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CHAPTER 232

ENVIRONMENTAL HEALTH SERVICES

An Act to promote the conservation and maintenance of the environment in the interest of health, for proper sanitation in matters of food and drinks and generally, for the provision and control of services, activities and other matters connected therewith or incidental thereto. *4 cf 1987*

*[Assent 11th May, 1987]
[Commencement 27th May, 1987]*

PART I PRELIMINARY

1. This Act may be cited as the Environmental Health Services Act. Short title
2. (1) In this Act — Interpretation
- “air” means the unconfined portion of the atmosphere i.e. excluding that within any structure or underground space;
- “animal” means any ruminant, swine, rabbit, poultry, horse, dog, cat or wild game and includes the carcass or any part thereof;
- “authorised officer” means any health officer, port officer or other person authorised by the Minister for the purposes of this Act;
- “Board” means the Environmental Health Board established by section 6;
- “building” includes the curtilage of a building;
- “contaminant or pollutant” means any solid, liquid, gas, odour, heat, sound, vibration, radiation or combination of any of them resulting directly or indirectly from the activities of man which may —
- (i) impair the quality of the natural environment for any use that can be made of it;
 - (ii) cause injury or damage to property or to plant or animal life;

- (iii) cause harm or material discomfort to any person;
- (iv) adversely affect the health or impair the safety of any person; or
- (v) render any property or plant or animal life unfit for use by man;

“contamination” means the state resulting from the presence of a contaminant;

“Department” means the Department of Environmental Health Services;

“Director” means the Director of Environmental Health Services;

“discharge” includes, but is not limited to, any spilling, leaking, pumping, pounding, emitting, emptying or dumping of any effluent into the air, water or on land;

“emission” means the act of passing into the air, water or on land a contaminant or gas stream, visible or invisible;

“environment” means the natural, man made or altered environment of air, land and water (including the coastal waters of the sea) or any combination or part thereof;

“factory” means any premises wherein any storage, manufacturing, processing or packing operation or any combination thereof is undertaken;

“food” means any article of food, drink or chewing gum, and any article or substance used as an ingredient or cooking medium in the manufacture or preparation thereof;

“health officer” means any officer of the Ministry responsible for Health authorised by the Minister to act as a health officer and includes a commissioner so authorised;

“house” means any dwelling place and the curtilage thereof and includes any building, vessel, tent, van, shed or similar structure used or intended for human habitation;

“land” means surface land, land covered by water and all subsoil, or any combination or part thereof;

“litter” means anything whatsoever, including dust, dirt, oddments, leavings, waste paper, cigarette ends, bottles (whether empty or not), derelict vehicles, derelict vessels and any dead animal or carrion;

“liquid waste” means —

- (a) sewerage and human body wastes and other organic wastes and waste water from toilets and other receptacles intended to receive body wastes;
- (b) drainage from medical premises e.g. hospitals, sick bays, dispensaries via baths, wash basins and the like fixtures;
- (c) drainage from places where animals are held, reared or slaughtered;
- (d) drainage and waste water from domestic, industrial, commercial and agricultural operations including the manufacture and storage of chemicals; and
- (e) other waste waters;

“occupier” means —

- (a) in the case of any premises or part thereof, a person in occupation of or having the charge, management or control of such premises or part;
- (b) in the case of a vessel or aircraft, the master or other person in charge thereof;

“owner” in relation to any premises, means the person for the time being entitled to receive the rent of the premises, whether on his own account or as an agent or trustee or who would be so entitled if such premises were let;

“pesticide” means any substance or mixture of substances intended for preventing, destroying, repelling or mitigating any insects, rodents, nematodes, fungi, weeds or other forms of plant or animal life which are considered pests;

“pollution” means the state resulting from the presence of a pollutant;

“port officer” includes an officer of customs, an immigration officer and any other port officer who is employed in any capacity at a port in the Commonwealth of The Bahamas;

