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No. 49 of 2014

BAHAMAS PUBLIC PARKS AND PUBLIC BEACHES AUTHORITY ACT, 2014

**AN ACT TO ESTABLISH THE PUBLIC PARKS AND PUBLIC
BEACHES AUTHORITY, TO PROVIDE FOR THE PROPERTY
RIGHTS AND LIABILITIES OF THE PUBLIC PARKS AND PUBLIC
BEACHES AUTHORITY AND TO IDENTIFY, REGULATE,
MAINTAIN, DEVELOP AND CONSERVE PUBLIC PARKS AND
PUBLIC BEACHES AND FOR CONNECTED PURPOSES**

[Date of Assent – 27th November, 2014]

Enacted by the Parliament of The Bahamas

PART I - PRELIMINARY

1. Short title and commencement.

- (1) This Act may be cited as The Bahamas Public Parks and Public Beaches Authority Act, 2014.
- (2) This Act shall come into force on such date as the Minister may appoint by Notice, published in the Gazette.

2. Interpretation.

In this Act —

“**Authority**” means the Public Parks and Public Beaches Authority established under section 3;

“**Board**” means the Board of Directors of the Authority;

“**chairperson**” means the chairperson of the Authority;

“**competent authority**” means the Authority established under section 3;

“Crown land” means all land in The Bahamas inclusive of the seabed vested in Her Majesty as the property of the Crown for the beneficial interest of The Bahamas, whether by forfeiture, escheat, purchase or exchange;

“Director” means the Director of Public Parks and Public Beaches appointed under section 9;

“Government land” means land vested in the Treasurer and any other land owned by Government agencies or statutory bodies empowered to hold land and excludes Crown land;

“green verge” means the portion along the centre median or side of a public street, or a traffic island within a public street, which is provided for the growing of trees or plants;

“Minister” means the Minister responsible for Public Parks and Public Beaches;

“plant” means any member of the plantae, protista, monera or fungi kingdom, and includes any angiosperm, gymnosperm, pteridophyte, bryophyte, algae, lichen or fungus;

“private land” means land other than Government land or Crown land;

“public beaches” include the land where non-private land abuts the foreshore of the islands of the Commonwealth of The Bahamas, extending between mean high water mark and mean low water mark;

“public parks” mean any land area designated by the Authority as a public park, which may be Crown land, Government land, or any other land managed or maintained by the Authority;

“tree” includes any perennial plant with self supporting stem, shrubs, bushes, palms, stumps, seedlings, saplings and coppice shoots, and any part thereof, which may reach a height of ten feet or more.

PART II – ESTABLISHMENT AND FUNCTIONS OF THE AUTHORITY

3. Establishment of the Public Parks and Public Beaches Authority.

- (1) There shall be established a body to be known as the Public Parks and Public Beaches Authority.
- (2) The Authority shall be a body corporate with perpetual succession and a common seal, with power to purchase, lease or otherwise acquire, hold, vest, and dispose of land and other property of whatever kind, and to sue and be sued.

- (3) Notwithstanding subsection (2), the Authority may not dispose of any land without the prior approval of the House of Assembly signified by resolution thereof.

4. Common Seal.

- (1) The common seal of the Authority shall be kept in such custody as the Authority directs and shall not be used except as authorised by the Authority.
- (2) The common seal of the Authority shall be authenticated by the signatures of the chairperson or any other member of the Authority authorised by the Authority in that behalf, and of the secretary.
- (3) The common seal of the Authority when affixed to any document and authenticated under this section shall be judicially and officially noticed, and, until the contrary is proved, any necessary order or authorisation of the Authority shall be presumed to have been given.

