ENVIRONMENTAL PLANNING AND PROTECTION ACT, 2019

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No. 40 of 2019

ENVIRONMENTAL PLANNING AND PROTECTION ACT, 2019

AN ACT TO ESTABLISH THE DEPARTMENT OF ENVIRONMENTAL PLANNING AND PROTECTION; TO PROVIDE FOR THE PREVENTION OR CONTROL OF POLLUTION, THE REGULATION OF ACTIVITIES, AND THE ADMINISTRATION, CONSERVATION AND SUSTAINABLE USE OF THE ENVIRONMENT; AND FOR CONNECTED PURPOSES

[Date of Assent - 19th December, 2019]

Enacted by the Parliament of The Bahamas

PART I - PRELIMINARY

1. Short title and commencement.

(1) This Act may be cited as the Environmental Planning and Protection Act, 2019.

(2) This Act shall come into force on such date as the Minister may appoint by notice published in the *Gazette.*

2. Interpretation.

(1) In this Act-

"adverse effect" includes -

(a) impairment of the quality of the natural environment or any use that can be made of it;

(b) injury or damage to property, flora or fauna;

(c) harm or material discomfort to any person;

(d) an adverse effect on the health of any person;

(e) impairment of the safety of any person;

(f) rendering any property or flora or fauna unfit for use by humans or unfit for its role in its ecosystem;

(g) loss of enjoyment of normal use of property; and

(h) interference with the normal conduct of business;

"air" means the unconfined portion of the atmosphere, excluding that within any structure or underground space;

"biodiversity" means the variability among living organisms from all sources, including terrestrial, marine and other aquatic ecosystems, and the ecological complexes of which they are part, and includes diversity within species and between species and of ecosystems, and the term **"biological diversity"** shall have the same or corresponding meaning;

"climate change" means a change in the state of the climate that can be identified by changes in the mean or the variability of its properties, and that persists for an extended period, typically decades or longer, whereby such change may be due to natural internal processes or external forcings, or to persistent anthropogenic changes in the composition of the atmosphere or in land use;

"contaminant or pollutant" means any solid, liquid, gas, odour, heat, sound, vibration, radiation or combination of any of those resulting directly or indirectly from human activities that may cause an adverse effect;

"contamination" means the state resulting from the presence of a contaminant;

"coral reef" means -

(a) a limestone structure composed wholly or partially of living corals, their skeletal remains, or both, and hosting other coral, associated benthic invertebrates, and plants; or

(b) a hard-bottom community, also known as live bottom habitat or colonised pavement, characterised by the presence of coral and associated reef organisms or worm reefs created by the Phragmatopoma species;

"Department" means the Department of Environmental Planning and Protection;

"Director" means the Director of Environmental Planning and Protection appointed pursuant to section 7(1);

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

"ecosystem" means a dynamic complex of plant, animal and micro-organism communities interacting within their physical, natural and non-natural environment;

"effluent" means any liquid, including particles of matter and other substances in suspension in the liquid;

"emission" means a contaminant or gas stream, visible or invisible, passing into the air, water or on land;

"environment" means natural, man-made or altered air, water, land and underground natural resources or any combination, part or interacting systems thereof, and includes -

(a) ecosystems and their constituent parts, including humans and their communities;

(b) all natural and physical resources;

(c) the physical qualities and characteristics of an area that contribute to a human's appreciation of its pleasantness, aesthetic coherence, and cultural and recreational attributes;

(d) the social, economic, aesthetic and cultural conditions which affect, or are affected by the matters referred to in paragraphs (a) - (c);

"environmental audit" means a management tool comprising systematic, documented, periodic and objective evaluation of how well an environmental organisation, its management and equipment are performing with the aim of helping to safeguard the environment by facilitating management control of practices and assessing compliance with applicable laws, policies, standards and regulations;

"environmental best practices" means the application of the most scientifically and technologically appropriate combination of environmental control measures and strategies;

