

**CHAPTER 260**

**CONSERVATION AND PROTECTION OF THE  
PHYSICAL LANDSCAPE OF THE BAHAMAS**

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**CHAPTER 260**

**CONSERVATION AND PROTECTION OF THE  
PHYSICAL LANDSCAPE OF THE BAHAMAS**

**An Act to make provision for the conservation and protection of the physical landscape of The Bahamas.** *12 of 1997  
9 of 2000  
20 of 2010*

*[Assent 23rd May, 1997]  
[Commencement 26th May, 1997]*

**PART I  
PRELIMINARY**

**1.** (1) This Act may be cited as the Conservation and Protection of the Physical Landscape of The Bahamas Act, 1997. *Short title.*

(2) This Act shall come into operation on the 26th day of May, 1997 (in this Act referred to as the “operative date”).

**2.** In this Act, unless the context otherwise requires — *Interpretation.*

“Director” means the Director of Physical Planning; *20 of 2010, s. 36.*

“excavation” means the revealing or extraction, by digging systematically into the ground, of physical natural resources (such as soil, rock, quarry, fill or sand); and

“excavation” includes —

- (a) the removal of a hill or any portion of a hill;
- (b) the creation of a pit by lowering the natural ground level;
- (c) the extraction of physical natural resources for the purposes of —
  - (i) creating a lake, a watershed or an area of the type commonly referred to as a “drainage basin”;
  - (ii) any work connected with a canal, bulkhead or pier or a proposed canal, bulkhead or pier;

- (iii) protecting land against, encroachment by, or recovering land from, fresh or salt water; or
- (iv) any work which would affect any part of the coastline of The Bahamas; and
- (d) the removal of sand from any beach or sand dune;

“hill” means any natural rise of land that exceeds seventy-five cubic yards in volume;

“landfill operation” means the filling up of lands (such as natural or man-made depressions, swamp, wetlands or auras commonly referred to as “natural ponds” or “drainage basins”) with soil, rock, quarry, fill or sand, exceeding seventy-five cubic yards in volume;

“licence” means a licence granted under section 19;

“Minister” means the Minister responsible for Physical Planning and Land Use;

“permit” means a permit granted under section 7 or 23, as the case may be;

“the regulations” means the regulations made under section 27.

Application of  
Act.

**3.** (1) Subject to subsection (2), the provisions of this Act apply —

(a) any excavation, landfill operation, quarrying or mining of physical natural resources (such as soil, rock, quarry, fill or sand), exceeding seventy-five cubic yards in volume or such lesser or greater volume as the Minister may specify by Order; and

(b) *Repealed.*

(c) to any excavation carried out by a person for the purpose of developing touristic and large scale luxury residential developments,

whether such excavation, landfill operation, quarrying, mining or harvesting, was commenced before or after the operative date.

(2) The provisions of this act do not apply to —

20 of 2010, s. 36.

9 of 2000, s. 2.

- (a) any excavation carried out in connection with the construction of a septic tank, rain water tank or swimming pool;
- (b) any excavation carried out for the purpose of constructing trenching for the foundation of any building, farm or utility;
- (c) any excavation carried out for the purpose of carrying on any building operation under and in accordance with the conditions of a building permit issued under the Buildings Regulation Act, other than any excavation for the purpose of work connected with a canal or a proposed canal; Ch. 200.
- (d) any excavation, landfill operation, quarrying, mining, carried out to render assistance in cases of accident, fire, rescue or natural disaster or in any emergency; or *20 of 2010, s.36.*
- (e) *Repealed.* *20 of 2010, s.36.*

## PART II ADMINISTRATION

4. (1) The Minister is charged with the responsibility of regulating excavation, landfill operations, quarrying, mining in The Bahamas, for the purpose of providing for and ensuring the conservation and maintenance of the environment. Responsibilities of Minister.

(2) In particular, it is the responsibility of the Minister to regulate, monitor and control — *20 of 2010, s.36.*

- (a) the physical landscape of The Bahamas for the purpose of preventing environmental degradation, flooding, denuding of hills, unnatural steep inclines and landslides;
- (b) the filling up of lands, wetlands and areas commonly referred to as “blue holes”, “natural ponds” or “drainage basins”;
- (c) any excavation for the purpose of work connected with a canal or a proposed canal;
- (d) any excavation for the purpose of work which would affect any part of the coastline of The Bahamas; and
- (e) the digging up or removal of sand from beaches and sand dunes.

