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**CHAPTER 2****INTERPRETATION AND GENERAL CLAUSES**

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## CHAPTER 2

### INTERPRETATION AND GENERAL CLAUSES

**An Act to consolidate and amend the Law relating to the construction, application and interpretation of laws, to make general provisions with regard thereto, to define terms and expressions used in laws and public documents, to make general provision for other like purposes, and for matters incidental thereto or connected therewith.**

*20 of 1976  
9 of 1978  
41 of 1992  
34 of 1996  
21 of 2009  
33 of 2011*

*[Commencement 8th December, 1976]*

#### PART I

##### SHORT TITLE AND APPLICATION

**1.** This Act may be cited as the Interpretation and General Clauses Act. Short title.

**2.** (1) Save where the contrary intention appears either from the context of this Act or any other written law or instrument, the provisions of this Act shall apply to this Act and to any other written law in force whether such other written law came or comes into operation before or after the commencement of this Act, and to any instrument made or issued under or by virtue of any such Act. Application.  
*9 of 1978, s. 3.*

(2) This Act shall be binding upon the Crown.

#### PART II

##### INTERPRETATION OF WORDS AND EXPRESSIONS

**3.** (1) In this and in any other written law unless the context otherwise requires — Interpretation of words and expressions.

“act”, when used with reference to an offence or civil wrong, includes a series of acts, an illegal omission and a series of illegal omissions; *9 of 1978, s. 3.*

“Act” means an Act of Parliament whether passed before or after the coming into force of this Act and includes — *9 of 1978, s. 3.*

(a) any law passed by a legislature of the former Colony of The Bahama Islands;

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- (b) an Act of Parliament of the United Kingdom and any legislative instrument made thereunder having effect or having had effect as part of the law of The Bahamas;
- 9 of 1987, s. 3* “amend” includes repeal, revoke, cancel, add to, vary and the doing of all such things simultaneously or by the same written law;
- “The Bahamas” means The Commonwealth of The Bahamas;
- 9 of 1978, s. 3.* “Bahamian currency” means currency of The Bahamas, the issue of which is authorized by any written law;
- “cent” means a cent in Bahamian currency;
- Schedule. “City of Nassau” and “Nassau” mean the area within the boundaries specified in the Schedule;
- 9 of 1978, s. 3.* “commencement” when used with reference to any written law, means the date when the written law came or comes into operation;
- 9 of 1978, s. 3.* “commissioner”<sup>1</sup> means a person who is a commissioner under the Local Government Act;
- Ch. 37. “the Consolidated Fund” means the Consolidated Fund established by Article 128 of the Constitution;
- 9 of 1978, s. 3.* “Constitution” means the Constitution of The Bahamas as set out in the Schedule of The Bahamas Independence Order 1973, as amended from time to time;
- “consul” and “consular officer” mean any person including the head of a consular post, recognized by the competent authority of the receiving state as entrusted in that capacity with the exercise of consular functions;
- 9 of 1978, s. 3.* “contravene” in relation to any requirement or condition prescribed in any written law or in any grant, permit, licence, lease or authority granted under or by virtue of any written law, includes a failure to comply with that requirement or condition;

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<sup>1</sup> Title of office of “Commissioner” changed to “Deputy Family Island Administrator”. See Ch 37 s. 37 (2).

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- “counsel and attorney” means a person who has been admitted to practice as counsel before the Supreme Court;
- “court” means any court of The Bahamas of competent jurisdiction;
- “Crown Agents” means the persons or body for the time being acting as Crown Agents for Oversea Governments and Administrations;
- “daily penalty” means a penalty for each day on which the offence is continued after conviction thereof;
- “definition” means the interpretation given by a written law to any word or expression; *9 of 1978, s. 3.*
- “dollar” means a dollar in Bahamian currency;
- “export” means to take out or cause to be taken out of The Bahamas by air, land or water;
- “financial year” means any period of twelve months beginning on 1st July in any year; *41 of 1992, s. 3.*
- “Freeport” means the whole of the Port Area;
- “functions” includes jurisdictions, powers and duties;
- “Government” means the Government of The Bahamas;
- “Government Printer” means any printer authorized by or on behalf of the Government to print any written law or any other document of the Government; *9 of 1978, s. 3.*
- “House” means the Senate or the House of Assembly or both as the context may require;
- “immovable property” means —
- (a) land whether covered by water or not;
  - (b) any estate, right, interest or easement in or over any land; and
  - (c) things attached to land or permanently fastened to anything attached to land;
- “import” means to bring or cause to be brought into The Bahamas by air, land or water;
- “instrument” includes any publication in the *Gazette* having legal effect;

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“Island of New Providence” and “New Providence” include the island of New Providence, Paradise Island and all other adjacent islands and cays within ten miles of the Island of New Providence;

9 of 1978, s. 3.

“Judicial and Legal Service Commission” means the Judicial and Legal Service Commission constituted by Article 116 of the Constitution;

“judge” includes the Chief Justice and any Justice of the Supreme Court;

“land” includes land of any tenure, and tenements and hereditaments, corporeal or incorporeal, and houses and other buildings, also an undivided share in land;

“law” means a law for the time being in force in The Bahamas;

Ch. 54.

“magistrate” means a magistrate appointed under the Magistrates Act and includes a justice of the peace lawfully exercising the jurisdiction of a magistrate;

“medical practitioner” means a person for the time being duly registered or deemed to be registered, or licensed as a medical practitioner, or otherwise permitted to practice as a medical practitioner, under the Medical Act;

Ch. 224.

