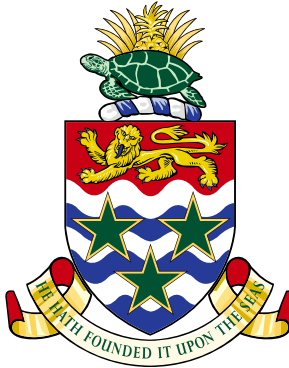


CAYMAN ISLANDS



WRECK AND SALVAGE LAW

(1996 Revision)

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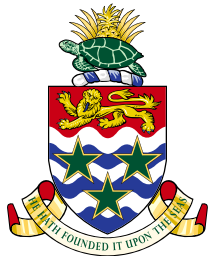
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CAYMAN ISLANDS



WRECK AND SALVAGE LAW
(1996 Revision)

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CAYMAN ISLANDS



WRECK AND SALVAGE LAW

(1996 Revision)

PART I - Preliminary

Short title

1. This Law may be cited as the *Wreck and Salvage Law (1996 Revision)*.

Definitions

2. In this Law —

“**consular officer**” includes any consul, vice-consul and consular agent, and any person for the time being discharging the duties of consul, vice-consul or consular agent;

“**Receiver**” means any person appointed under section 3 as a Receiver of Wreck; and

“**wreck**” includes jetsam, flotsam, lagan and derelict found in or on the shores of the sea or any tidal water.

PART II - Appointment and Duties of Receiver

Appointment of Receivers of Wreck

3. The Governor may appoint any person to be a Receiver of Wreck in any district to perform such duties as are hereinafter mentioned, and may fix, and from time to time alter, the limits of the district for which any Receiver is so appointed, and shall give due notice of every such appointment.

Duties of Receiver where any ship is stranded or in distress

4. When any ship or boat is stranded or in distress at any place or near the coast of the Islands, the Receiver of the district within which such place is situate shall, upon being made acquainted with such accident, forthwith proceed to such place, and, upon arrival, take command of all persons present, assign such duties to each person and issue such directions as he may think fit with a view to the preservation of such ship or boat, the lives of the persons belonging thereto and the cargo and apparel thereof; and if any person wilfully disobeys such directions he shall forfeit a sum not exceeding one hundred dollars; but it shall not be lawful for such Receiver to interfere between the master of such ship or boat and his crew in matters relating to the management thereof, unless he is requested so to do by such master.

Powers of Receiver for preservation of persons or property

5. The Receiver may, with a view to such preservation of the ship or boat, persons, cargo and apparel —
 - (a) summon such number of men as he thinks necessary to assist him;
 - (b) require the master or other person having the charge of any ship or boat near at hand to give such aid with his men, ship or boats as may be in his power; and
 - (c) demand the use of any vehicle, cart or horses that may be near at hand, and whoever refuses without reasonable cause to comply with any such summons, requisition or demand, is for every such refusal guilty of an offence and liable on conviction to a fine of two hundred dollars; but no person shall be liable to pay any duty of assessed taxes in respect of any such vehicle, cart or horses by reason of the user of the same under this section.



Articles washed ashore, lost or taken from ship, to be delivered to the Receiver

6. All cargo and other articles belonging to such ship or boat that may be washed on shore, or otherwise be lost or taken from such ship or boat, shall be delivered to the Receiver; and whoever, whether he is the owner or not, who secretes or keeps possession of any such cargo or article, or refuses to deliver the same to the Receiver or to any person authorised by him to demand the same, is guilty of an offence and liable on conviction to a fine of two hundred dollars; and it shall be lawful for such Receiver or other person as aforesaid to take such cargo or article by force from the person so refusing to deliver the same.

Powers of Receiver to suppress plunder and disorder by force

7. Whenever any such accident as aforesaid occurs to any ship or boat, and any person plunders, creates disorder or obstructs the preservation of such ship, boat, lives or cargo, the Receiver may cause such person to be apprehended, and to use force for the suppression of any such plundering, disorder or obstruction, with power to command all Her Majesty's subjects to assist him in the use of such force; and if any person is killed, maimed or hurt by reason of his resisting the Receiver in the execution of his duties, or any person acting under his orders, such Receiver or other person shall be free and fully indemnified as well as against the Queen's Majesty, her heirs and successors, as against all persons so killed, maimed or hurt.