Responsibilities  
of Director.

- 5.** Subject to section 34, the Director of Physical Planning —
- (a) shall be the principal technical adviser to the Minister in matters relating to excavation, land-fill operations, quarrying and mining;
  - (b) subject to general or specific directions of the Minister, shall be responsible for the administration and enforcement of the provisions of this Act and the regulations; and
  - (c) shall perform such functions as are assigned to him under this Act.

**PART III**  
**REGULATION OF EXCAVATION AND LANDFILL OPERATIONS**

Permit required  
for excavation  
and landfill  
operations.

- 6.** (1) Subject to the provisions of this Act, no person shall —
- (a) commenced or carry on, or cause or procure to be commenced or carried on, any excavation or landfill operation;
  - (b) for a commercial purpose, dig up, remove or carry away from any part of any beach or seashore in The Bahamas any sand, earth or stones; or
  - (c) for any purpose other than a commercial purpose, dig up, remove or carry away —
    - (i) any sand, earth or stones from any part of any beach or seashore declared by the Minister by Order to be protected for the purposes of this Act; or
    - (ii) from any part of any beach or seashore in The Bahamas, any sand, earth or stones, exceeding one cubic yard in volume or such lesser or greater volume as the Minister may specify by Order,

except under and in accordance with the conditions of a permit and in accordance with the provisions of this Act and the regulations.

- (2) Any person who acts in contravention of subsection (1)(a) is guilty of an offence and liable on summary conviction —

- (a) in the case of a first conviction for the offence, to a fine of ten thousand dollars and, in addition, an amount equal to five times the open market value of the material to which the offence relates or to imprisonment for a term of three months or to both such fine and imprisonment; and
- (b) in the case of a second or subsequent conviction for the offence, to a fine of twenty thousand dollars and, in addition, an amount equal to ten times the open market value of the material to which the offence relates or to imprisonment for a term of six months, or to both such fine and imprisonment.

(3) Any person who acts in contravention of subsection (1)(b) or (c) is guilty of an offence and liable on summary conviction to a fine of five thousand dollars or to imprisonment for a term of three months or to both such fine and imprisonment.

7. (1) An application for the grant of a permit in relation to any excavation or landfill operation, shall be made to the Director in writing and shall be accompanied by copies of all relevant drawings, specifications, calculations and such other particulars relating to the excavation or landfill operation, as may be prescribed.

Application for grant of permit to carry out excavation or landfill operation.

(2) Subject to subsection (3) the applicant shall furnish, together with the application, such other or further information or particulars relating to the excavation or landfill operation (as the case may be) as the Director may reasonably require, including information and particulars relating to —

- (a) the purpose for which the excavation or landfill operation is proposed;
  - (b) the location of the proposed excavation or landfill operation and the conditions relating to that location (including details as to its topography, soil type and vegetation);
  - (c) the extent of the proposed excavation or landfill operation;
  - (d) the type of equipment proposed for use in the excavation or landfill operation; and
  - (e) the proposed method of excavation or landfilling.
- (3) A person applying for a permit in relation to —

- (a) any excavation, or landfill operation, which may have an adverse effect upon the environment;
- (b) any excavation, or landfill operation, which is connected with the filling up of wetlands or areas commonly referred to as “natural ponds” or “drainage basins”;
- (c) any excavation, or landfill operation, for the purposes of any work connected with a canal, bulkhead or pier or a proposed canal, bulkhead or pier; or
- (d) any excavation, or landfill operation, for the purposes of any work which would affect any part of the coastline of The Bahamas,

shall, if required by the Director, furnish in addition, together with the application, an assessment of the possible impact of that excavation, or landfill operation, upon the environment; and the assessment shall include particulars of the wildlife habitat history of the location of the proposed excavation or landfill operation, particulars of the historic and other features of that location and such other particulars as may be prescribed.

(4) The Director shall, subject to the payment of the prescribed fee, grant a permit upon being satisfied that the proposed excavation or landfill operation complies with this Act, the regulations and the Buildings Regulation Act or, if not satisfied, he shall refuse to grant the permit.