“Minister” means the Minister responsible for the matter or department to which the context refers;

“month” means calendar month;

“movable property” means property of every description except immovable property;

“oath” and “affidavit” include, in the case of persons allowed or required by law to affirm instead of swearing, affirmation; and “swear” in the like case includes affirm;

“officer” or “public officer” means any person holding a public office;

“or”, “other” and “otherwise” shall be construed disjunctively and not as implying similarity, unless the word “similar” or some other word of like meaning is added;

“Out Island” and “Family Island” mean any island of The Bahamas other than New Providence;



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- “Parliament” means the Parliament of The Bahamas established under Article 38 of the Constitution;
- “peace officer” or “police officer” includes a constable and any member of the Police Force and any other person lawfully authorized to discharge police duties;
- “person” includes any public body and any body of persons, corporate or unincorporate, and this definition shall apply notwithstanding that the word “person” occurs in a provision creating or relating to an offence or for the recovery of any fine or compensation;
- “Police Service Commission” means the Police Service Commission constituted by Article 118 of the Constitution;
- “Port Area” and “Port Authority” have the meanings respectively ascribed thereto by the agreement set out in the Schedule to the Hawksbill Creek, Grand Bahama (Deep Water Harbour and Industrial Area) Act; Ch. 261.
- “power” includes any privilege, authority and discretion;
- “prescribed” when used in or with reference to any Act, means prescribed by that Act or by subsidiary legislation made thereunder;
- “prison” means any place or building or portion of a building declared, or within an area declared, to be a prison under the Prisons Act\*; 22 of 1943.
- “proclamation” means a proclamation of the Governor-General;
- “Provost Marshal” means the Commissioner of Police exercising the powers and functions of the Provost Marshal conferred upon him by section 6 of the Police Act<sup>†</sup>; 29 of 1965.
- “publication” means —
- (a) all written or printed matter;
  - (b) any record, tape, wire, perforated roll, cinematograph film or other contrivance by means of which any words or ideas may be mechanically, electronically or electrically

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\* This Act (formerly Ch. 208) has been repealed and replaced by the Correctional Services Act (No. 8 of 2014) – now Ch. 208

† This Act (formerly Ch. 205) has been repealed and replaced by the Police Force Act (No. 3 of 2009) – now Ch. 205

produced, reproduced, represented or conveyed;

(c) anything whether of a similar nature to the foregoing or not, containing any visible representation or by its form, shape, or in any manner capable of producing, reproducing, representing or conveying words or ideas; and

(d) every copy and reproduction of any publication as defined in paragraphs (a), (b) and (c) of this definition;

“public body” includes any public board, commission, statutory corporation, committee and any undertaking by or of the Government;

*9 of 1978, s. 3.*

“public holiday” means any day which is mentioned as or is declared to be a public holiday in the Public Holidays Act;

Ch. 36.

“public office” means, subject to the provisions of the Constitution, any office of emolument under the Crown in right of the Government of The Bahamas, whether such office be permanent or temporary;

“public place” includes every place to which the public are entitled or permitted to have access whether on payment or otherwise;

“Public Seal” means the Public Seal of The Bahamas;

“Public Service Commission” means the Public Service Commission constituted by Article 107 of the Constitution;

*9 of 1978, s. 3.*

“registered”, when used with reference to a document, means registered under the provisions of any written law applicable to the registration of such a document;

“repeal” includes rescind, revoke, cancel or replace;

“rules” means rules under the Act in which the word “rules” is used and where the context so admits includes orders, regulations, bye-laws and forms;

“rules of court” when used in relation to any court, means rules made by the authority having for the time being power to make rules and orders regulating the practice and procedure of such court;

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- “sell” includes offer or exposure for sale, barter and exchange;
- “subsidiary legislation” or “statutory instrument” means any proclamation, regulation, rule, order, resolution, rule of court, bye-law, or other instrument made under or by virtue of any Act and having legislative effect; *9 of 1978, s. 3.*
- “summary conviction” means a summary conviction by a magistrate in accordance with the provisions of the Magistrates Act; *Ch. 54.*
- “swear” includes affirm and declare;
- “Treasurer” means the Treasurer of The Bahamas;
- “Treasury” means the Treasury of The Bahamas;
- “treaty” means a treaty, convention or agreement made with a foreign state, and any protocol or declaration attached thereto or independent thereof but referring thereto;
- “triable summarily” means triable by a magistrate, in accordance with the provisions of the Magistrates Act; *Ch. 54.*
- “vessel” means any ship or boat and any description of vessel used in navigation;
- “waters of The Bahamas” means the waters within the jurisdiction of The Bahamas;
- “will” includes any testamentary instrument;
- “words” includes figures and symbols;
- “writing” includes typewriting, printing, lithography, photography and other means of reproduction;
- “written law” means Acts and subsidiary legislation;
- “year” means a calendar year.

(2) In this and any other written law, the expression “Commonwealth” when used otherwise than as a reference to the Commonwealth of The Bahamas, means The Bahamas, the United Kingdom, Canada, Australia, New Zealand, India, Sri Lanka, Ghana, Malaysia, Nigeria, Cyprus, Sierra Leone, Tanzania, Jamaica, Republic of Trinidad and Tobago, Uganda, Kenya, Malawi, Malta, Zambia, The Gambia, Singapore, Guyana, Lesotho, Botswana, Barbados, Mauritius, Swaziland, Tonga, Fiji, Western Samoa, Nauru, Bangladesh, Grenada, Papua New

Guinea, Seychelles and any dependency of any such country:

Provided that the Governor-General may from time to time by Order published in the *Gazette* add any country to or delete any country from the countries so specified.

33 of 2011, s. 2.

(3) In every written law, the word “may” is to be construed as being directory or empowering and the word “shall” or “must” is to be construed as being mandatory or imperative.

Gazette.  
9 of 1978, s. 3.

4. (1) The *Official Gazette* Bahamas, any Supplement thereto and any *Extraordinary Gazette* shall from time to time be published by the competent authority.

(2) Wherever the word *Gazette* is used in any written law, the same shall be held and deemed to refer to and mean—

- (a) the *Official Gazette* Bahamas, any Supplement thereto and the *Extraordinary Gazette* published pursuant to subsection (1); or
- (b) any newspaper published and in general circulation in The Bahamas and designated as the *Gazette* by Order\* of the Governor-General.

(3) For the purposes of this section the expression “competent authority” means the person empowered by any written law or instrument to cause to be published the *Gazette*.

Grammatical  
variations and  
cognate  
expressions.  
9 of 1978, s. 3.

5. Where any word or expression is defined in any written law such definition shall extend to the grammatical variations and cognate expressions of such word or expression.

Provisions for  
gender and  
number.

6. (1) Words and expressions importing the masculine gender include the feminine.

(2) Words and expressions in the singular include the plural and words and expressions in the plural include the singular.

Service by post.  
9 of 1978, s. 3.

