



BERMUDA

PEMBROKE MARSH CANAL ACT 1969

1969 : 332

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[preamble and words of enactment omitted]

Interpretation

- 1 In this Act, unless the context otherwise requires—
- “the adjacent lands” means the land within forty feet of the centre line of the canal and shown marked red on the Plans;
- “the Canal” means the waterway shown marked blue on the Plans;
- “catchment area” means the area within the dotted lines on the Plans;
- “Minister” means the Minister responsible for works and engineering;

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“the Plans” means the plans “the Pembroke Marsh Canal Act 1969” and deposited with the Minister on the day upon which this Act was introduced as a Bill in the House of Assembly;

“tributary” means any canal, ditch, dyke, culvert, duct, pipe or other means of draining water into the Canal which has its point of origin within the catchment area.

Minister to be responsible for upkeep of Canal

2 Subject to this Act and any other provision of law the Minister shall be charged with the responsibility for the maintenance and upkeep of the Canal and, accordingly, with the administration of any moneys appropriated therefor.

Powers of Minister

3 In the discharge of his functions under this Act and in addition to the powers vested in him by the Public Lands Act 1984, the Minister shall have the following powers—

- (a) to inspect, clear out, deepen or widen the Canal or any tributary;
- (b) to remove obstructions of any kind from the adjacent lands and to build thereon such roads as may be reasonably necessary for the servicing of the Canal;
- (c) to alter the level of the banks of the Canal to such height or heights as the Minister may from time to time consider to be desirable;
- (d) to require by notice in writing any person who wilfully or negligently discharges or causes or suffers to be discharged any effluent or the solid refuse of any manufactory, manufacturing process or quarry, or any rubbish or cinders or any other waste or any putrid solid matter, into the Canal or any tributary to carry out such cleaning operations as may be specified in the notice within such time as may be so specified;
- (e) to require by notice in writing the owner or occupier of any of the adjacent lands to carry out such cleaning operation as may be specified in the notice and within such time as may be so specified for the purpose of clearing the part of the canal to which the adjacent land owned or occupied by him abuts.

[Section 3 amended by BR 5 / 2011 para. 3 effective 25 February 2011]

Realignment of Canal

4 (1) The House of Assembly may by resolution approve a proposal submitted to it by the Minister for the realignment of the Canal and the Minister, subject to the appropriation of the moneys therefor, may thereupon cause the Canal to be so realigned and this Act shall apply to that realigned portion as if it was part of the waterway marked blue on the Plans.

(2) Where the House of Assembly has approved a proposal for the realignment of the Canal under this section the Minister may, on behalf of the Government, enter into an

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agreement for the purchase of any land required for such realignment, or, in default of such agreement, may acquire such land under the Acquisition of Land Act 1970 [*title 19 item 2*].

Minister may make regulations

5 The Minister may make regulations under this Act for administering this Act and for giving effect to its objects and intentions and without prejudice to the generality of the foregoing such regulations may provide—

- (a) for the restriction of the deposit of storm waters or effluent in the Canal;
- (b) for the restriction of the development of land within the meaning of the Development and Planning Act 1965 [*title 20 item 1*], on the adjacent lands.

Compensation

6 Any person who has an interest in, or right over, the Canal or the adjacent lands and who establishes that such right or interest is injuriously affected by the exercise of the powers granted by section 3(a), (b) or (c) shall be entitled to adequate compensation therefor and in default of agreement between that person and the Government on his entitlement to, or the amount of, such compensation the Acquisition of Land Act 1970 [*title 19 item 2*], shall apply to that right or interest as if it was land required by the Government in relation to which the Minister is of the opinion that purchase by agreement is impracticable.

Minister may do work and recover cost

7 Where a notice has been served upon any person under either section 3(d) or (e), if that person fails to carry out the operations specified in the notice within the time so specified then the Minister may carry out the operations and may recover the cost thereof from the person on whom the notice was served as though that amount was due and owing to the Government as a liquidated debt.

Service of notices

8 Where any notice or other document is required or authorized to be served under this Act the Public Lands Act 1984 shall apply to that notice as though it was a notice or document authorized or required under that Act.

[Section 8 amended by BR 5 / 2011 para. 3 effective 25 February 2011]

Regulations

9 Section 18 and section 19 of the Public Lands Act 1984 shall apply to regulations made under this Act as they apply to Regulations made under that Act.

[Section 9 amended by BR 5 / 2011 para. 3 effective 25 February 2011]

Offences

10 Any person who contravenes any provision of this Act or any Regulations made thereunder commits an offence and shall be liable to be proceeded against and on

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conviction, to the like penalties, as if he had committed an offence against the Public Lands Act 1984.

[Section 10 amended by BR 5 / 2011 para. 3 effective 25 February 2011]

Saving

11 Nothing in this Act shall have effect so as to derogate from the duties of any person imposed upon him by any provision of law.

Construction of by-pass for Canal

12 (1) Without prejudice to the generality of section 4, the Minister may, for the purposes of constructing a by-pass for the Canal within the limits of deviation shown coloured yellow on the Plans, enter into an agreement for the purchase of such lands as may be necessary therefor or, in default of such agreement, may acquire such land under the Acquisition of Land Act 1970 [*title 19 item 2*].

(2) Any expenditure incurred in the acquisition of lands under subsection (1) or the construction of the by-pass therein specified shall be a charge upon the Consolidated Fund.

[Assent Date: 21 July 1969]

Amended by

1977 35
1984 35
1988 19
BR 5 / 2011]