Certain officers to exercise powers of Receiver in his absence

8. During the absence of the Receiver from the place where any such accident occurs, or in places where no Receiver has been appointed under this Law, the following officers in succession, each in the absence of the other in the order in which they are named, that is to say, any principal officer of Customs and also any Justice, commissioned officer on full pay in the Naval Service of Her Majesty, or commissioned officer on full pay in the Military Service of Her Majesty or Royal Air Force, may do all matters and things hereby authorised to be done by the Receiver, with this exception, that with respect to any goods or articles belonging to any such ship or boat, the delivery up of which to the Receiver is hereinbefore required, any officer so acting shall be considered as the agent of the Receiver, and shall place the same in the custody of the Receiver, or (in case no Receiver has been appointed for the place where such accident occurs, then) of the Receiver for the district nearest thereto; and no person so acting as substitute for any Receiver shall be entitled to any fees payable to Receivers, or be deprived by reason of his so acting of any right to salvage to which he would otherwise be entitled.

Power of passing over and using adjoining lands

9. Whenever any such accident occurs to any ship or boat, all persons may, for the purposes of rendering assistance to such ship or boat, or saving the lives of the persons on board the same, or the cargo or apparel thereof, unless there is some public road equally convenient, pass and repass either with or without carriage or horses over any adjoining lands, without being subject to interruption by the owner or occupier, so that they do as little damage as possible, and may also, on the like condition, deposit on such lands any cargo or other article recovered from such ship or boat; and all damage that may be sustained by any owner or occupier in consequence of any such passing or repassing or deposit shall be a charge on the ship, boat, cargo or articles in respect of or by which such damage was occasioned, and shall, in default of payment, be recoverable in the same manner as salvage is hereby made recoverable, and the amount payable in respect thereof, if disputed, shall be determined in the same manner as the amount of salvage is hereby in case of dispute directed to be determined.

Penalties on parties obstructing such passage over or user of adjoining lands

10. Whoever, being the owner or occupier of any land over which any person is hereby authorised to pass or repass for any such purposes —
- (a) impedes or hinders any such person from so passing or repassing with or without carriages, horses and servants, by locking his gates, refusing upon request to open the same, or otherwise however;
 - (b) impedes or hinders the deposit of any cargo or other article recovered from any such ship or boat, as hereinbefore mentioned; or
 - (c) prevents such cargo or other article from remaining so deposited for a reasonable time until the same can be removed to a safe place of public deposit,
- is guilty of an offence and liable on conviction to a fine of two hundred dollars.

Inquiries to be instituted and examination reported on certain points

11. Any Receiver, or in his absence any Justice, shall, as soon as conveniently may be, examine upon oath (which oath they are hereby empowered to administer) any person belonging to any ship which may be or may have been in distress on the coasts of the Islands, or any other person who may be able to give any account of such ship or of the cargo or stores thereof as to the following matters —
- (a) the name and description of the ship;
 - (b) the name of the master and of the owners;
 - (c) the names of the owners of the cargo;
 - (d) the ports or places from and to which the ship was bound;



- (e) the occasion of the distress of the ship;
- (f) the services rendered; and
- (g) such other matters or circumstances relating to such ship, or to the cargo on board the same, as the Receiver or Justice of the Peace thinks necessary, and such Receiver or justice shall take the examination down in writing, and shall make two copies of the same, of which he shall send one to the Governor, and the other to the office of the nearest Collector of Customs, and such second copy shall be placed by the Collector in some conspicuous situation for the inspection of persons desirous of examining the same; and, for the purposes of such examination, every such Receiver or Justice shall have all the power conferred by section 12.

Powers of Receiver or Justice

- 12.** A Receiver or Justice may, for the purposes of an examination under section 11, require the unloading or removal of any cargo, ballast or tackle, may muster the crew, and may —
- (a) go on board any ship, and may inspect the same, or any part thereof, or any of the machinery, boats, equipment or articles on board thereof, to which this Law applies, not unnecessarily detaining or delaying her from proceeding on any voyage;
 - (b) enter and inspect any premises, the entry or inspection of which appears to him to be requisite for the purpose of the report which he is directed to make;
 - (c) by summons under his hand, require the attendance of all such persons as he thinks fit to call before him and examine for such purpose, and may require answers or returns to any inquiries he thinks fit to make;
 - (d) require and enforce the production of all books, papers or documents which he considers important for such purpose; and
 - (e) administer oaths, or may, in lieu of requiring or administering an oath, require every person examined by him to make and subscribe a declaration of the truth of the statements made by him in his examination.

