

THE BEACH CONTROL ACT

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SCHEDULE [*Deleted by Act 9 of 1991, 3rd Sch.*]

THE BEACH CONTROL ACT

[1st June, 1956.]

Laws
63 of 1955,
11 of 1957,
12 of 1958,
5 of 1959,
25 of 1960.
Acts
14 of 1964,
42 of 1969
3rd Sch.
14 of 1971
S. 8 and 2nd
Sch.
9 of 1991
3rd Sch.,
33 of 1991
S. 22.

Preliminary

1. This Act may be cited as the Beach Control Act.
2. In this Act, unless the context otherwise requires—
 - “adjoining land” means land adjoining the foreshore of this Island and extending not more than one hundred yards beyond the landward limit of the foreshore;
 - “Authority” means the Natural Resources Conservation Authority established under the Natural Resources Conservation Authority Act;
 - “commercial enterprise” includes—
 - (a) the business of carrying on a hotel or a proprietary club or the business of letting premises whereby the facilities mentioned in section 4 may be enjoyed; and
 - (b) the commercial use of a bathing beach to which the public are admitted for bathing or recreation upon payment of a fee; and
 - (c) the erection, construction or maintenance of any dock, wharf, pier, jetty or other form of encroachment;
 - “Commission” means any Commission appointed under section 27;

Short title.

Interpretation.

9/1991
3rd Sch.

5/1959
S. 2.

“Court” means the Supreme Court;

“the floor of the sea” means the soil and subsoil of the sea off the coasts of this Island between low water mark and the outer limits of the territorial sea of the Island;

“fishing” includes purposes incident to fishing;

“interested party” includes every person claiming an interest in compensation to be paid on account of the compulsory acquisition of any land under this Act, but does not include a tenant by the month or at will;

“land” includes rights and interests of any nature or description whatever in or over land;

“Local Authority” means—

(a) in relation to the Corporate Area as defined in the Kingston and St. Andrew Corporation Act, the Council of the Kingston and St. Andrew Corporation; and

(b) in relation to the parishes not within the Corporate Area, the Parish Councils of such parishes in their respective parishes;

“the Minister” means the Minister responsible for beach control;

“owner” means owner of an estate in fee simple in the land or beach in relation to which the expression is used;

“the public” includes any class of the public.

Rights in the Foreshore and Floor of the Sea

Foreshore and floor of the sea declared to be vested in the Crown.

3.—(1) Subject to the provisions of this section, all rights in and over the foreshore of this Island and the floor of the sea are hereby declared to be vested in the Crown.

(2) All rights in or over the foreshore of this Island or the floor of the sea derived from, or acquired under or

by virtue of the Registration of Titles Act or any express grant or licence from the Crown subsisting immediately before the commencement of this Act are hereby expressly preserved.

(3) Except as provided in section 7, nothing in this Act contained shall be deemed to affect—

25/1960
S. 3.

- (a) any rights enjoyed by fishermen engaged in fishing as a trade, where such rights existed immediately before the 1st June, 1956, in or over any beach or adjoining land; or
- (b) the enjoyment by such fishermen of the use of any part of the foreshore adjoining any beach or land in or over which any rights have been enjoyed by them up to the 1st June, 1956.

(4) No person shall be deemed to have any rights in or over the foreshore of this Island or the floor of the sea save such as are derived from or acquired or preserved under or by virtue of this Act.

4. Any person who is the owner or occupier of any land adjoining any part of the foreshore and any member of his family and any private guest of his shall be entitled to use that part of the foreshore adjoining his land for private domestic purposes, that is to say, for bathing, fishing, and other like forms of recreation and as a means of access to the sea for such purposes:

Use of fore-
shore for
private
domestic
purposes.

Provided that where any land as aforesaid is let, the letting of which is in pursuance of a commercial enterprise, the right to the use of the foreshore for private domestic purposes shall only be by virtue of a licence granted to the lessor under this Act.

5/1959
S. 3.

Licences for use of the Foreshore and Floor of the Sea

Prohibition of use of the foreshore or the floor of the sea without a licence.

5.—(1) From and after the 1st June, 1956, no person shall encroach on or use, or permit any encroachment on or use of, the foreshore or the floor of the sea for any public purpose or for or in connection with any trade or business, or commercial enterprise, or in any other manner (whether similar to the foregoing or not) except as provided by sections 3, 4 and 8, without a licence granted under this Act.

