



BERMUDA

PUBLIC LANDS ACT 1984

1984 : 35

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FIRST SCHEDULE FORM OF CONVEYANCE

PUBLIC LANDS ACT 1984

SECOND SCHEDULE

[preamble and words of enactment omitted]

[NB formerly "Department of Works and Engineering Act 1984". Title amended by BR 5 / 2011 reg. 2 effective 25 February 2011]

PART I PRELIMINARY

Short title

1 This Act may be cited as the Public Lands Act 1984.

[Section 1 amended by BR 5 / 2011 para. 2(2) effective 25 February 2011]

Interpretation and application

2 (1) In this Act, unless the context otherwise requires—

“Board” means the Board of Works and Engineering appointed in pursuance of section 3;

“Department” means the Department of Works and Engineering, or in relation to functions carried out by another Department, that other Department;

“highway” means any street, road, or path over which the general public have a right of way and which is maintainable at the public expense, and includes any public wharf and any public landing place;

“Minister” means the Minister responsible for works and engineering, or in relation to a matter which has been assigned to another Minister, that other Minister;

“owner”, in relation to any land, means a person, other than a mortgagee not in possession, who, whether in his own right or as trustee or agent for any other person, is entitled to receive the rack-rent of the premises or, where the premises are not let at a rack-rent, would be so entitled if the premises were so let;

“Permanent Secretary” means the Permanent Secretary of the Ministry responsible for works and engineering, or in relation to a matter which has been assigned to another Minister, the Permanent Secretary of that other Ministry (including the Financial Secretary or Cabinet Secretary, as the case may be);

(2) Except in relation to public land vested in the Government, public water supply, and public sewerage schemes this Act shall not apply to the municipal areas of the City of Hamilton and the Town of St. George.

[Section 2 subsection (1) "Department", "Minister" and "Permanent Secretary" amended by BR 5 / 2011 para. 2(3) effective 25 February 2011]

Appointment of Board of Works

3 (1) The Minister may appoint an advisory board to be called the Board of Works and Engineering which shall consist of not less than five nor more than eleven members and which shall advise the minister on matters of works and engineering and on any matter relating to works and engineering as the Minister may think necessary.

(2) Any person appointed to be a member of the Board shall hold office during the Minister's pleasure and unless his appointment is earlier terminated it shall be deemed to terminate one year from the date upon which such appointment took effect.

(3) There shall be a Chairman and a Deputy Chairman of the Board each of whom shall be appointed by the Minister from among the members of the Board and each of whom shall hold office as such during the Minister's pleasure:

Provided that the Board shall be deemed to be properly constituted notwithstanding that there is a vacancy in the office of Chairman or Deputy Chairman or any member.

(4) At any meeting, of the Board the Minister may preside over the meeting if, acting in his discretion, he decides to do so but unless the Minister so decides the meeting shall be resided over by—

- (a) the Chairman; or
- (b) in the absence of the Chairman, the Deputy Chairman; or
- (c) in the absence of both the Chairman and the Deputy Chairman, such member of the Board as the members present elect to act as chairman at that meeting.

(5) A simple majority of the members present in Bermuda shall constitute a quorum.

(6) Every question or matter to be determined by the Board at any meeting shall be decided by a majority of the votes of the members present and voting on the question or matter:

Provided that in the event of an equal division of votes the person presiding at the meeting may, if he thinks fit, give a second or casting vote.

(7) Fees shall be paid to the members of the Board in accordance with the Government Authorities (Fees) Act 1971 [*title 14 item 6*].

Minister may consult with the Board

4 In the exercise of his functions under this Act and any related enactment the Minister may consult with, or take the advice of, the Board from time to time as he may think fit, but notwithstanding that the Minister has consulted or taken the advice of the Board on any matter he may act in his discretion on such matter.

General Functions of the Minister

5 (1) Subject to this Act, the Civil Airports Act 1949, the Golf Courses (Consolidation) Act 1998 and the Bermuda National Parks Act 1986—

- (a) the Minister responsible for works and engineering shall have the charge and management of—
 - (i) public works and engineering, public water supply, public sewerage systems, parks and highways;
 - (ii) the construction, erection, improvement, maintenance and repair of such works, water supply, sewerage systems, parks and highways;
 - (iii) marsh reclamation and drainage;
 - (iv) the collection and disposal of refuse;
- (aa) the Minister responsible for public lands shall have the charge and management of—
 - (i) all public lands (other than parks and highways) and public buildings;
 - (ii) the construction, erection, improvement, maintenance and repair of such lands and buildings;
- (b) the Minister may cause to be made such inquiries as he thinks expedient in respect of any matter concerning or connected with any of the matters mentioned in paragraph (a) or (aa), or in respect of any matter in respect of which his sanction, approval or consent, or the sanction, approval or consent of any officer of the Department, is required under this Act;
- (c) the Minister, in respect of matters connected with any of the matters mentioned in paragraph (a) or (aa), shall cause such statistical data to be obtained and recorded, and such data to be published, as he may think expedient.

