
CHAPTER 256**PRIVATE ROADS AND SUB-DIVISIONS****ARRANGEMENT OF SECTIONS**

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CHAPTER 256

PRIVATE ROADS AND SUB-DIVISIONS

An Act to make fresh provision for the laying out and construction of new private roads and for the laying out and development of new sub-divisions and to confer powers on the Town Planning Committee as well as the Minister for Works in connection therewith; and to make provision for matters connected with the matters aforesaid.

41 cf 1961
77 cf 1963
58 cf 1963
GN 7(38)/1964
43 cf 1964
47 cf 1964
14 cf 1973
19 cf 1975
2 cf 1981
5 cf 1987

[Commencement 31st July, 1961]

1. This Act may be cited as the Private Roads and Sub-divisions Act. Short title.
2. In this Act, unless the context otherwise requires — Interpretation.
 - “Committee” means the Town Planning Committee appointed under section 3 of the Town Planning Act; *GN 7(38)/1964*
Ch. 255.
 - “Minister” means the Minister responsible for Private Roads and Sub-divisions; *14 cf 1973, s 2*
 - “owner”, in relation to any land, means a person other than a mortgagee not in possession, who, whether in his own right or as trustee or agent for any other person, is entitled to receive the rack rent of the land or, where the land is not let at a rack rent, would be so entitled if it were so let;
 - “road” means any alley, highway, lane, street or thoroughfare;
 - “sub-division”, in relation to any land, means a plot of land divided into lots, in the division of which plot, provision is made for the reservation of sites for the construction of access roads.
3. (1) No person shall without the approval of the Committee lay out any new road or sub-division. Unlawful to lay out new road or sub-division without approval of Committee.

Procedure
for obtaining
approval

(2) Every owner of land desiring to lay out any new road or sub-division shall submit to the Committee two copies of a survey plan of his plot of land showing the site of every proposed road and, in the case of any new subdivision, also the number, positions, shapes, boundaries and dimensions of the several lots into which it is proposed to divide such plot of land.

(3) Every new road shall be of such width and direction as the Committee shall approve.

(4) Every lot in a sub-division shall have such frontage on the road on which the same shall front and such depth measured backward from such road as shall be approved by the Committee.

(5) Every lot in a sub-division shall be distinguished on the survey plan of the sub-division by a particular number.

(6) The Committee may require any changes which it deems necessary to be made in the survey plan submitted by the owner of any land.

(7) The Chairman of the Committee shall sign two copies of any survey plan approved by the Committee and the Committee shall retain one copy thereof and deliver the other to the owner:

Provided that the Committee shall not approve any survey plan showing the lay out of any new road or sub-division, as the case may be, until the Minister has approved with or without modifications or additions the specifications required to be submitted by the owner under the provisions of section 4 of this Act.

(8) If at the expiration of two years from the date on which any permission is granted under this section, the owner of the land has not commenced any road construction or development the permission so granted shall lapse.

Unlawful to lay
out a new road
or sub-division
without approval
of Minister

4. (1) No person shall without the approval of the Minister lay out any new road or sub-division.

Procedure for
obtaining
approval

(2) Every owner of land desiring to lay out any new road or sub-division shall submit to the Minister specifications for the construction of any proposed road and, in the case of any new sub-division, also specifications for the

provision of any electricity or water supply or any other utility required by the Minister to be provided in such sub-division, the said Minister may approve the same with or without modifications or additions as he shall think fit.

(3) No owner shall sell, agree to sell, convey, agree to convey, demise or agree to demise any land in a new sub-division unless — *17 cf 1963, s 2*

- (a) he has furnished the Minister with a bond executed by two or more sufficient sureties approved by the Minister, in a sum fixed by the said Minister and has entered into an agreement with such Minister for the proper construction of roads to and in such sub-division according to the specifications approved by the Minister and the supply of electricity, water or other utilities to and throughout such sub-division, as may be required by the said Minister within such period as may be fixed by the Minister, such bond to be conditioned to be void upon the owner of the sub-division, within such period, so constructing such roads to the satisfaction of the Minister and completing to his satisfaction all works necessary to provide electricity, water or other utility to and throughout such sub-division as may have been required by the Minister; or
- (b) he has, to the satisfaction of the Minister, constructed roads to and in such sub-division according to the approved specifications and has completed to the satisfaction of the Minister all such works as may be necessary for the supply of electricity, water or other utility to and throughout such sub-division, as may have been required by the Minister.