(2) Any person who contravenes the provisions of subsection (1) shall be liable on summary conviction before a Resident Magistrate to imprisonment with or without hard labour for a term not exceeding twelve months, or to a fine for each day during which the contravention continues not exceeding twenty dollars for each such day and in default of payment of any such fine to imprisonment with or without hard labour for a term not exceeding three months, or to both such imprisonment and fine.

(3) Where a company is guilty of a contravention of the provisions of subsection (1), every director, manager, agent and officer of the company in this Island who is knowingly a party to the contravention, shall be liable to the penalty prescribed by subsection (2).

Application for licence by persons using the foreshore or the floor of the sea at the 1st June, 1956.

6.—(1) Where at the 1st June, 1956, any person is encroaching on or using or permitting any encroachment on or user of the foreshore or the floor of the sea except as authorized by this Act, such person may continue or may continue to permit such encroachment or user for a period not exceeding six months after the 1st June, 1956, but such person shall, if he intends to continue or to permit the continuance of such encroachment or user for any longer period, apply to the Authority for a licence under this Act within the aforesaid period of six months.

(2) Any person who applies for a licence pursuant to subsection (1) shall not be deemed to be acting in contravention of subsection (1) of section 5, between the date of application for the licence and the date on which the application is finally disposed of by the grant of the licence or otherwise, by reason only of the continuance of any encroachment or user prohibited by subsection (1) of section 5.

Protected Areas

7.—(1) Notwithstanding anything to the contrary in this Act, the Minister may, upon the recommendation of the Authority, make an order declaring—

Protected
areas and
prohibited
activities.
25/1960
S. 4.

- (a) any part of the foreshore and the floor of the sea defined in the order together with the water lying on such part of the floor of the sea to be a protected area for the purposes of this Act; and
- (b) such activities as may be specified in the order to be prohibited activities in the area defined in the order, being any or all of the following activities—
 - (i) fishing by any means specified in the order;
 - (ii) the use of boats other than boats propelled by wind or oars where such boats are used for purposes other than for the doing of anything which may be lawfully done under the Harbours Act, the Shipping Act, the Pilotage Act or the Exclusive Economic Zone Act;
 - (iii) the disposal of rubbish or any other waste matter;
 - (iv) water-skiing;
 - (v) the dredging or disturbance in any way of the floor of the sea;

33/1990
S. 22.

- (vi) the destruction or removal of coral, sea-fans and sedentary marine animals;
- (vii) the searching for or removal of any treasure or artefact from the floor of the sea.

(2) Any order made under this section may contain provisions for the constitution of a Board or the appointment of persons to undertake the improvement or maintenance of the area defined in such order.

(3) The provisions of subsection (5) of section 9 (which relate to the laying of regulations before the House of Representatives and the Senate) shall apply to orders made under this section as they apply to regulations made under the said section 9.

(4) The Minister may, if he thinks fit, grant to any person applying therefor, in such form and subject to such conditions as the Minister may think fit, a licence to carry on in any area defined in an order made under this section any prohibited activity specified in such order.

(5) Every person, not being a person appointed to undertake the improvement or maintenance of any area defined in an order made under this section, who without a licence from the Minister carries on within such area any activity specified in such order shall be guilty of an offence against this Act and shall be liable on summary conviction before a Resident Magistrate to a fine not exceeding fifty dollars and to a further fine not exceeding twenty dollars for every day during which such offence continues after such conviction.

Construction of Docks, Wharves, Piers, Jetties, etc.

Patents,
licences,
permits and
rights
already
granted.

8. Every patent, licence, permit and right expressly granted by the Crown before the 1st June, 1956, for taking up of shoal water and for the erection, construction or

maintenance of any dock, wharf, pier, jetty, structure or other form of encroachment (whether similar to the foregoing or not) on the foreshore or the floor of the sea shall be deemed valid, and it shall not be necessary to obtain any licence therefor under the provisions of this Act during the continuance of such patent, licence, permit or right or during the period of any extension of such patent, licence, permit or right in accordance with the provisions of the original grant.

9.—(1) Subject to the provisions of section 8, no person shall erect, construct or maintain any dock, wharf, pier or jetty on the foreshore or the floor of the sea, or any structure, apparatus or equipment pertaining to any dock, wharf, pier or jetty and encroaching on the foreshore or the floor of the sea, except under the authority of a licence granted by the Minister on behalf of the Crown.

Future encroachments to be authorized by licence from the appropriate Minister.

