
CHAPTER 204**COAST PROTECTION****ARRANGEMENT OF SECTIONS**

SECTION

1. Short title.
2. Interpretation.
3. Power of Minister to carry out coast protection work.
4. Publication of notices of proposed coast protection work and objections thereto.
5. Apportionment of charges.
6. Recovery of charges.
7. General powers of entry for maintenance and repair work.
8. Restriction on the carrying out of private coast protection work.
9. Prohibition of excavation or removal of materials from sea-shore.
10. Provisions as to compensation.
11. Rules.
12. Application of Act.

CHAPTER 204

COAST PROTECTION

An Act to make provision for the protection of the coast against erosion and encroachment by the sea and for purposes connected therewith. *37 of 1968*
ELAO 1974

[Commencement 30th December, 1968]

1. This Act may be cited as the Coast Protection Act. Short title
2. In this Act, unless the context otherwise requires — Interpretation
 - “coast protection charges” means the charges for which provision is made in section 6 of this Act;
 - “coast protection work” means any work of construction, alteration, improvement, repair, maintenance, demolition or removal for the purpose of the protection of any land, and includes the sowing or planting of vegetation for the said purpose;
 - “land” includes land covered by water;
 - “Minister” means the Minister responsible for Ports and Harbours. *ELAO 1974*
 - “owner” in relation to any land means the person, other than a mortgagee not in possession, who, whether in his own right or as a trustee for any other person, is entitled to receive the rack rent of the land or, if the land is not let at a rack rent, would be so entitled if the land were so let;
 - “protection” means protection against erosion or encroachment by the sea;
 - “stipendiary and circuit magistrate” includes the Chief Magistrate.
3. (1) Subject to the provisions of this Act, the Minister shall have power to carry out such coast protection work as appears to him to be necessary or expedient in any part of The Bahamas to which this Act applies. Power for Minister to carry out coast protection work

(2) The Minister may carry out coast protection work by the use of any departmental resources of the Government available to him or may enter into an agreement with any person for the carrying out, by that person, on such terms as may be specified in the agreement, of any coast protection work which the Minister has power to carry out under the provisions of this Act.

(3) The Minister may acquire, whether by purchase, lease, exchange or otherwise, any land necessary for the carrying out thereon of coast protection work under the provisions of this Act. If the Minister is unable to acquire any such land by agreement with the owner thereof, he may acquire such land compulsorily in accordance with the provisions of the Acquisition of Land Act.

Ch 252

Publication of notices of proposed coast protection work and objections thereto

4. (1) Where the Minister proposes to carry out any coast protection work other than work of maintenance or repair, he shall publish in one or more newspapers circulating in the area concerned, and in such other manner as he may consider desirable, a notice of the proposal specifying —

- (a) the nature of the work proposed and the area involved;
- (b) the estimated cost of the work;
- (c) the proposed apportionment of the cost thereof among the persons considered by the Minister to be liable to contribute thereto under the provisions of section 5 of this Act; and
- (d) the procedure to be followed by any person who desires to object to the proposed work or as to his liability to contribute to the cost thereof, and the time within which any such objection is required to be made:

Provided that a copy of the notice shall be served personally or by registered post upon any person who is considered by the Minister to be liable to contribute to the cost of such coast protection work.

(2) Where a notice of a proposal has been published under subsection (1) of this section, any person may, within twenty-eight days of the publication of the notice or, in the case of a person to whom the proviso to that subsection applies, of the date of receipt of any copy notice

served as required by the said proviso, serve upon the Minister a notice of objection on any of the grounds mentioned in subsection (4) of this section.

(3) Where notice of objection has been served under subsection (2) of this section and not withdrawn, the Minister shall upon the expiration of the period within which any objection may be made, refer any such objection for hearing and determination by a magistrate's court, presided over by a stipendiary and circuit magistrate, in accordance with such procedure as may be prescribed by rules made under section 103 of the Magistrates Act. Ch 54

(4) An objection may be made under this section on any one or more of the following grounds that is to say —

- (a) the proposed work will be detrimental to the protection of any land specified in the notice of objection;
- (b) the estimated cost of the proposed work is unreasonable in relation to the benefit which that work is likely to confer;
- (c) the proposed work will not confer any or any substantial benefit or is inadequate or unsuitable for the purpose intended;
- (d) the apportionment of the cost of the work in relation to any person is incorrect or has been calculated on some incorrect or unjust principles;
- (e) any particular person alleged by the Minister to be liable to contribute to the cost of such work is not so liable under the provisions of this Act.