7. Where any written law authorizes or requires any documents to be served or any notice to be given by post or by registered post, whether the expression “serve” or “give” or “send” or any other expression is used, the service or notice shall be deemed to be effected by properly addressing, pre-paying the postage thereon and dispatching by post or by registered post, as the case may be, to the last

\* The Tribune (S.I. 15/1997), The Nassau Guardian (S.I. 15/1997), The Bahama Journal (S.I. 107/2004), The Punch (S.I. 69/2007)

known postal address or to the post office box number of the person to be served or given notice or in care of the Post Office for general delivery, an envelope containing the document or notice, and, unless the contrary is proved, such service or notice shall be deemed to have been effected ninety-six hours after the time of posting of the envelope.

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**8.** In any written law or other instrument having the force of law in The Bahamas a reference to pounds, shillings and pence shall be construed as a reference to the equivalent sum in the currency of The Bahamas converted at the ruling rate on the 25th day of May 1966.

References to pounds, shillings and pence.  
*9 of 1978, s. 3.*

### PART III GENERAL PROVISIONS AS TO ACTS

**9.** (1) Laws passed by Parliament shall be styled “Acts”.

Acts and enactment formula.

(2) Acts shall be prefaced by the following enactment formula —

“Enacted by the Parliament of The Bahamas”.

**10.** Every Act shall be a public Act.

Act to be public Act.

**11.** (1) Every section of an Act shall have effect as a substantive enactment without introductory words.

Sections and schedules.

(2) Every schedule to or table in any Act and any notes to such schedule or table shall be construed and have effect as part of such Act.

**12.** (1) Where any Act is referred to, it shall be sufficient for all purposes to cite such Act by —

Citation of Act.

(a) the title, short title or citation thereof;

(b) its number among the Acts of the year in which it was enacted; or

(c) any chapter number lawfully given to it under the authority of any Act providing for the issue of a revised edition or other editions of the laws of The Bahamas.

*9 of 1978, s. 3.*

(2) Any reference made to any Act, in accordance with the provisions of subsection (1), may be made according to the title, short title, citation, number or chapter number used in copies of Acts printed by the Government Printer.

**13.** (1) Where it is provided that any Act may, as to the whole or any part thereof, be cited with any other Act or with any group of Acts, all such Acts shall be read and construed together, and any such group shall be construed as including such first-mentioned Act.

Collective citation.

(2) Where it is provided that two or more Acts may together be cited by a collective short title or citation containing therein the years of the first and last of such Acts, such short title or citation shall be construed to include all the Acts covered by the same, or any of them.

Reference to Act as amended.

**14.** (1) Where in any Act a reference is made to another Act, such reference shall be deemed to include a reference to such last mentioned Act as the same may from time to time be amended.

(2) Where any Act repeals and re-enacts, with or without modification, any provision of a former Act, references in any other Act to the provision so repealed shall be construed as references to the provision so re-enacted.

9 of 1978, s. 3.

(3) The provisions of subsections (1) and (2) shall apply *mutatis mutandis* to subsidiary legislation.

Citation of part of Act.

**15.** In any Act a description or citation of a portion of an Act shall be construed as including the word, section or other part mentioned or referred to as forming the beginning and as forming the end of the portion comprised in the description or citation.

Construction of reference to Act, section, etc.

**16.** (1) Any reference in any Act to “any Act” or to “any enactment” shall be construed as a reference to any Act for the time being in force.

(2) Where in any Act there is a reference to a section, part, chapter or schedule by number or letter only, and not in conjunction with the title or short title of any other Act, such reference shall be construed as a reference to the section, part, chapter or schedule of that number or letter contained in the Act in which such reference occurs.

(3) Where in any section of any Act there is a reference to a subsection, paragraph, subparagraph or other division by number or letter only, and not in conjunction with the number of any section of that or of any other Act, such reference shall be construed as a reference to the subsection, paragraph, subparagraph or other division of that number or letter contained in the section in which such reference occurs.

(4) The provisions of subsections (2) and (3) shall apply, *mutatis mutandis*, to subsidiary legislation.



(5) Any reference to an Act in any Act shall include a reference to any subsidiary legislation made under the Act to which reference is made.

17. A marginal note or heading note to any provision of any Act shall not have any legislative effect and shall not in any way vary, limit or extend the interpretation of any Act.

Marginal note or heading note.  
21 of 2009, s. 2.

#### PART IV COMMENCEMENT, AMENDMENT AND REPEAL

18. Every written law shall —

- (a) be published in the *Gazette*; and
- (b) come into operation on the expiration of the day next preceding the day of each publication or, if it is provided in the written law or in some other law that such written law shall come into operation on some other day, then it shall come into operation on the expiration of the day next preceding such other day.

Commencement of Act.  
9 of 1978, s. 3.

19. In an amending Act the amended Act may be referred to as the “principal Act” and this section shall apply *mutatis mutandis* to subsidiary legislation.

Principal Act, etc.  
9 of 1978, s. 3.

20. Where a written law repeals in whole or in part any other written law, the repeal shall not —

- (a) revive anything not in force or existing at the time at which the repeal takes effect;
- (b) affect the previous operation of any written law so repealed or anything duly done or suffered under any written law so repealed;
- (c) affect any right, privilege, obligation or liability acquired, accrued or incurred under any written law so repealed;
- (d) affect any penalty, forfeiture or punishment incurred in respect of any offence committed against any written law so repealed; or
- (e) affect any investigation, legal proceeding or remedy in respect of any such right, privilege, obligation, liability, penalty, forfeiture or punishment as aforesaid; and any such

Effect of repeal generally.  
9 of 1978, s. 3.

investigation, legal proceeding or remedy may be instituted, continued or enforced, and any such penalty, forfeiture or punishment may be imposed, as if the repealing Act had not been passed.

Repealed written law not revived.  
*9 of 1978, s. 3.*

**21.** Where any written law repealing in whole or in part any former written law is itself repealed, such last repeal shall not revive the written law or provision previously repealed, unless provision is made to that effect.

Repeal and substitution.  
*9 of 1978, s. 3.*

**22.** Where any written law repeals in whole or in part any other written law and substitutes other provisions therefor, the repealed written law shall remain in force until the substituted provisions come into operation.