(2) Subject to subsection (2A) the Minister may, if he thinks fit, grant to any person applying therefor, in such form and subject to such conditions as he may think fit, a licence to erect, construct or maintain any dock, wharf, pier or jetty or any structure, apparatus or equipment as aforesaid.

35/1991 S. 22.

(2A) Any licence affecting the exclusive economic zone shall be subject to the provisions of the Exclusive Economic Zone Act or any order made under section 11 of that Act.

35/1991 S. 22.

(3) The Minister may make regulations with respect to—

- (a) the form and manner of application for licences to be granted under this section;
- (b) the fees to be paid in respect of such licences;
- (c) the grant or refusal of such licences; and
- (d) the terms, conditions and restrictions that may be imposed upon the grant of such licences.

(4) Notwithstanding the provisions of section 29 of the Interpretation Act, regulations made under this section may prescribe greater penalties than those specified in the said section 29, so, however, that the maximum penalty that may be imposed by any such regulations shall be a fine of two hundred dollars or imprisonment with or without hard labour for a term of twelve months.

42/1969
3rd Sch.

(5) All regulations made under this section shall be subject to negative resolution.

(6) The decision of the Minister to grant or refuse a licence under this section shall be final and shall not be questioned in any legal proceeding.

(7) Every grant or refusal of a licence by the Minister shall be published in the *Gazette*.

(8) In this section "the Minister" means the Minister responsible for harbours.

*Establishment, Functions, Duties and Powers of
Authority*

10. [Deleted by Act 9 of 1991, 3rd Sch.]

Authority to
grant
licences
for use of
foreshore
or floor of
the sea-
publication
of grant or
refusal.

11.—(1) Subject to the provisions of sections 3, 4 and 9, and of subsection (2), the Authority may, on application made in such manner as may be prescribed under section 18, grant licences (whether exclusive in character or not) for the use of the foreshore or the floor of the sea for any public purpose, or in connection with any business or trade or for any other purpose (whether similar to the foregoing or not) to any person, upon such conditions (including the payment of an annual fee) and in such form as they may think fit.

(2) Where an application is made for a licence under subsection (1), the Authority shall consider what public

interests in regard to fishing, bathing or recreation or in regard to any future development of the land adjoining that part of the foreshore in respect of which the application is made, require to be protected, and they may provide for the protection of such interests by and in the terms of the licence or otherwise in accordance with the provisions of this Act.

(3) Every grant or refusal of a licence by the Authority shall be published in the *Gazette*.

12.—(1) The Authority shall from time to time determine the needs and requirements of the public in relation to the use of—

(a) any portion of land, whether such portion of land adjoins the foreshore or not; and

(b) the foreshore,

for or in connection with bathing or any other form of lawful recreation or for the purpose of fishing as a trade or otherwise or for any other purpose in the interest of the economic development of the beaches of the Island.

(2) Where the Authority acting in accordance with their duty under subsection (1) consider it necessary or desirable to acquire any portion of land, or rights of user over the same, whether such portion of land adjoins the foreshore or not, the Authority may, with the approval of the Minister and by agreement with the owner or any other person having power to dispose of such portion of land, acquire for any purpose specified in the said subsection such portion of land by lease or purchase, or rights of user over such portion of land.

(3) Any lease taken by the Authority pursuant to this section shall be for such period, and subject to subsection (5) shall reserve such annual rent payable yearly in advance and include such covenants and conditions as

Duty to determine needs of public and power to acquire land therefor.
25/1960
S. 5.

14/1964
S. 2 (a).

14/1964
S. 2 (b).

[The inclusion of this page is authorized by L.N. 480/1973]

may be determined by agreement between the Authority and lessor and approved by the Minister, and any such lease may at the option of the Authority, be renewed from time to time as often as it expires.

(4) Where any right in or over land is acquired by the Authority otherwise than by purchase—

14/1964
S. 2 (c).

14/1964
S. 2 (d).

(a) the Authority may with the leave of the Minister and by agreement with the owner or other person having power to dispose of such land, terminate such right at any time;

14/1964
S. 2 (e).

(b) the owner or other person having power to dispose of the land which is subject to the right or his nominee may, where such land adjoins the foreshore, at any time apply to the Authority for a licence under this Act to use that part of the foreshore and floor of the sea which such land adjoins, and the Authority shall consider the application and may, in accordance with the provisions of this Act, grant or refuse the licence; and upon the grant of any such licence the rights of the Authority or of any person exercising any rights under the Authority, in or over such land, shall cease and determine save to the extent that such rights may be expressly reserved in and by the terms of the licence.