“premises” includes land whether open or closed, whether built on or not, whether public or private, and any house, aircraft, ship, vessel, boat, bulk, barge, tent, caravan, shed or similar structure;

“public place” includes any building or place to which the public is entitled or permitted to have access whether on payment or otherwise, a park, cemetery, public beach, market or market place and any street, highway, road, bridge; wharf, pier, jetty, lane, footway, square, court; alley or passage whether a thoroughfare or not;

“sell” includes to offer or expose for sale or have in possession for sale;

“solid waste” includes ashes, garbage, refuse, litter and other discarded solid material resulting from domestic, industrial, commercial and agricultural operations and from community activities but does not include sewage;

“vehicle” means any car, truck, tractor, motorcycle, bicycle, cart or other machine or apparatus on wheels however propelled;

“water” means surface water and underground water or either of them wherever located including natural and artificial drainage courses.

(2) In determining for the purposes of this Act and any proceedings thereunder whether anything is a contaminant or pollutant as defined in subsection (1), regard shall be had not only to the probable effect of that thing itself but also to the probable cumulative effect of things of substantially the same composition.

PART II ADMINISTRATION

Responsibility of
the Minister

3. (1) The Minister is charged with the responsibility of promoting and protecting the public health and providing for and ensuring the conservation and maintenance of the environment.

(2) In particular, it is the responsibility of the Minister to regulate, monitor and control the actual and likely contamination or pollution of the environment from any source, ensure compliance in all matters and activities relating thereto and establish minimum standards required for a clean, healthy and aesthetically pleasing environment.

4. (1) For the purpose of enabling the Minister to carry out his functions under this Act, there shall continue to be a Department of Environmental Health Services which shall comprise the Director of Environmental Health Services and such other officers as may be necessary for the efficient working of the Department.

Department of
Environmental
Health Services

(2) The Department of Environmental Health Services shall be under the general control and direction of the Minister.

(3) Notwithstanding the provisions of any other Act, no person shall be appointed to the office of Director unless he is a public officer, holds a bachelor's degree in Public Health/Environmental Health or Sanitary Engineering or an equivalent degree from a recognised University, and has at least five (5) years' experience in the field of environmental health.

(4) The Director shall be the principal technical adviser to the Minister in matters relating to environmental health and subject to the general or specific directions of the Minister shall be responsible for the administration and enforcement of the provisions of this Act.

(5) In pursuance of his responsibilities and functions under this Act the Director shall maintain constant consultations with the other Departments of the Ministry of Health and with other Government Ministries, Departments and Agencies which are responsible for matters related to environmental health.

(6) The officers of the Department shall discharge functions under this Act as authorised and directed by the Director and in so doing shall be deemed to be acting under the authority of this Act.

(7) In the execution of their functions under this Act, the Director and the officers of the Department may call upon any police officer to lend such assistance as may be required and such police officer shall assist accordingly.

(8) The Minister may, by writing under his hand, delegate to the Director any of his functions under this Act other than the power under section 9 to make regulations.

(9) Any delegation while in force shall not prevent the discharge by the Minister of any functions thereby delegated and may be —

- (a) made subject to such conditions, qualifications, and exceptions as may be specified; and
- (b) revoked or varied at any time.

Functions of the
Department

5. (1) The Department shall arrange and carry out all functions which are required for the proper discharge of the responsibilities and functions of the Minister under this Act, and without prejudice to the generality of the foregoing, the Department will —

- (a) investigate problems and institute preventive and remedial measures in respect of environment pollution, the management and disposal of solid, liquid and gaseous wastes, food and drinks management, nuisances, rodents, insect pests and general sanitation;
- (b) conduct research, studies and monitoring programmes related to the matters in paragraph (a);
- (c) gather, collate, analyse, publish and disseminate information relevant to the foregoing;
- (d) promote the planning, approval, funding and implementation of measures designed to ensure the wise and safe use of the environment;
- (e) provide ways and means for the training of persons involved in environmental health services;
- (f) undertake and carry out all related surveys, monitoring and investigations and prepare the necessary reports, plans and programmes;
- (g) maintain and operate the necessary laboratory analytical and inspection facilities;
- (h) provide advice in the field of environmental health and other supportive services to the Ministry of Health and other Government Agencies in the Commonwealth of The Bahamas;
- (i) implement and administer approved programmes;

