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**CHAPTER 259****RECLAMATION AND DRAINAGE****ARRANGEMENT OF SECTIONS**

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## CHAPTER 259

### RECLAMATION AND DRAINAGE

#### **An Act to provide for reclamation and drainage of swampy areas.**

*1 of 1937*

*4 of 1938*

*43 of 1964*

*E.L.A.O., 1974*

*5 of 1987*

*[Commencement 18th January, 1937]*

1. This Act may be cited as the Reclamation and Drainage Act.

Short title.

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

Interpretation.

“Minister” means the Minister responsible for Public Works;

*E.L.A.O., 1974.*

“reclamation area” means an area declared to be a reclamation area under section 3 of this Act;

“reclamation officer” means any public officer designated by the Minister as a reclamation officer for the purposes of this Act;

*E.L.A.O., 1974.*

“reclamation work” means grading, paving, clearing, filling in, drainage or any similar work having for its object the removal or abatement of any swamp or area of similar nature which is a breeding place or harbourage for insects or which is otherwise insanitary and injurious to health or comfort;

“owner” means the person who is for the time being receiving, or who if the land were let at a rack-rent would receive, the rack-rent of the land:

*4 of 1938, s. 2.*

Provided that, if in any case the person who by virtue of the foregoing definition would be the owner of the land is a person himself liable to pay a rack-rent in respect of the land to a superior landlord, that superior landlord and not the person aforesaid shall be deemed to be the owner of the land for the purpose of this Act;

For the purposes of this definition —

“rack-rent” means rent which is not less than two-thirds of the full net annual value of the land out of which the rent arises and the full net annual value shall be taken to be the rent at which the

land might reasonably be expected to let from year to year, free from all tenant's rates and taxes (if any), and deducting therefrom the probable annual cost necessary to maintain the same in a state to command such rent;

“property” means land within a reclamation area which is the subject matter of ownership by an owner as herein defined.

Application of Act.  
*E.L.A.O., 1974.*

**3.** It shall be lawful for the Minister by Order to declare any area within The Bahamas to be a reclamation area for the purposes of this Act.

Power by notice to require an owner to perform reclamation work.  
*E.L.A.O., 1974.*

**4.** Upon the declaration of an area to be a reclamation area it shall be lawful to require an owner by notice addressed to such owner to perform, within a period to be specified in such notice, or such extended period as the Minister may allow, reclamation work upon his property in accordance with the requirements of such notice.

Power to perform reclamation work upon the neglect or refusal of owner.  
*E.L.A.O., 1974.*

**5.** If, after the expiration of the notice period, the owner fails or neglects to proceed with, execute or complete the reclamation work, it shall be lawful for the Minister to direct the reclamation officer, with all necessary equipment, workmen and other servants, at any time to enter upon the reclamation area or part thereof for the purposes of performing the reclamation work.

Power to owner or reclamation officer to be upon, etc., adjacent land for the purposes of the reclamation work.

**6.** (1) It shall be lawful for an owner or a reclamation officer performing reclamation work under sections 4 and 5 of this Act to pass through, construct and maintain drains through, and be upon or work on land surrounding or adjacent to a reclamation area for the purpose of furthering the work in a reclamation area or part thereof:

Provided that, where loss or damage is alleged to have been occasioned to such land surrounding or adjacent to a reclamation area or part thereof the fact whether such loss or damage has been occasioned or not shall be referred to arbitration and if the fact of such loss or damage is established the extent of such loss or damage shall also be referred to arbitration and compensation as assessed in or by such arbitration shall be payable to the owner of the land aforementioned by the owner of the reclamation area or by the Treasurer as the case may be and shall be deemed to form a part of the expense of the reclamation work.

(2) The method of arbitration referred to in subsection (1) of this section shall be by two arbitrators one to be appointed by the owner of the land surrounding or adjacent to a reclamation area or part thereof and the other by the owner of the reclamation area or by the Minister as the case may be. The said arbitration shall be under the chairmanship of a judge of the Supreme Court who shall have a casting vote only and the decision of the arbitration shall be final.