Repeal of amended written law to include amendments.  
*9 of 1978, s. 3.*

**23.** Where any written law which has been amended by any other written law is repealed, such repeal shall include the repeal of all those provisions of such other written law by which such first-mentioned written law was amended.

Effect of expiry of written law.  
*9 of 1978, s. 3.*

**24.** Upon the expiry or lapse of any written law, the provisions of section 20 shall apply as if such written law had been repealed.

## PART V SUBSIDIARY LEGISLATION

General provision with regard to power to make subsidiary legislation.

**25.** Where an Act confers power on any authority to make subsidiary legislation, the following provisions shall have effect with reference to the making thereof —

- (a) when any subsidiary legislation purports to be made in exercise of a particular power or powers, it shall be deemed also to be made in exercise of all other powers thereunto enabling;
- (b) no subsidiary legislation shall be inconsistent with the provisions of the Act under which it is made;
- (c) subsidiary legislation may at any time be amended by the same authority and in the same manner by and in which it was made:

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Provided that where such authority has been replaced wholly or in part by another authority, the power conferred hereby upon the original authority may be exercised by the replacing authority concerning all matters or things within its jurisdiction as if it were the original authority;

- (d) where any Act confers power on any authority to make subsidiary legislation for any general purpose, and also for any special purpose incidental thereto, the enumeration of special purposes shall not be deemed to derogate from the generality of the powers conferred with reference to the general purpose;
- (e) subsidiary legislation may provide that a contravention or breach thereof shall be punishable on summary conviction by such fine not exceeding five hundred dollars or by such term of imprisonment not exceeding six months as may be specified in the subsidiary legislation or by both such fine and imprisonment;
- (f) subsidiary legislation may amend any forms contained in the Act under which such subsidiary legislation is made and may prescribe new forms for the purpose thereof and for the purposes of such subsidiary legislation; and
- (g) subsidiary legislation may provide for the imposition of fees and charges in respect of any matter with regard to which provision is made in such subsidiary legislation or in the Act under which such subsidiary legislation is made.

**26.** (1) Where provision is made by any subsidiary legislation in respect of fees or other charges, such subsidiary legislation may provide for all or any of the following matters —

Fees and charges.

- (a) specific fees or charges;
- (b) maximum or minimum fees or charges;
- (c) maximum and minimum fees or charges;
- (d) the payment of fees or charges either generally or under specified conditions or in specified circumstances;
- (e) the exemption of any person or class of persons from the payment of fees or charges; and

(f) the reduction, waiver or refund, in whole or in part, of any such fees or charges, either upon the happening of a certain event or in the discretion of a specified person.

(2) Where any reduction, waiver or refund, in whole or in part, of any fee or charge is provided for by any subsidiary legislation, such reduction, waiver or refund may be expressed to apply or be applicable either generally or specially —

- (a) in respect of certain matters or transactions or classes of matters or transactions;
- (b) in respect of certain documents or classes of documents;
- (c) in respect of the occurrence or the termination of any event;
- (d) in respect of certain persons or classes of persons; or
- (e) in respect of any combination of such matters, transactions, documents, events or persons, and may be expressed to apply or be applicable subject to such conditions as may be specified in the subsidiary legislation or in the discretion of any person specified therein.

Effect of subsidiary legislation.

**27.** Subsidiary legislation shall have the same force and effect and shall be as binding and shall be construed for all purposes as if it had been contained in the Act under which it was made.

Construction of subsidiary legislation.

**28.** Where any Act confers power to make any subsidiary legislation, expressions used in the subsidiary legislation shall have the same meaning as in the Act conferring the power, and any reference in such subsidiary legislation to “the Act” shall be construed as a reference to the Act conferring the power to make such subsidiary legislation.

Exercise of statutory powers between enactment and commencement of Act.

**29.** Where an Act is not to come into operation immediately on the publication thereof and confers power to make any appointment, to make any subsidiary legislation, to issue notices, to prescribe forms or to do any other thing for the purposes of the Act, such power may be exercised at any time after the publication of the Act in the *Gazette*:

Provided that any appointment, subsidiary legislation, instrument, notice, form or thing made, granted, issued, prescribed, given or done under such power shall not, unless the appointment, subsidiary legislation, instrument, notice, form or thing is necessary for bringing the Act into operation, come into operation or have any effect until the Act comes into operation.

**30.** An act shall be deemed to be done under an Act or by virtue of the powers conferred by an Act or in pursuance or execution of the provisions of or under the authority of an Act, if it is done under or by virtue of or in pursuance or execution of or under the authority of subsidiary legislation made under any power contained in that Act.

Acts done under subsidiary legislation deemed done under Act.

**31.** All rules, regulations and bye-laws shall be laid before both Houses of Parliament immediately after publication in the *Gazette* or within fourteen days of the making thereof, whichever be the earlier, or if the Houses are not then in session, within fourteen days of the first meeting thereof following the making of such rules, regulations or bye-laws.

Subsidiary legislation to be laid before both Houses.

**32.** (1) If either House of Parliament within a period of six weeks beginning with the day on which a copy of any rules, regulations or bye-laws is laid before it, resolves that an Address be presented to the Governor-General praying that the rules, regulations or bye-laws or any provision thereof be annulled, no further proceedings shall be taken or be valid thereunder after the date of the resolution and the Governor-General shall thereupon by Order revoke the rules, regulations or bye-laws or such provision with effect from the said date, so however that any such resolution and revocation shall be without prejudice to the validity of anything previously done under the rules, regulations or bye-laws or any provision thereof or to the making of new rules, regulations or bye-laws.

Subsidiary legislation annulled by resolution of either House.

(2) Where in pursuance of subsection (1) a resolution is passed in respect of any rules, regulations or bye-laws or any provision thereof which imposes a tax, duty, rate, fee or similar impost, in replacement of any existing tax, duty, rate, fee or similar impost, such existing tax, duty, rate, fee or similar impost shall upon the passing of the resolution revive and remain valid until it is lawfully revoked or amended.

Effect of repeal  
on subsidiary  
legislation.

- 33.** (1) Where any Act —
- (a) repeals any former Act and substitutes other provisions therefor; or
  - (b) repeals any former Act and re-enacts such former Act with or without modification,

any subsidiary legislation made under the former Act and in force at the commencement of the repealing Act shall, so far as it is not inconsistent with the repealing Act, continue in force and have the like effect for all purposes as if made under the repealing Act.