Examination or certified copy to be *prima facie* evidence

- 13.** Any examination so taken in writing, or a copy thereof, purporting to be certified under the hand of the Receiver or Justice before whom such examination was taken, shall be admitted in evidence in any court, or before any person having by law or by consent of parties authority to hear, receive and examine evidence, as *prima facie* proof of all matters contained in such written examination.

Rules to be observed by persons finding wreck

- 14.** Whoever, finding or taking possession of wreck within the Islands —



- (a) if he is the owner, shall, as soon as possible, give notice to the Receiver of the district within which such wreck is found, stating that he has so found or taken possession of the same, and he shall describe in such notice the marks by which such wreck is distinguished; or
- (b) if he is not the owner, he shall, as soon as possible, deliver the same to such Receiver as aforesaid,

and whoever, being the owner, fails to do so is guilty of an offence and liable on conviction to a fine of two hundred dollars; and whoever, not being the owner, fails to do so is guilty of an offence and liable on conviction to a fine of two hundred dollars, and in addition he shall —

- (i) forfeit all claims to salvage; and
- (ii) pay to the owner of such wreck if the same is claimed, but if the same is unclaimed then to the person entitled to such unclaimed wreck, double the value of such wreck (such value to be recovered in the same way as a penalty of like amount).

Application of section 14 to wrecks outside the limits of the Islands

15. Section 14 shall apply to wreck found or taken possession of outside the limits of the Islands and brought within the limits of the Islands, as it applies to wreck found or taken possession of within the limits of the Islands.

Power to search for and seize concealed wreck

16. If any Receiver suspects or receives information that any wreck is secreted in the possession of some person who is not the owner, or otherwise improperly dealt with, he may apply to any Justice for a warrant, and such Justice shall have power to grant a warrant, under which the Receiver may enter into any house or other place wherever situate; and also into any ship or boat, and to search for, seize and detain any such wreck there found; and if any such seizure is made in consequence of information that may have been given by any person to the Receiver, the informer shall be entitled by way of salvage to such sum not exceeding in any case ten dollars as the Receiver may allow.

Notice of wreck to be given by Receiver

17. Every Receiver shall, within forty-eight hours after taking possession of any wreck, cause to be posted up in the Custom House of the port nearest to the place where such wreck was found or seized a description of the same and of any marks by which it is distinguished, and shall also, if the value of such wreck exceeds forty dollars, transmit a similar description to the Governor and a copy thereof shall be posted in some conspicuous place for the inspection of all persons desirous of examining the same.



When wreck may be sold immediately

18. In cases where any wreck in the custody of any Receiver is under the value of ten dollars, or is of so perishable a nature or so much damaged that the same cannot, in his opinion, be advantageously kept, or if the value thereof is not sufficient to defray the charge of warehousing, the Receiver may sell the same before the expiration of the period hereinafter mentioned, and the money raised by such sale, after defraying the expenses thereof, shall be held by the Receiver for the same purposes and subject to the same claims for and to which the article sold would have been held and liable if it had remained unsold.

Payments to be made to Receivers

19. There shall be paid to all Receivers appointed under this Law the expenses properly incurred by them in the performance of their duties, and also in respect of the several matters specified in the Schedule, such fees, not exceeding the amounts therein mentioned, as may, from time to time, be directed by the Governor, and the Receiver shall have the same lien and be entitled to the same remedies for the recovery of such expenses and fees as a salvor has or is entitled to in respect of salvage due to him; but save as aforesaid no Receiver appointed under this Law shall as such be entitled to any remuneration whatsoever.

Disputes as to expenses or fees, how determined

20. Whenever any dispute arises in any part of the Islands as to the amount payable to any Receiver in respect of expenses or fees, such dispute shall be determined by the Governor, and his decision shall be final.