(5) Nothing in this section shall prevent the Minister from carrying out, without the provisions of this section having been complied with, any coast protection work which appears to him to be urgently necessary.

5. (1) Subject to the provisions of this section, the Minister may apportion the cost of any coast protection work, where it appears to him that benefit will be conferred by such work on the owners of any land, among such owners according to the degree of benefit which appears to him to result or to be likely to result to each such owner. Apportionment of charges

(2) The sum which the owner of any land is required to pay by way of apportioned contribution to the cost of any coast protection work shall not exceed the amount by which the value of such land immediately after the date of

the completion of such coast protection work on account of which the contribution is required exceeds the value which such land would then have had if such coast protection work had not been carried out.

(3) Any dispute arising in connection with the apportionment of the cost of any coast protection work as to whether an apportioned contribution exceeds the amount permitted by subsection (2) of this section shall be referred by the Minister for hearing and determination by a stipendiary and circuit magistrate in like manner to an objection made under the provisions of section 4 of this Act; and if upon such reference it is determined that the apportioned contribution exceeds that amount, the apportioned contribution shall be reduced accordingly and the apportionment shall have effect as if the amount of the apportioned contribution expressed therein were the amount permitted by the said subsection (2) as determined pursuant to the reference.

(4) In any case in which any person who is liable to contribute to the cost of any coast protection work under this section has himself, prior to the carrying out of any work by the Minister, carried out any coast protection work which has reduced the extent or the cost of the work required to be carried out by the Minister, the Minister shall have regard to that fact in apportioning the cost of the work among the various persons liable to contribute thereto under the provisions of this Act.

(5) If the actual cost of such coast protection work differs from the estimated cost thereof specified in the notice published under the provisions of subsection (1) of section 4 of this Act, the Minister shall recalculate the amounts of the apportioned contributions among the persons liable to contribute as specified in such notice or, if such be the case, as amended by the court after the determination of any objection, and shall serve notice of the apportioned contributions as so recalculated on the persons concerned; and if in any case the amount which any person is required to contribute is greater than the amount originally estimated (as amended, if such be the case, by the court) such person may object to such increase by notice to the Minister within twenty-eight days of the service of notice of the recalculated apportionment, and such objection shall be referred by the Minister for hearing and determination in like manner to an objection made under the provisions of section 4 of this Act:

Provided that any objection made under this subsection shall relate only to matters arising out of the amendment of the apportionment and shall not extend to matters which were raised or could have been raised on objection to the apportionment first made.

(6) Where in accordance with the provisions of subsection (5) of section 4 of this Act the provisions of that section have not been complied with before any coast protection work is carried out, and the Minister considers that the cost of such work should be apportioned in accordance with the provisions of subsection (1) of this section, the Minister may apportion the cost of such work among the persons appearing to the Minister to be concerned by serving a notice setting out the apportionment upon such persons, and any such persons may within twenty-eight days of the service of such notice object by notice to the Minister on any ground *mutatis mutandis* on which an objection may be taken under subsection (4) of section 4 of this Act, and such objection shall be referred by the Minister for hearing and determination in like manner to an objection made under the provisions of that section.

6. (1) After the completion of any coast protection work carried out by or on behalf of the Minister under the provisions of this Act, the amount of any apportionment or, in the case where any objection has been made, of any amended apportionment, of the cost thereof, made in relation to the owner of any land concerned, hereinafter referred to as “coast protection charges”, shall be payable by the said owner upon demand to the Minister; and until payment is made the amount thereof, or any part thereof for the time being unpaid, shall be a charge upon the estate of the owner of the land to which it relates.

Recovery of
charges

(2) The Minister may recover summarily as a civil debt from any such owner of land as aforesaid any coast protection charges payable by such owner under the provisions of this Act, together with interest at five per centum per annum from the date upon which any such charges became payable:

Provided that the Minister may permit any person liable to pay coast protection charges under this Act to pay such charges by instalments, spread over a term not exceeding twenty years, subject to such conditions as the Minister may think fit to impose in any particular case.

(3) A charge upon the estate of the owner of any land arising in pursuance of the provisions of subsection (1) of this section shall be made in the prescribed form and shall be recorded in the Registry under the Registration of Records Act.

Ch. 187.

General powers of entry for maintenance and repair work.

