
CHAPTER 200**BUILDINGS REGULATION****ARRANGEMENT OF SECTIONS**

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CHAPTER 200

BUILDINGS REGULATION

An Act to regulate the construction, alteration and repair of buildings, to provide for the re-instatement or removal of dangerous or dilapidated buildings, to authorise the publication of a building code and for purposes connected therewith.

3 cf 1971
E L A O, 1974
19 cf 1975
9 cf 1977
27 cf 1984

[Assent 7th May, 1971]

[Commencement 1st November, 1971]

1. This Act may be cited as the Buildings Regulation Act. Short title
2. (1) In this Act, unless the context otherwise requires — Interpretation
 “building” includes —
- (a) any part of a building and any addition to any building of whatsoever nature and in whatsoever manner constructed, and any plumbing, electrical or other installation, machinery or plant fixed or attached to any building or property;
 - (b) any wall, fence, retaining wall or similar structure —
 - (i) bounded by or fronting on a public highway, of any height whatsoever; or
 - (ii) bounded by or fronting on property other than a public highway, of a height exceeding six feet;
 - (c) any dock, bulkhead, pier and any works for the protection of land against encroachment by, or for the recovery of land from, fresh or salt water;
 - (d) any temporary structure, whether constructed of canvas or of any other material whatsoever, to which members of the public are intended to be admitted, and any bleachers, and fair ground or carnival equipment or machinery used or intended to be used by members of the public;
 - (e) any swimming pool;

9 *cf* 1977, s 2

“Building Code” means the Building Code published by the Minister under section 17 as amended by him from time to time;

“Buildings Control Officer” means the officer designated to be Buildings Control Officer in accordance with section 3;

“building operation” includes —

- (a) the erection of any building;
- (b) the carrying out of any structural alteration or extension to any building;
- (c) the repair of any building;
- (d) the carrying out of any works whether of a structural nature or otherwise for the purpose of effecting a material change in the purposes for which any building or premises is used;
- (e) the partitioning of any space within a building other than a building occupied as a dwelling house by one family;
- (f) the demolition of any building;

“building permit” means a building permit issued under the provisions of this Act;

27 *cf* 1984, s 2

“Deputy Buildings Control Officer” means the officer designated as Deputy Buildings Control Officer in accordance with section 3(2);

“erection of a building” includes —

- (a) the re-erection of any building where an outer wall of that building has been pulled down or burnt down to within seven feet of the surface of the ground adjoining the lowest storey of that building;
- (b) the re-erection of any frame building;
- (c) the roofing-over of any open space between walls or buildings;
- (d) the removal of a building from one site to another;
- (e) the re-erection upon a site of a building, removed thereto from another site;

“inspector” means an officer designated as an inspector by the Minister in accordance with section 3;

“Minister” means the Minister responsible for Building Regulation; *ELAO, 1974*

“occupancy certificate” means a certificate issued under section 9;

“owner” includes the owner, lessee or occupier of any property, and any other person for the time being occupying or having charge of, or control or possession of, any property whether in his own right or in the right of his wife or any other person;

“premises” includes messuages, buildings, lands, easements and hereditaments of any nature;

“repair” in relation to a building, means any repair to or replacement of any part of the building the cost of which, either alone or when taken together with the aggregate cost of all other repairs and replacements made to the building during the period of twelve months next preceding the date of commencement of such repair or replacement, exceeds twenty-five per centum of the current value of the building;

“rules” means any rules made under the authority of section 19. *9 cf 1977, s 3*

(2) For the purposes of this act, works shall be deemed to be for the purpose of effecting a material change in the purpose for which any building is used, if such works are for the purpose that —

- (a) a building not originally constructed for occupation as a dwelling house or which though so originally constructed has been appropriated to other purposes, may be used as a dwelling house;
- (b) a building being a building originally constructed for occupation as a dwelling house by one family only, may be occupied by two or more families; or
- (c) where a special provision is made under this Act or any rules or the Building Code with respect to buildings used for any particular purpose, that a building not previously used for that purpose may be so used.

Designation and powers of Buildings Control Officer, Deputy and inspectors
27 *cf* 1984 s 3

3. (1) There shall be an officer in the public service to be designated as the Buildings Control Officer for the purposes of this Act, who shall have such powers and shall perform such duties as are assigned to him by or under the provision of this Act, subject to the general supervision and control of the Minister.