5. Functions of the Authority.

- (1) The functions of the Authority are —
 - (a) to control, plan, design, develop, administer, manage and maintain the public parks and public beaches designated by the Authority;
 - (b) to conserve the natural beauty and topographic features of public parks and public beaches;
 - (c) to propagate, protect and preserve the animals, plants and other organisms within the public parks and public beaches, and preserve objects and places of aesthetic, historical or scientific interest;
 - (d) to remove derelict objects from any public park or public beach or from public access to any public park or public beach;
 - (e) to maintain public access to, and to provide a lifeguard service at public beaches as it thinks fit;
 - (f) to maintain green verges and the facilities at public parks and public beaches;
 - (g) to secure the observance of sanitary and clean conditions and practices at and in respect of the public parks and public beaches and other such sites of national interest as the Minister may designate;
 - (h) to promote the study, research and dissemination of knowledge in botany, horticulture, biotechnology, arboriculture, forestry, landscape architecture, parks and recreation management and natural and local history;

- (i) to provide and manage recreational, cultural, historical, research and educational facilities and resources in public parks and encourage their full and proper use by members of the public;
 - (j) to advise the Minister —
 - (i) on the construction, rehabilitation, restoration and remediation of public beaches and ancillary recreational facilities on public beaches;
 - (ii) on the control of the construction in any public park or on any public beach, of huts, booths, tents, sheds, stands, stalls, bath-houses, shops, whether movable or immovable;
 - (iii) on such other matters, relating to the public parks and public beaches, including matters pertaining to public beach control and the protection of the sea-coast of The Bahamas from erosion or encroachment by the sea;
 - (k) to beautify and add amenities to the public parks and public beaches and such other areas as determined by the Minister;
 - (l) to enter into written agreements with owners or occupiers of land adjacent the foreshore for the purpose of obtaining public access to public beaches;
 - (m) to name public parks and public beaches;
 - (n) generally, to carry out the provisions of this Act.
- (2) Notwithstanding subsection (1), and pursuant to section 9(1)(b) of the Local Government Act (*Ch. 37*), the competent authority shall, in conjunction with any town committee, provide for the upkeep, maintenance and establishment of public parks and public beaches.

6. Powers of the Authority.

In the exercise of its functions, the Authority may —

- (a) fix fees and charges for services provided to, and by, the Authority;
- (b) administer and invest the financial resources of the Authority;
- (c) receive and administer funds donated or entrusted to the Authority by any agency or organization for any purpose relating to the public parks and public beaches;
- (d) do such other things as may be necessary or expedient for, or in connection with, the proper performance of its functions under this Act.

7. Constitution and procedure of the Board.

- (1) There shall be a Board of Directors of the Authority.

- (2) The Board shall be the governing body of the Authority.
- (3) The Schedule shall have effect with respect to the constitution and procedure of the Board.
- (4) The Minister may, by Order, amend the Schedule.

8. Duties of the Board.

The duties of the Board are to —

- (a) formulate policies for the Authority;
- (b) ensure the policies are implemented and enforced;
- (c) manage the financial resources and assets of the Authority;
- (d) manage the fees and charges for services provided to, and by, the Authority;
- (e) advise the Minister on resource allocation relating to public parks and public beaches;
- (f) appoint officers and employees as the Board considers necessary;
- (g) manage the affairs of the Authority.

9. Appointment of Director and staff.

The Board shall, after consultation with the Minister —

- (a) appoint on such terms and conditions as it thinks fit, a Director of Public Parks and Public Beaches, who shall be responsible for the day-to-day administration of the Authority;
- (b) appoint such other professional, technical, administrative and other staff, as appear to the Board to be necessary at such remuneration and on such terms and conditions as it considers necessary for the proper conduct of its business.

10. Minister may give directions.

- (1) The Minister may give to the Authority directions of a general or a specific nature as to the policy to be followed by the Authority in the carrying out or pursuit of its functions as appear to the Minister requisite in the public interest and the Authority shall give effect to any such directions.
- (2) The Board shall afford to the Minister facilities for obtaining information regarding the property and activities of the Authority and shall submit to the Minister the minutes of all meetings, returns and accounts of the Authority and any other information as required by the Minister.

11. Committees and delegation of functions.

- (1) The Board may appoint committees to carry out specific activities relating to public parks and public beaches.
- (2) The Board may delegate to any committee, officer or employee of the Authority any function as the Board may determine and no delegation shall prevent the exercise by the Board of any function so delegated.
- (3) Where the Board delegates a function to any committee, officer or employee of the Authority in accordance with paragraph (2), the Board may revoke such delegation.