"Environmental Clearance Conditions" means the set of requirements, consisting of environmental mitigation and management measures, including monitoring requirements, which the Department establishes as part of the terms of the Certificate of Environmental Clearance;

"Environmental Impact Assessment" means a study identifying and evaluating-

(a) the likely impacts of a proposed activity on the environment;

(b) any alternatives to the proposed activity;

(c) the potential means of mitigating and accessing the likely climate related impacts of the proposed project;

"environmental management system" means the management of the environmental programme of an organisation in a comprehensive, systematic, planned and documented manner; and includes the organisational structure, planning and resources for developing, implementing and maintaining policy for environmental protection;

"Environmental Management Plan" means a document prepared to outline the effects for proposed activities on the environment;

"environmental monitoring" means the continuous or periodic determination of actual and potential effects of any activity or phenomenon on the environment, whether short-term or long-term;

"fauna" means a species included in the animal kingdom, inclusive of its deoxyribonucleic acid, whether native or naturalised, but does not include humans;

"flora" means all terrestrial or aquatic plant life, inclusive of its deoxyribonucleic acid, especially the naturally occurring or indigenous plant life;

"habitat equivalency analysis" means a methodology used to determine compensation for injuries to natural resources;

"handling" in relation to a hazardous substance or hazardous waste means the manufacturing, importing, exporting, transferring, processing, treating, packaging, storing, transporting, using, re-using, recycling. collecting, disposing or other related activities;

"hazardous substance" means a substance that is capable of posing a risk to health, safety, property, or the environment, and includes empty receptacles that have been used for the carriage of hazardous substances or hazardous wastes, including empty receptacles that have been used for the carriage of hazardous substances or hazardous wastes;

"hazardous waste" means any waste that exhibits characteristic properties of ignitability, corrosivity, reactivity or toxicity or such other characteristic properties that may be listed in any other enactment;

"invasive alien species" means a species that is non-native or alien to the ecosystem under consideration, and its introduction causes or is likely to cause harm to the economy, environment or human health;

"land" means surface land, the seabed and other land covered by water and all subsoils found therein, or any combination or part thereof;

"Minister" means the Minister responsible for the environment;

"Multilateral Environmental Agreements" means the treaties, conventions, protocols and other legally binding instruments

created by the United Nations between multiple nations that relate to the environment;

"project" means any development that proposes a man-made change to the environment or any ecosystem, whether for business, sports or residential purposes, including a physical project, plan, program or policy of the the private sector, government or any other entity that has not yet received final approval from all the relevant agencies;

"natural resources" means the living plants, animals, organisms and other biological factors within the environment, and the geologic formations, mineral deposits, renewable and non-renewable assets, and the habitat of the living plants, animals, organisms and other biological factors;

"release" means to spill, discharge, dispose of, spray, inject, inoculate, abandon, deposit, leak, seep, pour, emit, empty, throw, dump, place, drain, pump or exhaust a pollutant from any premises, vehicle, craft vessel, aircraft, container, tools or machinery;

"sustainable management" means managing the use, development and protection of natural and physical resources in a way, or at a rate, which enables communities to have safe, social, economic and cultural environments that -

(a) sustain the potential of natural and physical resources to meet reasonably foreseeable needs of future generations;

(b) safeguard the life-supporting capacity of air, water, soil and ecosystems; and

(c) avoid, remedy or mitigate any adverse effects on the environment and human health;

"water" means a colourless, transparent, odourless liquid comprised of two molecules of hydrogen and one molecule of oxygen that is natural or man-made, above ground or below ground, whether permanent, temporal or seasonal, coastal, marine or inland, of hypersaline, saline, brackish or fresh quality, including natural and artificial drainage courses;

"wetland" means areas of herbaceous or mangrove swamp and land covered by water, whether natural or artificial, permanent or temporary, with water that is static or flowing, fresh, brackish or salt, including areas of marine water the depth of which at low tide does not exceed six metres.

(2) For the purposes of this Act, when determining whether anything is a **"contaminant" or "pollutant"** as defined in subsection (1) regard shall be given not only to the probable effect of the contaminant or pollutant, but also to the probable cumulative effect of things of substantially the same composition.

