

**BERMUDA
1945 : 57**

FORESHORE LICENCES ACT 1945

ARRANGEMENT OF SECTIONS

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[29 December 1945]

WHEREAS it is expedient to enact certain provisions with respect to the grant of licences by the Minister for the carrying out of work on the foreshore or on the bed of the sea adjoining the foreshore

[preamble amended by 1991:34 effective 8 July 1991]

[words of enactment omitted]

Interpretation

1 In this Act —

"floating dock" means a floating structure which is attached to the foreshore or to the bed of the sea and to which access is provided from the foreshore;

"foreshore licence" means a licence granted by the Minister permitting the carrying out of a foreshore work;

"foreshore work" means—

- (a) the constructing or laying down of any building, structure or works on the foreshore or on the bed of the sea; or
- (b) the installing or deploying of a floating dock; or
- (c) land reclamation on the foreshore or the bed of the sea not exceeding one acre in extent;

"the Minister" means the Minister responsible for development and planning;

"sea" means the sea, including any inlet or arm of the sea, adjoining the foreshore.

[section 1 amended by 1991:34 effective 8 July 1991]

Saving for Crown rights; foreshore licences

2 Nothing in this Act shall—

- (a) prejudice, abridge or derogate from any right of the Crown in relation to or connected with the foreshore or the bed of the sea or any other right of the Crown whatsoever;
- (b) prejudice the validity of any foreshore licence whether granted before or after 29 December 1945 or the validity or binding effect of any conditions attached to any such foreshore licence.

Application for foreshore licence

3 An application for the grant of a foreshore licence shall be in writing and shall be accompanied by a full statement of the reasons for the application and by such plans, specifications or particulars as the Minister may consider necessary in connection with the application.

Offences

4 (1) Any person—

- (a) who, not being entitled to do so, carries out or commences to carry out any foreshore work without having been granted a foreshore licence permitting the carrying out of the work; or
- (b) who, having been granted a foreshore licence, carries out or commences to carry out any foreshore work otherwise than in accordance with the terms of the licence,

commits an offence against this Act:

Punishment on summary conviction: a fine of \$336.

(2) Where a person has been convicted of an offence under subsection (1), the Minister, by notice in writing, may require the offender—

- (a) in the case of an offence under subsection (1)(a), to remove the building, structure or works in respect of which the offence was committed; or
- (b) in the case of an offence under subsection (1)(b), to alter or adjust the building, structure or works so as to be in conformity with the terms of the licence;

and if the offender fails to comply with the requirement within the period of time specified in the notice (which shall not be less than twenty-eight days), the Minister may remove, or, as the case may be, alter or adjust, the building, structure or works; and any expenses incurred by the Minister in so doing shall, whether or not the amount claimed exceeds twelve

hundred dollars be recoverable by the Minister from the offender before a court of summary jurisdiction in the manner provided by the Magistrates Act 1948 [*title 8 item 15*], for the recovery of a debt or liquidated demand:

Provided that where a person convicted of an offence under subsection (1)(a) applies within seven days after the date of the conviction for a foreshore licence in respect of the foreshore work which he has carried out or commenced to carry out, the Minister shall not impose any such requirement as aforesaid in respect of that foreshore work unless the application is refused.

Conditions of licences

5 (1) The conditions to which this section applies are conditions which are attached to foreshore licences (whether granted before or after 29 December 1945) and which fall within any of the following classes or descriptions—

- (a) a condition to the effect that the building, structure or works to which the licence relates must be kept in good repair;
- (b) a condition to the effect that the building, structure or works to which the licence relates, and the foreshore and the waters and the bed of the sea immediately adjacent thereto, must be kept free of debris (including displaced fragments or parts of the building, structure or works) and wreckage;
- (c) a condition to the effect that the building, structure or works to which the licence relates must within a period of time either be replaced by a building, structure or works of a permanent character or must be removed without replacement.

(2) Where a condition to which this section applies is not fulfilled the Minister may, by notice in writing, require the person bound by the condition to carry out the work involved in the fulfilment of the condition; and if that person fails to carry out the work within the period of time specified in the notice the Minister may carry out the work; and any expenses incurred by the Minister in so doing shall, whether or not the amount exceeds \$5,000 be recoverable by the Minister from the person in the manner provided by the Magistrates Act 1948 [*title 8 item 15*], for the recovery of a debt or liquidated demand:

Provided that the period of time specified in the notice shall be reasonable and in any case shall not be less than twenty-eight days.

(3) A condition to which this section applies shall be binding on the person for the time being entitled to the possession of the building, structure or works to which the licence relates:

Provided that where the building, structure or works is leased or let for any term not exceeding five years, then the condition shall be binding on the landlord.

Transfer of rights

6 Without prejudice to the rights of the Crown and the Minister under this Act, any rights conferred under a foreshore licence or duties imposed thereunder shall devolve upon the owner for the time being of the property to which the foreshore licence relates.

[Amended by

1948 : 25
1964 : 210
1968 : 221
1969 : 188
1974 : 81
1975 : 50
GN 5/1976
1991 : 34