Application of fees

21. All fees received by any Receiver appointed under this Law, in respect of any services performed by him as Receiver, shall be paid into the Treasury, and a separate account thereof shall be kept, and the moneys arising therefrom shall be applied in defraying any expenses duly incurred in carrying into effect the purposes of this Law, in such manner as the Governor directs.

PART III - Salvage

Salvage, to whom and for what services

22. Whenever any ship or boat is stranded or otherwise in distress on or near the coasts of the Islands, and services are rendered by any person —
- (a) in assisting such ship or boat;
 - (b) in saving the lives of the persons belonging to such ship or boat; or
 - (c) in saving the cargo or apparel of such ship or boat, or any portion thereof,



and whenever any wreck is saved by any person other than a Receiver within the Islands there shall be payable by the owners of such ship or boat, cargo, apparel or wreck, to the person by whom such services are rendered, or by whom such wreck is saved, a reasonable amount of salvage, together with all expenses properly incurred by him in the performance of such services or the saving of such wreck, the amount of such salvage and expenses (which expenses are hereinafter included under the term salvage) to be determined in case of dispute in manner hereinafter mentioned.

Priority of salvage for life, and how payable

- 23.** Salvage in respect of the preservation of the life or lives of any person or persons belonging to any such ship or boat shall be payable by the owners of the ship or boat in priority to all other claims for salvage; and in cases where such ship or boat is destroyed, or where the value thereof is insufficient, after payment of the actual expenses incurred, to pay the amount of salvage due in respect of any life or lives, the Governor may, in his discretion, award to the salvors of such life or lives out of the Treasury, such sum or sums as he deems fit, in whole or part satisfaction of any amount of salvage so left unpaid in respect of such life or lives.

Salvage of life from vessels

- 24.** The provisions of this Law in regard to the salvage of life from any ship or boat within the limits of the Islands shall be extended to the salvage of life from any ship registered at and trading with the Islands, or from any boat belonging to any such ship, wheresoever the services may have been rendered, and from any foreign ship or boat where the services have been rendered either wholly or in part in the waters of the Islands.

Appointment of valuers

- 25.** Whenever any salvage question arises, the Receiver for the district may, upon application from either of the parties, appoint a valuer to value the property in respect of which the salvage claim is made, and shall, when the valuation has been returned to him, give a copy of the valuation to both parties, and any copy of such valuation purporting to be signed by the valuer and to be attested by the Receiver shall be received in evidence in any subsequent proceeding, and there shall be paid in respect of such valuation by the party applying for the same such fee as the Governor may direct.

Disputes as to salvage, how to be settled

- 26.** (1) Whenever any dispute with respect to salvage arises within the Islands between the owners of any such ship, boat, cargo, apparel or wreck, or between the agent of such owners and the salvors, as to the amount of salvage, and the parties to the dispute cannot agree as to the settlement thereof by arbitration or otherwise —



- (a) if the sum claimed does not exceed four hundred dollars, or if the value of the property saved does not exceed two thousand dollars, such dispute shall be referred to the arbitration of the Summary Court —
 - (i) in case of wreck, resident at or near the place where such wreck is found; or
 - (ii) in case of services rendered to any ship or boat, or to the persons, cargo or apparel belonging thereto, resident at or near the place where such ship or boat is lying, or at or near the first port or place in the Islands into which such ship or boat is brought after the occurrence of the accident by reason whereof the claim to salvage arises; or
- (b) if the sum claimed exceeds four hundred dollars, such dispute may, with the consent of the parties, be referred to the arbitration of such Summary Court but otherwise, it shall be decided by the Grand Court:

Provided that if the claimants in such dispute do not recover in such Grand Court a greater sum than four hundred dollars they shall not, unless the Court certifies that the case is a fit one to be tried in a superior Court, recover any costs, charges or expenses incurred by them in the prosecution of their claim,

and every dispute with respect to salvage may be heard and adjudicated upon the application either of the salvor or of the owner of the property salvaged, or of their respective agents.

- (2) It shall be lawful for the Governor, from time to time, to determine a scale of costs to be awarded in salvage cases by any such court.