9 *cf* 1977, s 3,
27 *cf* 1984, s 3

(2) There shall also be an officer in the public service to be designated as the Deputy Buildings Control Officer who shall assist the Buildings Control Officer in the exercise of his powers and the performance of his duties as Buildings Control officer and he may, subject to the directions and instructions of the Buildings Control officer, during the temporary absence of the Buildings Control Officer from the office, lawfully perform all the duties and exercise all the powers of the Buildings Control Officer under this or any other Act.

(3) The Minister may designate suitably qualified persons to be inspectors for the purposes of this Act who shall have the powers conferred upon inspectors, and shall perform the functions assigned to inspectors under the provisions of this Act, any rules and the Building Code, and such other functions as, subject to this Act, the Minister may assign to them.

Building operation prohibited except under building permit

4. (1) Subject to the provisions of this Act, no person shall commence or carry on, or cause or procure to be commenced or carried on, any building operation save under and in accordance with the conditions of a valid building permit and in accordance with the provisions of this Act and any rules and the Building Code.

(2) Any person who acts in contravention of the provisions of subsection (1) of this section shall be guilty of an offence and liable upon summary conviction to a fine not exceeding one thousand dollars or to imprisonment for a term not exceeding six months or to both such fine and imprisonment.

(3) If any work is undertaken in contravention of the provisions of this section, the Minister, without prejudice to his right to take proceedings under subsection (2) of this section in respect of the contravention, may, by notice, require the owner to pull down or remove the work, and if a person to whom such a notice has been given fails to comply with the provisions thereof before the expiration of twenty-eight days or such further period, not in any case

exceeding fifty-six days, as a magistrate may on his application allow, the Minister may pull down or remove such work, and may recover from him the expenses reasonably incurred by the Minister in so doing.

5. (1) An application for the grant of a building permit shall be made to the Buildings Control Officer in the prescribed form and shall be accompanied by copies of all plans, drawings, specifications, calculations and such other particulars including particulars of any permission or licence which may be required under any other law, relating to the building operation, as may be prescribed.

Application for
grant of building
permit

(2) The applicant shall furnish such other or further information or particulars relating to the building operation as the Buildings Control Officer may reasonably require.

(3) The Buildings Control Officer shall, subject to payment of the prescribed fee, grant a building permit upon being satisfied that the proposed building complies with this Act and the rules, and meets the standards and specifications provided in the Building Code, and that any licence or permission required in respect of the building operation under any other law has been granted; or, if not satisfied, he shall refuse to grant the permit:

Provided that the Buildings Control Officer shall not grant a building permit in respect of a building operation within the City of Nassau for the purpose of erecting any outer wall or side of any building of combustible material.

6. A building permit shall be subject to the following conditions —

Conditions of
building permit

- (a) that the method of construction adopted and the materials used in the building operation shall in all respects comply with the particulars of such construction and materials, including those contained in the plans, drawings, specifications and calculations, furnished by the holder of the permit to the Buildings Control Officer upon application therefor, except in so far as the Buildings Control Officer may in writing at any time authorise any variation in or departure from such particulars;

- (b) that all work carried out under the authority of the building permit shall comply in all respects with the provisions of this Act, the rules and the Building Code;
- (c) that the building operation shall be commenced within the time specified in the permit,

and to such further conditions as may be prescribed by rules or as the Buildings Control Officer may in any case impose.

Suspension and
revocation of
building permit

7. (1) Where, upon the report of an inspector, it appears to the Buildings Control Officer that the holder of a building permit has failed to comply with any of its provisions, he may suspend or revoke the permit:

Provided that the Buildings Control Officer shall not revoke a permit without first giving to the permit holder the opportunity to make representations therein to him.

(2) Where the Buildings Control Officer suspends a permit, he shall forthwith so inform the holder in writing, and shall specify the reason for the suspension and the action required to be taken by the holder, including the taking down or demolishing of any work which in the opinion of the Buildings Control Officer is defective, before the suspension may be removed.

(3) Where the Buildings Control Officer is satisfied that all action necessary to enable the holder of the permit to comply with all the conditions thereof has been taken, he may, by writing, remove the suspension and thereupon the permit shall be as valid as if it had not been suspended.

