

CHAPTER 262

**HAWKSBILL CREEK, GRAND BAHAMA (DEEP WATER
HARBOUR AND INDUSTRIAL AREA)
(AMENDMENT OF AGREEMENT)**

ARRANGEMENT OF SECTIONS

SECTION

1. Short title.
2. Governor in Council authorised to enter into Agreement.
3. Agreement to be sealed with Public seal.

SCHEDULE

CHAPTER 262

HAWKSBILL CREEK, GRAND BAHAMA (DEEP
WATER HARBOUR AND INDUSTRIAL AREA)
(AMENDMENT OF AGREEMENT)

An Act to authorise the entering into of an agreement with the Grand Bahama Port Authority, Limited, amending and extending the existing agreement with that company, dated the 4th day of August, A.D., 1955. *18 of 1960*

[Commencement 9th June, 1960]

1. This Act may be cited as The Hawksbill Creek, Grand Bahama (Deep Water Harbour and Industrial Area) (Amendment of Agreement) Act. *Short title.*

2. The Governor in Council is hereby authorised, at any time within six months after the coming into operation of this Act, to enter into an Agreement, substantially in the form set out in the Schedule hereto, with The Grand Bahama Port Authority, Limited, a Company incorporated in the Colony. *Governor in Council authorised to enter into Agreement.*

3. The Public Seal of the Colony shall be affixed to the said Agreement and the same shall be signed by and on behalf of the Governor in Council by the Governor. *Agreement to be sealed with Public seal.*

SCHEDULE

BAHAMAS ISLANDS

NEW PROVIDENCE

THIS AGREEMENT made the day of, A.D., 1960 BETWEEN His Excellency Sir Oswald Raynor Arthur, K.C.M.G., C.V.O., Governor and Commander-in-Chief in and over the Bahama Islands acting for and on behalf of the Government of the Bahama Islands (who and whose successors in office for the time being are hereinafter included in the term “the Government” of the one part AND The Grand Bahama Port Authority, Limited a company incorporated

under the laws of the said Bahama Islands and carrying on business within the Colony (hereinafter called “the Port Authority” which expression where the context so admits shall include their assigns) of the other part WHEREAS:

- (a) This Agreement is supplemental to an Agreement¹ (hereinafter referred to as “the Principal Agreement”) dated the Fourth day of August, A.D., 1955 and made between His Excellency the Honourable Anthony Geoffrey Hopwood Gardner-Brown, Acting Governor and Commander-in-Chief in and over the Bahama Islands acting for an on behalf of the Government of the Bahama Islands of the one part and the Port Authority of the other part;
- (b) The Port Authority (as the Government hereby acknowledges) duly completed to the satisfaction of the Government the dredging of the channels and turning basin and the construction of the wharf specified in subclause (1) of Clause 1 of the Principal Agreement and have up to the date hereof duly observed and performed all their other obligations under or in respect of the Principal Agreement;
- (c) The Government and the Port Authority are satisfied that it would be for the economic benefit of the Colony that other businesses and enterprises than those primarily envisaged by the Principal Agreement should be created and developed on the Island of Grand Bahama;
- (d) The Port Authority have agreed to enter into the covenant on their part hereinafter contained relative to the construction of first-class de luxe resort hotel accommodation of not less than Two hundred (200) bedrooms with all reasonable amenities within the Port Area (as that expression is used in the Principal Agreement);
- (e) The Government is satisfied that it is desirable for the purposes of encouraging and facilitating such further development on the said Island and of ensuring the proper and efficient administration thereof and also for the purposes of clarifying certain questions of construction arising on the Principal Agreement that the provisions of the Principal Agreement should be amended in manner hereinafter appearing and that such further agreements should be made as are hereinafter contained; and
- (f) The only persons, firms and companies up to the date hereof licensed under the Principal Agreement as specified by subclause 8 of Clause 3 thereof are the persons firms and companies whose names are contained in the Schedule hereto and all such persons firms and companies have consented (as testified by their respective execution of these presents) to the amendments to the Principal Agreement hereinafter contained and the other provisions of these presents;

¹ See Ch. 261.

NOW THIS AGREEMENT made in consideration of the premises WITNESSETH as follows:

1. (1) The Port Authority hereby covenant with the Government that unless prevented from so doing by Act of God, insurrection, riots, civil commotion, war or warlike operations, strikes, lockouts, *force majeure*, or any unforeseen or extraordinary circumstances which may be reasonably considered to be beyond the control of the Port Authority (including the inability of the Port Authority to obtain or employ the necessary labour or to obtain or secure the necessary materials) they will on or before the Thirty-first day of December, A.D., 1963 complete the construction of or procure the completion of the construction of first-class de luxe resort hotel accommodation containing in the aggregate not less than Two hundred (200) bedrooms with all reasonable amenities within the Port Area and upon completion of the said hotel accommodation furnish or cause the same to be furnished as first class de luxe resort hotel accommodation and thereafter operate the same or cause the same to be operated in accordance with the highest standards reasonably obtainable and applicable and set for the operation of like de luxe hotels in the United States of America.