12. Vesting or compulsory acquisition of land.

Notwithstanding anything contained in this Act, any land required by the Authority for the development of a public park or for the provision of public access to a public beach, shall be —

- (a) vested in the Authority;
- (b) compulsorily acquired by the Crown pursuant to the Acquisition of Land Act (*Ch. 252*).

PART III - PROVISIONS RELATING TO STAFF

13. Pensions.

- (1) Where any public officer holding a pensionable office under the Government ceases to be the holder of such an office by reason of his transfer with his consent to the service of the Authority and such person subsequently retires from the service of the Authority in such circumstances that, had he remained a public officer, he would have been eligible for pension under the provisions of the Pensions Act (*Ch. 43*), then in any such case, the provisions of subsections (2) and (3) shall have effect.
- (2) Any pension payable to such person as is mentioned in subsection (1) by the Authority to whose service he has been transferred, shall be calculated and granted to him in respect of his total service under the Government and with the Authority taken together, and such service shall be reckoned as continuous for pension purposes.
- (3) There shall be payable out of the Consolidated Fund upon the warrant of the Minister of Finance to the Authority as contribution to every pension paid in accordance with subsection (2) such amounts as would have been payable to the person concerned by way of pension under the Pensions

Act (*Ch. 43*), if any person had retired from the public service and if he had been granted a pension under the Pensions Act (*Ch. 43*) upon the date of his ceasing to be a public officer.

14. Power to grant gratuities, etc.

- (1) The Authority may, as regards any officer, employee or agent in whose case it may be determined with the approval of the Minister of Finance to make provision for the payment, on the death, injury or retirement of that officer, employee or agent, of pension, gratuity or like benefit, pay or provide for the payment of that pension, gratuity or other like benefit to the officer, employee or agent or to others by reference to their service as may be determined.
- (2) Provisions for pensions, gratuities or other like benefits under this section may be either by contributory or non-contributory arrangements or partly by the one or by the other.

PART IV - FINANCIAL PROVISIONS

15. Funds and revenue.

The funds, revenue and resources of the Authority shall consist of—

- (a) such sums as may be appropriated by Parliament;
- (b) sums accrued to the Authority from the management of public parks and public beaches;
- (c) sums borrowed by the Authority pursuant to section 22;
- (d) any moneys as from time to time are advanced to the Authority pursuant to section 23;
- (e) all other sums or property which may in any manner become payable to or vested in the Authority in respect of any matter incidental to its functions.

16. Application of funds.

The funds of the Authority shall be applied in defraying the following expenditure—

- (a) the remuneration of the members of the Board;
- (b) the remuneration, advances and guarantees, loans, gratuities, and pensions of, and other payments to, the staff of the Authority;
- (c) the capital and operating expenses, including maintenance and insurance of the property of the Authority;

- (d) the making and maintenance of investments by the Authority in the discharge of its functions;
- (e) any other expenditure authorised by the Authority for the discharge of its functions.

17. General Account.

- (1) All sums received by the Authority pursuant to section 15 shall be deposited into an account (to be known as “the General Account”) to be maintained by the Authority as the Authority may determine.
- (2) The Authority shall keep in respect of the General Account two separate accounts —
 - (a) an account to be known as “the General Current Account” in which shall be recorded all deposits into and withdrawals from the General Account for application towards defraying current expenditure; and
 - (b) an account to be known as “the General Capital Account” in which shall be recorded all deposits into and withdrawals from the General Account for application towards defraying capital expenditure.

18. Accounts and audit.

- (1) The Authority shall prepare for each new financial year an annual budget of revenue and expenditure which shall be submitted to the Minister at least two months prior to the commencement of the financial year.
- (2) The Authority shall keep proper accounts and other records in relation thereto and shall prepare in respect of each financial year of the Authority a statement of accounts.
- (3) The accounts of the Authority for each financial year shall be audited annually by auditors appointed by the Authority with the approval of the Minister from among members of The Bahamas Institute of Chartered Accountants.
- (4) Three months after the end of each financial year, the Authority shall submit a copy of the audited accounts to the Minister together with a copy of any report made by the auditor.
- (5) The Minister shall lay a copy of every such audited account before each House of Parliament together with a copy of any report made by the auditor on the accounts.