(2) Nothing in this section affects the functions of any public officer or public authority with respect to any land or building in the use or occupation of that officer or authority.

[Section 5 amended by 2006:13 effective 26 June 2006; subsection (1) amended by 2009:27 s.3 effective 7 July 2009; Section 5 amended by BR 5 / 2011 para. 2(4) effective 25 February 2011]

Department of Works and Engineering

6 (1) There shall be a Department of Government known as the Department of Works and Engineering which is charged with the duty of assisting the Minister responsible for works and engineering in the discharge of his functions under this Act and any other enactment.

(2) Subject to section 61(5) of the Constitution and to the general direction and control of the Minister responsible for works and engineering the Department shall be under the supervision of a public officer who shall be known as the Permanent Secretary.

[Section 6 amended by BR 5 / 2011 para. 2(5) effective 25 February 2011]

PART II

DELEGATION TO PERMANENT SECRETARY OF CERTAIN FUNCTIONS OF MINISTER

Powers and duties which may be delegated to Permanent Secretary

7 Without prejudice to any provision of law relating to the delegation of any power or duty of a Minister to a public officer, the Minister may delegate any of his functions to the Permanent Secretary or to such other officers as the Permanent Secretary may specify and in particular may delegate the functions—

- (a) to supervise generally the erection, construction, maintenance, repair and improvement of any public works, public water supply, public sewerage scheme, public buildings, highways, and public land, the laying out and making of any new highway, and all machinery, equipment, plant, furniture, fixtures, and fittings, belonging to the Government or provided or maintained at the expense of the Government;
- (b) to enter into, and, where necessary execute, on behalf of the Government, contracts for the erection, construction, repair, or alteration of any public works, public building or highway and to see that such contracts are faithfully performed;
- (c) to preserve all plans, surveys of, and deeds relating to public lands, public buildings and highways;
- (d) to collect and dispose of refuse;
- (e) to reclaim and drain marshes;
- (f) to enter into and where necessary, execute contracts for the acquisition and disposition of any land or any interest in land mentioned in section 8.

PART III

SALE, ACQUISITION, AND OTHER DISPOSITION OF LAND

Power to sell or acquire certain land

8 (1) The Minister responsible for public lands may, with the prior approval of the Legislature, sell any land the property of the Government, and, on payment of the agreed purchase money by the purchaser into the Consolidated Fund, the Minister responsible for public lands shall convey such land to the purchaser by deed in the form set out in the First Schedule or in such form as the Attorney-General may advise; and such deed, when executed, shall vest the land comprised therein in the purchaser, for the estate purchased by him, and the receipt of the Accountant General shall be a sufficient discharge for the purchase money, expressed in such receipt to have been received.

(2) The approval of the Legislature referred to in subsection (1) shall be expressed by way of resolution passed by both Houses of the Legislature approving the sale of the land in question and communicated to the Governor by message.

(3) This section shall apply mutatis mutandis to a disposition or conveyance of any interest in land the property of the Government being a disposition or conveyance expressed to be for a term exceeding twenty-one years or for terms renewable at the option of the transferee or grantee exceeding in the aggregate twenty-one years, except that no disposition or conveyance to which this subsection applies shall be expressed to be for a term exceeding one hundred and twenty years or for terms renewable at the option of the transferee or grantee for a period exceeding in the aggregate one hundred and twenty years.

(4) Notwithstanding subsection (1), the Minister responsible for public lands shall obtain the prior approval of Cabinet for any disposition or conveyance of an interest in land to which subsection (3) applies.

[Section 8 subsection (3) amended, and (4) inserted, by 2006:20 s.2 effective 26 June 2006; Section 8 amended by BR 5 / 2011 para. 2(6) effective 25 February 2011]

PART IV HIGHWAYS

Statutory nuisances

9 (1) The matters specified in this section shall, for the purposes of this Act in so far as they relate to highways, be deemed to be statutory nuisances, and this section and sections 10 and 11 shall apply and have effect accordingly.