(2) The foregoing provisions of this Clause shall operate and have effect for all purposes as if the same had been comprised in the Principal Agreement.

2. The Principal Agreement is hereby varied and amended and shall henceforth operate and have effect as follows:

- (1) In subclause (3) of Clause 1 immediately after the words “and pine timber” there shall be inserted the words “and also to promote and encourage the establishment of other lawful enterprises which shall appear likely to be of economic benefit to the Colony”.
- (2) In subclause (3) of Clause 1 and in subclause (19) of Clause 2 the words from and including “and lying Eastwardly” down to and including the words “on the South side of the said Island” shall be deleted.
- (3) Paragraph (a) of subclause (5) of Clause 1 shall be deleted and the following substituted therefor:
 - “(a) Provide or procure the provision of primary instruction and school accommodation free of charge for all children living within the Port Area between the ages of six years and fourteen years and upwards of standards equal to those from time to time provided by the Board of Education of the Colony in the Out Islands of the Colony or such higher standard as in accordance with circumstances from time to time the Board of Education of the Colony with the approval of the Governor in Council may reasonably require and from time to time add to and extend the same so as to serve adequately all children of school age living within the Port Area and during the continuance of this Agreement operate and maintain such

school rooms and educational facilities to a standard at least equal to that provided from time to time by the said Board of Education in the Out Islands or to such higher standard as in accordance with circumstances from time to time the Board of Education of the Colony with the approval of the Governor in Council may reasonably require; but so that subject to such primary obligation as aforesaid the Port Authority and any corporation institution or body for the time being authorised by them for such purposes shall be entitled to provide additional educational instruction and facilities (primary or otherwise) and to charge and collect from individuals who or whose children receive any such additional education instruction or facilities within the Port area reasonable fees in respect thereof”.

- (4) The following proviso shall be added immediately following paragraph (b) of subclause (5) of Clause 1:
“Provided nevertheless that subject to providing free medical services for the Officers and Members of The Bahamas Police Force stationed within the Port Area from time to time and subject to providing indigent persons resident within the Port Area with medical services on the same terms as District Medical Officers of the Government of the said Bahama islands shall from time to time provide like services to indigent persons in other parts of the said Island of Grand Bahama then notwithstanding anything else in this clause hereinbefore contained the Port Authority shall be entitled to charge and collect from individuals who or whose children receive any such medical services and facilities as aforesaid reasonable fees in respect of such services and facilities”.
- (5) In subclause (1) of Clause 2 there shall be inserted immediately after the words and bracket “and nuclear fission products” the words and brackets “(hereinafter referred to as the Supplies”.
- (6) In paragraph (c) in subclause (1) of Clause 2 there shall be inserted immediately after the words “places of beautification” the words “amusement, entertainment, sports.”
- (7) In subclause (1) of Clause 2 the words and brackets “(all of which works and things hereinbefore referred to in paragraphs (b), (c), (d) and (e) hereof are sometimes hereinafter collectively referred to as “the Port Area Development” shall be deleted and the following substituted therefor:
“(all of which works hereinbefore referred to are sometimes hereinafter collectively referred to as “the Port Area Development” or “the Port Development Area”.
- (8) The following proviso shall be added immediately following subclause (2) of Clause 2:

“Provided nevertheless that in the case of any cottages, bungalows, houses or other private residences constructed and erected as aforesaid which are at any time sold or leased by the Port Authority or by any Licensee otherwise than to any person then *bona fide* in the service or employment of the Port Authority or of any Licensee and *bona fide* for the purposes of or in connection with the future service or employment of such persons, the Customs Duties in respect of the Supplies or the Manufacturing Supplies used directly in the construction, erection, air-conditioning, equipping, fitting out, furnishing and landscaping thereof which but for the foregoing provisions of this clause would have been payable shall forthwith thereupon become payable.”