(2) Where any subsidiary legislation is continued in force by virtue of subsection (1), such subsidiary legislation may be from time to time amended as if it had been made under the repealing Act.

Deviation from  
form.  
*9 of 1978, s. 3.*

**34.** Where any form is prescribed by or under any written law, deviations therefrom, not affecting the substance of such form, shall not invalidate it.

## PART VI POWERS

Exercise of  
powers.  
*9 of 1978, s. 3.*

**35.** (1) Where any written law confers any power or imposes any duty, then the power may be exercised and the duty shall be performed from time to time as occasion requires.

(2) Where any written law confers any power or imposes any duty on the holder of any public office as such, then the power may be exercised and the duty shall be performed by the holder for the time being of that public office.

Construction of  
enabling words.  
*9 of 1978, s. 3.*

**36.** (1) Where any written law confers upon any person power to do or enforce the doing of any act or thing, all such powers shall be deemed to be also conferred as are reasonably necessary to enable the person to do or enforce the doing of the act or thing.

*9 of 1978, s. 3.*

(2) Without prejudice to the generality of subsection (1), where any written law confers power —

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- (a) to provide for, prohibit, control or regulate any matter, such power shall include power to provide for the same by the licensing thereof and power to prohibit acts whereby the prohibition, control or regulation of such matter might be evaded;
  - (b) to grant a licence, lease, permit, authority, approval or exemption, such power shall include power to impose reasonable conditions subject to which such licence, lease, permit, authority, approval or exemption may be granted;
  - (c) to approve any person or thing, such power shall include power to withdraw approval thereof;
  - (d) to give directions, such power shall include power to couch the same in the form of prohibitions.

(3) Without prejudice to the generality of subsection (1), whenever in any written law the expression “as the Governor-General may appoint” or “as the Governor-General may direct” or “as the Governor-General may specify” or “as the Governor-General may prescribe” or “as may be designated by the Governor-General”, or any similar expression referring to the Governor-General appears and no power is expressly conferred upon the Governor-General to make the appointment, give the discretion or specification, prescribe or make the designation, as the case may be, such power shall nevertheless be deemed to be conferred. *9 of 1978, s. 3.*

(4) Subsection (3) shall have effect in relation to a Minister, a public officer, a public body or other person as it has effect in relation to the Governor-General.

**37.** (1) Where any written law confers power upon any person to issue, grant, give or renew any licence, lease, authority, approval or permit, the person so empowered shall have a discretion either to issue, grant, give or renew or to refuse to issue, grant, give or renew such licence, lease, authority, approval or permit. *Power to issue licences, etc., discretionary. 9 of 1978, s. 3.*

(2) Nothing in this section shall affect any right which may be conferred by any written law upon any person to appeal against a refusal to issue, grant, give or renew any licence, lease, authority, approval or permit. *9 of 1978, s. 3.*

Power to appoint includes power to suspend, dismiss, reappoint, etc.  
9 of 1978, s. 3.

**38.** Where any written law confers a power or imposes a duty upon any person to make any appointment or to constitute or establish any board, tribunal, commission, committee or similar body, then the person having such power or duty shall also have the power —

- (a) to remove, suspend, dismiss or revoke the appointment of, and to reappoint or reinstate, any person appointed in exercise of such power or duty;
- (b) to revoke the appointment, constitution or establishment of, or to dissolve, any board, tribunal, commission, committee or similar body appointed, constituted or established, in exercise of such power or duty, and to reappoint, reconstitute, or re-establish the same; and
- (c) to specify the period for which any person appointed in exercise of such power or duty shall hold such appointment:

Provided that where the power or duty of such person so to act is only exercisable upon the recommendation, or is subject to the approval or consent, of some other person, then such power shall only be exercisable upon such recommendation or subject to such approval or consent.

Delegation by specified public officers.  
9 of 1978, s. 3.

**39.** (1) Where any written law confers powers or imposes duties upon a specified public officer, such public officer may delegate any other public officer or the person for the time being holding any office designated by him to exercise such powers or perform such duties on his behalf, and thereupon, or from the date specified by such specified public officer, the person delegated shall have and may exercise such powers and perform such duties.

(2) Nothing in subsection (1) shall authorize a specified public officer to delegate any power to make subsidiary legislation or to hear any appeal.

9 of 1978, s. 3.

(3) Where any written law confers any power or imposes any duty upon a specified public officer and such power is exercised or such duty is performed by any other public officer, the specified public officer shall, unless the contrary is proved, be deemed to have delegated the latter public officer under subsection (1) to exercise the power or perform the duty.



(4) In this section “specified public officer” means the person for the time being holding any public office which has been specified, either generally or for the purposes of any particular written law, under this section by the Governor-General by notice in the *Gazette*.

*9 of 1978, s. 3.*

**40.** (1) Where any written law confers power upon any person to delegate the exercise on his behalf of any of the powers or the performance of any duties conferred or imposed upon him under any written law —

Effect of delegation of powers and duties.  
*9 of 1978, s. 3.*

- (a) such delegation shall not preclude the person so delegating from exercising or performing at any time any of the powers or duties so delegated;
- (b) such delegation may be conditional, qualified or limited in such manner as the person so delegating may think fit;
- (c) where the delegation may be made only with approval of some person, such delegation may be conditional, qualified or limited in such manner as the person whose approval is required may think fit;
- (d) the delegation may be to a named person or to the person for the time being holding any office designated by the person so delegating; and
- (e) any delegation may be amended by the person so delegating.

(2) The delegation of any power shall be deemed to include the delegation of any duty incidental thereto or connected therewith and the delegation of any duty shall be deemed to include the delegation of any power incidental thereto or connected therewith.

**41.** Where any written law confers any power or imposes any duty upon the holder of any public office and either —

Exercise of powers in special cases.  
*9 of 1978, s. 3.*

- (a) that office has been abolished; or
- (b) no person has been appointed to discharge the functions of that office,

those powers and duties may be exercised or performed —

- (i) in the case of making subsidiary legislation, by the Governor-General; and

- (ii) in any other case, by the holder of such other public office as the Governor-General may by order direct.

