiture of increments due over a twelve-month period;
 - (g) special probation for a period not exceeding twelve months;
 - (h) requirement to resign as an alternative to discharge or termination; and
 - (i) discharge or termination.

Amendment of Schedules

- 29.** The Cabinet may by Order amend the Schedules.

Appeals

30. (1) Where a member of the Coast Guard has received a disciplinary punishment under this Act, or regulations made under this Act, the member of the Coast Guard may appeal to the Civil Service Appeals Commission against the finding or the punishment or both, in accordance with the procedure set out in section 54 of the *Public Service Management Act (2018 Revision)*.
- (2) The Civil Service Appeals Commission shall hear and determine appeals made under this section in accordance with the *Public Service Management Act (2018 Revision)*.
- (3) Where a member of the Coast Guard is aggrieved by a decision of the Civil Service Appeals Commission under this section, the member of the Coast Guard may seek leave of the Grand Court to apply for judicial review of the decision.

Coast Guard Legal Protection Fund and Coast Guard Legal Protection Fund Committee

31. (1) There is established —
- (a) a Coast Guard Legal Protection Fund, the funds of which shall be applied in a manner as may be prescribed, for the purpose of providing assistance towards the payment of legal fees or associated costs in relation to —
 - (i) the defence of a legal action brought against a member of the Coast Guard for any prescribed act committed while the member of the Coast Guard was acting in the performance of the member's duties; and
 - (ii) the defence of a disciplinary action brought against a member of the Coast Guard; and
 - (b) the Coast Guard Legal Protection Fund Committee, which is responsible for —
 - (i) the management of the Coast Guard Legal Protection Fund; and
 - (ii) such other activities —
 - (A) as may be prescribed by regulations made under this Act; and
 - (B) as may be required to give effect to the purposes of the Coast Guard Legal Protection Fund.
- (2) The Coast Guard Legal Protection Fund shall be comprised of —
- (a) an annual allotment of a sum to be determined by the Cabinet; and
 - (b) voluntary contributions to the Coast Guard Legal Protection Fund from any person, including members of the Coast Guard.
- (3) Voluntary contributions to the Coast Guard by persons other than members of the Coast Guard shall be made in accordance with regulations made under this Act.



- (4) The Coast Guard Legal Protection Fund Committee shall keep accounts of its financial transactions in respect of the Coast Guard Legal Protection Fund in such form and manner as accord with the *Public Management and Finance Act (2020 Revision)* and any other relevant Act.
- (5) The Coast Guard Legal Protection Fund shall be audited by the Auditor General in accordance with the *Public Management and Finance Act (2020 Revision)*.

Information may be recorded and sent by electronic means

- 32.** (1) For the purposes of this Act, and any regulations made under this Act, where a person is required to, in writing or in written form —
- (a) give notice or permission;
 - (b) make a request; or
 - (c) provide any information,
- the notice, permission, request or other information may be recorded in electronic form and sent by electronic means.
- (2) For the purposes of this section, “**electronic**” has the meaning assigned by section 2 of the *Electronic Transactions Act (2003 Revision)*.

Vesting of property

- 33.** Upon the commencement of this Act, all property of, or assigned to, the Joint Marine Unit of the Royal Cayman Islands Police Service becomes the property of the Coast Guard without transfer, conveyance or assurance.

Transition of officers of the Joint Marine Unit to the Coast Guard

- 34.** (1) Where an officer of the Joint Marine Unit of the Royal Cayman Islands Police Service joins the Coast Guard, the officer shall —
- (a) continue to enjoy remuneration, medical privileges and pension benefits which are not less favourable than the remuneration, medical privileges and pension benefits that applied to the officer in the officer’s previous employment; and
 - (b) be subject to such other terms and conditions as are agreed between the officer and the Commandant.
- (2) For the purposes of subsection (1), “**officer of the Joint Marine Unit of the Royal Cayman Islands Police Service**” or “**officer**” means —
- (a) an officer of the Royal Cayman Islands Police Service referred to in section 3 of the *Police Act (2021 Revision)*; or
 - (b) a customs and border control officer of the Customs and Border Control Service established under section 3 of the *Customs and Border Control Act (2021 Revision)*,

who, at the date of commencement of this Act, is attached to the Joint Marine Unit of the Royal Cayman Islands Police Service.

Transitional provisions in respect of appointments to the Coast Guard prior to the date of commencement of this Act

- 35.** (1) A person who is appointed or purported to be appointed to any position in the Coast Guard prior to the date of the commencement of this Act shall be deemed on that date to have been appointed in accordance with this Act.
- (2) All other acts done or purported to be done in furtherance of the establishment and operation of the Coast Guard prior to the date of the commencement of this Act shall be deemed on that date to have been done in accordance with this Act.



SCHEDULE 1

(sections 2, 4 and 14(3))

Ranks of Officers of the Coast Guard

PART A

Commissioned Officers

Commander – Cdr
Lieutenant Commander – Lt Cdr
Lieutenant – Lt
Lieutenant (Junior Grade) – Lt (JG)
Sub-Lieutenant – Sub-Lt

PART B

Non-commissioned Officers

(Senior)

Warrant Officer – WO
Chief Petty Officer – CPO
Petty Officer – PO

(Junior)

Leading Seaman – LS
Able Seaman – AB
Ordinary Seaman – OS
Coast Guard Recruit – CGR

SCHEDULE 2*(section 14(4))***Form of commission conferring rank upon an officer of the Coast Guard**

To.....Greetings:

Reposing especial trust and confidence in your loyalty, courage and good conduct, I do by these presents constitute and appoint you to be an officer in the Cayman Islands Coast Guard from the day of , 20 .

You are therefore carefully and diligently to discharge your duty as such in the rank of or in such higher rank as you may from time to time hereafter be promoted or appointed to, of which a notification will be made in the Gazette.

Further, you are at all times to exercise discipline in your duties and promote discipline of other officers serving under you and such persons as may be placed under your orders from time to time and use your best endeavour to keep them in good order and discipline.

And I do hereby command them to obey you as their Superior Officer, and you to observe and follow such orders and directions as from time to time you shall receive from me, or any other, your Superior Officer, in pursuance of the trust hereby reposed in you.

Given at , the day of , 20 .

Governor



SCHEDULE 3

(sections 2 and 17)

Identity Card

CAYMAN ISLANDS COAST GUARD

This is to certify that _____
whose photograph is attached, is a member of the Cayman Islands Coast Guard, and in the
case of an officer, an officer of the rank
no. _____.

Members of the Cayman Islands Coast Guard and members of the general public are to
give the above-named person any assistance he/she may require in the performance of
his/her duties.

Commandant of the Cayman Islands Coast Guard

PHOTO	SIGNATURE	RIGHT THUMB IMPRESSION
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SCHEDULE 4*(section 13)***Fees for vessels or structures in the custody of, or stored by, the
Coast Guard****PART 1****TOWING FEES**

Length of Vessel or Structure	Fee
1. Vessels less than 40ft in length	\$200.00 per hour or part thereof
2. Vessels 40ft and over but less than 100ft in length	\$250.00 per hour or part thereof

PART 2**STORAGE FEES**

Length of Vessel or Structure	Fee
1. Vessels less than 30ft in length	\$10.00 per day or part thereof
2. Vessels 30ft and over but less than 60ft in length	\$15.00 per day or part thereof
3. Vessels 60ft and over but less than 90ft in length	\$20.00 per day or part thereof

Passed by the Parliament the day of 2021.

Speaker

Clerk of the Parliament