14/1964
S. 2 (f).

(5) Where pursuant to this section the Authority have acquired land otherwise than by purchase the Authority may at any time by agreement with the owner or other person having power to dispose of such land and subject to the approval of the Minister vary the annual rent payable in respect thereof.

13. The Authority may maintain, use and develop any beach or land vested in them or may make provision for the maintenance, use or development of such beach or land by any person, body or authority, on such terms as they may think fit.

Authority to maintain, use and develop beaches for benefit of the public.

14.—(1) The Authority may, upon receipt of a petition from not less than five persons concerned in any dispute with respect to the right to use any beach, or any land, road, track or pathway to gain access to such beach, lodge a plaint in the appropriate Court pursuant to section 9 of the Prescription Act with a view to establishing such right; and the Authority shall for the purposes of that section be deemed to be a person concerned in the dispute.

Power of Authority to take steps for the establishment of right of public to use beach or to gain access thereto.
12/1958
S. 4 (a) (b).

(2) Where the public or any class of the public have used any beach, land, road, track or pathway in the manner and for the period specified in subsection (1) of section 4 of the Prescription Act and such user is not disputed, the Authority may, if they think it expedient so to do, make an application to the Supreme Court by motion for a declaration of the right of the public to use such beach, land, road, track or pathway, and the Court, upon being satisfied that the user is not disputed, shall have power to make such order as the Court may think fit.

12/1958
S. 4 (c)

(3) The provisions of section 10 of the Prescription Act shall apply to an application under subsection (2) as they apply to a plaint pursuant to section 9 of the said Act, and references in section 10 of the said Act to the Clerk of the Court and to the judgment of the Court shall be construed as references to the Registrar of the Supreme Court and to the order of the Supreme Court, respectively.

15. Subject to the provisions of this Act, the Authority shall have power, for the purpose of the discharge of their functions and duties under this Act—

General powers of Authority.

- (a) to carry on all activities, the carrying on whereof appears to them to be requisite, advantageous or convenient for or in connection with the discharge of their said functions and duties;
- (b) to do anything and to enter into any transaction (whether or not involving expenditure, borrowing, granting of loans or investment of money, the acquisition of any property or rights or the disposal of any property or rights) which in their opinion is calculated to facilitate the proper discharge of their functions and duties or is incidental or conducive thereto.

16. *[Deleted by Act 9 of 1991, 3rd Sch.]*

17. *[Deleted by Act 9 of 1991, 3rd Sch.]*

Power to
make regula-
tions.

18.—(1) The Authority may, with the approval of the Minister, make regulations generally for the proper carrying out of the purposes and provisions of this Act and in particular but without prejudice to the generality of the foregoing may make regulations—

- (a) with respect to the form and manner of application for licences to be granted under this Act by the Authority, the fees to be paid in respect of such licences, and the grant or refusal of such licences;
- (b) providing for the imposition of fees or charges in such cases as may be determined by the Authority for services rendered by the Authority, their servants or agents in carrying out the provisions of this Act;
- (c) providing for the registration of all persons licensed under section 11 and for the manner and method of registration and the particulars to be registered;

- (d) for securing the observance of sanitary and cleanly conditions and practices at and in respect of parts of the foreshore and adjoining lands and parts of the sea to which members of the public habitually resort;
- (e) providing for the prevention of danger, obstruction or annoyance to members of the public using any part of the foreshore or adjoining land;
- (f) providing for the employment of lifeguards at beaches to which members of the public habitually resort and for the qualifications of such lifeguards;
- (g) for the preservation of order and good conduct among members of the public using the foreshore or adjoining land;
- (h) for controlling the erection or placing on any beach or adjoining land to which the public habitually resort of bath-houses or huts, booths, tents, sheds, stands and stalls (whether fixed or movable);
- (i) governing the use of public recreational beaches or any of such beaches;
- (j) for prohibiting or regulating the use in or upon the water lying on any part of the floor of the sea in respect of which a licence has been granted by the Authority—
 - (i) of spears or other instruments likely to cause danger to members of the public for the taking or pursuit of fish; and
 - (ii) of boats or vessels of any class specified in such regulations, so, however, that nothing in such regulations shall affect anything which may be lawfully done under the Harbours Act, the Shipping Act or the Pilotage Act.

25/1960
27.

[The inclusion of this page is authorized by L.N. 3/2001]

(2) The provisions of subsections (4) and (5) of section 9 shall apply to regulations made under this section.