Power to make public instruments and perform acts.  
*9 of 1978, s. 3.*

**42.** Where any written law confers power upon any person to make, issue or approve any proclamation, order, notice, declaration, instrument, notification, licence, permit, register or list, such power shall include power —

- (a) to amend or suspend such proclamation, order, notice, declaration, instrument, notification, licence, permit, register or list;
- (b) to substitute another proclamation, order, notice, declaration, instrument, notification, licence, permit, register or list for one already made, issued or approved;
- (c) to withdraw approval of any proclamation, order, notice, declaration, instrument, notification, licence, permit, register or list so approved; and
- (d) to declare the date of the coming into operation, and the period of operation, of any such proclamation, order, notice, declaration, instrument, notification, licence, permit, register or list.

Power to relate back appointment.  
*9 of 1978, s. 3.*

**43.** Any appointment made under the provisions of any written law may be declared to have effect as from the date upon which the person appointed in fact began to exercise the powers and perform the duties of his appointment not being a date earlier than the commencement of the written law under which the appointment is made.

## PART VII BOARDS AND COMMITTEES

Power to appoint chairman.  
*9 of 1978, s. 3.*

**44.** Where any written law confers power upon any person to appoint any persons to be members of any board, tribunal, commission, committee or similar body, the person so appointing may appoint a chairman, a deputy chairman, a vice-chairman and a secretary of such board, tribunal, commission, committee or similar body.

**45.** Where any written law confers power upon any person to appoint any persons to be members of any board, tribunal, commission, committee or similar body, the person so empowered may appoint any public officer, by his official designation, to be a member of such board, tribunal, commission, committee or similar body, and, on such appointment and until such appointment shall be revoked or otherwise determined, the person for the time being holding the public office in question shall be a member of such board, tribunal, commission, committee or similar body.

Power to appoint public officer to board, etc.  
*9 of 1978, s. 3.*

**46.** Where any board, tribunal, commission, committee or similar body is established by or under any written law, any person who is empowered by such written law to appoint any or all of the members thereof may —

Appointment of alternates and temporary members.  
*9 of 1978, .s. 3.*

- (a) appoint one or more duly qualified persons to be alternate members of the same, and any one such alternate member may attend any meeting of the same when a substantive member is temporarily unable to attend for any reason; and
- (b) appoint a duly qualified person to be a temporary member of the same in the place of any substantive member who is precluded by illness, absence from The Bahamas or any other cause from exercising his functions as such,

and when attending any meeting of such board, tribunal, commission, committee or similar body, such alternate or temporary member shall be deemed for all purposes to be a member of the same.

**47.** Where any board, tribunal, commission, committee or similar body is established by or under any written law, the powers of such board, tribunal, commission, committee or similar body shall not be affected by —

Powers of board, etc. not affected by vacancy.  
*9 of 1978, s. 3.*

- (a) any vacancy in the membership thereof;
- (b) any defect in the appointment or qualification of a person purporting to be a member thereof; or
- (c) any minor irregularity in the convening of any meeting thereof.

**48.** Where any public board, commission, corporation, committee or similar public body is established by or under any written law, then unless the contrary intention appears, such board, commission, corporation, committee

Powers of public boards, etc. to regulate procedure.  
*9 of 1978, s. 3.*

or similar public body may regulate its own procedure by standing orders.

Members of public boards, etc. to incur no personal liability.  
*9 of 1978, s. 3.*

**49.** Except as may be otherwise expressly provided in any written law, no member of any public board, commission, corporation, committee or similar public body shall incur any personal civil liability in respect of anything done or suffered in good faith and without negligence by such member in the exercise or purported exercise of the statutory powers or duties of the public board, commission, corporation, committee or similar public body of which he is a member.

Declaration of pecuniary interest.

**50.** A member of any public board, commission, corporation, committee or similar public body who directly or indirectly has a pecuniary interest in any matter under consideration by such public board, commission, corporation, committee or similar public body, shall be bound to declare such interest and shall not participate in any vote regarding such matter.

Procedure when Minister has interest.

**51.** A Minister who has any pecuniary interest, whether directly or indirectly, in any matter in relation to which he has any statutory or other powers or functions as such Minister shall forthwith declare such interest to the Prime Minister and shall thereupon withdraw from the exercise of any such powers or functions in relation to such matter; and the Prime Minister may take such action as may be necessary to arrange for the exercise of such powers and functions by another Minister.

Power of majority and exercise of powers.  
*9 of 1978, s. 3.*

**52.** (1) Where any written law confers a power or imposes a duty upon a body or number of persons consisting of or being not less than three, such power may be exercised or duty performed in the name of that body or number of persons by a majority of those persons.

(2) Whenever such body or number of persons is assembled, the chairman or other member presiding shall have a casting as well as a deliberative vote, in all matters in which a decision is taken by vote by whatever name such vote may be called.

(3) The exercise of any power vested in such body or number of persons may be signified either by the chairman or other person presiding at the meeting or other deliberation at which such power was exercised or at

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which, as the case may be, authority to exercise it was conferred, or by any person from time to time authorized by such body or persons to signify the exercise of such power.

**53.** Where any written law constitutes any board, tribunal, commission, committee or similar body to be a body corporate having perpetual succession and a common seal and any document requires to be sealed with such common seal, then such common seal shall be affixed by the chairman of such board, tribunal, commission, committee or similar body, or by any member thereof appointed by the chairman for that purpose and shall be authenticated by the signature of the chairman or such member.

Seal.  
*9 of 1978, s. 3.*

### **PART VIII PUBLIC OFFICERS AND PUBLIC CONTRACTS**

**54.** In any written law, instrument, warrant, or process of any kind, any reference to a public officer, or to a person holding a public office by a term designating his office, shall include a reference to any person for the time being lawfully discharging the functions of that office, or of any part of such functions, and any person appointed to act in or perform the duties of such office, or any part of such duties, for the time being.

References to  
public officer.  
*9 of 1978, s. 3.*

**55.** The Governor-General may, by notice (which may be given retrospective effect) in the *Gazette*, declare a change in title of any public office or public body, or of any person referred to in any written law, and such change of title shall have effect from the date specified in such notice or, if no date is specified therein, from the date of publication thereof in the *Gazette* and with effect from such a day, any reference in any written law to the former title of such public office, public body or person shall be read and construed as a reference to that office, body or person by such new title as the Governor-General may have so declared.