*E.L.A.O., 1974*

7. Where a reclamation officer has, in accordance with the provisions of section 5 of this Act, entered upon a reclamation area and performed reclamation work the expense thereof shall become a debt due from and owing by the owner to the Treasurer bearing interest at a rate not exceeding four dollars per centum per annum and upon failure by the owner to pay such debt within such period, and by such means, as shall be allowed and approved by the Minister, the Treasurer shall be deemed, in regard to the said property, to have all the powers incidental to a mortgagee to sell or lease the reclaimed area only or collect rents or other incomings from the said reclaimed area until total payment for the expense of the reclamation work has been recovered:

Recovery of expenses where reclamation work performed upon neglect or refusal of owner.

*E.L.A.O., 1974.*

Provided that, where a sale has been effected under this section, any proceeds of such sale which shall remain after deduction of the amount of expense incurred as aforementioned shall be paid by the Treasurer to the owner:

Provided, also, that no reclaimed land shall be sold without approval of the owner if he has paid one-fourth part at least of the expense of the said reclamation work within two years after the completion of the said reclamation work, and the remaining three-fourths part of the said reclamation expense within five years after the completion of the said reclamation work.

8. The cost of reclamation work performed by direction of the Minister in accordance with the provisions of section 5 of this Act shall be advanced by the Treasury to such extent as may be authorised by resolution of the House of Assembly.

Cost of performance of reclamation work.  
*4 of 1938, s. 3.;  
43 of 1964, s. 4.;  
E.L.A.O., 1974.*

Protection of  
reclamation  
officer, etc.,  
against actions.  
*4 of 1938, s. 4.*

**9.** No matter or thing done by any reclamation officer or by any other person whomsoever acting under the direction of such reclamation officer shall, if the matter were done *bona fide* and without negligence for the purpose of carrying out the objects of this Act, subject him or them or any of them personally to any prosecution, action, liability, claim or demand whatsoever.

Assault upon or  
obstruction of  
reclamation  
officer, etc.  
*4 of 1938, s. 5.*

**10.** If any person shall assault or hinder or obstruct or cause or procure to be hindered or obstructed a reclamation officer or any person whomsoever acting under the direction of such reclamation officer and while employed on reclamation work by this Act authorised to be done or in the exercise of any of the powers and authorities in this Act contained, every such person so assaulting, hindering or obstructing or causing or procuring such hindrance or obstruction shall be guilty of an offence and shall be liable on summary conviction before a magistrate to a penalty of one hundred dollars.

*5 of 1987, s. 2.  
and Sch.*

Penalty for  
damage to  
reclamation  
work.  
*5 of 1987, s. 2.  
and Sch.*

**11.** Every person who wilfully damages or injures any reclamation work or equipment or permanent fixture or structure in such work, while such work be in progress or upon or after the completion of such reclamation work, shall be guilty of an offence and liable on summary conviction before a magistrate to a penalty of two hundred dollars for each offence, and in the case of a continuing offence to a further penalty of five dollars for each day during which each such offence shall continue after written notice thereof by a reclamation officer and in addition any such person may be ordered to pay as compensation the amount of loss occasioned to reclamation work by any such offence.

Power to  
Minister to make  
rules.  
*E.L.A.O., 1974.*

**12.** The Minister may make rules for all or any of the following purposes —

- (a) specifying and defining the rights, duties and obligations of such person or persons as may be appointed to control or maintain a reclamation work on its completion;
- (b) forbidding absolutely or regulating the drainage from any public or private sewer or drain into any reclamation work;
- (c) for the prevention of the deposit of filth or rubbish in or upon a reclamation work;

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- (d) for the regulation and maintenance of a reclamation work;
  - (e) generally for the more effective carrying out of the provisions of this Act.

**13.** Nothing in this Act contained shall affect the powers of the Minister responsible for Public Health under the Health Services Act.

Saving powers  
under the Health  
Services Act,  
*43 of 1964, Third  
Sch.*;  
*E.L.A.O., 1974,  
Ch. 231.*