19. [Deleted by Act 9 of 1991, 3rd Sch.]

20. [Deleted by Act 9 of 1991, 3rd Sch.]

21. [Deleted by Act 9 of 1991, 3rd Sch.]

22. [Deleted by Act 9 of 1991, 3rd Sch.]

23. [Deleted by Act 9 of 1991, 3rd Sch.]

Acquisition of Land

Application
by the
Authority.
12/1958
S. 5.
25/1960
S. 8 (a)
and (b).

24.—(1) Whenever the Authority consider it necessary or desirable to acquire any land and have failed to arrive at any agreement by negotiation under section 12 with the person entitled to dispose of such land, the Authority may by application in writing seek the approval of the Minister for the compulsory acquisition of such land.

14/1964
S. 3.

(2) Where the Authority pursuant to section 12 have acquired land otherwise than by purchase and fail at the time of any proposed variation of the annual rent to arrive at any agreement with the owner or other person having power to dispose of such land as to the annual rent to be paid upon such variation, the Authority may in like manner seek the approval of the Minister for the assessment of such annual rent by a Commission.

(3) An application under subsection (1) shall set forth the precise description of the land which the Authority propose to acquire and the purpose for which they propose to acquire it, and shall be in such form, accompanied by such other information and verified in such manner as the Minister may require.

25. The Minister may, if he thinks fit, approve the application, subject to such conditions (if any) as he may deem fit to impose.

Approval of application by Minister.
25/1960
S. 15 (a).

26. The approval by the Minister of the compulsory acquisition of any land by the Authority shall be published in the *Gazette* and thereafter the land may be acquired in accordance with the terms of the approval and the provisions of this Act and not otherwise.

Notice of approval to be published in the *Gazette* before acquisition.
25/1960
S. 15 (a).
12/1958
S. 6.

27.—(1) Where the Minister is satisfied, after considering the application from the Authority, that the land which the Authority propose to acquire compulsorily should be acquired in the public interest, or, as the case may require, that any annual rent should be assessed by a Commission, the Minister shall appoint a Commission of one or more persons—

Appointment, powers and duty of Commission.
25/1960
S. 10 (a) (b).

- (a) in the case of a proposal to acquire any land compulsorily, to make recommendations to him, after due enquiry, in relation to the boundaries, definition and description of the land, the compensation to be paid therefor, the persons to whom the compensation should be paid, and in relation to the apportionment of the compensation amongst such persons;
- (b) in the case of a request for the assessment of any annual rent, to assess such annual rent after due enquiry.

(2) Every such Commission shall, subject to the provisions of this Act, have all the powers, privileges, duties and obligations of, and shall for all purposes be deemed to be, a Commission appointed under the Commissions of Enquiry Act.

(3) Any person whose interests are or may be prejudicially affected shall be entitled to be heard by himself or by counsel before any such Commission.

25/1960
S. 15 (a).

(4) The Minister shall direct the Commission—

25/1960
S. 10 (c).

(a) to endeavour to arrange by agreement between the persons concerned and the Authority the compensation or rent to be paid in respect of the land;

(b) (failing such agreement) to assess in accordance with the provisions of section 28 the compensation or rent to be paid in respect of the land,

25/1960
S. 10 (c).

and the Commission shall include in their recommendations the compensation or rent so agreed or assessed.

Determina-
tion of com-
pensation.

28.—(1) The compensation in respect of any land to be compulsorily acquired under the provisions of this Act shall be assessed on the basis of what would be fair and reasonable between a willing grantor and a willing grantee, having regard to the conditions subject to which the land is to be acquired, and the Commission shall in considering what compensation should be paid have regard to the provisions of sections 3 and 4.

12/1958
S. 8 (a).

(2) In determining the amount of the compensation to be awarded for land acquired compulsorily under this Act—

(i) the following and no other matters shall be taken into consideration—

(a) any increase in the value of the other land of any interested party likely to accrue from the use to which the land acquired will be put;

(b) the damage, if any, sustained by any interested party at the time of the taking possession of the land by the Authority by reason of the severing of such land from the other land of such interested party;