Ch. 200.

**8.** (1) The Director may, if he considers it necessary for the purposes of allowing any interested person to object in writing to the granting of a permit under section 7, give notice of the fact that he is about to consider whether any excavation or landfill operation should be carried out under the provisions of this Act, in not fewer than two issues of a newspaper published and circulating in The Bahamas at intervals of not less than three days.

(2) Every notice under subsection (1) shall specify the purpose, location and size of the proposed excavation or landfill operation and shall state a date (which shall not be earlier than the seventh day after the date on which the notice was last published) on or before which any objection shall be made by any person interested.

(3) Every objection in writing received by the Director on or before the date stated in the notice, shall be



considered by the Director before a permit is granted or refused.

**9.** A permit shall be subject to the following conditions — Conditions of permit.

- (a) that the method of excavation or landfilling adopted and the equipment used in the excavation or landfill operation shall in all respects comply with the particulars furnished by the holder of the permit to the Director upon application therefor (including those contained in the plans, drawings, specifications and calculations) except insofar as the Director may in writing at any time authorise any variation in or departure from such particulars;
- (b) that any excavation, or landfill operation, carried out under the authority of the permit shall comply in all respects with the provisions of this Act and the regulations;
- (c) that the excavation or landfill operation shall be commenced within the time specified in the permit; and
- (d) that, upon the completion of any excavation carried out for commercial purposes, a surface which has been exposed as a result of the excavation shall be restored (to the satisfaction of the Director) to its original state of vegetation insofar as is reasonably possible,

and to such further conditions as may be prescribed.

**10.** (1) Where it appears to the Director that the holder of a permit has failed to comply with any of its provisions or conditions, he may suspend or revoke the permit, but the Director shall not revoke a permit without first giving to the holder the opportunity to make representations to him before the expiration of ten days. Suspension and revocation of permit.

(2) Where the Director suspends a permit, he shall forthwith so inform the holder in writing, and shall specify the reason for the suspension and the action required to be taken by the holder before the suspension may be removed.

(3) Where the Director is satisfied that all action required under subsection (2) has been taken, he may by writing remove the suspension and thereupon the permit shall be as valid as if it had not been suspended.

(4) Any person who, knowing or having reason to believe that the permit in respect, of any excavation or landfill operation has been suspended, performs or causes or allows to be performed, any work in connection with such excavation or landfill operation other than any work required by the Director under subsection (2) on and after the date of such suspension and before the suspension is removed, is guilty of an offence and liable on summary conviction to a fine of ten thousand dollars and, in addition, an amount equal to five times the open market value of the material to which the offence relates or to imprisonment for a term of three months or to both such fine and imprisonment.

(5) Subsection (4) shall not apply to any work performed solely for the purpose of safeguarding life or property during such period of suspension.

Appeal from  
decision of  
Director.

**11.** Any person considering himself aggrieved by the decision of the Director refusing to grant to him a permit or revoking, or suspending, or refusing to remove the suspension of, a permit, may appeal in the prescribed manner and within the prescribed time to the Minister, and the Minister may confirm, vary or reverse such decision and the decision of the Minister shall be final.

Obligations of  
holder on  
termination of  
permit.

**12.** (1) Every person who was the holder of a permit which has terminated, shall, not later than thirty days from the date of such termination —

- (a) fill in all excavations made by virtue of the permit or otherwise secure them in a permanent manner so as to prevent persons or stock inadvertently entering therein;
- (b) remove all beacons marking out the boundaries of the area the subject of the permit; and
- (c) furnish a certificate to the Director that he has complied with the provisions of this section as to the securing of excavations and the removal of beacons.

(2) No person shall be liable for securing any excavations made on the area the subject of his permit by other persons prior to the grant of the permit if on application for the permit he has shown the position of these excavations in relation to the boundaries of the area applied for on the plans submitted with his application or if he submits a plan showing the position of such excavations in relation to the boundaries of the area the

subject of the permit within a period of one month from the date of grant of such permit.

(3) If any person contravenes the provisions of subsection (1), the Director may caused such excavations to be filled in or may take other protective measures and shall charge such person such sum as was reasonably expended in so doing, but such action by the Director and the payment of such charge by such person shall not exempt such person from liability under this or any other written law for such contravention.