Arbitration by court or umpire

- 27.** Whenever, in pursuance of this Law, any dispute as to salvage is referred to the arbitration of the court, such court may either itself determine the same, with power to call to its assistance any person conversant with maritime affairs as assessor, or may, if it thinks fit, appoint some person conversant with maritime affairs as umpire to decide the point in dispute; and such court or such umpire shall make an award as to the amount of salvage payable within the following time, that is to say, the said court within forty-eight hours after such dispute has been referred to it, and the said umpire within forty-eight hours after his appointment, with power nevertheless for such court or umpire by writing under its or his hand to extend the time within which they are hereby respectively directed to make their award.

Cost of arbitration

28. There shall be paid to every assessor and umpire who may be so appointed in respect of his services such sum not exceeding ten dollars as the Governor may, from time to time, direct, and all the costs of such arbitration, including any such payments, shall be paid by the parties to the dispute in such manner and in such shares and proportions as the said court or Justices or as the said umpire may direct by their or his award.

Power to call for documents and examine witnesses

29. The said court or umpire may call for the production of any documents in the possession or power of either party which they or he may think necessary for determining the question in dispute, and may examine the parties or their witnesses on oath, and administer the oaths necessary for that purpose.

Appeal

30. If any person is aggrieved by the award made by such court or such umpire, he may appeal to the Grand Court, but no such appeal shall be allowed unless the sum in dispute exceeds one hundred dollars, nor unless within ten days after the date of the award the appellant gives notice to the court to whom the matter was referred of his intention to appeal, nor unless the appellant proceeds to take out a monition, or to take such other proceeding as according to the practice of the said court is necessary for the institution of an appeal, within twenty days from the date of the award.

Copy of proceedings and certificates of value of article valued to be transmitted to appellate court

31. Whenever any appeal is made in manner hereinbefore provided, the court shall transmit to the proper officer of the Grand Court a copy on unstamped paper, certified under his or their hands to be a true copy of the proceedings had before such court or umpire, if any, and of the award so made, accompanied with a certificate in writing of the gross value of the article respecting which salvage is claimed, and such copy and certificate shall be admitted in the said Court as evidence in the case.



Payment of salvage in cases of dispute as to apportionment

- 32.** Whenever the aggregate amount of salvage payable in respect of salvage services rendered in the Islands has been finally ascertained either by agreement or by the award of such court or Justices or such umpire, but a dispute arises as to the apportionment thereof amongst several claimants, then if the amount does not exceed four hundred dollars, it shall be lawful for the party liable to pay the amount so due to apply to the Receiver of the district for liberty to pay the amount so ascertained to him, and he shall, if he thinks fit, receive the same accordingly, and grant a certificate under his hand stating the fact of such payment and the services in respect of which it is made; and such certificate shall be a full discharge and indemnity to the person or persons to whom it is given, and to their ship, boats, cargo, apparel and effects against the claims of all persons whomsoever in respect of the services therein mentioned but if the amount exceeds four hundred dollars then the Grand Court may cause the same to be apportioned amongst the persons entitled thereto in such manner as it thinks just, and may for that purpose, if it thinks fit, appoint any person to carry such apportionment into effect, and may compel any person in whose hands or under whose control such amount may be to distribute the same, or to bring the same into Court to be there dealt with as the Court may direct, and may issue such monitions or other processes as it thinks fit.

Apportionment by Receiver of salvage received by him for apportionment

- 33.** Upon the receipt of any such amount under section 32, the Receiver shall, with all convenient speed, proceed to distribute the same among the several persons entitled thereto, upon such evidence and in such shares and proportions as he thinks fit, with power to retain any moneys that may appear to him to be payable to any absent parties, and shall send a statement of all moneys so retained by him, and of the parties on whose behalf such moneys may have been so retained, to the office of the nearest Collector of Customs; and such statement shall be placed by such Collector in some conspicuous place for the inspection of persons desirous of examining the same; but distribution made in pursuance of this section shall be final and conclusive against the rights of all persons claiming to be entitled to any portion of the moneys so distributed.