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- (j) keep abreast of technological and other advances in the field of environmental health and initiate the updating of legislation, standards and procedures in this connection;
 - (k) advise on, plan, organise and actively pursue the training of all personnel required for the proper administration of this Act; and
 - (l) prepare and cause to be submitted to the Minister by the end of May in every year in such form as the Minister may require a report of the activities of his department during the twelve months ending on the 31st day of December in the preceding year, and when requested, such other reports as the Minister may require concerning the Department's operations.

6. (1) There shall be an Environmental Health Board which shall be responsible for advising the Minister as to any matters which the Minister refers to the Board relating to environmental health.

Establishment of
Environmental
Health Board

(2) The provisions of the Schedule shall have effect with respect to the constitution and procedure of the Board and otherwise in relation thereto.

PART III PROHIBITIONS

7. Any person who, otherwise than in accordance with this Act and the regulations, deposits in, adds to, emits or discharges into the environment any contaminant or pollutant or who permits the deposit, emission or discharge into the environment of any contaminant or pollutant from any source is guilty of an offence.

Prohibitions

8. (1) No person shall —

- (a) construct, alter, extend or replace any plant, structure, equipment, apparatus, mechanism or thing that may emit or discharge, or from which may be emitted or discharged, a contaminant or pollutant into any part of the environment; or
- (b) carry on or alter a process or rate of production with the result that a contaminant or pollutant may be emitted or discharged into any part of the environment; or

Certificate of
approval

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- (c) carry on or alter a process or rate of production with the result that the rate, or manner of emission or discharge of a contaminant or pollutant into any part of the environment may be altered,

unless he has first obtained a certificate of approval issued in accordance with this section by the Director approving the methods or devices or both to be employed to control or prevent the emission or discharge of any contaminant or pollutant into any part of the environment.

(2) The Director may require an applicant for a certificate of approval under subsection (1) to submit such plans, specifications and other information as may be prescribed and to carry out and report on any tests or experiments relating to the plant, structure, equipment, apparatus, mechanism or thing or to the process, rate of production, methods and devices to be employed to control or prevent the emission or discharge of any contaminant or pollutant into any part of the environment.

(3) The Director shall, on being satisfied that the methods or devices or both to be used to control or prevent the emission or discharge of any contaminant or pollutant into any part of the environment are adequate to prevent or control such emissions or discharges, grant a certificate of approval or if not so satisfied, shall refuse to grant the certificate.

(4) A certificate of approval shall be subject to such conditions as the Director may impose.

(5) The Director may from time to time vary in such manner as he deems fit the conditions contained in a certificate of approval.

(6) Where it appears to the Director that the holder of a certificate of approval has failed to comply with the conditions subject to which the certificate was granted he may revoke the certificate.

- (7) A person who is dissatisfied with —
- (a) the refusal of the Director to issue a certificate of approval; or
 - (b) the terms and conditions attached to a certificate of approval; or

- (c) the variation of any terms and conditions contained in a certificate of approval; or
- (d) the revocation of a certificate of approval, may appeal to the Minister within fourteen days of being notified of such decision.

9. (1) No person shall create or allow to exist on or emanate from premises which he owns or occupies conditions which are unsanitary or constitute a nuisance or are conducive to the breeding or harbouring of rodents, insect pests, termites or other vermin.

Premises to be kept sanitary and free from nuisances.

(2) No person shall dump on or otherwise deposit or leave any litter in any public place or open space.

(3) Every owner or occupier of premises shall keep in a clean condition any open space to the front of his premises which abuts onto a public road.