(4) Any person, who, knowing or having reason to believe that the building permit in respect of any building operation has been suspended, performs or causes or allows to be performed, any work in connection with such building operation other than any work required by the Buildings Control Officer under subsection (2) of this section on and after the date of such suspension and before the suspension is removed, shall be guilty of an offence and liable upon summary conviction to a fine not exceeding five hundred dollars or to imprisonment for a term not exceeding six months or to both such fine and imprisonment:

Provided that this subsection shall not apply to any work performed solely for the purpose of safeguarding life or property during such period of suspension.

8. Any person considering himself aggrieved by the decision of the Buildings Control Officer refusing to grant to him a building permit, or revoking, or suspending, or refusing to remove the suspension of, a building permit, may appeal in the prescribed manner and within the prescribed time to the Minister.

Appeal from
decision of
Buildings
Control Officer

9. (1) Upon being satisfied that a building operation has been completed in accordance with the terms of the building permit issued for the purpose, the Buildings Control Officer shall issue a certificate to be known as an occupancy certificate, certifying that the building constructed or affected by such operation is fit for occupation for the purpose specified in such certificate.

Occupancy
certificate

(2) Where the owner of any building desires to occupy or cause or permit to be occupied, any building for a purpose other than that specified in the occupancy certificate in force in relation to such building, he may apply to the Buildings Control Officer who, upon being satisfied that the building is fit for the purpose, may issue in substitution of such first mentioned occupancy certificate, an occupancy certificate certifying that the building is fit for occupation for such other purpose.

(3) Any person who occupies, or causes or permits to be occupied, any building in respect of which an occupancy certificate has not been issued, or occupies, or causes or permits to be occupied, any building for a purpose other than the purpose specified in the last occupancy certificate issued in relation to that building, shall be guilty of an offence and liable on summary conviction to a fine not exceeding five hundred dollars and to a further fine of five hundred dollars for every day during which such offence continues:

Provided that the provisions of this subsection shall not apply to any building erected before the first day of November, 1971, unless such building is affected by any building operation or material change or use after such date.

10. (1) If it appears to the Minister that any building or structure or part of a building or structure —

Dangerous or
dilapidated
buildings or
structures

(a) is in such a condition or is used to carry such loads as to be dangerous; or

-
- (b) is by reason of its ruinous or dilapidated condition, seriously detrimental to the amenities of the neighbourhood,

he may:

- (i) where the danger arises from the condition of the building or structure, make an order requiring the owner thereof to obviate the danger or to demolish the building or structure, or any dangerous part thereof, and remove any rubbish resulting from the demolition within a reasonable time to be specified in the order;
- (ii) where the danger arises from overloading of the building or structure, make an order restricting the use thereof until all necessary work to obviate the danger has been executed to his satisfaction;
- (iii) where the building or structure is in a ruinous or dilapidated condition, order the owner to execute such works of repair or restoration, or to take such steps by demolishing the building or structure or any part thereof and removing any rubbish resulting from the demolition, as may be necessary for remedying the cause of complaint within a reasonable time to be specified in the order.

9 cf 1977, s 4

9 of 1977, s 4

(2) Any order made under the provisions of subsection (1) of this section shall be served upon the owner of the building or structure affected thereby in accordance with section 13.

9 cf 1977, s 4

(3) If the person on whom an order under this section is made by the Minister for the execution of works, or the demolition of a building or structure or of any part of a building or structure, and the removal of any rubbish resulting from the demolition, fails to comply with the order within the time specified therein, the Minister may execute the order in such manner and within such time as he thinks fit and may recover the expenses reasonably incurred by him in so doing from the person in default, and, without prejudice to the right of the Minister to exercise those powers, such person shall be guilty of an offence and liable on summary conviction to a fine not exceeding five thousand dollars.

(4) If the Minister is satisfied that any building or structure or part of a building or structure, is in such a condition, or is used to carry such loads, as to be dangerous to persons in the building or any adjoining building, and that immediate action should be taken for the protection of those persons or any of them, the Minister may shore up or fence off the building or structure, and may recover from the owner thereof, the expenses of any action reasonably taken by him under this subsection. *19 cf 1975, Sch*

11. (1) If, at any time, it appears to the Minister that any building or structure, or part of a building or structure, is, due to the occurrence of flood, fire, hurricane or any other disaster (whether caused by God or man), in such a condition as to be dangerous to persons or property in its vicinity, and is beyond repair, and that such danger cannot be effectively obviated by the exercise by him of any of the powers conferred upon the Minister by section 10, he may cause the building or structure or part of the building or structure to be demolished. *Special emergency powers*

Provided that before so demolishing any building, all articles or things within the building or its curtilage which, in the opinion of the person charged by the Minister with such demolition, appear to be of value and to be capable of being removed without endangering the safety of any person, shall be removed and stored by the Minister until claimed by the owner, or for a period of twelve months, whichever may be the less:

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

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

Provided that where any articles or things removed from any building or its curtilage in accordance with those powers have remained unclaimed by the owner for a period exceeding twelve months, the same may be sold and the proceeds of sale applied to the discharge of any such expenses.