- (c) the damage, if any, sustained by any interested party at the time of the taking possession of the land by the Authority by reason of the acquisition injuriously affecting his other property (whether movable or immovable) or the actual earnings of such interested party;
 - (d) the reasonable expenses, if any, incidental to any change of residence or place of business of any interested party which is necessary in consequence of the acquisition;
- (ii) the following matters shall not be taken into consideration—
- (a) the degree of urgency which has led to the acquisition;
 - (b) any disinclination of the interested party to part with the land acquired;
 - (c) any damage sustained by the interested party which, if caused by a private person, would not be a good cause of action;
 - (d) any damage which is likely to be caused to the land acquired after the date of the publication in the *Gazette* of the approval of the Minister under section 26 by or in consequence of the use to which it has been put;
 - (e) any increase in the value of the land acquired which is likely to accrue from the use to which it will be put;
 - (f) any outlay or additions or improvements to the land acquired, which was incurred after the date of the publication in the *Gazette* of the approval of the Minister under section 26, unless such additions or im-

25/1960
S. 15 (a).

25/1960
S. 15 (a).

provements were necessary for the maintenance of any building in a proper state of repair;

- (g) the fact that the land has been compulsorily acquired.

25/1960
S. 11.

(3) The Commission shall, in assessing any rent in accordance with their duty under section 27, have regard to the provisions of this section so far as such provisions are applicable to the case.

Vesting of
land by
order
of the
Minister
and
taking of
possession
by the
Authority.
25/1960
S. 15 (a).

29. The Minister may, after considering the recommendations of the Commission, by order published in the *Gazette*, vest the land to be acquired in the Authority in fee simple or for any lesser estate or interest, or upon such terms or subject to such conditions or for such period as he may think fit, and the Authority may at any time after the publication of the order in the *Gazette* take possession of the land.

Publication
of report of
Commission.

30. The report of the Commission shall be published in the *Gazette* and in a daily newspaper circulating in the Island for the information of all interested parties.

Reference to Court and Procedure thereafter

Reference
to Court.

31.—(1) Any interested party who is dissatisfied with any award made by the Commission may, by written application to the Commission, require that the matter be referred by the Commission for the determination of the Court, whether his objection be in relation to the boundaries, definition or description of the land or in relation to the compensation or rent to be paid therefor or the persons to whom the compensation should be paid or the manner in which the compensation should be apportioned.

25/1960
S. 12.

(2) The applicant shall state specifically the grounds on which the objection to the award is taken and at the hearing no other grounds shall be given in argument without the leave of the Court.

(3) Every such application shall be made—

(a) if the person making it was present or represented before the Commission at the time of the enquiry, within six weeks after the publication of the report of the Commission in the *Gazette*;

(b) in other cases, within six months after the publication of the said report in the *Gazette*.

(4) The period within which an application for reference to the Court shall be made shall not be capable of enlargement by any Court.

32.—(1) In making the reference the Commission shall state for the information of the Court in writing—

(a) the boundaries, definition and description of the land, with particulars of any trees, buildings or standing crops thereon;

(b) the names of the persons who they have reason to think are interested in the land and the addresses of such persons;

(c) the amount of compensation awarded and the manner of apportionment thereof;

(d) if the objection be to the amount of the compensation, the grounds on which the amount of compensation was determined;

(e) if the objection be to the amount of the annual rent assessed, the amount of such annual rent and the grounds on which such amount was determined.

Commis-
sion's
statement to
the Court.

25/1960
S. 13.

(2) There shall be submitted with the statement required under subsection (1) a copy of the notes of all the evidence taken by the Commission certified under the hand of the chairman thereof and all exhibits produced to the Commission.

Service of
notice.

33.—(1) The Court shall thereupon cause to be served upon—

- (a) the applicant;
- (b) all persons interested in the objection, except such, if any, of them as have consented without protest to receive payment of the compensation awarded; and
- (c) if the objection is in relation to the area of the land or to the amount of the compensation, the chairman of the Commission,

a notice specifying the day on which the Court will proceed to determine the objection, and directing their appearance before the Court on that day.

(2) (a) Service of notice under subsection (1) shall be made by delivering or tendering a copy thereof duly signed to the person to whom the notice is addressed.

(b) When the person cannot be found the service may be made on any adult member of his family residing with him; and if no such adult member can be found the notice may be served by affixing the copy on the outer door of the house in which the person therein named ordinarily dwells or carries on business or by affixing a copy thereof in some conspicuous place in the office of the Authority and also on some conspicuous part of the land to be compulsorily acquired or of the land over which any right is to be compulsorily acquired (as the case may be):

Provided that if the Court so directs a notice may be sent by registered letter addressed to the person named therein at his last known residence or place of business and the service of it may be proved by the production of the registration receipt.