10. No person shall keep or otherwise shelter any domestic animal or other animal otherwise than as prescribed in the regulations.

Sheltering of domestic animals.

11. Food and drink shall be handled in accordance with the regulations.

Unwholesome and unfit food.

12. No person shall transport, treat or otherwise dispose of solid and liquid wastes on and from any premises otherwise than in accordance with the Act and with the regulations made thereunder.

Solid and liquid wastes to be dealt with in accordance with regulations.

13. No trade or business declared offensive by regulations made hereunder shall be conducted on any premises except in accordance with those regulations.

Offensive trades and businesses.

14. Every person who —

- (a) deposits in, adds to, emits or discharges into the environment any contaminant or pollutant; or
- (b) is the person responsible for a source of contaminant or pollutant that is deposited in, added to, emitted or discharged into the environment,

Notification to Director of emission or discharge, etc., of contaminant or pollutant.

in an amount, concentration or level in excess of that prescribed by the regulations shall forthwith notify the Director of the deposit, addition, emission or discharge, as the case may be.

Director may
issue order

15. When the Director is of the opinion that a source of contaminant or pollutant is adding to, emitting or discharging into the environment any contaminant or pollutant that constitutes, or the amount, concentration or level of which constitutes, an immediate danger to life or the health of any persons or to property, the Director may issue an appropriate order directed to the person responsible for the source of such contaminant or pollutant to discontinue adding to, emitting or discharging such contaminant or pollutant and such person shall comply with the order of the Director.

Equipment to
alleviate
contamination or
pollution

16. When, in the opinion of the Director it is necessary or advisable to do so, the Director may, by an order directed to any person, require that person to have on hand and available at all times such equipment and material as the order specifies to alleviate the effect of any contamination or pollution on the environment.

PART IV REGULATIONS

Minister may
make regulations

17. (1) The Minister may make regulations for giving effect to and carrying out the purpose, intention and provisions of this Act, and, without prejudice to the generality of the foregoing, such regulations may provide for —

- (a) the definition, prevention and abatement of nuisances on any premises and the regulation of the procedure for dealing with the same;
- (b) the regulation of the keeping of animals and poultry, of the places and manner of such keeping, the use of waste foods for feeding such animals and the disposal of animal and poultry wastes and dead animals and poultry;
- (c) pest and vector control including rodent proofing of buildings, preventive measures and use of pesticides;
- (d) the prevention of the sale or distribution of any item of food or drink which is unwholesome or otherwise unfit for human consumption including but not limited to measures for —

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- (i) regulation and control in so far as it concerns the public health, of the importation, manufacture, processing, packaging, labelling, handling, transportation, storage, distribution or sale of food and drink intended for human consumption;
 - (ii) checking of chemical, microbiological or other standards for food and drink or any of the ingredients of such food or drink;
 - (iii) inspection, examination, sampling, analysing, certification, seizure, condemnation, destruction or other disposal of food or drink, in so far as it concerns the public health;
 - (iv) setting of public health standards for and the inspection of factories, markets, slaughterhouses and other places where articles intended for human consumption are handled, and the enforcement of such standards;
- (e) the prevention and control of pollution of any waters, measures for monitoring and ensuring the safety of water supplies and prevention of the supply and use of unsafe water for human consumption;
 - (f) the setting of standards for, and the regulation and control of public and private liquid waste disposal systems and works including sanitary facilities in all premises whatsoever;
 - (g) the setting of standards for the hygienic maintenance and use of public sanitary conveniences, baths, washrooms, laundromats, laundries and dry-cleaning establishments;
 - (h) street cleaning including the cleaning of public drains, markets and slaughterhouses and the storage, collection, transportation, processing and disposal of solid wastes (domestic, commercial and industrial) and other offensive matter;
 - (i) removal and disposal of derelict and abandoned vehicles;
 - (j) litter prevention and control;