(2) Statutory nuisances include—

- (a) any building, structure, wall, fence, bank, or anything fixed thereto, which encroaches upon a highway or which, by reason of its position or condition is, in the opinion of the Minister, dangerous or gravely inconvenient to users of the highway;
- (b) vegetation of any kind, or any part thereof, which abuts or encroaches upon, or falls upon or overhangs the highway or is within two metres of the edge of the highway in such manner as to be in the opinion of the Minister, dangerous or obstructive of the vision of, or gravely inconvenient to, persons using the highway;
- (c) any excavation in or damage to the surface of a highway made or remaining without lawful excuse, or, when lawfully made, remaining unrepaired for an unreasonable time;
- (d) any obstruction of the highway without lawful excuse, whether by reason of any accumulation of building materials, timber, earth, water or any other thing whatsoever;
- (e) any excavation in, or other obstruction to, a highway, or any excavation or other work or thing in or upon any land adjoining a highway whether or not lawfully caused or suffered to remain, which is, in the opinion of the Minister, having regard to the safety and convenience of persons using the highway, insufficiently marked, or insufficiently protected or, during the

hours of darkness, insufficiently lighted, or is likely to cause a subsidence of the highway;

- (f) any structure including wires, lamps, cross-arms or other such things which overhang the highway and which interferes with the passage of traffic, or which is less than four and nine-tenths metres above the surface of the highway: Provided that the Minister may in his absolute discretion grant permission for a less height if it appears to him reasonable so to do.

(3) For the purposes of this section and of section 10 “highway” includes, but is not restricted to, any road giving access to three or more dwelling houses whether or not such road is subject to the public having a right of way over it.

Abatement of nuisance

10 (1) Subject to section 9(3) any person (in this Act referred to as “the author of a nuisance”) who causes or allows to continue, any statutory nuisance in relation to a highway, commits an offence against this Act:

Punishment on summary conviction: a fine of \$500.

(2) The Minister may, without prejudice to anything in subsection (1), serve a notice upon the author of a nuisance requiring him, within a time stated in the notice—

- (a) to execute such works in such manner as will, in the opinion of the Minister, be required to abate and prevent a recurrence of the nuisance; or
- (b) otherwise to abate the nuisance.

(3) Where a person upon whom a notice to abate a statutory nuisance has been served pursuant to subsection (2) fails without reasonable excuse to comply with any of the requirements thereof within the time specified in the notice, then in any such case—

- (a) such person commits an offence against this Act:

Punishment on summary conviction: a fine of \$50 for each day during which the default continues;

- (b) the Minister may himself abate the nuisance and execute any or all of the works specified in the notice served upon such person, and any expenses incurred by the Minister in so doing shall be recoverable as a civil debt by the Minister from such person in a court of summary jurisdiction, section 16 of the Magistrates Act 1948 [*title 8 item 15*] notwithstanding.

(4) A person upon whom a notice is served by the Minister under this section and who is aggrieved by any requirement in the notice may appeal to a court of summary jurisdiction who shall consider the appeal in a summary way and the court may upon the determination of the appeal make such order as appears to be just.

(5) Where the author of a nuisance cannot be found, or where, in the opinion of the Minister, a nuisance occurs through the default of no person, the Minister may himself take such steps as are necessary to abate the nuisance and prevent its recurrence.

(6) Notwithstanding subsection (5) where a nuisance occurs in circumstances which require that in the public interest immediate steps should be taken to abate it, the Minister shall, whether such nuisance was caused by any person or by an act of God, abate the nuisance as early as possible.

(7) Where the Minister, pursuant to subsection (6), abates a nuisance caused otherwise than by an act of God, the author of the nuisance shall be liable to pay the costs incurred by the Minister in abating the nuisance and such costs may be recovered by the Minister as a civil debt.

Permit to excavate highway

11 Without prejudice to sections 9 and 10, the Minister may, on payment of such fee as may be prescribed under the Government Fees Act 1965 [*title 15 item 18*], issue a permit to any public utility undertaker to excavate a highway subject to such conditions as may be specified in the permit; and for the purpose of this section “public utility undertaker” means any person authorized by any enactment to carry on any of the following undertakings, namely, an undertaking for the supply of electricity, telephone, electrical or electronic transmission by cable, water, gas, steam, or hydraulic power.

Dedication of private road or way as highway

12 (1) The Minister may, with the prior approval of the Cabinet, enter into an agreement with any person having the necessary power in that behalf for the dedication as a highway by that person of a private road or way over land in any case where such dedication would in the opinion of the Cabinet be beneficial to the public or any part thereof.

(2) Where the Minister has entered into an agreement under subsection (1) for the dedication of a private road or way as a highway he shall have power to carry out any works (including works of maintenance or improvement) incidental to or consequential on the making of the agreement, or to contribute towards the expense of carrying out such works and may combine with any person to carry out such works or to make such contribution.