5. (1) No person shall, without the approval of the Minister, construct any new road.

Approval of
Minister to
construct as
aforesaid any
new road
58 cf 1963, s 3

(2) Every proposed road approved as aforesaid shall be formed, graded and paved with proper and sufficient materials to the satisfaction of the Minister, and the work shall be completed within such reasonable period of time as shall be directed.

6. Every owner of any new sub-division shall within a period to be prescribed mark out on the ground each lot with approved markers and each lot so marked out on the

Owner to mark
out lots on
ground

ground shall have the dimensions and alignment indicated on the survey plan of the sub-division approved by the Committee.

No person to commence to build before markers placed and new road formed and graded
58 cf 1963, s 2

7. No person shall commence to erect any building or other structure on any lot in any new sub-division approved by the Committee until —

- (a) the lot has been marked out on the ground with markers approved by the Minister as provided for in section 6 of this Act; and
- (b) the proposed road which is to lead from the lot to a public road has been formed and graded to the satisfaction of the Minister.

Approval of Committee to alienate unnumbered lots
17 cf 1963, s 3

8. No person shall, without the approval of the Committee, sell, agree to sell, convey, agree to convey, demise or agree to demise any lot in a sub-division not being a lot marked with a number on a survey plan approved by the Committee or whereof the frontage, extent or depth shall vary in any particular from the frontage, extent or depth of such lot as shown on any such approved survey plan.

Appeal from decision of Committee or Minister

9. (1) An appeal shall lie to the Supreme Court from any decision of the Committee or the Minister under this Act.

(2) An appeal against the decision of the Committee or the Minister shall be on motion. The appellant within twenty-one days after the day on which the Committee or the Minister, as the case may be, has given a decision shall serve a notice in writing signed by the appellant or his counsel and attorney on the Committee or the Minister, as the case may be, of his intention to appeal and of the general grounds of his appeal:

Provided that any person aggrieved by the decision of the Committee or the Minister may upon notice as aforesaid, apply to the Supreme Court for leave to extend the time within which the notice of appeal prescribed by this section may be served, and the Supreme Court upon the hearing of such application may extend the time prescribed by this section as it deems fit.

(3) The Committee or the Minister, as the case may be, shall upon receiving the notice of appeal transmit to the Registrar of the Supreme Court without delay a copy of the decision and all papers relating to the appeal.

(4) The Registrar shall set the appeal down for argument on such day, and shall cause notice of the same to be published in such manner, as the Supreme Court may direct.

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

(6) The Supreme Court may adjourn the hearing of the appeal, and may upon hearing thereof confirm, reverse, vary or modify the decision of the Committee or the Minister, or remit the matter with the opinion of the Supreme Court thereon to the Committee or the Minister, as the case may be, or may make such other order in the matter as it may think just, and may by such order exercise any power which the Committee or the Minister, as the case may be, might have exercised, and such order shall have the same effect and may be enforced in the same manner as if it had been made by the Committee or the Minister, as the case may be.

10. (1) Any person contravening the provisions of section 7 or 8 of this Act shall be guilty of an offence against this Act and shall be liable on summary conviction to a fine not exceeding two hundred dollars.

Offences and penalties
5 cf 1987, s 2

(2) Any person contravening the provisions of section 3, 4, 5 or 6 of this Act shall be guilty of an offence against this Act and shall be liable on summary conviction to a fine not exceeding four thousand dollars.