Change of title of  
office.  
*9 of 1978, s. 3.*

Appointment of officers by name or office.  
*9 of 1978, s. 3.*

**56.** Where any written law confers power upon any person to appoint or name a person to have and exercise any powers or perform any duties, the person so empowered may either appoint a person by name or direct the person for the time being holding any office designated by him to have and exercise such powers or perform such duties, and thereupon, or from the date specified by the person so empowered, the person appointed by name or the person holding the office aforesaid shall have and may exercise such powers or perform such duties accordingly until such appointment be revoked or otherwise determined.

Power to appoint while holder on retirement leave.

**57.** (1) Where the holder of any public office is on leave of absence pending the relinquishment by him of such office, another person may be appointed to the same public office.

*9 of 1978, s. 3.*

(2) Where two or more persons are holding the same public office by reason of an appointment made in accordance with subsection (1), then, for the purposes of any written law and in respect of any power conferred or duty imposed upon the holder of such office, the person last appointed to the office shall be deemed to be the holder thereof.

Qualification for holding office not to apply to acting appointments.  
*9 of 1978, s. 3.*

**58.** Notwithstanding anything to the contrary in any written law, the qualifications required from, and the restrictions imposed upon, and the disabilities attached to, the holder of any office do not apply to any person who is temporarily appointed to discharge the duties of that office.

Contracts by Minister or public officer.

**59.** In any contract or other document, signed, executed or made by a Minister or public officer on behalf of the Government or of any Government department, it shall not be necessary to name the Minister or such public officer, but it shall be sufficient to name the office held by the Minister or such public officer, and the Minister or public officer shall be deemed to be a party thereto as if the Minister or such public officer were a corporation sole with perpetual succession for this purpose.

**60.** Any contract or other document signed, executed or made before the commencement of this Act by a Minister or by a public officer on behalf of the Government or of any Government department shall be enforceable as if the office of Minister or such public officer had at the time of such execution or making, been a corporation sole with perpetual succession for this purpose.

Effect of past contracts by Minister or public officer.

**61.** The omission to add the title of the public office held by a Minister or public officer signing or executing any contract or other document after the signature of such officer shall not exclude such contract or other document from the operation of sections 59 and 60.

Omission of title after signature of public officer immaterial.

## PART IX CROWN, GOVERNOR-GENERAL AND MINISTER

**62.** (1) Where any Act confers a power or imposes a duty upon the Governor-General to make any subsidiary legislation or appointment, give any directions, issue any order, authorize any thing or matter to be done, grant any exemption, remit any fee or penalty, or exercise any other power or perform any other duty, the exercise of such power or the performance of such duty may be signified under the hand of a Minister or such officer as the Governor-General may, acting in his discretion, designate.

Signification of orders of Governor-General.

(2) Notwithstanding the provisions of subsection (1), proclamations and warrants shall be made or issued only under the hand of the Governor-General himself.

**63.** Any reference to the Sovereign or to the Crown shall be construed as a reference to the Sovereign for the time being.

References to the Sovereign.

**64.** No written law shall in any manner whatsoever affect the right of or be binding on the Crown unless it is therein expressly provided or unless it appears by necessary implication that the Crown is bound thereby.

Saving of rights of Crown.  
*9 of 1978, s. 3.*

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**PART X**  
**TIME AND DISTANCE**

Standard time. **65.** (1) Standard time means the mean time of the 75th meridian West of Greenwich, that is to say, five hours slow of Greenwich Mean Time.

*9 of 1978, s. 3.* (2) Whenever any expression of time occurs in any written law, the time referred to shall be held to be —  
(a) summer time, during the period thereof;  
(b) at all other times, standard time.

Summer time. **66.** (1) Summer time shall be one hour slow of standard time as defined in section 65.

(2) The period of summer time shall be the period so declared by the Governor-General by order.<sup>1</sup>

(3) Nothing in this section or section 65 shall affect the use of Greenwich Mean Time for the purposes of astronomy, meteorology, navigation or aviation, or affect the construction of any document mentioning or referring to a point in time in connection with any of these purposes.

References to “a.m.” and “p.m.”. **67.** The expression “a.m.” indicates the period between midnight and the following noon, and the expression “p.m.” indicates the time between noon and the following midnight; and where two such expressions occur conjunctively in relation to any specified hour or in conjunction with the word “sunrise”, they shall be construed as relating to a consecutive period of time.

Provision where no time prescribed. **68.** Where no time is prescribed or allowed within which any thing shall be done, such thing shall be done without unreasonable delay, and as often as due occasion arises.

Computation of time. **69.** In computing time for the purposes of any written law —

*9 of 1978, s. 3.*

- (a) a period of days from the happening of any event or the doing of any act or thing shall be deemed to be exclusive of the day on which the event happens or the act or thing is done;
- (b) if the last day of the period is a Sunday or public holiday the period shall include the next following day, not being a public holiday;

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<sup>1</sup> By S.I. 65/2006, the Governor-General, by order coming into operation on the 11<sup>th</sup> March 2007, declared that “the period of summer time shall commence at 2 a.m. on the morning of the second Sunday in March each year and shall expire at 2 a.m. on the morning of the first Sunday in November each year”.



- (c) where any act or proceeding is directed or allowed to be done or taken on a certain day, then if that day is a Sunday or public holiday, the act or proceedings shall be considered as done or taken in due time if it is done or taken on the next following day, not being a Sunday or public holiday;
- (d) where an act or proceeding is directed or allowed to be done or taken within any time not exceeding six days, no Sunday or public holiday shall be reckoned in the computation of that time.

**70.** Where in any written law a time is prescribed for doing any act or taking any proceeding and power is given to a court, public body, public officer or other authority, to extend such time, then the power may be exercised by the court, public body public officer or other authority although the application for the same is not made until after the expiration of the time prescribed.

Power to extend time.  
*9 of 1978, s. 3.*

**71.** In the measurement of any distance for the purposes of any written law, that distance shall be measured in a straight line or a horizontal plane.