7. (1) For the purpose of carrying out any work maintenance or repair in relation to any coast protection work which has been carried out under the provisions this Act, any person authorised in writing by the Minister may enter upon any land, at any time between eight o'clock in the morning and six o'clock in the evening upon giving reasonable notice to the owner or occupier thereof, and remain there as long as may be necessary carrying out such work of maintenance or repair:

Provided that if it appears to the Minister to be urgently necessary for the protection of any land the any such work should be repaired immediately, he may take all necessary steps for repairing the same and for such purpose may authorise any person to enter upon any land at any time by day or night and without first giving any such notice as aforesaid and there remain for so long as may be necessary for such purpose.

(2) The powers conferred by subsection (1) of this section shall be exercised in such manner as shall cause as little damage as may be practicable.

Restriction on the carrying out of private coast protection work.

8. (1) No person shall carry out any coast protection work, other than work of maintenance or repair, without the prior approval in writing of the Minister and except in accordance with the conditions, if any, to which any such approval may be made subject and any person who acts in contravention of the provisions of this subsection shall be guilty of an offence and shall be liable on summary conviction to a fine not exceeding one thousand dollars.

(2) Without prejudice to any proceedings in respect of any offence under subsection (1) of this section, where any person has carried out any coast protection work in contravention of that subsection, the Minister may serve a notice upon him requiring him within such period, not being less than thirty days, as may be specified in the notice, to remove or alter any such coast protection work as may therein be specified, and if such person fails to

comply with the requisition the Minister may authorise any other person so to remove or alter such works and may recover the expense of such removal or alteration as a civil debt summarily from the person upon whom such notice was served.

9. (1) Subject to the provisions of this section and notwithstanding any other law, no person shall excavate or remove any materials on, under or forming part of any portion of the seashore to which the provisions of this section are applied.

Prohibition of excavation or removal of materials from seashore

(2) The Minister may make an order applying the provisions of this section to any such portion of the seashore as may be described in the order:

Provided that any such order may, as respects the whole of that portion of the seashore or any such part thereof as may be specified in the order, except from the provisions of this section the carrying out of any excavation or the removal of any materials for any particular purpose subject to any limitations or conditions specified in the order.

(3) Any person who acts in contravention of the provisions of this section shall be guilty of an offence and shall be liable on summary conviction to a fine not exceeding one thousand dollars.

10. (1) Where on a claim being made under this section it is shown —

Provisions as to compensation

- (a) that the value of an interest of any person in land has been depreciated, or that any person has suffered damage by being disturbed in his enjoyment of land, in consequence of the carrying out of coast protection work or work of maintenance and repair in relation to any coast protection work by or on behalf of the Minister in the exercise of the powers conferred by this Act; or
- (b) that the value of such an interest as aforesaid has been depreciated in consequence of the refusal of consent for which application has been made for the purposes of section 8 of this Act, or in consequence of the granting of such consent subject to conditions,

the Minister shall pay to that person compensation equal to the amount of the depreciation or damage:

Provided that a person shall not be entitled to compensation under paragraph (a) of this subsection unless the act or omission causing the depreciation or disturbance would have been actionable at his suit if it had been done or omitted otherwise than in the exercise of statutory powers.

(2) A claim for compensation under this section shall be made to the Minister within twelve months of the completion of the work, the refusal of consent, or the imposition of conditions, giving rise to the claim.

(3) Any dispute arising under this section shall be referred by the Minister for hearing and determination by a stipendiary and circuit magistrate in like manner to an objection made under the provisions of section 4 of this Act.

(4) Where any interest in land is subject to a mortgage —

(a) any compensation under this section which is payable in respect of depreciation of the value of that interest shall be assessed as if the interest were not subject to the mortgage;

(b) a claim for any such compensation may be made by any mortgagee of the interest, but without prejudice to the making of a claim by the person entitled to the interest;

(c) a mortgagee shall not be entitled to claim any such compensation in respect of his interest as such; and

(d) the compensation payable in respect of the interest subject to the mortgage shall be paid by the Minister to the mortgagee or, where there is more than one mortgagee, to the first mortgagee, and shall in either case be applied by the mortgagee as if it were proceeds of sale.

(5) In this section the expression “interest” includes any estate in or right over land.

Rules

11. The Minister may make rules prescribing anything to be prescribed under this Act and generally for the better carrying into effect of the provisions of this Act.

Application of Act

12. This Act shall apply to such parts of The Bahamas as the Minister may declare by order.