- (k) the inspection, licensing where appropriate, and enforcement of the maintenance of proper sanitation in or around —
 - (i) hospitals, schools, public buildings, clubs and like places where persons are employed or congregate;
 - (ii) hotels, boarding houses and like places where accommodation is made available;
 - (iii) places and institutions for carrying on of any businesses or industries prescribed by the Minister;
 - (iv) establishments of barbers, hairdressers, health spas, beauticians, other cosmetic enterprises, funeral homes; and
 - (v) swimming pools whether public or private, beaches and other areas for public bathing;
- (l) the regulation and control of the environmental health aspects of seaports, harbours, marinas and airports;
- (m) the regulation and control of any trade or business which by regulations made under this Act are declared offensive and the methods by which and places where such may be carried on;
- (n) control and prevention of occupational health hazards in places of employment;
- (o) control and prevention of radiation, hazards and the disposal of radioactive or otherwise hazardous wastes;
- (p) prevention and control of pollution of the air, including control of emissions of smoke, gases, dust, particles, fumes or any combination of these, offensive odours or excessive noise from factories, vessels, vehicles or any other premises or thing;
- (q) prevention and control of contamination of land and for control of use of land for deposit of contaminants therein;
- (r) such environmental health measures as are, in the opinion of the Minister, necessary to be taken in cases of natural and other disasters and emergencies;

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- (s) subject to the provisions of Article 27 of the Constitution, the use, regulation and control of beaches and areas of the foreshore both above and below high water mark, the removal of solid wastes therefrom, and the cleaning and keeping clean, of such beaches and areas as aforesaid, and generally for the preservation of the amenities of the same;
 - (t) training, practice and conduct of health officers;
 - (u) any other matter which, in the interest of public health, is concerned with or incidental to the protection, preservation and conservation of the environment;
 - (v) any other matter which by this Act may be prescribed.
- (2) The regulations made under subsection (1) above may —
- (a) establish procedures for the issue, variation, suspension or revocation of licences or permits in respect of any activity contemplated by this Act;
 - (b) specify fees or charges or a system for fixing fees or charges to be paid for any licence, permit, examination certificate, service rendered or any other matter under this Act;
 - (c) provide for the recovery of fees or charges payable under paragraph (b);
 - (d) prescribe forms for the purposes of this Act;
 - (e) create offences for the contravention or failure to comply with any regulation made under this section which shall be punishable by way of a fine not exceeding five thousand dollars or imprisonment for a period of twelve months or both such fine and imprisonment and in the case of a continuing offence the offender may be punishable by way of a further fine of one thousand dollars for each day that such offence continues after the date of conviction.
 - (f) provide appropriate exemptions and special defences in respect of any requirements and proceedings under this Act or the regulations;

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- (g) provide for appeals to a court against any act or decision of any person performed or made under this Act or the regulations;
 - (h) provide for the recovery of costs and expenses incurred in carrying out any work done as a consequence of any default by any person in complying with this Act or the regulations;
 - (i) provide for the compensation for damage or destruction of any property in the exercise of any powers conferred by this Act; and
 - (j) provide for their application throughout the Commonwealth of The Bahamas or such part or parts thereof as may be prescribed by the Minister therein or from time to time.

PART V ENTRY ON PREMISES

Entry on
premises by
authorised
persons

18. (1) The Director or any person authorised in writing by the Minister, or the Director, may at all reasonable times enter any premises for the purposes of —

- (a) ascertaining whether there is or has been on or in connection with the premises any contravention of the provisions of this Act or any regulations made thereunder and examine premises and take away samples of any thing means of or in relation to which he believes a provision of this Act has been contravened;
- (b) ascertaining whether or not circumstances exist which would authorise or require the Director to take any action or execute any work under this Act or any regulations made thereunder;
- (c) taking any action or executing any thing authorised or required to be done under this Act or any regulations made thereunder;
- (d) performing any function conferred on or delegated to the Minister or the Director or any officer or authorised person under this Act or any regulations made thereunder; or
- (e) generally examining and inspecting the premises.