**13.** (1) As guarantee or the due performance of the obligations imposed by this Act, any person (in this section referred to as “the bonded person” may be required by the Minister either on application or when holding a permit, to furnish the Minister with a bond in a sum fixed by the Minister, made in the prescribed form and executed by two or more sufficient sureties approved by the Minister, or by one surety approved by the Minister if the surety is a financial institution or a body corporate registered to conduct insurance business under the Insurance Act.

Bond for performance of statutory obligations.

Ch. 347.

(2) The Director may in any case where the bonded person has failed after due notice to meet any obligation imposed upon him by this Act, take such steps as he may consider fit to fulfil the obligation and enforce the bond.

#### **PART IV**

### **PROVISIONS GOVERNING DANGEROUS EXCAVATIONS, LANDFILL OPERATIONS, QUARRIES OR MINES**

**14.** (1) If it appears to the Minister that a particular area of The Bahamas is in such a condition as to be dangerous and that the danger arises as a result of work carried out for the purposes of any excavation, landfill operation, quarry or mine, then the Minister may make an order —

Duties of operator of dangerous excavation, landfill operation, quarry or mine.

- (a) requiring the person carrying out the excavation, landfill operation, quarrying or mining to obviate the danger within a reasonable time to be specified in the order; or
- (b) restricting the use of that area until all necessary work to obviate the danger has been executed to the satisfaction of the Minister.

(2) Any order made under the provisions of subsection (1) shall be served upon the person carrying out the excavation, landfill operation, quarrying or mining in accordance with section 25.

(3) If the person on whom an order under this section is made by the Minister fails to comply with the order within the time specified therein, the Minister may execute the order in such manner and within such time as he thinks fit and may recover the expenses reasonably incurred by him in so doing from the person in default; and, without prejudice to the right of the Minister to exercise those powers, such person shall be guilty of an offence and liable on summary conviction to a fine of ten thousand dollars or to imprisonment for a term of three months or to both such fine and imprisonment.

(4) If the Minister is satisfied that the excavation, landfill operation, quarry or mine is in such a condition, as to be dangerous to any member of the public, and that immediate action should be taken for the protection of the public, the Minister may shore up or fence off the excavation, landfill operation, quarry or mine, and may recover from the person carrying out the excavation, landfill operation, quarrying or mining, the expenses of any action reasonably taken by him under this subsection.

Special  
emergency  
powers.

**15.** (1) If, at any time, it appears to the Minister that any excavation, landfill operation, quarrying or mining is, due to the occurrence of flood, fire, hurricane or any other disaster (whether caused by God or man), in such a condition as to be dangerous to persons or property in its vicinity, and that such danger cannot be effectively obviated by the exercise by him of any of the powers conferred upon the Minister by section 14, he may cause all work connected with the excavation, landfill operation, quarrying or mining to cease:

Provided that any measure taken in furtherance of the execution of the powers conferred upon the Minister by this section shall be such as to cause as little damage as is reasonably practicable in the circumstances.

(2) Any expenses incurred by the Minister in the exercise of his powers under this section shall be defrayed out of moneys provided by Parliament.

**PART V**  
**ZONING OF THE BAHAMAS FOR THE PURPOSES**  
**OF QUARRYING AND MINING OPERATIONS**

**16.** The Minister may by Order prescribe —

- (a) areas (being unoccupied Crown land or other public land) within which quarrying and mining shall be permitted after the operative date;
- (b) areas (being any land other than unoccupied Crown land or other public land) within which quarrying and mining may be permitted after the operative date; and
- (c) areas within which no quarrying or mining shall be permitted after the operative date.

Authority to prescribe areas permitting and forbidding quarrying or mining.

**17.** (1) No person shall commence or carry on or cause or procure to be commenced or carried on any quarrying or mining in any area prescribed pursuant to section 16(a) or (b), except under and in accordance with the conditions of a licence and in accordance with the provisions of this Act and the regulations.

Licence required for quarrying or mining.

(2) Any person who acts in contravention of subsection (1) is guilty of an offence and liable on summary conviction —

- (a) in the case of a first conviction for the offence, to a fine of ten thousand dollars and, in addition, an amount equal to five times the open market value of the quarried or mined material to which the offence relates or to imprisonment for a term of three months or to both such fine and imprisonment; and
- (b) in the case of a second or subsequent conviction for the offence, to a fine of twenty thousand dollars and, in addition, an amount equal to ten times the open market value of the quarried or mined material to which the offence relates or to imprisonment for a term of six months, or to both such fine and imprisonment.