Declaring and vesting of private roads and ways as highways

13 (1) Where—

- (a) a private road or way is dedicated as a highway pursuant to section 12(1);
or
- (b) a new road is constructed for use by the public over land owned by the Government,

the Minister shall, by order, declare that any such road or way shall be a highway from a date specified in the order, and thereupon such road or way shall vest in the Government as a highway.

(2) Notwithstanding section 12, where the Minister considers that it is in the public interest that a private road should be declared a highway, he may, with the prior approval of the Cabinet, but not otherwise, by order declare such private road to be a highway and from such date as shall be specified in the order such road shall vest in the Government and shall be a highway.

(3) Where the Minister declares a private road to be a highway under subsection (2) he shall pay compensation to the former owner or owners of such road and sections 17, 19, 20 and 21 of the Acquisition of Land Act 1970 [*title 19 item 2*] shall, mutatis mutandis, apply.

(4) An order made under subsection (1) shall not be subject to section 6 of the Statutory Instruments Act 1977 [*title 1 item 3*].

(5) An order made under subsection (2) shall be subject to the negative resolution procedure.

Drainage of highways

14 (1) The Minister may, for the purpose of draining a highway or of otherwise preventing surface water from flowing on to it or off it on to any land, do or cause to be done all or any of the following—

- (a) construct or lay, in the highway or in land adjoining or lying near to the highway, such ditches, gutters, drains, culverts, pits, wells, tunnels or pipes as he may consider necessary;
- (b) erect barriers in the highway or in such land as aforesaid to divert surface water into or through any existing ditch, gutter, drain, culvert, pit, well, tunnel or pipe;
- (c) scour, clean and keep open all ditches, gutters, drains, culverts, tunnels, pipes, pits, wells or water-courses situated in the highway, or in such land as aforesaid.

(2) If the owner or occupier of any land suffers damage by reason of the exercise by the Minister of his powers under subsection (1), the Minister shall pay him compensation therefor.

(3) If a person, without the consent of the Minister, alters, obstructs or interferes with a ditch, gutter, drain, culvert, pit, well, tunnel, pipe or barrier which has been constructed, laid or erected by the Minister in exercise of his powers under subsection (1), or which is under his control, the Minister may carry out any work or repair or reinstatement necessitated by the action of that person and may recover the expenses reasonably incurred by him in so doing from that person and, without prejudice to the Minister's right to exercise that power, that person commits an offence:

Punishment on summary conviction: a fine of a sum equal to three times the amount of those expenses.

(4) Before any of the works mentioned in subsection (1)(a), (b) or (c) is entered upon the Minister shall serve upon the owner of the land upon which the works are to be carried out or will be affected by the works a notice of his intention to carry out such work. Such notice shall be given not less than thirty days prior to commencement of the works and shall specify the nature of the works intended to be carried out; and in the case of works upon or affecting the owner's land, offering to pay compensation for any damage to the land.

(5) It shall be lawful for the Minister or his servants or agents, at any time after the expiration of the notice referred to in subsection (4), to enter upon the land for the purpose of carrying out the works specified in the notice:

Provided that in the case of flooding of the highway or of adjoining land by water from the highway it shall not be necessary for a notice to be served under subsection (4), and the Minister may in such circumstances cause any of the works specified in subsection (1) to be carried out without delay if, in his opinion, it is for the public benefit for such works to be carried out.

(6) If there is disagreement as to the amount of compensation to be paid by the Minister, or at all, the Minister shall refer the matter to a tribunal to be then appointed by the Minister for the purpose of assessing the damage (if any) caused to the land affected by the works and to decide the amount of compensation to be paid therefor, but without prejudice to the right of the Minister to carry out the works specified in the notice if, in his opinion, it is for the public benefit to do so in the meantime.

(7) The tribunal shall consist of a chairman who shall be a barrister and attorney and two other members appointed from persons experienced in the field of real estate in Bermuda.

(8) As soon as possible after a disagreement arises and after the tribunal has been appointed the Minister shall furnish the chairman of the tribunal with a statement in writing containing particulars of the person who appears to the Minister to be the owner of the land described in the notice and of the works to be carried out thereon or actually carried out thereon, as the case may be.

(9) On the receipt of the statement furnished under subsection (8) the chairman of the tribunal shall cause a summons to be served on the person mentioned in the statement directing him to appear before the tribunal at the time and place specified in the summons for the hearing of his claim with respect to the damage done to the land and to file with the tribunal at such hearing a statement in writing setting out the amount of his claim for compensation.

(10) Where a claim for compensation is found by the tribunal to have been established the tribunal shall issue a certificate signed by the chairman and stating the claimant's right to compensation and the amount determined by the tribunal as compensation and the chairman shall cause a copy of the certificate to be sent to the Minister and to the owner of the land.