Enforcement of payment of salvage

- 34.** Whenever any salvage is due to any person under this Law, the Receiver shall —
- (a) if the same is due in respect of services rendered in assisting any ship or boat, or in saving the lives of persons belonging to the same, or the cargo or apparel thereof, he shall detain such ship or boat and the cargo and apparel belonging thereto until payment is made, or process has been issued by some competent court for the detention of such ship, boat, cargo or apparel; or

(b) if the same is due in respect of the saving of any wreck, and such wreck is not sold as unclaimed in pursuance of the provisions herein contained, he shall detain such wreck until payment is made, or process has been issued in manner aforesaid,

but it shall be lawful for the Receiver, if at any time previously to the issue of such process security is given to his satisfaction for the amount of salvage due, to release from his custody any ship, boat, cargo, apparel or wreck so detained by him; and in cases where the claim for salvage exceeds four hundred dollars it shall be lawful for the Grand Court to determine any question that may arise concerning the amount of the security to be given or the sufficiency of the sureties; and in all cases where bond or other security is given to the Receiver for an amount exceeding four hundred dollars it shall be lawful for the salvor or for the owner of the property salvaged, or their respective agents, to institute proceedings in the said Court for the purpose of having the question arising between them adjudicated upon, and the said Court may enforce payment of the said bond or other security in the same manner as if bail had been given in the said Court.

Power of Receiver to sell property salvaged

35. Whenever any ship, boat, cargo, apparel or wreck is detained by any Receiver for non-payment of any sums so due, and the parties liable to pay the same are aware of such detention, then —

- (a) where the amount is not disputed, and payment thereof is not made within twenty days after the same has become due;
- (b) where the amount is disputed, but no appeal lies from the first tribunal to which the dispute is referred, and payment thereof is not made within twenty days after the decision of such first tribunal; or
- (c) where the amount is disputed, and an appeal lies from the decision of the first tribunal to some other tribunal, and payment thereof is not made within such twenty days, or such motion as hereinbefore mentioned is not taken out within such twenty days, or such other proceedings as are according to the practice of such other tribunal necessary for the prosecution of an appeal are not instituted within such twenty days,

the Receiver may forthwith sell the ship, boat, cargo, apparel or wreck, or a sufficient part thereof, and out of the proceeds of the sale, after payment of all expenses thereof, defray all sums of money due in respect of expenses, fees and salvage, paying the surplus, if any, to the owners of the property sold or other the parties entitled to receive the same.



Subject to what charges and when owner entitled to wreck

- 36.** Subject to the payment of such expenses, fees and salvage, the owner of any wreck who establishes his claim thereto to the satisfaction of the Receiver within one year from the date at which such wreck has come into the possession of the Receiver shall be entitled to have the same delivered up to him.

Effect of delivery of wreck by Receiver

- 37.** Upon delivery of wreck or of the proceeds of wreck by any Receiver to any person under this Law, such Receiver shall be discharged from all liability in respect thereof, but such delivery shall not be deemed to prejudice or affect any question concerning the right or title to the said wreck which may be raised by third parties, nor shall any such delivery prejudice or affect any question concerning the title to the soil on which the wreck may have been found.

PART IV - Unclaimed wreck

Duty of Receiver to sell unclaimed wreck

- 38.** If no owner establishes his claim to wreck found at any place before the expiration of a year from the date at which the same has come into the possession of the Receiver, the Receiver shall forthwith sell the same, and after payment of all expenses attending such sale, and deducting from the proceeds thereof his fees and all expenses, if any, incurred by him, and paying to the salvors such amount of salvage as the Governor may in each case or by any general rule determine, pay the residue into the Treasury in such manner as the Governor may direct, and such residue shall be disposed of under order of the Governor in accordance with the law for the time being in force regulating the disposal of droits of Admiralty.

Power of Receiver with respect to wrecks, etc.

- 39.** (1) The Receiver has power, in respect of all wrecks or hulks whether in the territorial waters of the Islands or on land and whether they became wrecks or hulks as the case may be, by reason of any Act of God, navigational error or otherwise —
- (a) to inquire whether any ship is, or is likely to become, a wreck or hulk;
 - (b) to inquire as to the ownership of, or legal responsibility for, any wreck or hulk;
 - (c) to summon any person as a witness before him and to examine such witness on oath on any matter touching any wreck or hulk;
 - (d) to carry out any act or thing necessary for the sinking, destruction or disposal of any wreck or hulk; and

- (e) to enter, and to authorise any other person to enter, on any land for any of the purposes mentioned in paragraphs (a) to (d).
- (2) A ship shall not be deemed to be a wreck or hulk within the meaning of this section —
 - (a) if it is used for the carriage or storage afloat of any commodity, but every such ship shall comply with and be subject to section 40(1); or
 - (b) if it is temporarily laid up for repairs, unless in the opinion of the Receiver the making of such repairs is unreasonably delayed.
- (3) This section does not affect the power of the Port Authority of the Cayman Islands, or the Port Director, under the *Port Authority Law (1995 Revision)* relating to wrecks.