**18.** An application for the grant of a licence to quarry or mine, shall be made to the Director in writing, and the provisions of sections 7(1) and (2) and 8 shall *mutatis mutandis* apply to any such application as those provisions apply to an application for the grant of a permit, and the said provisions shall have effect as if references in those

Application for grant of licence to quarry or mine.

provisions to any excavation or landfill operation were references to quarrying or mining.

Grant of licence  
to quarry or  
mine.

**19.** (1) The Director shall, subject to the payment of the prescribed fee, grant a licence to quarry or mine upon being satisfied that the proposed quarrying or mining, as the case may be, complies with this Act and the regulations or, if not satisfied, he shall refuse to grant the licence.

(2) The provisions of sections 9, 10, 11 and 13 shall *mutatis mutandis* apply to any such licence as those provisions apply to a permit, and the said provisions shall have effect as if references in those provisions to any excavation or landfill operation were references to quarrying or mining.

## PART VI PROTECTED TREES

*Repealed by 20 of 2010, s. 36.*

## PART VII GENERAL

Power to enter  
premises.

**24.** (1) Subject to the provisions of this section, the Director and any person authorised by the Director shall on producing, if so required, some authenticated document showing his authority, have a right to enter any premises at all reasonable hours —

- (a) for the purpose of ascertaining whether there is, or has been on, or in connection with the premises any contravention of the provisions of this Act or the regulations;
- (b) for the purpose of ascertaining whether or not circumstances exist which would authorise or require the Minister to take any action, or execute any work, under this Act;
- (c) on behalf of the Minister, for the purpose of taking any action, or executing any work, authorised or required by this Act to be taken or executed by the Minister; and
- (d) generally for the performance by the Minister and the Director of their functions under this Act.

(2) If it is shown to the satisfaction of a magistrate on sworn information in writing —

- (a) that admission to any premises has been refused, or that refusal is apprehended, or that the premises are unoccupied or the occupier is temporarily absent, or that the case is one of urgency; and
- (b) that there is reasonable ground for entry into the premises for any such purpose as aforesaid,

the magistrate may by warrant under his hand, authorise the Director by himself or by any person authorised by the Director to enter the premises, if need be, by force.

(3) The Director or any person authorised by the Director entering any premises by virtue of this section or of a warrant issued thereunder, may take with him such other persons as may be necessary.

(4) Every warrant granted under this section shall continue in force until the purpose for which the entry is necessary has been satisfied.

**25.** Any notice, order or other document which is required or authorised by or under this Act to be given to or served upon any person may be given or served —

Service of notices, etc.

- (a) by delivering it to that person;
- (b) by leaving it or sending it in a prepaid registered letter addressed to him at his usual or last known residence; or
- (c) in the case of an incorporated company or body, by delivering it to their secretary or clerk at their registered or principal office or by sending it in a prepaid registered letter addressed to them at that office.

**26.** (1) Where the Minister has carried out works and has incurred expenses for the repayment of which a person carrying out any excavation, landfill operation, quarrying or mining is liable under this Act, those expenses, together with interest at seven per centum per annum from the date of service of a demand for expenses, may be recovered by the Minister from that person at the date when the works are completed and, as from the completion of the works, the expenses and interest accrued thereon shall, until recovered, be a first charge on the premises and all estates and interests therein.

Recovery of expenses.

(2) The Minister may allow any expenses together with interest recoverable by him under this section to be payable by instalments within a period not exceeding three years until the whole amount is paid.

Regulations.

**27.** The Minister may make regulations generally for the better carrying out of the purposes and provisions of this Act, and, without derogation from the generality of such power, any such regulations may provide —

- (a) for the methods of consideration of applications for permits and licences and from, content and mode of issue of such permits and licences,
- (b) for conditions to be attached to any permit or licence granted under this Act;
- (c) for the fees to be paid in respect of the grant of any permit or licence;
- (d) for the period of validity and the renewal of permits and licences;
- (e) for the requirements to be met and observed by holders of permits in connection with any excavation, landfill operation or harvesting of protected trees;
- (f) for the requirements to be met and observed by holders of licences in connection with any mining or quarrying operations;
- (g) for the payment of royalty fees in respect of any soil, rock, quarry, fill or sand obtained in the course of excavation and used solely for commercial purposes.