(11) In determining the amount of compensation the tribunal shall, as far as possible, have regard to the provisions of section 14(2), (3) and (4) of the Acquisition of Land Act 1970 (determination of total amount of compensation) [*title 19 item 2*] which shall, mutatis mutandis, apply to the circumstances of a claim for compensation under this section.

(12) A determination of the tribunal under this section may be by a majority and shall be final.

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Naming of roads

15 (1) The Minister may, by notice published in the Gazette name or rename any highway:

Provided that the Minister shall not exercise the power conferred by this section unless he has given at least one month's notice in the Gazette of his intention so to do.

(2) The Minister may also put up name plates along any road.

Cabinet to deal with objections under section 14

16 Where before the expiration of the time limited by such notice as is mentioned in section 15, any person has sent to the Minister a memorial in writing objecting to the proposal, the Minister shall, unless he decides to meet the objection, submit the matter to the Cabinet, whose decision shall be final.

Erection of buildings, walls, or fences, adjoining a highway

17 (1) If any owner or occupier of land immediately adjoining a highway intends to erect any building, boundary wall or fence adjoining the highway, or to rebuild any existing wall or fence so adjoining, he shall before so doing notify the Permanent Secretary in writing in order that the correct boundary between the highway and the land may clearly be defined and agreed upon by the Permanent Secretary and the owner or occupier before the erection of such wall or fence.

(2) No barbed wire fence shall, without the permission of the Minister, be erected within two metres of the boundary between a highway and the land on which the fence is erected and any person who erects or causes any such fence to be erected commits an offence:

Punishment on summary conviction: a fine of \$500.

Power of Minister to stop up highway

18 (1) If the Minister considers that a highway or part of a highway ought to cease to be a highway he may by order declare that, as from a date specified in the order, the highway or part of the highway (as the case may be) shall cease to be a highway and as from the date specified the right of way of the public over such highway or part thereof (as the case may be) shall be extinguished.

(2) An order under subsection (1) shall be subject to the negative resolution procedure.

Sale of land not required for highway

19 (1) When in consequence of any change in the course of a highway, or the opening of a new highway, any land which previously had been used as a highway or part of a highway is no longer required by the Minister for that purpose, then the land no longer required may be sold by the Minister in accordance with this section:

Provided that where a highway is only re-aligned the land of the former highway adjoining the re-aligned highway shall be retained as part of the re-aligned highway.

(2) Where land (not being land referred to in the proviso to subsection (1)) previously used as a highway is to be sold the Minister may, with the approval of the Legislature, sell and convey absolutely to any person at a fair market price any such land:

Provided that with respect to the sale and conveyance of any such land the following provisions shall have effect:

- (a) the Minister shall not sell and convey the land to any person other than a neighbouring landowner likely to be affected unless he has previously offered to sell and convey the land to each of such neighbouring landowners and the offer has been refused by each of them;
- (b) the order in which the Minister shall offer to sell and convey the land to neighbouring landowners likely to be affected shall be such as may be determined by the Cabinet.

(3) In subsection (2) "neighbouring landowner likely to be affected" means a person having a freehold estate in land (either contiguous to or in the near vicinity of the land intended to be sold and conveyed) being land the use and enjoyment of which would, in the opinion of the Cabinet, be likely to be protected, safeguarded or enhanced if the person having the freehold estate therein were to acquire the land intended to be sold and conveyed.

(4) A conveyance of land or the sale thereof under this section may be in the form set out in the First Schedule, or as near thereto as circumstances permit, or in such form as the Attorney-General may advise.

Prevention of obstruction to view at corners

20 (1) Where the Minister thinks it necessary for the prevention of danger arising from obstruction to the view of persons using a highway to impose restrictions with respect to any land at or near any corner or bend in the highway or any junction of the highway with a road to which the public has access, the Minister may, subject to this section, serve a notice, together with a plan showing the land to which the notice relates—

- (a) on the owner or occupier of the land, directing him to alter any wall (not being a wall forming part of the structure of a permanent edifice), fence, hoarding, paling, tree shrub or other vegetation thereon so as to cause it to conform with any requirements specified in the notice; or
- (b) on every owner, lessee and occupier of the land, restraining them either absolutely or subject to such conditions as may be specified in the notice from causing or permitting any building, wall, fence, hoarding, paling, tree shrub or other vegetation to be erected or planted on the land.

A notice under this subsection may at any time be withdrawn by the Minister.

(2) A copy of a notice under subsection (1)(a) shall be served on the owner or on the occupier of any land according as the notice was served on the occupier or on the owner thereof.