(2) Any person claiming the right to enter any premises shall produce the document authorising him in that behalf.

(3) A document purporting to have been signed by the Minister, or Director, shall be deemed until the contrary is proved, to have been signed by that person.

(4) Any officer or person authorised to enter any premises which he has entered pursuant to this section, shall leave the premises as effectually secured against trespassers as he found them.

PART VI OFFENCES AND PENALTIES

19. Any person who —

Offences

- (a) assaults, resists, obstructs or impedes any authorised officer in the execution of his duties under this Act; or
- (b) knowingly makes any false or misleading statement to any authorised officer engaged in carrying out his duties under this Act,

is guilty of an offence and liable on 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.

20. (1) Any person who fails to carry out or contravenes any of the provisions of this Act or any regulations made thereunder is guilty of an offence and where there is no specific penalty provided, is liable on summary conviction to a fine not exceeding one thousand dollars or to imprisonment for a term not exceeding nine months or to both such fine and imprisonment, and in the case of a second or subsequent offence, to a fine not exceeding five thousand dollars or to imprisonment for a term not exceeding twelve months or to both such fine and imprisonment.

General penalty

(2) In the case of a continuing offence, the offender is liable to a further fine not exceeding five hundred dollars for each day that such offence continues after the day of conviction thereof, and in default of payment to imprisonment for a period not exceeding six months.

21. Where an offence under this Act or the regulations has been committed by a body corporate and is proved to have been with the consent or connivance of, or

Offence by body
corporate

to be attributable to any neglect or default on the part of, any director, manager, secretary or other similar officer of the body corporate, or any person who was purporting to act in any such capacity, such director, manager, secretary or other officer as well as the body corporate is guilty of that offence and is liable to the penalty prescribed by this Act for that offence.

PART VII GENERAL PROVISIONS AND PROCEDURES

Putrid, decayed,
etc , matter on
vessels

22. (1) Any port officer or health officer who discovers or is notified of putrid, decayed or offensive matter or substance or any contaminant or pollutant on board a vessel in any port shall forthwith notify the Director of such discovery.

(2) In the interest of and for the protection of health the Director may —

- (a) order the unloading of the cargo of any vessel, and order, direct and regulate the manner in which, and place where such cargo shall be loaded or stored; or
- (b) order the destruction of any cargo, or portion thereof, which the Director may consider to be in a putrescent state or is likely to promote the spread of disease or to be otherwise injurious to health.

Power to compel
and execute
certain works and
recover costs

23. (1) Where it appears to the Minister that for the protection of or in the interest of the public health any works in or on any premises are necessary, the Minister may serve or cause to be served on the owner or occupier of such premises a notice in writing signed by the Minister or by any person authorised by the Minister in that behalf requiring him to execute such works as the Minister considers necessary.

(2) A notice under subsection (1) shall indicate the nature of the works to be executed and specify a period of time after the expiration of which the Minister may cause the work to be carried out if it has not previously been executed.

(3) A person served with a notice under subsection (1) or any person having an estate or interest in the premises

to which the notice relates may, at any time before the expiration of the period of time specified in the notice pursuant to the provisions of subsection (2) and in accordance with any rules of court for the time being in force, appeal to a judge in chambers against the notice on any of the following grounds —

- (a) that the notice or requirement is not justified for the protection of or in the interest of public health;
- (b) that there is some informality, defect or error in or in connection with the notice;
- (c) that the Minister has refused unreasonably to approve the execution of alternative works;
- (d) that works required by the notice to be executed are unreasonable in character or extent or are unnecessary;
- (e) that the time within which the works are required by the notice to be executed is not reasonably sufficient for the purpose;
- (f) that the notice might lawfully have been served on the occupier of the premises to which it relates instead of the owner or on the owner instead of the occupier and it should have been so served;
- (g) where the work is work for the common benefit of the premises to which the notice relates and other premises, that some other person being the owner or occupier of the other premises to be benefited, ought to contribute towards the expenses of executing any works required.