Power to enter
premises

12. (1) Subject to the provisions of this section, the Buildings Control Officer and any inspector shall, on producing, if so required, some authenticated document showing his authority, have a right to enter any premises at all reasonable hours —

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

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

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

the magistrate may by warrant under his hand, authorise the Buildings Control Officer by himself or by any inspector to enter the premises, if need be, by force.

(3) The Buildings Control Officer or an inspector entering any premises by virtue of this section or of a warrant issued thereunder, may take with him such other persons as may be necessary, and on leaving any unoccupied premises which he has entered by virtue of such warrant, shall leave them as effectually secured against trespassers as he found them.

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

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

Services of notices, etc

- (a) by delivering it to that person; or
- (b) by leaving it or sending it in a prepaid registered letter addressed to him at his usual or last known residence;
- (c) in the case of an incorporated company or body, by delivering it to their secretary or clerk at their registered or principal office or by sending it in a prepaid registered letter addressed to them at that office;
- (d) in the case of any notice, order or other document which is to be given or served on the owner of any premises, if it is impossible or not practicable after reasonable inquiry to ascertain the name and address of the person to or on whom it should be given or served, or if the premises are unoccupied, by addressing it to the person concerned by the description of “owner” of the premises (naming them) to which it relates and delivering it to some person on the premises, or, if there is no person on the premises to whom it can be delivered, by affixing it, or a copy of it, to some conspicuous part of the premises.

9 cf 1977, s 5

14. A person who wilfully obstructs any person acting in the execution of this Act or of any rule, or order or warrant issued thereunder, shall in any case in which no other provision is made by this Act, be liable, on summary conviction, to a fine not exceeding one hundred and fifty dollars and a further fine not exceeding twenty-five dollars for each day on which the offence continues after conviction therefor.

Penalty for obstructing execution of Act

15. (1) Where the Minister has incurred expenses for the repayment of which the owner of the premises in respect of which the expenses were incurred is liable under this Act or by agreement with the Minister, those expenses, together with interest at seven per centum per annum from the date of service of a demand for the expenses, may be recovered by the Minister from the person who is the owner of the premises at the date when the works are completed, or if he ceased to be the owner of the premises

Recovery of expenses

before the date when a demand for the expenses is served, either from him or from the person who is the owner at the date when the demand is served, and, as from the completion of the works, the expenses and interest accrued thereon shall, until recovered, be a first charge on the premises and all estates and interests therein.

Ch. 138. (2) The Minister shall for the purpose of enforcing a charge under this section have all the same powers and remedies under the Conveyancing and Law of Property Act and otherwise as if he were a mortgagee by deed having powers of sale and lease, and of appointing a receiver.

Ch. 187. (3) No charge upon premises arising under subsection (1) of this section shall prevail against any purchaser of the premises in good faith for value without notice of such charge unless and until a certificate in the prescribed form evidencing the charge shall have been recorded in the Registry of Records under the Registration of Records Act.

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

Conveyance by
Minister of
premises to
recover costs
where charge
exists upon such
premises.
9 cf 1977, s 7

16. (1) In any case where there exists a charge upon any premises arising under section 15(1) and that charge has been recorded in accordance with section 15(3), and the owner of the premises is not known, or is absent from The Bahamas, or cannot be found, or the title deeds to the premises cannot be obtained by the 3. Minister, the Minister shall have power, in addition to any other power under this Act or any other law, in order to recover any expenses and costs incurred under this Act, which are recoverable from such owner, to do the following things —

- (a) after the expiration of six months after such expenses and costs have been incurred, to cause the premises to be sold by public auction after publishing in three issues of the *Gazette* before the date of such auction notice of the time, date and place of the intended sale;
- (b) to execute a deed transferring the premises to the purchaser thereof, which deed shall be under the official seal of the Minister and shall vest the premises in the purchaser.