Duties of owner of ship with respect to deterioration, etc.

- 40.** (1) The owner of, or person legally responsible for the upkeep of, any ship in the territorial waters of the Islands shall maintain and keep the same in such condition that it is, under normal weather conditions, capable of being taken to sea.
- (2) Any owner or person legally responsible for any ship in the territorial waters of the Islands who contravenes this section is guilty of an offence and liable on conviction to a fine of one thousand dollars and to imprisonment for six months.

Powers of Receiver with respect to ordering removal, etc.

- 41.** (1) The Receiver may serve notice requiring the owner or person legally responsible for the upkeep of any ship which in his opinion is a wreck or hulk, by reason of any Act of God, navigational error or otherwise to appear before him at a time not less than seven clear days from the date of such notice to show cause why an order should not be made to remove, sink, burn, destroy or otherwise dispose of the same in such manner and place and within such time as the Receiver may direct; and any such notice shall be served by post on such owner or person if known and in the Islands, or by publication of a notice in the Gazette and one newspaper published and circulating in the Islands if such owner or person is not known or is not in the Islands, and shall, in either case, attach to the ship a copy of such notice.
- (2) If the owner or other person —
 - (a) fails to comply with a notice under subsection (1); or
 - (b) having appeared, fails to show cause to the satisfaction of the Receiver why an order should not be made,then the ship shall thereupon become the property of the Crown and may be removed, sunk, burned, destroyed or otherwise disposed of in such manner and place as the Receiver may direct.



- (3) The expenses thereby incurred shall be met from monies placed at the disposal of the Receiver by the Legislative Assembly, but may be demanded and recovered by the Crown from the owner or person responsible for the upkeep of such wreck or hulk in an action in a court of competent jurisdiction, and the amount so recovered, after deducting expenses of recovery, shall be paid into the public revenues of the Islands.
- (4) Whoever, being an owner or person legally responsible for any ship in the territorial waters of the Islands, contravenes this section is guilty of an offence and liable on conviction to a fine of one thousand dollars and to imprisonment for six months.

Payment of fee by owner, etc.

- 42.** (1) There is payable by the owner or other person legally responsible for the upkeep of any ship in the territorial waters of the Islands or on land, from the date of a declaration by the Receiver that it has become a wreck or hulk until the removal or effective destruction thereof, a fee of five hundred dollars for each year or part of a year, and in default of payment the Receiver may take possession and sell or otherwise dispose of the same as he may think fit:

Provided that such powers shall be deemed to be in furtherance and not in limitation of any other powers vested in the Receiver or any other person by this or any other law.

- (2) Whoever, being an owner or person legally responsible for any ship to which subsection (1) applies, who contravenes that subsection is guilty of an offence and liable on conviction to a fine of one thousand dollars and to imprisonment for six months.

PART V - Miscellaneous

Drifts near premises

- 43.** (1) All foreign unclaimed drifts, grounding near the surf, or thrown upon any person's premises, shall be deemed the property of the owner of the premises. Any person removing such drifts shall be deemed a trespasser.
- (2) Persons notifying the drift to the owner or agent residing on the premises, and securing or assisting to secure it, shall be entitled to one-third, but where drifts are secured on premises where neither the proprietor nor his agent resides, the finders and securers of the drifts shall be entitled to one-half.
 - (3) Nothing in this section shall be construed to alter the Law of Wrecks in England, and it shall not give preference to the owner of the land on which the drift was cast, to the title of him who was the owner of the goods, when they become adrift or wreck, within one year after its becoming such.



As to foreign wreck

44. Whenever any articles belonging to or forming part of any foreign ship which has been wrecked on or near the coasts of the Islands, or belonging to or forming part of the cargo of any such ship, are found on or near such coasts, or are brought into any port in the Islands, the Consular Officer of the country to which such ship, or in the case of cargo to which the owners of such cargo, may have belonged shall, in the absence of the owner of such ship or articles and of the master or other agent of the owner, be deemed to be the agent of the owner so far as relates to the custody and disposal of such articles.