5 cf 1987 s 2

11. Any person committing an offence against the provisions of section 3, 4, 5, 6, 7 or 8 of this Act shall be prosecuted summarily by the Minister or by some person duly authorised in writing by the Minister before a stipendiary and circuit magistrate in respect of any offence in the Island of New Providence and before a circuit justice in respect of an offence in an Out Island.

Prosecutions
14 cf 1973 s 3

12. (1) An appeal shall lie to the Supreme Court against any decision by the stipendiary and circuit magistrate or the circuit justice under the provisions of this Act.

Appeal from stipendiary and circuit magistrate or circuit justice

5 *cf* 1987 Sch
Ch. 91.

(2) The provisions of the Criminal Procedure Code Act relating to the procedure on appeal shall apply *mutatis mutandis* to appeals under this section.

Rules.
47 *cf* 1964, s 2;
14 *cf* 1973, s 4

13. The Minister may make rules for carrying into effect the objects of this Act and in particular, but without prejudice to the generality of the foregoing, may make rules prescribing the fees to be paid upon the approval by him of a new sub-division.

Power of
Minister in
respect of roads
in need of repair.
2 *cf* 1981, s 2

14. (1) Where any road, including any road in a sub-division, is in such a state of disrepair as is likely to interfere with the normal use thereof or occasion damage to vehicles making use thereof, the Minister may issue to the owner of the road a notice requiring that owner by such time as is specified therein to commence and to complete the carrying out of such work of grading, gravel filling or paving or work of such other nature as may be necessary to remedy the state of disrepair.

(2) If the person to whom any notice is issued under this section, fails to comply therewith within the time specified in the notice, the Minister may have the necessary work carried out in such manner and within such time as he thinks fit and may recover, in accordance with section 16, the expenses incurred by him in so doing and, without prejudice to the right of the Minister to exercise those powers, such person shall in respect of his failure be guilty of an offence and liable upon summary conviction to a fine of five thousand dollars.

(3) Any notice required to be issued to any person for the purpose of this section may be issued —

- (a) by delivering it to that person personally; or
- (b) by leaving it at his usual or last known residence; or
- (c) by sending it in a prepaid registered letter addressed to him at his usual or last known postal address; or
- (d) in the case of an incorporated body, by delivering it to its secretary or other employee at its registered office or principal place of business or by sending it in a prepaid registered letter addressed to that office or place of business; or
- (e) in the case where it is impossible or not practicable to ascertain the postal address or

residence of the person to whom it should be issued, by causing the said notice to be published in the *Gazette* on two occasions the second occasion not being earlier than seven days after the first publication.

(4) All expenses incurred by the Minister in carrying out the provisions of this section shall be paid out of the Consolidated Fund.

15. A person who wilfully obstructs any person carrying out work for the purpose of the exercise by the Minister of his powers under section 14(2) shall be guilty of an offence and liable on summary conviction to a fine of five hundred dollars and a further fine of fifty dollars for each day on which the obstruction continues after conviction therefor.

Penalty for
obstruction.
2 cf 1981, s 2

16. (1) Where the Minister has incurred expenses under section 14 for the repayment of which an owner is liable, 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 in a court of summary jurisdiction irrespective of the amount by the Minister from the person who is owner of the road when the works are completed or if he ceased to be the owner of the road 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 due thereon shall until recovered be a first charge on all of his property.

Recovery or
expenses.
2 cf 1981, s 2

(2) Sections 15(2), (3) and (4) and section 16 of the Buildings Regulation Act shall, as they apply to the recovery of expenses and the enforcement of a charge mentioned in those sections, apply *mutatis mutandis*, to the expenses and the charge mentioned in subsection (1) subject to the modification that references in the said sections to premises shall be construed and have effect for the purposes of this Act as references to property.

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17. This Act shall apply to the Island of New Providence but the Governor-General may from time to time by Order extend its provisions to any Out Island district or part of an Out Island district, to be defined in such Order and may from time to time vary or revoke any such Order so extending the provisions of this Act.

Application of
Act.