(3) A notice under subsection (1)(b) shall not prevent any owner, lessee or occupier of any land from executing or permitting the reconstruction or repair, in such manner as

not to create any new obstruction to the view of persons using the adjacent highway), of any building which was on the land before the service of the notice.

(4) A restriction imposed by a notice under subsection (1) shall come into force on the service of the notice and, while in force shall be binding on the successor in title to every owner, and on every lessee and every occupier, of the land to which it relates.

(5) A person on whom a notice has been served under subsection (1) may, within fourteen days from the date of the receipt thereof by him, notify the Minister in writing of his objection to any requirement specified in the notice or any restriction imposed thereby, and stating reasons for his objections and the question whether the notice is to be withdrawn as respects any requirement or restriction objected to shall be determined if the parties so agree, by a single arbitrator appointed by them and, in default of agreement it shall be determined by a magistrate's court.

In determining a question under this subsection the arbitrator or court shall have power to order that the requirement or restriction objected to shall have effect subject to such modifications, if any, as the arbitrator or court may direct.

(6) A person on whom a notice is served under subsection 1) shall have power, notwithstanding anything in any conveyance, or in any lease or other agreement to do all such things as may be necessary for complying with the requirements of the notice.

(7) Without prejudice to any other proceedings which may be available against him and subject to this section, a person on whom a notice has been served under subsection (1) who contravenes the provisions of the notice commits an offence:

Punishment on summary conviction: a fine of \$100 and in the case of an offence which continues after the conviction a fine of \$10 for every day during which the offence continues.

(8) Any person sustaining loss in direct consequence of any requirement of a notice served under subsection (1) shall, if he makes a claim within six months from the date of service of the notice, be entitled to recover from the Minister compensation for the loss sustained.

(9) A person on whom a notice is served under subsection (1) shall be entitled to recover from the Minister any expenses reasonably incurred by him in carrying out any directions contained in the notice.

(10) If any question arises whether any expenses were reasonably incurred by any person in carrying out any directions contained in a notice served under subsection (1), it shall be determined, if the parties so agree, by a single arbitrator appointed by them and, in default of agreement, by a magistrate's court.

(11) In this section—

“building” includes any erection of whatever material and in whatever manner constructed, and any part of a building;

“wall” includes any partition of whatever material constructed, and any bank.

PART V
NUMBERING OF HOUSES

Numbering of houses

21 (1) It shall be lawful for the Minister to assign a number to any house or building and to require the owner thereof to cause such number to be fixed in a conspicuous place on the outer side of such house or building or at the entrance to the enclosure thereof so as to be legible from the highway; and for the purposes of this section "highway" includes a private road serving more than one house.

(2) It shall be the duty of the owner or occupier of such house or building to protect such number and the expense of replacing and refixing the same in the event of its being destroyed, defaced, lost or concealed shall be paid by the owner or occupier and, if paid by the Minister, shall be recoverable from the owner or occupier summarily except where some other person is convicted under subsection (3) in respect of that number.

(3) Any person who destroys, pulls down, defaces or conceals any number placed on a house or building under this section commits an offence:

Punishment on summary conviction: a fine of \$100 and, in addition, shall be ordered to pay the expenses of replacing and refixing the same.

PART VI
DREDGING AND OTHER OPERATIONS ON THE BED OF THE SEA

Restriction of works on bed of the sea

22 (1) Subject to section 23 no person shall, without the consent in writing of the Minister, carry out any of the following operations—

- (a) dredge any part of the bed of the sea below high water mark;
- (b) deposit any object or any materials on any part of the seashore or on the bed of the sea below high water mark.

(2) The Minister may, as a condition of considering an application for consent under this section, require to be furnished with such plans and particulars of the proposed operation as he may consider necessary; and on receipt of any such application he may cause notice of the application, and of the time within which and the manner in which objections thereto may be made, to be published in such manner as he may consider appropriate for informing persons affected thereby, and, before granting his consent, may, if he thinks fit, direct an inquiry to be held.

(3) If the Minister is of opinion that any operation in respect of which application is made to him under this section will cause or is likely to result in obstruction or danger to marine ecology or navigation or to owners of land adjoining that part of the seashore or the bed of the sea where the operations will be carried out he shall either refuse his consent or give his consent subject to such conditions as he may think fit, having regard to the

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nature and extent of the obstruction or danger which it appears to him would otherwise be caused or be likely to result.

(4) A consent of the Minister under this section may be given so as to continue in force, unless renewed, only if the operation for which the consent is given is begun or completed within such period as may be specified in the consent; and any renewal of such a consent may be limited in the like manner.