3. Objects.

(1) The objects of this Act are -

(a) to ensure the establishment of an integrated environmental management system;

(b) to protect the environment of The Bahamas while providing for development in a way that maintains ecological integrity and the social and economic welfare of local communities;

(c) to provide a legal framework for the protection, enhancement, and conservation of the environment, and for the sustainable management, use, development and enjoyment of the environment by the people of The Bahamas, including present and future generations;

(d) to provide for the prevention and mitigation of pollution for the purposes of maintaining the quality of the environment;

(e) to facilitate compliance and implementation of obligations under any regional and international agreements or conventions to which the Government of The Bahamas has ratified or acceded to;

(f) to allocate the costs of environmental protection and restoration equitably and in a manner that encourages responsible use of, and reduced harm to, the environment, with polluters bearing an appropriate share of the costs that arise from their activities, products, substances and services;

(g) to promote best practices in environmental management and to minimize harm to the environment through strategic planning, public consultation and effective policies;

(h) to develop a robust climate change regime that applies adaptation and mitigation technologies to address vulnerabilities;

(i) to establish a mechanism for effective public paiiicipation in decision making and the formulation of environmental policy; and

U) to promote and encourage among all persons a better understanding and appreciation of the environment.

(2) For the purposes of administering this Act, regard shall be given to the principles of environmental protection as set out in the *First Schedule.*

PART II - ADMINISTRATION

4. Responsibilities of Minister.

(1) The Minister is responsible for the general supervision and management of this Act.

(2) For the purposes of overseeing the administration and enforcement of this Act, the Minister shall -

(a) encourage and facilitate the participation of all persons, non-governmental organisations and local communities in matters relating to environmental planning and protection;

(b) collaborate with other Ministers of Government to ensure consistency and continuity in the implementation of this Act and any regulations made thereunder;

(c) protect and promote the interests of The Bahamas in the negotiation of environmental agreements and conventions and ensure that The Bahamas meets its international obligations with respect to the environment; and

(d) establish appropriate mechanisms to facilitate the exchange of information relating to -

(i) the negotiation of Multilateral Environmental Agreements;

(ii) the implementation of Multilateral Environmental Agreements; and

(iii) compliance with Multilateral Environmental Agreements.

5. Establishment of Department of Environmental Planning and Protection.

(1) There is established a department of Government to be known as the Department of Environmental Planning and Protection (hereinafter referred to as "the Department"), which shall -

(a) arrange and carry out all functions that are required for the proper discharge of the responsibilities of the Minister under this Act; and

(b) comprise the Director, Deputy Director, Assistant Directors, and such other suitably qualified persons (hereinafter known as "environmental officers") as may be necessary for the efficient working of the Department.

(2) The Department shall be subject to the general control and direction of the Director.

6. Functions of Department.

(1) The functions of the Department are to provide for and ensure the integrated protection of the environment of The Bahamas and ensure the sustainable management of its natural resources.

(2) For the purpose of carrying out its functions pursuant to subsection (1), the Department shall -

(a) develop and implement policies, programmes and plans for the effective management and conservation of the environment;

(b) develop a management plan for closed and environmentally sensitive areas in collaboration with other relevant agencies, and where necessary, develop any additional resource management plans;

(c) develop a national conservation strategy and action plan and to implement them in conjunction with such other relevant agencies and stakeholders;

(d) develop objectives and quality standards with respect to environmental protection, including bodies of water, air and soil;

(e) in collaboration with other relevant agencies, develop a plan for -

  (i) the conservation and management of surface waters and wetlands, in collaboration with other relevant agencies; and

  (ii) the conservation of ground water resources;

(f) promote conservation and the prevention of pollution and environmental degradation;

(g) promote public environmental awareness and education;

(h) educate and inform the public on the importance of the protection of the environment;

(i) develop and implement a protocol for public consultation and formal communication of environmental information;