Remuneration to Customs officers for protecting wreck

45. In cases where services are rendered by officers of the Customs in watching or protecting shipwrecked property, then, unless it can be shown that such services have been declined by the owner of such property or his agent at the time they were tendered, or that salvage has been claimed and awarded for such service, the owner of the shipwrecked property shall pay, in respect of the said services, remuneration according to a scale to be fixed by the Governor, so however that such scale shall not exceed any scale by which payment to officers of the Customs for extra duties in the ordinary service of the Customs is for the time being regulated; and such remuneration shall be recoverable by the same means and shall be paid to the same persons and accounted for and applied in the same manner as fees received by Receivers appointed under this Law.

Duty on foreign wreck

46. All wreck being foreign goods brought or coming into the Islands or any of the harbours thereof shall be subject to the same duties as if the same were imported into the Islands; and if any question arises as to the origin of such goods they shall be deemed to be the produce of such country as the Collector of Customs may, upon investigation, determine.

Powers of Collector of Customs as to goods saved from vessels

47. The Collector of Customs may permit all goods, wares and merchandise saved from any ship stranded or wrecked on its homeward voyage to be forwarded to the port of its original destination or elsewhere, and all goods, wares and merchandise saved from any ship stranded or wrecked on its outward voyage to be returned to the port at which the same were shipped; but such Collector of Customs is to take security for the due protection of the revenue in respect of such tools, wares and merchandise.

Penalties for plundering or secreting wrecked property, or obstructing its being saved, or without authority attempting to board vessels in distress

48. (1) Whoever —



- (a) wrongfully carries away or removes any part of any ship or boat stranded or in danger of being stranded or otherwise in distress on or near the shore of the Islands, or any part of the cargo or apparel thereof, or any wreck;
 - (b) endeavours in any way to impede or hinder the saving of such ship, boat, cargo, apparel or wreck; or
 - (c) secretes any wreck, or obliterates or defaces any marks thereon,
- is guilty of an offence and liable on conviction, in addition to any other penalty or punishment he may be subject to under this or any other law, to a fine of one hundred dollars.
- (2) Whoever, not being a Receiver or a person hereinbefore authorised to take the command in cases of ships being stranded or in distress, or not acting under the orders of such Receiver or person, who, without the leave of the master, endeavours to board any such ship or boat is guilty of an offence and liable on conviction to a fine of one hundred dollars; and the master of such ship or boat may repel by force any such person so attempting to board the same.

Conversion and sale of wreck in any foreign place

49. Whoever takes into any foreign port or place any ship or boat stranded, derelict or otherwise in distress on or near the shore of the sea within the limits of the Islands, or any part of the cargo or apparel of any such ship or boat, or anything belonging thereto, or any wreck found within such limits, and there sells the same, is guilty of an offence and liable on conviction to imprisonment for two years.

Enforcement of penalties

50. All proceedings for penalties under this Law may be tried summarily and the court, in default of payment forthwith of any penalty, may award imprisonment for a period not exceeding six months where the maximum penalty exceeds eighty dollars, and not exceeding three months in other cases.

SCHEDULE

(Section 16)

Fees and Remuneration of Receivers

For every examination on oath instituted by a Receiver with respect to any ship or boat which may be or may have been in distress a fee not exceeding \$2.00:

Provided that no larger fee than four dollars may be charged for examinations taken in respect of the same ship and the same occurrence whatever may be the number of the deponents.

For every report required to be sent by the Receiver to the Governor- \$0.50.

For wreck taken by the Receiver into his custody — five per cent of the value thereof:

Provided that the sum payable shall not exceed forty dollars.

Where any services are rendered by a Receiver in respect of any ship or boat in distress not being wreck, or in respect of the cargo or other articles belonging thereto —

- (a) if such ship or boat with her cargo equals or exceeds in value twelve hundred dollars, the sum of four dollars for the first, and the sum of two dollars for every subsequent day during which the Receiver is employed on such service; or
- (b) if such ship or boat with her cargo is less in value than twelve hundred dollars, fifty per cent of the said amounts.

**Publication in consolidated and revised form authorised by the Governor in Council
this 13th day of August, 1996.**

Meredith Hew
Acting Clerk of Executive Council