Operations excepted from section 21

23 The following operations shall be excepted from the restriction imposed by section 22(1)—

- (a) the carrying out of any dredging operations (including the deposit of dredged materials) authorized by any other Act in accordance with the provisions thereof;
- (b) any work carried out by, or in accordance with a licence or permission granted in pursuance of—
 - (i) *[repealed]*
 - (ii) the Sale of Reclaimed Lands Act 1951 [*title 19 item 3*]; or
 - (iii) the Land Reclamation Act 1964 [*title 20 item 5*].

[Section 23(b)(i) repealed by 1999:4 s.2(2)(c) effective 1 July 2000]

Enforcement of section 21

24 (1) Any person who—

- (a) carries out any operation in contravention of section 22(1); or
- (b) fails to comply with any condition subject to which any consent of the Minister has been given under section 22,

commits an offence under this Act.

(2) Without prejudice to any proceedings under subsection (1) where any person has constructed, altered or improved any works or deposited any object or materials on the seashore in contravention of section 22 or has failed to comply with any condition subject to which any consent of the Minister has been given under section 22, the Minister may serve a notice on that person requiring him, within such period (not being less than thirty days) as may be specified in the notice, to remove the works or to make such alterations therein as may be so specified or to remove the object or materials, as the case may be, or, if it appears to the Minister urgently necessary so to do, may himself remove or alter the works or remove the object or materials.

(3) If within the period specified in any notice under subsection (2) the person upon whom the notice is served fails to comply therewith, the Minister may cause the works to be removed or altered or he may cause the object or materials specified in the notice to be removed.

(4) Where under subsection (2) or (3) the Minister causes any works to be removed or altered or causes any object or materials, to be removed, he shall be entitled to recover the expense thereof from the person by whom the works were constructed, altered or improved, or the object or materials was or were deposited.

PART VII REGULATIONS

Power of Minister to make regulations

25 (1) The Minister may make regulations for the purpose of giving effect to this Act and in particular, but without prejudice to the generality of the foregoing may—

- (a) for or in connection with any of the purposes of the regulations, provide for the inspection of any premises or land, and for the examination of any article or thing, and for the analysis of any article;
- (b) require that the regulations, or any part or extract therefrom, shall be displayed in any prescribed place;
- (c) prescribe penalties for breaches of any regulations, such penalties not to exceed a fine of five hundred dollars or imprisonment for not more than six months.

(2) Any person who contravenes any regulations made under this Act or with any order, direction or requirement lawfully made, given or imposed by any person under the authority of those regulations, commits an offence against the regulations:

Provided that where a person engaged or employed in the administration of such regulations omits to perform any duty imposed upon him as such the omission shall not constitute an offence against the regulations.

(3) Regulations made under this Act shall not prescribe any charge or fee to be made or recovered in respect of any service performed, or duty executed, or power exercised, or permit granted, by or on behalf of the Minister or any authority or person charged with the execution of this Act.

Parliamentary scrutiny of regulations

26 Regulations made under this Act shall be subject to the negative resolution procedure.

PART VIII SUPPLEMENTAL POWERS OF MINISTER, BOARD AND OTHERS

Power of entry on land to execute surveys

27 The Minister, the Permanent Secretary, or any officer, employee or agent of the Department or member of the Board authorized by the Minister, may enter any land whereon it is necessary or advisable to enter for the purpose of making and carrying out

such surveys, plans, borings, soundings, pumping, filling in, or other works as the Minister may consider necessary or advisable in order to carry out any work authorized by law; and any person obstructing the exercise of any power hereby conferred commits an offence against this Act:

Punishment on summary conviction: imprisonment for 1 year or a fine of \$500 or both such imprisonment and fine.

Power of Minister to allow use of machinery, etc, by private persons

28 The Minister may agree with any person for the use of any tool, apparatus, equipment, machinery, material, service or plant belonging to or controlled by the Minister, and not for the time being required for any public work, upon such terms and conditions as may be approved by him.

PART IX

NOTICES, DOCUMENTS, ETC.

Notices, etc., to be in writing; forms of notices, etc.

29 (1) All notices, orders, consents, demands and other documents authorized or required by or under this Act or by or under regulations made thereunder to be given, made or issued by the Minister, and all notices and application authorized or required by or under this Act or by or under any such regulations to be given or made to the Minister or to any officer of the Department shall, except as may be otherwise expressly provided, be in writing.

(2) Provision may be made by regulations made under this Act for prescribing the form of any notice, order, certificate or other document to be used for giving effect to any of the provisions of this Act and, if forms are so prescribed, those forms or forms to the like effect may be used in all cases to which those forms are applicable.