19. Surplus fund.

At the end of each financial year any sums standing to the credit of the Authority and not required for any current purposes shall, after consultation with the Minister of Finance, be paid into the reserve fund established under section 20.

20. Reserve fund.

- (1) The Authority shall establish a reserve fund.
- (2) The management of the reserve fund, the sums to be carried from time to time to the credit thereof, and the application thereof, shall be as the Authority may determine, but no part of the reserve fund shall be applied otherwise than for the purposes of the Authority.

21. Gifts.

- (1) Subject to subsection (2), where any gift, grant or other property is offered to the Board on behalf of the Authority, the Authority shall consult with the Minister with respect to such offer and that gift, grant or other property shall be utilised for the improvement of public parks and public beaches, in such manner as the Board may determine.
- (2) Where a stipulation has been attached to any such gift, grant or other property such stipulation shall be given effect.

22. Borrowing powers.

- (1) Subject to this section, the Authority may borrow sums required for meeting any of the Authority's obligations or discharging any of the Authority's functions and may in respect of such borrowing, issue debentures in such form as the Authority may determine.
- (2) The power of the Authority to borrow shall be exercisable only with the approval of the Minister, given with the consent of the Minister of Finance, as to the amount, as to the sources of the borrowing and as to the terms on which the borrowing may be effected.
- (3) An approval given in any respect for the purposes of this section may be either general or limited to a particular borrowing or otherwise and may be either unconditional or subject to conditions.

23. Advances and guarantee of borrowings.

- (1) Subject to subsection (3), the Minister of Finance, with the approval of the Minister, may make advances to the Authority for the purposes of enabling the Authority to defray expenditure properly chargeable to its account, including provision of working capital.

- (2) Subject to subsection (3) the Minister of Finance may guarantee, in writing on any such condition as he thinks fit, the repayment of the principal of, and the payment of interest and other charges on, any borrowings of the Authority pursuant to section 22.
- (3) No advances shall be made and no guarantee shall be given under this section unless prior approval thereof has been signified by the House of Assembly in accordance with sections 17 and 18 of the Financial Administration and Audit Act (*No. 26 of 2010*).
- (4) Where a sum is paid pursuant to a guarantee given under this section, the Minister of Finance shall as soon as possible after the end of each financial year beginning that in which the sum is issued and ending with that in which all liability in respect of the principal of the sum and in respect of interest thereon is finally discharged, lay before the House of Assembly a statement relating to that sum.
- (5) A sum required by the Minister of Finance for making an advance and discharging a guarantee under this section shall be charged on and issued out of the Consolidated Fund.

24. Payment of, and interest on advances and sums issued to meet guarantee.

- (1) The Authority shall make to the Minister of Finance at such times and in such manner as the Minister of Finance may direct payment of any amount as may be so directed in or towards repayment of an advance made to the Authority under section 23 and of any sums issued in fulfillment of a guarantee given under section 23 and payment of interest on what is outstanding for the time being on any sums so issued at such rate as the Minister may direct, and different rates of interest may be directed with respect to different periods.
- (2) The Minister of Finance shall lay before the House of Assembly a statement of any payment due from the Authority under subsection (1) that is not fully paid to him as required thereunder.

25. Exemptions.

Subject to the approval of the Minister of Finance, the Authority may be exempt from customs duties under the Tariff Act, stamp duties under the Stamp Act and taxes under the Real Property Tax Act and Excise Act.

PART V - PUBLIC PARKS AND PUBLIC BEACHES

26. Declaration of public parks and public beaches.

- (1) The areas designated by the Authority as public parks and public beaches shall be declared, by notice published in the *Gazette*, as public parks and public beaches.
- (2) The public parks and public beaches declared under paragraph (1) may be utilized for the following purposes —
 - (a) the propagation, protection and conservation of the trees, plants, animals and other organisms of The Bahamas, whether indigenous or otherwise;
 - (b) the study, research and preservation of objects and places of aesthetic, historical or scientific interest;
 - (c) the study, research and dissemination of knowledge in botany, arboriculture, horticulture, forestry, biotechnology, or natural and local history; and
 - (d) recreational and educational use by the public.