34.—(1) If the objection is in regard to the amount of the compensation and the award of the Commission is not less than two thousand dollars, the Court shall appoint two assessors for the purpose of aiding the Court in determining the objection.

Power to appoint assessors if objection is in regard to amount of compensation.

(2) Such assessors may also be appointed in any other case in which the Court considers it desirable to make such appointment.

(3) Every person so appointed shall attend and serve as an assessor unless excused by a Judge.

35. If an assessor dies or becomes incapable of acting or is excused by a Judge, some other person shall be appointed in his stead.

Death, etc., of assessor.

36. The scope of the enquiry in every such proceeding shall be restricted to a consideration of the interests of the person affected by the objection.

Restriction on scope of enquiry.

37. Every enquiry by the Court (except under section 45 in relation to the apportionment of compensation) shall take place in open Court.

Proceedings to be in open Court.

38. The opinion of each assessor shall be given orally and shall be recorded in writing by the Judge.

Record of assessor's opinion.

39.—(1) In case of a difference of opinion between the Judge and the assessors or either of them upon a question of law or practice or usage having the force of law the opinion of the Judge shall prevail.

Difference of opinion between Judge and assessors.

(2) In case of a difference of opinion between the Judge and both of the assessors as to the amount of compensation or as to the amount of any item thereof the decision of the Judge shall prevail.

Assessor's fees.

40. Every assessor shall receive such fee not exceeding twenty dollars as the Judge shall direct for each day upon which he sits as an assessor or upon which he is engaged in inspecting the land the subject of the proceedings, and such fee shall be deemed to be costs in the proceedings.

Awards to be in writing.

41. Every award made by the Court shall be in writing signed by the Judge and the assessor or assessors (if any) concurring therein and shall specify the amount of compensation awarded to each person and the grounds upon which each amount has been awarded.

Costs.

42.—(1) The costs of any proceedings instituted under section 31 shall be in the discretion of the Court.

(2) Any costs payable by an applicant may be recovered as if they were costs incurred in a suit in the Supreme Court.

Rules of Supreme Court applicable.

43. Save in so far as they may be inconsistent with anything contained in this Act, the provisions of the Rules of the Supreme Court shall apply to all proceedings instituted under section 31.

Appeal from decision of Court.
25/1960
S. 14.

44.—(1) Where the amount of compensation or annual rent awarded by the Court exceeds two hundred dollars, any interested party may appeal from the award to the Court of Appeal.

(2) Every appeal under this section shall be presented within the time and in the manner provided for appeals by rules governing civil appeals to the Court of Appeal from the Supreme Court.

45.—(1) Where there is any dispute as to the apportionment of any compensation awarded under this Act a Judge in Chambers shall determine the proportions in which any interested parties are entitled to share in the compensation.

Determination of apportionment of compensation.

(2) An appeal from any such decision shall lie to the Court of Appeal.

(3) Every appeal shall be presented within the time and in the manner provided for civil appeals by the Court of Appeal Rules.

46. The costs of all proceedings in apportioning the amount of compensation shall be borne by such of the interested parties in such proportions as the Judge shall determine.

Costs of apportionment to be borne by interested parties.

Payment of Compensation

47.—(1) After an award has been made by the Commission in accordance with this Act, the Authority shall offer in writing to pay the compensation awarded to the interested parties entitled thereto according to the award and shall pay it to such parties unless prevented by one or more of the contingencies mentioned in subsection (2).

Authority to pay compensation.

(2) If any of the interested parties do not consent to receive such compensation or if there be no person competent to alienate the land or if there be any dispute as to the right to receive the compensation or as to the apportionment of it the Authority shall apply *ex parte* to a Judge in Chambers for an order authorizing them to deposit the amount of compensation in Court.

(3) Every application under subsection (2) shall be supported by affidavit.

(4) Any interested party upon providing sufficient security to the satisfaction of the Court may receive such payment under protest as to the sufficiency of the amount

and such receipt shall not be deemed to prejudice his right to make application under section 31 :

Provided, however, that no person who has received such payment otherwise than under protest shall be entitled to make application under section 31.

Miscellaneous

Police to enforce surrender.

48.—(1) If the Authority are opposed or impeded in taking possession of any land acquired under this Act they shall apply to the Commissioner of Police who shall enforce the surrender of the land to the Authority.

(2) The Commissioner of Police may use such force as may be necessary to enforce such surrender to the Authority.

Exemption from stamp duty, etc.