- (9) In paragraph (b) of subclause (4) of Clause 2 immediately after the words “the Schedule hereto” there shall be inserted the words “or in such other form as the Comptroller of Customs and the Port Authority may from time to time agree”.
- (10) In paragraph (c) of subclause (5) of Clause 2 immediately after the words “or any Licensee within the Port Area to”, there shall be inserted the words “(i) any vessel of less than 1500 nett tons (not being a vessel used solely or mainly for pleasure purposes) if such vessel is (A) bound directly for a port outside the Colony, and is (B) engaged in the carrying of cargo and/or passengers for gain or reward, and is (C) not engaged in inter-insular shipping between ports within the Colony in any form whatsoever, and is (D) not engaged in commercial fishing within the Colony, and (ii)”.
- (11) In each of subclauses (6), (7), (8) and (27) of Clause 2 there shall be inserted immediately after the words “Thirty” wherever the same appears the word “five”.
- (12) In paragraph (c) of subclause (10) of Clause 2 the words “of 1500 nett tons or more” shall be deleted and the following words substituted therefor:
“referred to in the proviso to paragraph (c) of subclause (5) of this clause”.
- (13) At the end of subclause (19) of Clause 2 there shall be inserted the following proviso:
“Provided further than upon the Port Authority from time to time submitting to the Colonial Secretary proper survey plans of any such additional land as aforesaid adjoining any part of the Port Area and lying —
North or South of that part of the existing Port Area bounded Westwardly by a line drawn across the said Island on a bearing North 21 degrees 49 minutes East at a point Three and a Half (3½)miles Westward of the West Bank of Hawksbill Creek aforesaid and Eastwardly by a line drawn

across the said Island North and South at a point Five Hundred (500) feet Eastward of the East Bank of Gold Rock Creek where it joins the Sea on the South side of the said Island the Government shall forthwith declare such additional land to be a part of the Port Area within the meaning of this Agreement by Order-in-Council published in the *Official Gazette*.”

- (14) In paragraph (a) of subclause (23) of Clause 2 immediately after the word “branches” there shall be inserted the brackets and letter “(i)”, immediately after the words “and handling of freight” there shall be inserted the following words, namely:

“any business or undertaking of owning, constructing, operating and maintaining utilities (as hereinbefore referred to), any *bona fide* banking, trust, corporate management, investment, stock-broking, insurance, finance (including hire-purchase), mortgage and loan business or undertaking, any business or undertaking of owning, constructing, operating and maintaining hospitals, medical and health clinics, and schools, any business or undertaking of owning, constructing, maintaining, selling and leasing houses and places of residential or business occupation, and of real estate ownership, development, maintenance and sale generally, any business or undertaking or owning, operating and servicing ships and servicing aircraft, any business or undertaking incidental or relating to any such business or undertaking as aforesaid or usually carried on in connection with the same or ancillary thereto, and (subject to complying with the provisions of any present or future laws of the Colony relating to the necessary professional qualifications), any profession or professional activity, and (ii) any business or undertaking (excluding the sale of alcoholic liquor or goods or merchandise of any description) of incidental ancillary or relating to or usually carried on in connection with owning, constructing, operating, and maintaining hotels, boarding houses, clubs (resident or otherwise), apartment houses, restaurants, marinas, yacht basins, and places of entertainment other than cinemas), sports, amusement or cultural activity”.

and immediately after the word “Agreement” there shall be inserted a comma.

- (15) At the end of Clause 2 there shall be inserted the following new subclauses:
- (29) (a) That subject to complying with the provisions of any existing Agreement, Treaty or Convention between Her Majesty’s Government and any other Government, with the consent of the Governor-in-Council the Bahamas Broadcasting and Television Commission may when requested in writing by the Port Authority so to do lease or otherwise make available to the Port Authority the

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- right to establish within the Port Area and to operate broadcasting and televising services for such period and in accordance with such rules and regulations (not being more onerous than those from time to time imposed on any other individual or company operating similar services within the Colony or applicable to any such services operated by the said Commission) as the said Commission shall stipulate.
- (b) To use its best endeavours to obtain any consent or approval from any other government or authority that may be necessary in order to permit the establishment and operation of such broadcasting and televising services as aforesaid or either of them.
- (30) That the Government shall at all times use its best endeavours to ensure that the Port Area shall be efficiently and adequately served by aviation facilities for all purposes.”
- (16) Wherever in the Principal Agreement (as amended by these presents) the Port Authority is (either expressly or by implication) obliged or empowered to perform any act the Port Authority shall be entitled in writing under their Common Seal to license any other person or company to perform such act and all references in the Principal Agreement (amended as aforesaid) to the Port Authority’s performing any act shall be deemed to include references to such act being performed by any person or company licensed as aforesaid to perform such act. Provided that nothing in this subclause shall relieve the Port Authority from any of its primary obligations under the Primary Agreement (amended as aforesaid).
- (17) In every place in the Principal Agreement (amended as aforesaid) except in paragraph (a) of subclause (23) of Clause 2 thereof where the expression “manufacturing, industrial, or other business, undertaking, or enterprise” or “business or undertaking” appear, such expressions shall (without prejudice to their generality) be deemed to include all lawful businesses, utilities, professions, undertakings and enterprises of every nature.
- (18) In subclause (8) of Clause 3 immediately after the words “mutual consent of the parties hereto with the consent of” there shall be inserted the words “not less than four-fifths in number of” and all words from and including the words “which consent of such persons” shall be deleted.
- (19) In subclause (11) of Clause 3 the figures and words “1950 of the United Kingdom” and the words in brackets shall be deleted, and immediately after the word “modification” there shall be inserted the words “or re-enactment”.