27. Restricted activities in respect of trees, plants and animals in public parks and public beaches.

- (1) No person shall, except with the approval of the Director and in accordance with the terms and conditions of such approval, carry out any of the following activities within a public park or public beach —
 - (a) cut, collect or displace any tree or plant or any part thereof;
 - (b) affix, set up or erect any sign, shrine, altar, shelter, structure or building;
 - (c) clear, break up, dig or cultivate any land;
 - (d) use or occupy any building, vehicle or other property of the Authority;
 - (e) drop or deposit any dirt, sand, earth, gravel, clay, loam, manure, refuse, sawdust, shavings, stone, straw, waste paper, solid waste matter, rubbish, garbage, or derelict vehicle on any public park or public beach;
 - (f) capture, displace or feed any animal;
 - (g) disturb or take the nest of any animal;
 - (h) collect, remove or willfully displace any other organism;
 - (i) willfully damage any tree, shrub or grass planted or laid out;

- (j) use any animal, firearm, explosive, net, trap, hunting device or instrument or means whatever for the purpose of capturing any animal; or
 - (k) carry or have in the person's possession any explosive, net, trap or hunting device.
- (2) No person shall carry out any activity within any public park or public beach which he knows or ought reasonably to know causes or may cause alteration, damage or destruction to any property, tree or plant, or cause injury to, or the death of, any animal or any other organism within a public park or public beach.
- (3) No person shall, except with the approval of the Director and in accordance with the terms and conditions of such approval —
- (a) bring or release or cause any animal to be brought or released into a public park;
 - (b) permit any domestic animal to stray into a public park.
- (4) A person who contravenes subsections (1), (2) and (3) commits an offence and is liable on summary conviction to a fine not exceeding five thousand dollars or to a term of imprisonment of six months or to both such fine and imprisonment.

28. Destruction, damage, etc. of objects, notices and boundary marks.

- (1) No person shall willfully or negligently destroy, damage or deface any object of zoological, botanical, geological, ethnological, scientific or aesthetic interest within any public park or public beach.
- (2) No person shall —
- (a) destroy, damage, deface, alter or remove any notice or other sign erected by or on behalf of the Authority within any public park or public beach; or
 - (b) knowingly destroy, damage, deface, alter or remove any boundary mark within any public park or public beach.
- (3) A person who contravenes subsection (1) or (2) commits an offence and is liable on summary conviction to a fine not exceeding three thousand dollars.

PART VI - MISCELLANEOUS

29. Regulations.

- (1) The Minister may make regulations for giving effect to the provisions of this Act.
- (2) Without prejudice to subsection (1), the Minister may make regulations —
 - (a) providing for the conservation and protection of plants, animals and other organisms and property;
 - (b) prescribing the sanitary and clean conditions and practices to be observed at and in respect of public parks and public beaches;
 - (c) prescribing the fees chargeable by the Authority for entry to or for the use of any facility or property under the control of or maintained by the Authority, and the terms and conditions on which such fees shall be paid;
 - (d) providing for the preservation from danger, obstruction or annoyance of members of the public using public parks and public beaches;
 - (e) prescribing standards for the planting, aeration and maintenance of trees and plants within any planting areas, green verges and open spaces to be used as public parks.

30. Penalty.

A person who —

- (a) sells or offers for sale any goods or services in a public park or public beach without obtaining approval from the Authority;
- (b) for the purpose of selling goods or services or for any indecent or unlawful purpose, solicits in a public park or on a public beach;
- (c) assaults, resists, obstructs or intimidates any officer or servant of the Authority in the performance of his functions,

commits an offence and is liable on summary conviction in the case of a first offence, to a fine not exceeding one thousand dollars, and in the case of a second or subsequent offence, to a fine not exceeding three thousand dollars.