(4) Where an appeal under subsection (3) is based on the grounds specified in paragraph (b) thereof, the judge shall dismiss the appeal if he is satisfied that the informality, defect or error was not a material one.

(5) Where the grounds upon which an appeal is brought under subsection (3) include a ground specified in paragraph (f) or (g) of that subsection, the appellant shall serve a copy of his notice of appeal on each other person referred to therein, and may serve a copy thereof on any person having an estate or interest in the premises to which the notice under subsection (1) relates.

(6) On the hearing of an appeal under subsection (3) the judge may make such order as he thinks fit in respect of

the person by whom any work is required to be executed and the contribution to be made by any other person towards the cost of the work or as to the proportion in which any expenses which may become recoverable by the Minister under subsection (11) are to be borne by the appellant and such other persons.

(7) In exercising his powers under subsection (6) the judge shall have regard —

- (a) as between an owner and an occupier to the terms and conditions, whether contractual or statutory of the tenancy and to the nature of the work required; and
- (b) in any case, to the degree of benefit to be derived by the different persons concerned.

(8) Where an appeal is brought under subsection (3), the judge shall give directions for giving effect to his decision including, where appropriate, directions for questioning the notice to which the appeal relates or for varying the terms of such notice in favour of the appellant.

(9) Where the notice to which the appeal relates is varied, or the appeal is dismissed, the judge may, if he thinks fit, direct that the notice shall not come into force until such date (not being more than 28 days from the determination of the appeal) as he thinks fit.

(10) The determination of an appeal under subsection (3) by a judge in chambers shall be final.

(11) If at the expiration of the period specified in the notice under subsection (1) or directed by a judge in the determination of an appeal under subsection (3), the work specified in the notice or as varied by a judge has not been executed, the Minister may cause such work to be carried out and on completion thereof may recover the reasonable costs as a debt due to the Crown in civil proceedings before a magistrate for the district in which the premises are situated notwithstanding the provision in any enactment of a financial limit to the jurisdiction of a magistrate.

(12) In any proceedings under subsection (11) the validity of the notice to which the proceedings related shall not be questioned on any ground specified in subsection (3).

24. Where in any proceedings under the provisions of this Act it becomes necessary to mention or refer to the owner or occupier of any premises and his name is unknown and cannot on reasonable enquiry be ascertained, it shall be sufficient to designate him as the “Owner” or “Occupier” of such premises, without name or further description.

Name of owner or occupier unascertainable.

25. Nothing done by the Minister or the Director or any person acting under the authority of either shall, if such a thing was done *bona fide* for the purposes of executing any of the provisions of this Act, subject such persons to any action, liability, claim or demand whatsoever.

Protection of Minister and officers from liability.

26. The Attorney-General may authorise the Director or any authorised officer to institute proceedings against any person for an offence against and for the recovery of any fine under this Act or any regulations made thereunder and the Director or such authorised officer may prosecute or conduct such proceedings.

Who may institute proceedings.

27. (1) Where this Act or any regulations made thereunder provides for an appeal to a magistrate’s court against a refusal or other decision, such appeal shall be by complaint.

Appeals to magistrate’s courts.

(2) The time within which an appeal mentioned in subsection (1) may be brought, shall be twenty-one days from the date on which notice of the decision concerned was given to the person desiring to appeal and for the purposes of this subsection the application for the complaint shall be deemed to be the bringing of the appeal.

(3) In any case where an appeal under this section lies, the document notifying the person concerned of the decision of the authority in the matter shall state the right of appeal to a magistrate’s court and the time within which the appeal may be brought.