Authentication of documents

30 (1) Any notice, order, consent, demand or other document which the Minister is authorized or required by or under this Act, or by or under regulations made thereunder, to give, make or issue may be signed on behalf of the Minister—

- (a) by the Permanent Secretary; or
- (b) by any other officer of the Department authorized by the Minister in writing to sign documents of the particular kind or, as the case may be, the particular document.

(2) Any document purporting to bear the signature of an officer expressed to hold an office by virtue of which he is under this section empowered to sign such a document, or expressed to be duly authorized by the Minister to sign such a document or the particular document, shall, for the purposes of this Act, and of any regulations made under this Act be deemed, until the contrary is proved, to have been duly given, made or issued by or under the authority of the Minister.

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Service of notices, orders, etc

31 Any notice, order, consent, demand or other document which is required or authorized by or under this Act to be given to or served on any person may, in any case for which no other provision is made by this Act, be given or served—

- (a) by delivering it to that person; or
- (b) in the case of the Minister or any officer of the Department by leaving it at his office or sending it in a prepaid envelope addressed to him at his office; or
- (c) in the case of any other person, by leaving it, or by sending it in a prepaid envelope addressed to him, at his usual or last known residence; or
- (d) in the case of a corporate body or other body of persons, by delivering it to the secretary or clerk thereof at their registered or principal office, or by sending it in a prepaid envelope addressed to the secretary or clerk at that office; or
- (e) in the case of a document to be given to or served on the owner or the occupier of any premises, if it is not practicable after reasonable inquiry to ascertain the name and address of the person to or on whom it should be given or served, or if the premises are unoccupied, by addressing it to the person concerned by the description of “owner” or “occupier” of the premises (naming them) to which it relates, and by delivering it to some adult person on the premises (being a person who admits to be connected with the owner or occupier as the case may be), or, if there is no person on the premises to whom it can be delivered, by affixing it, or a copy of it, to some conspicuous part of the premises.

PART X

LEGAL PROCEEDINGS

Obstructing execution of Act

32 A person who wilfully obstructs any person acting in the execution of any provision of this Act or of any regulation or order made or given in pursuance thereof commits an offence.

Offences against Act

33 Any person who contravenes any provision of this Act or of any regulations made thereunder commits an offence against this Act.

Trial of offences

34 *[omitted]*

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Punishment for offences against Act

35 Where a person commits an offence under this Act for which no specific penalty is provided:

Punishment on summary conviction: a fine of \$500.

Punishment on summary conviction of a second or subsequent offence: imprisonment for 3 months or a fine of \$1,000 or both such imprisonment and fine.

Punishment in addition on summary conviction in the case of a continuing offence: a further fine of \$50 for every day during which the offence continues.

Daily penalties

36 Where pursuant to section 35 a daily penalty is imposed in respect of a continuing offence after conviction, the court by which a person is convicted of the original offence may specify a reasonable period to run from the date of conviction within which the defendant is to comply with any directions given by the court; and, where a court has specified such a period, no daily penalty shall be imposed in respect of any day before the expiration of the period.

Persons entitled to bring proceedings

37 (1) Proceedings in respect of an offence against this Act or regulations made thereunder, shall not, without the written consent of the Director of Public Prosecutions, be instituted by any person other than a party aggrieved, or by the Minister.

(2) A prosecution for an offence against this Act may be conducted before a court of summary jurisdiction by any officer of the Department duly authorized by the Minister in that behalf.

[Section 37 subsection (1) amended by 1999:8 s.2 & Sch 1 effective 1 April 1999]

PART XI MISCELLANEOUS

Consequential amendments

38 *[omitted]*

Repeal and savings

39 *[omitted]*

Commencement

40 *[omitted]*

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FIRST SCHEDULE

(Section 8 and 19(4))

FORM OF CONVEYANCE

I [name], Minister responsible for [works and engineering] [public lands] in Bermuda in accordance with the Public Lands Act 1984 and IN CONSIDERATION of the sum of [blank] paid into the Consolidated Fund by on or before the execution of these presents DO HEREBY convey unto the said [blank]

ALL THAT (describing the premises to be conveyed) with the appurtenances TO HOLD the same UNTO the said IN WITNESS whereof I have hereunto set my hand and affixed my seal this [blank] day of [blank] 20 [blank].

[First Schedule amended by BR 5 / 2011 para. 2(7) effective 25 February 2011]

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SECOND SCHEDULE

(Section 38)

[*omitted*]

[*This Act was brought into operation on 14 September 1984*]

[Assent Date: 12 July 1984]

[*Amended by:*

1984 : 52
1986 : 45
1988 : 19
1999 : 4
1999 : 8
2006 : 13
2006 : 20
2009 : 27
BR 5 / 2011]