9 of 2000, s. 3.

Prohibition of continuation or unauthorised operations.

**28.** (1) Any landfill operation, quarrying, mining or harvesting of protected trees, which is being carried out at the operative date shall be discontinued from the seventh day after the operative date unless a permit or licence, as the case may be, is granted under this Act authorising the carrying out of that landfill operation, mining, quarrying or harvesting, as the case may be.

(2) Any excavation which is being carried out at the operative date, shall be discontinued —

- (a) with effect from the thirtieth day after the operative date, in any case where the excavation (including an excavation involving the removal of a hill or any portion of a hill or involving work connected with a canal or a proposed canal) is being carried out pursuant to a building



permit issued under the Buildings Regulation Act; or

(b) with immediate effect upon the operative date, if the excavation is not being carried out pursuant to a building permit issued under the Buildings Regulation Act.

(3) Any person who acts in contravention of subsection (1) or subsection (2), is guilty of an offence and liable on summary conviction —

(a) in the case of a first conviction for the offence, to a fine of ten thousand dollars, and in addition, an amount equal to five times the open market value of the material to which the offence relates or to imprisonment for a term of six months or to both such fine and imprisonment; and

(b) in the case of a second or subsequent conviction for the offence, to a fine of twenty thousand dollars and, in addition, an amount equal to ten times the open market value of the material to which the offence relates or to imprisonment for a term of twelve months, or to both such fine and imprisonment.

(4) Where a person is charged with an offence under the foregoing provisions of this section, the court before which such person is charged shall, by order, require such person to discontinue the excavation, landfill operation, quarrying, mining or harvesting to which the charge relates and if within twenty-four hours after service on him of the order such person fails to comply therewith he shall be liable on summary conviction to a fine of five hundred dollars for every day during the continuance of such non-compliance.

**29.** Where an offence under this Act has been committed by a body corporate and is proved to have been committed with the consent or connivance of or to be attributable to neglect on the part of any director, manager, secretary or other similar officer of the body corporate, or any person purporting to act in any such capacity, that person as well as the body corporate shall be guilty of that offence and shall be liable to be proceeded against and punished accordingly.

Offence by body corporate.

**30.** No action shall lie against the Crown, the Minister, the Director or any person acting under the authority of the Director in respect of any loss or damage

Indemnity against certain actions.

whatsoever suffered by any person through the exercise, in good faith, by the Minister, the Director or by such person of the powers conferred upon them by this Act, save only in respect of any loss or damage which arises directly from the negligence of the Minister, the Director or of any such person as aforesaid in the carrying out of any operation in the exercise of those powers.

Quarry charge.

**31.** The holder of a permit or of a licence shall pay in respect of all sand, soil, rock, fill or quarry obtained in the course of any excavation, quarrying or mining carried out on any land, such charge (based on the volume of material excavated, quarried or mined, as the case may be) as may be prescribed.

Penalty for obstructing execution of Act.

**32.** A person who wilfully obstructs any person acting in the execution of this Act, or of the regulations or any warrant issued thereunder, shall in any case in which no other provision is made by this Act, be liable on summary conviction, to a fine of five thousand dollars and a further fine of one hundred dollars for each day on which the offence continues after conviction therefor.

Crown to be bound.

**33.** This Act binds the Crown, but nothing contained in this Act or in the regulations shall be deemed to impose any fee upon any Ministry or department of the Government.

Responsibilities of Councils  
Ch. 37.

**34.** (1) In addition to performing the functions conferred upon Councils by the provisions of the Local Government Act, each Council of a district shall, in relation to that district —

- (a) be responsible for the administration and enforcement of the provisions of this Act and of the regulations, relating to quarrying and to the removal of sand from any beach, seashore or sand dune, subject to the general or specific directions of the Minister; and
- (b) perform such functions of the Director as are assigned to the Council by the Minister.

Ch. 37.

(2) In subsection (1), the terms “Council” and “district” have the respective meanings assigned to those terms in the Local Government Act.