49. No award made by the Commission shall be chargeable with stamp duty and no person claiming under any such award shall be required to pay any fee for a copy of any such award.

Commission not to cease to exist until all their functions and duties have been discharged. 25/1960 S. 15 (a).

50. A Commission shall not cease to exist by reason of having made their report to the Minister and shall continue in being until all their functions and duties under this Act have been discharged.

Bar of suits to set aside awards.

51. No suit shall be brought to set aside any award or apportionment under this Act.

Public Recreational Beaches

Power to declare beach to be a public recreational beach and to define the same.

52.—(1) Where any beach is used by the public for fishing, bathing or recreation, upon payment of a fee, the Authority may, after consulting the owner or any person exercising control thereof or receiving any such fee, and subject to the right of such owner or person to appeal to

the Minister as provided by section 55, by order published in the *Gazette*—

- (a) declare such beach to be a public recreational beach; and
- (b) after consultation with the Local Authority of the parish in which the beach is situated, fix the fee to be paid for admission to or for use of the beach,

and such beach shall continue to be open to the public for the aforesaid purposes upon payment of the fee fixed from time to time by any such order.

(2) The Authority may, in any order under subsection (1), define the area of any beach declared under the said subsection to be a public recreational beach and they may include in such definition, as part of such public recreational beach, so much of the adjoining land as they may think necessary.

(3) An order declaring a beach to be a public recreational beach shall not have effect until the expiration of six weeks from the publication thereof in the *Gazette* and, in any event, not until a notification is published in the *Gazette* by or on behalf of the Minister to the effect that there has been no appeal against the order within the period prescribed by section 55 or that every appeal against the order has been dismissed.

(4) Any person who—

- (a) hinders or obstructs any member of the public using or attempting to use any beach declared by order under subsection (1) to be a public recreational beach, or any adjoining land, and properly conducting himself and observing the regulations made by the Authority in relation to the beach or adjoining land;

- (b) demands a fee in excess of the fee fixed under the said subsection, or any other form of consideration whatever, for permitting a member of the public to use any such beach; or
- (c) ejects or attempts to eject from any such beach, except for misconduct, any member of the public who has paid the fee for admission to or for the use of the beach; or
- (d) wilfully causes any member of the public who has paid the fee for admission to or for the use of the beach to leave any such beach, by doing any act calculated to annoy such member of the public while he is lawfully using the beach,

shall be liable on summary conviction before a Resident Magistrate to a fine not exceeding one hundred dollars or to imprisonment with hard labour for any term not exceeding six months.

Revesting of Land or Beach

Revesting of land for purpose or in furtherance of commercial enterprise.
25/1960
S. 15 (a) (b).

53. Any person from whom any land has been compulsorily acquired by the Authority under the provisions of this Act may at any time thereafter seek the approval of the Minister by an application in writing for the recovery of the land for the purpose or in furtherance of any commercial enterprise, and the Minister may, if he thinks fit, after consultation with the Authority, by order published in the *Gazette*, vest the land in fee simple or for any lesser estate or interest, having regard to the estate or interest held by such person before the land was acquired by the Authority and subject to such conditions (if any), including the payment of any stipulated consideration, as the Minister may deem fit to impose, in such person for the purpose aforesaid.

54. Any person who is the owner for the time being of any beach declared by an order under subsection (1) of section 52 to be a public recreational beach may, at any time thereafter, request the Authority in writing to revoke the order, to enable him to recover full control over such beach for the purpose or in furtherance of any commercial enterprise, and the Authority may, if they think fit, after consultation with the Local Authority of the parish in which the beach is situated, revoke the order.

Revocation of order declaring beach to be a public recreational beach, in the interests of development.

Appeals from the Authority

55.—(1) Any person aggrieved by any decision of the Authority to grant or refuse a licence under this Act or by any order declaring a beach to be a public recreational beach under this Act may appeal to the Minister by notice in writing addressed to the Minister, within six weeks after publication in the *Gazette* of the grant or refusal of the licence or after the publication of the order in the *Gazette* (as the case may be).

Appeal to Minister from decision of Authority.

(2) The decision of the Minister as to whether such licence should be granted or refused or as to whether an order should be disallowed or not shall be final and shall not be questioned in any legal proceeding.

Application to Crown

56. The Crown shall be entitled to the benefit of, and shall be bound by, the provisions of this Act.

Application of Act to the Crown.

SCHEDULE

[Deleted by Act 9 of 1991, 3rd Sch.]