

	<p align="center">Director's Directives</p> <p align="center">The Merchant Shipping (Tribunal) Directive</p> <p align="center">To all ship owners, ship managers, ship operators, filing agents and ships' crewing agents</p>	Directive	01-2002
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Introduction

Antigua and Barbuda has incorporated a Directive regarding the investigation of incidents involving seafarers under the STCW 78 Convention, as amended, Regulation I/5, National Provisions, into the Antigua and Barbuda Merchant Shipping Act. Section 76 refers.

All Parties concerned should ensure that seafarers are fully informed about this Directive so that they understand the process of investigation whenever an incident takes place in regard to the navigation, operation and control of ships under the flag of Antigua and Barbuda.

The same Directive will be used to investigate cases of the presentation of fraudulent certificates or licenses by seafarers wishing to serve on Antigua and Barbuda ships.

The Merchant Shipping Tribunal Directive

Directive No. 01-2002

Issued by the Director of Marine Services and Merchant Shipping, St. John's, Antigua and Barbuda, under the powers given to him by Section 7 (3) of the Antigua and Barbuda Merchant Shipping Act.

Dated this 21st day of May in the year 2002

1. Purpose of Tribunal

This Tribunal is established to give effect to Part IV, Chapter 1 of the Act.

2. Interpretation

In this Directive

“Act” means the Antigua and Barbuda Merchant Shipping Act 1998, as amended from time to time.

“Director” means the Director of Marine Services and Merchant Shipping appointed under the Act by the Minister responsible for Shipping.

“Register of Seafarers” means the Register which is required to be maintained under the provisions of the STCW 95 Code, Regulation I/9, sub-section 4 (1).

“Seafarer” means the master, officer and any other category of crew.

“Tribunal” means the Tribunal constituted under this Directive.

3. Constitution of the Tribunal

- 3.1 There shall be a Tribunal, to be called “the Merchant Shipping Tribunal”, to be comprised of three members, one of whom shall be the Director and the others shall be any two of the Deputy Registrars.
- 3.2 The Director shall be the Chairman of the Tribunal.
- 3.3 The Chairman shall be responsible for arranging meetings of the Tribunal, preparing the documentation required and keeping the records of each case.
- 3.4 The three members of the Tribunal shall constitute the quorum.
- 3.5 In the absence of the Chairman, or in case of his inability to act, the person who is acting for the Director shall be the Chairman.
- 3.6 Whenever it appears that another person has acted for and in place of the Chairman, it shall be conclusively presumed that he so acted for one of the reasons mentioned in sub-section 5.

4. Power of the Tribunal

The Tribunal shall have the power

- 4.1 To investigate, inquire and hear any reported incompetence, act or omission or complaints that have or may pose a threat to safety of life or property at sea or to the marine environment by holders of Antigua and Barbuda endorsements and/or dispensations.
- 4.2 To cancel, suspend or withdraw such endorsements and/or dispensations if the Tribunal finds
 - that incompetence, negligence, acts or omissions have been confirmed;
 - that a master has signed on a person on the basis of a false certificate of competency, or a certificate or a document falsely certifying special training required for a specific position on board an Antigua and Barbuda ship, or false license or dispensation; or
 - that a person has attempted or is attempting to obtain a position on board an Antigua and Barbuda ship by using false documents.

5. Procedure before the Tribunal

- 5.1 The Tribunal may call and examine witnesses and request production of such books, records, papers and documents as it may deem necessary or proper for any proceedings, investigation or hearing held by it, and may do all necessary and proper acts in the lawful exercise of its powers or the performance of its duties.

- 5.2 The members of the Tribunal shall decide whether to meet in person or by telephone or teleconference depending upon the nature of the case to be heard and the facilities available.
- 5.3 If an accused seafarer chooses not to participate in a hearing and not to produce any documents requested by the Tribunal and so informs the Tribunal in writing, the Tribunal shall proceed with the hearing and shall notify the seafarer of its decision.
- 5.4 Decisions of the Tribunal shall be taken by a majority of its members.
- 5.5 The decision of the Tribunal at the end of the hearing shall be announced by the Chairman in the presence of the other members.
- 5.6 The name of every seafarer whose Antigua and Barbuda endorsement is cancelled, suspended or withdrawn by the Tribunal shall be entered in the Register of Seafarers together with the reasons for such cancellation, suspension or withdrawal.
- 5.7 Where the Tribunal decides to suspend an accused seafarer's right to exercise his seafarer profession, the period of suspension shall be counted from the date the seafarer is discharged from his ship.
- 5.8 Where the Tribunal cancels, suspends or withdraws an Antigua and Barbuda endorsement, the Tribunal shall notify the competent foreign national authority in the name of which the certificate or document was issued.
- 5.9 The holder of a certificate, and an Antigua and Barbuda endorsement which is cancelled, suspended or withdrawn by the Tribunal, shall promptly surrender the endorsement to the Chairman of the Tribunal by registered mail.

6. Report to Director of Public Prosecutions

Where the Tribunal finds that any person has fraudulently

- 6.1 made use of or forged a seafarer's certificate or document or any official copy thereof to obtain an Antigua and Barbuda endorsement; or
- 6.2 made use of any such certificate or document which is forged, altered, cancelled or suspended or to which he is not justly entitled to obtain an Antigua and Barbuda endorsement; or
- 6.3 lent such a certificate or endorsement or seafarer's book to, or allowed the same to be used by, any other person to obtain an Antigua and Barbuda endorsement,

the Tribunal shall forthwith send a written report to the Director of Public Prosecutions for him to consider a prosecution under the Act.

7. Reapplication by a Seafarer

- 7.1 A seafarer whose Antigua and Barbuda endorsement has been cancelled, suspended or withdrawn by the Tribunal may reapply for a position on board an Antigua and Barbuda ship on the basis of valid documentation.
- 7.2 If such seafarer is successful in obtaining a position on his reapplication, and he duly notifies the Chairman, in writing, with relevant evidence, an appropriate notation shall be

made by the Chairman in the Register of Seafarers and appropriate information shall be given to other foreign maritime authorities involved.

8. Reporting

On the conclusion of any Tribunal, a full report shall be sent to the Minister without any other public statement in advance.

Relevant information shall also be given to:

- The International Maritime Organization according to the rules with priority on the "Lessons Learnt".
- The original foreign national certificate issuing party
- The individual seafarer

9. Penalties

Penalties shall be applied in accordance with the current Law of Antigua and Barbuda, Cap. 28, the Antigua and Barbuda Merchant Shipping Act.

10. Records

Records shall be kept of all investigations and enquiries carried out to support the Tribunal in its decision finding. This will include all relevant documents.

These records shall be filed in a separate cabinet, by ship's name with a cross reference to the shipowner.

May 2002

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