3. (1) For the purposes of this present Clause the expression “the said Act” means The Hotels Encouragement Act as amended and in force at the date of these presents the expressions “Customs Duties” “New Hotel” “Promoter” and “Real Property Taxes” have the same meanings as are assigned to them in the said Act and the expression “the Expiry Date” means the twentieth anniversary of the date on which the said Act or any re-enactment or extension (with or without amendment) thereof or any Act substantially replacing the same shall expire.

(2) Notwithstanding anything in the Principal Agreement (amended as aforesaid) contained no Licensee undertaking the construction of or operating a New Hotel within the Port Area shall be entitled by virtue of the Principal Agreement (amended as aforesaid) to any benefits in the way of the refund of or freedom or exemption from Customs Duties Real Property Taxes or any other taxes or direct taxation in respect of the construction or operation of such New Hotel Provided nevertheless that in the case of any New Hotel within the Port Area the construction of which is commenced within the period of twenty years from the date of these presents (and of which commencement written notice is given by the Port Authority to the Colonial Secretary within Thirty (30) days after the date of such commencement) any Licensee undertaking the construction thereof or operating the same shall be entitled to the same benefits in the way of the refund of and freedom and exemption from Customs Duties Real Property Taxes and any other taxes and direct taxation as if the said Act had remained in force at the date of the commencement of such construction and the Licensee had been the Promoter in respect thereof and the Governor-in-Council had on such date entered into an agreement with such Licensee providing for the matters referred to in paragraphs (a), (b), (c), (d) and (e) of subsection (1) of section 4 of the said Act and in the case of the said paragraphs (a) and (b) for periods ending on whichever shall be the earlier of (i) the expiration of five years from the said date of the commencement of such construction, and (ii) the Expiry Date and in the case of the said paragraphs (c), (d) and (e) for periods ending respectively on whichever is the earlier of (i) the expiration of the periods respectively specified in the said paragraphs (c), (d) and (e), and (ii) the Expiry Date and as if for the purposes of the said paragraph (b) the date therein referred to were the fifth anniversary of the said date of commencement of the construction of such New Hotel.

4. (1) In this clause the expression “Local Authority” means any body or corporation created or established under or by virtue of any statute of the Colony for the purpose of exercising in respect of the Port Area or any part thereof powers of local government or administration and the expression “the Administration Area” means the Port Area or the part thereof (as the case may be) for the purposes of the local government or administration of which a particular Local Authority has been so created or established as aforesaid.

(2) Notwithstanding the provisions of subclause (7) of Clause 3 of the Principal Agreement (amended as aforesaid) the Port Authority may at any time or times during the continuance thereof with the consent in writing of not less than four-fifths in number of the persons and companies to whom subsisting licences shall have been granted by the Port Authority under the provisions thereof by an agreement in writing (hereinafter referred to as “the Transfer Agreement” made with a Local Authority under their respective Common Seals transfer to and vest in the Local Authority (either alone or in common with the Port Authority or any Licensee) upon such terms and conditions in all respects as may (with such consent as aforesaid) be therein agreed all or any of the rights powers and obligations of the Port Authority then subsisting under or by virtue of the Principal Agreement (amended as aforesaid) in relation to the Administration Area and so that (subject as aforesaid) (a) the Local Authority shall thereupon assume (in lieu of and exoneration of the Port Authority) such of the then subsisting rights powers and obligations of the Port Authority (so far as the same relate to the Administration Area) under or by virtue of the provisions of each such licence as aforesaid as are specified in such Transfer Agreement (hereinafter referred to as “the specified rights powers and obligations” and (b) all the then subsisting rights powers and obligations of every such Licensee as aforesaid under or by virtue of his or its licence shall remain in full force and effect but as regards the specified rights powers and obligations as if the relevant licence had been validly made and executed by and between the Local Authority (instead of the Port Authority) and such Licensee.

THE SCHEDULE HEREINBEFORE REFERRED TO

Names and Addresses or Registered Offices of Existing
Licensees.

IN WITNESS WHEREOF etc.