(j) coordinate and implement -

  (i) international environmental policies and obligations;

  (ii) international conventions, treaties, protocols and agreements relating to the environment;

(k) make recommendations on, administering and giving effect to environmental policies, laws, regulations, guidelines and codes of practice;

(l) disseminate environmental information and policies to the general public;

(m) establish an accredited and standardized environmental laboratory for water, air and soil testing;

(n) establish procedures for environmental emergency preparedness and prevention in collaboration with other relevant agencies;

(o) oversee and approve the activities of agencies responsible for water management;

(p) promote and enforce compliance with this Act and any regulations made thereunder;

(q) administer and give effect to any environmental policy to which this Act applies;

(r) regulate and oversee the review of Environmental Management Plans and Environmental Impact Assessments;

(s) foster collaboration and communication among government agencies and relevant stakeholders regarding environmental planning and protection;

(t) consult with any person or body outside the Department, local or otherwise, with respect to any matter or submission made under this Act;

(u) implement an ecosystems approach that considers the unique and fundamental characteristics of ecosystems; and

(v) carry out such other functions as are necessary for the proper functioning of this Act.

7. Appointment of Director and Deputy Director.

(1) There shall be appointed on such terms and conditions as the Governor-General may appoint -

(a) a Director of Environmental Planning and Protection; and

(b) a Deputy Director of Environmental Planning and Protection.

(2) The Director shall perform the functions of the Department.

(3) Notwithstanding the provisions of any other Act, no person shall be appointed to the office of Director or Deputy Director unless that person is a public officer.

8. Appointment of Assistant Directors.

(1) There shall be appointed one or more suitably qualified persons to be an Assistant Director of Environmental Planning and Protection who shall have responsibility for administering the provisions of this Act.

(2) No person shall be appointed as an Assistant Director unless that person is a public officer.

(3) An Assistant Director shall discharge the 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 the Act.

9. Appointment of environmental officers.

There shall be appointed such number of suitably qualified persons who shall be environmental officers and who shall be responsible for performing the functions under this Act as directed by the Director.

10. Delegation of powers.

(1) The Director may, in writing, delegate to the Deputy Director, an Assistant Director or any other appropriate authority the power to exercise, carry out and perform such of his duties, powers and functions under this Act as he deems advisable and on such terms and conditions as he deems appropriate.

(2) No personal liability shall attach to the Director, Deputy Director, or an Assistant Director or any appropriate authority to whom duties, powers and functions have been delegated by the Director under subsection (1) for anything done, permitted to be done or omitted in good faith in the course or discharge of duties by the Director, Deputy Director, or an Assistant Director or appropriate authority to whom duties, powers and functions have been delegated by the Director.

PART III - ENVIRONMENTAL PLANS AND POLICIES

ENVIRONMENTAL PLANS

11. No work without clearance.

(1) Notwithstanding any other provision in any other law, no person shall commence work on any project unless that person has been issued a Certificate of Environmental Clearance in accordance with prescribed regulations.

(2) Any person who commences a project without first obtaining a Certificate of Environmental Clearance where required as prescribed commits an offence and is liable -

(a) upon summary conviction to a fine not exceeding five thousand dollars or a term of imprisonment not exceeding one year, or to both; or

(b) upon conviction on information to a fine not exceeding ten thousand dollars or a term of imprisonment not exceeding three years, or to both.

12. Procedures for Environmental Management Plans and Environmental Impact Assessments.

(1) Regulations made under this Act may provide for any aspect of an Environmental Management Plan and Environmental Impact Assessment.

(2) Without prejudice to the generality of subsection (1), regulations relating to Environmental Management Plans and Environmental Impact Assessments may make provision for -

(a) the types of projects, developments and activities which shall require the preparation of an Environmental Management Plan or Environmental Impact Assessment prior to the establishment or operation of a project, development or activity or any time during the course of the establishment or operation of such project, development or activity;

(b) procedures for the assessment of Environmental Management Plans and Environmental Impact Assessments, including any reports, scientific testing or analysis or any other matter to verify any aspect of a statement or assessment;

(c) prescribed forms and fees for any aspect of an Environmental Management Plan or Environmental Impact Assessment;

(d) the granting of approvals and the imposition of general or specific condition;

(e) the enforcement of conditions which apply to approved projects, developments and activities;

(f) specific offences and penalties for such offences including, fines not exceeding five hundred thousand dollars and terms of imprisonment not exceeding ten years.