Distance.  
*9 of 1978, s. 3.*

**72.** Any summons, notice, warrant or other process may be issued, served or executed and any arrest, search or seizure may be carried out or made on any day, whether a Sunday or public holiday or not, and at any hour of the day or night.

Warrants, etc. valid on public holiday.

## PART XI FEES, PENALTIES, OFFENCES AND PROCEEDINGS

**73.** The imposition of a penalty or fine by or under any written law shall not relieve any person from liability to answer in damages to a person injured.

Imposition of penalty not to bar civil action.  
*9 of 1978, s. 3.*

**74.** Where in any written law a penalty is prescribed for an offence under that written law, such provision shall imply —

Penalties prescribed to be deemed maximum penalties.  
*9 of 1978, s. 3.*

- (a) that such offence shall be punishable upon conviction by a penalty not exceeding the penalty prescribed; and

- (b) if the amount of the fine is unspecified, that such offence shall, without prejudice to any law against excessive or unreasonable fines or assessments, be punishable by a fine of any amount within the jurisdiction of the court.

Summary  
procedure.

**75.** Where by any Act or by any subsidiary legislation made thereunder it is provided that any offence shall be prosecuted summarily, or any sum of money is directed or authorized to be recovered summarily, or where a magistrate is authorized to order or require a person to do or abstain from doing any act or thing other than the payment of money, or where anything is declared capable of being enforced summarily, or by summary order, or where any amount is declared to be recoverable summarily as a civil debt, the Magistrates Act and any Act amending the same shall apply accordingly, and such expressions as aforesaid shall mean and include that Act and any Act amending the same and any subsequent Act repealing the Magistrates Act and conferring jurisdiction on a magistrate to do any of the acts and things above set out in a summary manner.

Ch. 54.

Evidence of  
signature of fiat,  
etc.

**76.** Where the fiat, authorization, sanction, consent or authority of the Attorney-General or any other Minister is necessary before any prosecution or action is commenced, or for any purpose whatsoever in connection with any proceeding, any document purporting to bear the fiat, authorization, sanction, consent or authority of the Attorney-General or any other Minister shall, until the contrary is proved, be received as evidence in any proceeding without proof being given that the signature to such fiat, authorization, sanction, consent or authority is that of the Attorney-General or any other Minister.

Disposal of  
forfeits.  
*9 of 1978, s. 3.*

**77.** (1) Where under any written law any movable property is adjudged by any court or other authority to be forfeited, it shall be forfeited to the Crown, and the net proceeds thereof, if it is ordered by a competent authority to be sold, shall be paid into the Consolidated Fund, unless other provision is made.

(2) Nothing in this section shall affect any provision in any written law whereby any portion of any forfeit or of the proceeds of any forfeit is expressed to be recoverable by any person or may be granted by any authority to any person. *9 of 1978, s. 3.*

**78.** (1) Where by any written law the signature of the Governor-General or of any public officer is required to any certificate, authorization, consent, licence, permit or exemption, or any alteration, transfer or renewal thereof, addition thereto or endorsement thereon, or any copy of the same, and no fee for such signature is prescribed by written law, there shall be payable for such signature such fee as the Governor-General may prescribe by notice in the *Gazette*. *Collection of fees. 9 of 1978, s. 3.*

(2) Where any written law requires or authorizes the issue of any document by a public officer, such public officer may, subject to any discretion of the Governor-General, issue a duplicate of such document, upon payment of such fee as may be prescribed by written law or as the Governor-General may prescribe by notice in the *Gazette* if no fee is prescribed by written law. *9 of 1978, s. 3.*

(3) Where any written law requires or authorizes any alteration, transfer, or endorsement of or addition to any certificate, authorization, consent, licence, permit or exemption by a public officer, such fee shall be payable therefor as may be prescribed by written law or as the Governor-General may prescribe by notice in the *Gazette* if no fee is prescribed by written law. *9 of 1978, s. 3.*

(4) Where an extract of any document, book, record or instrument may be properly certified by a public officer as a true extract of such document book, record or instrument, such fee shall be payable for the certifying of the extract by such officer as may be prescribed by written law or as the Governor-General may prescribe by notice in the *Gazette* if no fee is prescribed by written law. *9 of 1978, s. 3.*

## PART XII MISCELLANEOUS

**79.** (1) The Attorney-General may, by order published in the *Gazette*, rectify any clerical or printing error appearing in any written law. *Rectification of errors.*

*9 of 1978, s. 3.*

(2) Every order made under this section shall be laid before the Senate and the House of Assembly without unreasonable delay, and section 32 of this Act shall apply to any such order.

Reprint of  
written laws.  
*9 of 1978, s. 3.*

**80.** The Government Printer may, with the authority of the Governor-General, print copies of any written law with all additions, omissions, substitutions and amendments effected by any amending written law and such copies shall be deemed to be authentic copies of the written law so amended as at the date of such printing.

Performance of  
acts for which  
payment  
required.  
*9 of 1978, s. 3.*

**81.** (1) Where any person, public officer, Government Department or public body is required to do anything for which a fee is to be paid or a charge made under any written law, such person, public officer, Government Department or public body may decline to do that thing until the fee or charge is paid or, where the precise amount of the payment to be made cannot be ascertained until the thing is done, until there be paid such amount as may be estimated to be the correct amount by the person, public officer or the responsible officer of the Government Department or public body required to do the thing.

(2) Where a thing has been done for which an estimated amount shall have been paid, such amount shall be adjusted to the correct amount either by means of a further payment or by a refund of the amount overpaid.

### SCHEDULE (Section 3)

#### BOUNDARIES OF THE CITY OF NASSAU

All that part of New Providence bounded on the north by the Harbour of Nassau, on the east by Mackey Street, on the south by an imaginary line starting at a point approximately three hundred and eighty yards to the south of the junction of Mackey Street and Shirley Street and continuing in a straight line to the south-east corner of the grounds of the Princess Margaret Hospital, thence south-westerly to Prison Lane, thence to the division wall between the Barracks and the Prison, thence in a straight line westwardly to the junction of Dillet Street and Blue Hill Road and following the centre of Dillet Street and Meeting Street to Nassau Street, and on the west by Nassau Street.

The City of Nassau shall also include the whole of Paradise Island, also Potters Cay and all other islets and cays in the Harbour of Nassau.