(4) The appellant shall within the time specified in subsection (2) serve a notice in writing signed by the appellant or his counsel and attorney on the person whose decision is being appealed of his intention to appeal and of the general grounds of appeal:

Provided that any person aggrieved by any such decision may upon notice to that person apply to the magistrate for leave to extend the time within which the

notice may be served and the magistrate upon the hearing of such application may extend the time prescribed by this section.

(5) The person whose decision is being appealed shall upon receiving the notice of appeal, transmit to the magistrate a copy of the decision and all papers relating to the appeal.

(6) At the hearing of the appeal the appellant shall, before going into the case, state all grounds of appeal on which he intends to rely and shall not, unless by leave of the magistrate, go into any matters not raised by the statement.

Effect of court's
decision

28. Where, in an appeal mentioned in section 27, a court varies or reverses the decision of an authority, it shall be the duty of the authority to give effect to the order of the court, and, in particular, to grant any necessary licence and to make any necessary entry in any register.

Right to carry on
business pending
hearing of
appeal

29. (1) Where a decision of an authority is appealable under this Act or the regulations and such decision makes it unlawful for a person —

- (a) to carry on any business which he, or his immediate predecessor in the business was lawfully carrying on at the date when the decision was given; or
- (b) to use any premises for any purpose for which he, or such predecessor, was lawfully using them at the said date,

he may carry on that business and use those premises for that purpose until the time for appealing has expired and, if an appeal is brought, until the appeal is disposed of or struck out for want of prosecution.

(2) The rights given by subsection (1) shall apply also where the decision of a court, in any proceedings in respect of an offence under this Act or the regulations, makes it unlawful for a person to carry on a business or use premises for any purpose which he was lawfully carrying on or so doing immediately before such decision was given.

(3) The provisions of subsections (1) and (2) shall not apply where the continuance of such a business or the use of such premises would constitute a danger to the health of the public.

**PART VIII
MISCELLANEOUS**

30. (1) No person who has acquired information in any capacity under this Act or in performing any of his functions or duties under this Act shall, without the express consent of the person from whom that information has been received or acquired, disclose to any person any such information except —

Protection of
trade secrets and
other confidential
information

- (a) to an authorised officer or employee of the Department for the purpose of the performance of his duties or the exercise of his functions under this Act; or
- (b) when he is lawfully required to make disclosure by a court of competent jurisdiction within The Bahamas.

(2) Where in any proceedings in any court the court determines that the likelihood exists that information relating to or evidence of any trade secrets or secret process or other commercial or financial information concerning the establishing of or maintaining a competitive business position may be disclosed or given, the court shall hear such information or evidence *in camera* and no record thereof shall be made public until the final determination of the proceedings including any appeal whereupon any such record shall be destroyed in the presence of and to the satisfaction of the affected party.

(3) Every person who contravenes the provisions of subsection (1) of this section shall be guilty of an offence against this Act and shall be liable on conviction to a fine of fifteen thousand dollars or to a term of imprisonment of two years or to both such fine and imprisonment.

31. Notwithstanding the provisions of this Act, any relevant statutory rules, orders or regulations made under the Health Services Act, the Public Works Act or any other Act which are in force at the commencement of this Act shall be deemed to have been made under this Act and any actions or proceedings commenced under the Health Services Act or the Public Works Act may be continued under this Act as if commenced thereunder.

Savings as to
other laws
Ch 231
Ch 26

32. This Act binds the Crown.

The Crown

SCHEDULE (Section 6)

1. The Environmental Health Board shall consist of five members of whom —
 - (a) one shall be the Director of Environmental Health Services *ex officio*;
 - (b) four shall be appointed by the Minister in his discretion.
2. A member of the Health Services Board other than the Director of Environmental Health Services shall, subject to the provisions of this Schedule, hold office for a period not exceeding three years and shall be eligible for re-appointment.
3. The Minister shall appoint one of the members of the Environmental Health Services Board to be the chairman of the Board.
4. The Minister may at any time revoke the appointment of any member of the Health Services Board.