13. Environmental plans.

(1) The Director, in consultation with any other relevant Ministry or governmental body, shall develop plans in accordance with environmental best practices for -

(a) the sustainable use and management of water resources, including —

(i) surface water management plans; and

(ii) ground water management plans;

(b) the management of natural resources, including wetlands and coral reefs, which shall take into account -

(i) identification and mapping;

(ii) inventory of the resource and its capabilities, whether that is air, land or water; and

(iii) such conservation and development objectives as the Director may establish;

(c) the management of closed areas and environmentally sensitive areas.

(2) A plan developed under subsection (1) shall -

(a) be laid before the House of Assembly at least once every three years;

(b) be updated from time to time; and

(c) take into consideration any procedure set out in this Act or any regulations made thereunder.

14. Relationship with other governmental entities.

Notwithstanding any other provision in any other law, no approval or other documentary authorisation shall be granted under any enactment in respect of a project that has the potential to have an adverse effect on the environment due to its nature, size, complexity or location unless a Certificate of Environmental Clearance has been issued by the Director.

ENVIRONMENTAL POLICIES

15. National Environmental Policy Framework.

(1) The Director shall, as soon as practicable after the commencement of this Act, in collaboration with the relevant authorities, undertake the preparation of a National Environmental Policy Framework in accordance with the objects of this Act.

(2) The Policy Framework shall be based on ecological, economic, social and cultural realities in The Bahamas and shall include -

(a) a description of the environment;

(b) an analysis of environmental issues of national significance;

(c) the environmental management strategies to address the issues identified in paragraph (b);

(d) the obligations of The Bahamas in relation to the international environmental agreements to which the country is a party, its relevance to the environmental planning and protection framework and the mechanisms that will be employed to implement its requirements.

(3) The Policy Framework shall incorporate the following provisions -

(a) a National Policy for the protection of the Ozone Layer as set out in the Vienna Convention on the Protection of the Ozone Layer and the Montreal Protocol on Substances that Deplete the Ozone Layer and its related Protocols;

(b) a National Policy for the Reduction of Emissions from Greenhouse Gases as set out in the United Nations Framework Convention on Climate Change and its related Protocols;

(c) a National Persistent Organic Pollutants and Toxic Chemicals Management Policy as set out in the Stockholm Convention and its related Protocols;

(d) a National Water Quality Management Policy;

(e) a National Air Quality Management Policy;

(f) a National Beach and Coastal Area Protection and Management Policy;

(g) the National Forest Plan prepared in accordance with section 5 of the Forestry Act, 2010 *(No. 20 o/2010);*

(h) a National Coral Reef Conservation Plan;

(i) a National Biodiversity Strategy and Action Plan.

(4) The Director shall submit the Policy Framework to the Minister for his consideration and the Minister shall circulate the Policy Framework to the public for comment.

(5) The Director shall consider the comments from the public and submit a revised Policy Framework to the Minister for approval and the Minister shall, as soon as practicable after approving the Policy Framework, cause it to be laid before the House of Assembly.

(6) The Policy Framework or any part thereof may only be amended by the Director where the Director has given notice to the public of its intention to do so by publishing a notice -

(a) in the *Gazette;* and

(b) in at least two daily newspapers in general circulation in The Bahamas no less than three times, over a period not exceeding twenty-one days.

(7) A notice issued in accordance with subsection (6) shall provide -

(a) a description of the proposed amendment and the reasons for the proposal;

(b) the manner in which submissions on the proposed amendment may be made;

(c) the closing date for submissions; and

(d) the address where submissions should be sent.