SCHEDULE

(section 7)

CONSTITUTION AND PROCEDURE OF THE BOARD

1. Constitution.

- (1) The Board shall consist of twelve members including —
 - (a) the Director ex officio;
 - (b) the Director of Forestry;
 - (c) a representative from the Department of Local Government;
 - (d) the Executive Director of The Bahamas National Trust;
 - (e) eight shall be appointed by the Governor-General, by instrument, after consultation with the Minister, from among qualified persons who have a wide experience, knowledge and capacity in the areas of horticulture, arboriculture and environment.
- (2) The Board may invite from time to time the Director of Agriculture, the Director of Lands and Surveys, the Director of Physical Planning, the Director of National Museum, the Director General of Tourism, or his representative, to participate and give advice when necessary in the carrying out of the Board's functions.
- (3) The Minister may, by instrument, appoint from the Board, three members to be Chairperson, Deputy Chairperson and Secretary of the Board, respectively.
- (4) A member other than an ex officio member of the Authority shall hold office for a period not exceeding three years, and shall be eligible for reappointment.

2. Temporary membership.

- (1) Where membership of the Board is by virtue of an office and the holder of the office is absent or unable to act, then, the person acting in the office shall be a member of the Board for as long as he so acts.
- (2) If any member by reason of illness or other incapacity or absence from The Bahamas, is unable at any time to perform the duties of his position, or if the position of a member is at any time vacant, the Minister may make a temporary appointment of a qualified person to act in his place or in such position upon such terms and conditions and for such time as the Minister may determine.

3. Resignation.

- (1) A member of the Board other than the Chairperson may at any time resign his office by instrument in writing addressed to the Minister and transmitted through the Chairperson, and from the date of the receipt by the Minister of such instrument, such member shall cease to be a member of the Board.
- (2) The Chairperson may at any time resign his office by instrument in writing addressed to the Minister and such resignation shall take effect as from the date of the receipt by the Minister of such instrument.

4. Removal.

The Minister may, by instrument in writing, remove a member of the Board upon being satisfied that the member —

- (a) is an undischarged bankrupt;
- (b) is incapacitated by physical or mental illness;
- (c) has been absent, without leave of the Board, from three or more consecutive meetings of the Board;
- (d) has been convicted of an indictable offence; or
- (e) is otherwise unable or unfit to discharge the functions of a member of the Board.

5. Publication.

The names of all the members of the Board as first constituted and every change in membership thereof shall be published in the *Gazette*.

6. Remuneration.

The Board shall pay to the members of the Board, other than the Director, such remuneration and allowances as the Minister may determine.

7. Meetings.

- (1) The Board shall meet at least once each month or at such times as may be necessary or expedient for the transaction of its business and such meetings shall be held at such places and times as the Board may determine.
- (2) The Chairperson may at any time call a special meeting of the Board; and shall call a special meeting within fourteen days of the receipt of a written request for that purpose addressed to him by any two members of the Board.
- (3) The Chairperson shall preside at meetings of the Board, and in the case of the absence of the Chairperson from a meeting, the members present and constituting a quorum shall elect one of their number to preside at that meeting.

- (4) The quorum of the Board shall consist of seven of its members.
- (5) The decision of the Board shall be by a majority of votes, and in addition to an original vote the Chairperson or other person presiding at a meeting shall have a casting vote in any case in which voting is equal.
- (6) Minutes in the proper form of each meeting of the Board shall be kept by the Secretary and shall be confirmed by the Board at the next meeting.
- (7) Subject to subparagraph (4), the validity of the proceedings of the Board shall not be affected by any vacancy.

8. Power of Board to invite persons to attend meetings.

The Board may invite any person who, in the opinion of the Board, has expert knowledge concerning any of the functions of the Board, which is likely to be of assistance to attend any meeting of the Board and to take part in the proceedings.

9. Declaration.

A member of the Board or any committee appointed by the Board who is directly or indirectly, interested in a contract or proposed contract or has any interest in a matter under consideration by the Board or any committee thereof shall disclose that fact at the next meeting of the Board or committee and shall not participate in the consideration of, or vote on, any question relating to that matter.

10. Protection of members.

- (1) Subject to subparagraph (2), no action, suit, prosecution or other proceedings shall be brought or instituted personally against any member of the Board in respect of any act done bona fide in pursuance or execution or intended execution of this Act.
- (2) Where a director is exempt from liability by reason only of subparagraph (1), the Authority shall be liable to the extent that it would be if that member were an employee of the Authority, however, if in any case, the Authority is not liable for any of the above mentioned acts, then subparagraph (1) does not operate to exempt such member as therein stated.