(2) The residue of the proceeds of any sale under subsection (1), after deduction of the costs of the sale and of any deed under paragraph (b) of that subsection and of the expenses and costs in respect of which the sale was made, shall be paid into the Deposits Fund established by section 14 of the Financial Administration and Audit Act.

Ch. 359.

(3) Any residue mentioned in subsection (2) shall be paid out of the Deposits Fund to any person whom the Supreme Court shall certify to be entitled thereto, and such payment under such certificate shall absolve the Government and its officers from any further liability for such residue, but shall not prejudice any right of any other person to recover the same or part thereof from the person to whom it was paid or his legal representative.

17. The Minister shall from time to time publish a code, to be known as the Building Code, which shall specify the standards required, the methods of construction and building and the material to be used in any building operation, including provisions as to plumbing and electrical installations in any building and as to all such other matters of whatsoever nature for which in the opinion of the Minister it is desirable in the interests of the safety, including safety from fire, health and welfare of persons in and about any building, that provision should be made.

Building Code.

18. No action shall lie against the Crown, the Minister, the Buildings Control Officer or any person acting under the authority of the Minister in respect of any loss or damage whatsoever suffered by any person through the exercise, in good faith, by the Minister, the Buildings Control Officer or by such person of the powers conferred upon them by this Act, save only in respect of any loss or damage which arises directly from the negligence of the Minister, the Buildings Control Officer or of any such person as aforesaid in the carrying out of any operation in the exercise of these powers.

Indemnity
against certain
actions.

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

Minister may
make rules.

- (a) for prescribing anything which by the provisions of this Act may be or is to be prescribed;

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- (b) for the manner of application for building permits, the methods of consideration of such applications and the form, content and mode of issue of such permits;
 - (c) for conditions to be attached to any building permit or class of building permit issued under this Act;
 - (d) for the fees to be paid in respect of the issue of any building permit;
 - (e) for the period of validity and the renewal of building permits;
 - (f) for the requirements to be met and observed by owners and building contractors in connection with any building operation, the inspection of buildings and the maintenance and operation of any particular category of building;
 - (g) for the procedure governing the issue of occupancy certificates;
 - (h) for the temporary suspension of an occupancy certificate in the event of a building becoming dangerous or dilapidated;
 - (i) for the licensing of plumbers and electricians and other skilled artisans connected with the building trades, the fees to be paid in respect of the issue of such licences, the standards and requirements to be met by plumbers, electricians and other skilled artisans in the execution of their work, the standards to be required for different categories of plumber's and electrician's and other skilled artisans' licences and the prohibition of unlicensed persons from carrying out plumbing or electrical or other skilled work in connection with building operations;
 - (j) for the proper disposal of liquid waste products discharged from any building; and
 - (k) for the penalties which may be imposed upon summary conviction for any breach or contravention of such rules, not exceeding a maximum penalty of six months imprisonment, five hundred dollars fine or both such imprisonment and fine.

9 cf 1977, s 8

20. This Act shall bind the Crown:

Crown to be bound.

Provided that nothing contained in this Act or in any rules shall be deemed to impose any fee upon any Department of the Government.

21. Notwithstanding any other rule of law or practice, any proceeding for an offence against this Act or the rules may be prosecuted summarily in the name of the Minister by the Buildings Control Officer or by any inspector.

Conduct of prosecutions.

22. Notwithstanding anything in this Act, the Buildings Control Officer may, upon application being made in the prescribed form and subject to the approval of the Minister, waive or modify such of the requirements of the Building Code as he thinks fit in relation to a building permit.

Power to waive requirements of Building Code. *9 cf 1977, s 9*

23. This Act shall apply to the Island of New Providence but the Governor-General may from time to time by Order direct that all or any of the provisions of this Act shall extend, with such exceptions, adaptations and modifications as may be specified in the Order, to any part of the Out Islands to be defined in such Order.

Application of Act and extension.

24. The Buildings Regulations Act is hereby repealed:

Repeal and transitional. 24 of 1954.

Provided that any permit or sanction issued by the Minister under section 3 of that Act and in force at the date of commencement of this Act shall be deemed to be a building permit granted by the Buildings Control Officer under section 5 and shall continue in force subject to the provisions of this Act accordingly.