(8) The Director shall consider the submissions and submit the proposed amendment to the Minister for his consideration and the Minister shall, upon approving the amendment -

(a) publish a notice as to the effective date of the amendment to the Policy Framework; and

(b) cause a copy of the amended Policy Framework to be lodged in the Environmental Registry.

16. Review of Policy Framework.

Within three years or at such later time as may be practicable after the approval of the Policy Framework, the Director shall commence a comprehensive review of any part of the Policy Framework in order to ensure that development and resource use activities related to any part of the Policy Framework are undertaken in a manner that does not adversely impact the environment of The Bahamas.

17. Compliance with Policy Framework.

The Policy Framework is binding on the Department and all other governmental entities and statutory bodies and any such operations and programmes shall occur in accordance with the Policy Framework.

PART IV - ENVIRONMENTAL PROTECTION

18. General duty to protect the environment.

(1) Every person has a duty to maintain and protect the environment.

(2) No person shall authorise or permit any activity that has an adverse effect on the environment unless the activity is regulated in accordance with this Act or any regulations made thereunder.

(3) Every person has a duty to inform the Director of any activity that may adversely impact the environment.

19. Duty of Department to promote environmental best practices.

In an effort to promote environmental best practices, the Department shall -

(a) promote environmental awareness;

(b) educate the general public on environmental matters and concerns;

(c) promote the use of environmentally friendly products;

(d) monitor, prevent, regulate and control contamination of pollution from any source and to establish minimum standards required for a clean, healthy and safe environment; and

(e) advance any other activity prescribed to facilitate the protection of the environment.

20. Protection of coral reefs.

(1) Any person who, directly or indirectly, cuts, carves, injures, mutilates, removes, displaces or breaks any underwater coral or plant growth or formation in the waters of The Bahamas commits an offence and is liable —

(a) upon summary conviction to a fine not exceeding ten thousand dollars or a term of imprisonment not exceeding three years, or to both;

(b) upon conviction on information to a fine not exceeding fifty thousand dollars or a term of imprisonment not exceeding five years, or to both.

(2) The owner of a vessel that has run aground, struck, or otherwise damaged a coral reef shall -

(a) as soon as is reasonably practicable, notify the Director of such occurrence;

(b) within such time as the Director shall direct, remove or cause the removal of a grounded or anchored vessel; and

(c) cooperate with the Director to undertake damage assessment and restoration of the coral reef.

(3) Where the Director has issued a direction in accordance with subsection (2)(b), the owner of the vessel must remove or cause the removal of the vessel or an anchor in such a manner that does not cause further damage to the coral reef.

(4) The Director shall, in respect of any action or suit initiated for damage to a coral reef, recover monies for compensation from the owner, including —

(a) compensation for -

(i) the cost of replacing, restoring, or acquiring the equivalent of the coral reef damaged, or where the coral reef cannot be replaced or restored, the value of the coral reef; and

(ii) the value of the loss of use and services of the coral reef;

(b) the costs of damage assessments;

(c) the costs of activities undertaken by, or at the request of the Director to minimise or prevent further damage to the coral reef;

(d) the reasonable cost of monitoring the damaged, restored or replaced coral reef for a minimum of ten years.

(5) For the purpose of calculating compensation for damage to coral reefs, the Director may use the habitat equivalency analysis.

21. Protection of the ozone layer.

(1) The Director shall undertake national studies and give due recognition to developments in scientific knowledge relating to substances, activities and practices that are detrimental to the environment and deplete the stratospheric atmosphere and other components of the stratosphere.

(2) The Minister may make regulations, issue guidelines and institute programmes for -

(a) the elimination of substances that deplete the ozone layer;

(b) the management of practices and activities likely to lead to the degradation of the ozone layer and the stratosphere;

(c) the reduction and minimisation of risks to the environment created by the degradation of the ozone layer and the stratosphere.

22. Protection and control, etc. of non-protected wildlife.

(1) The Minister may, by notice published in the *Gazette*, prohibit or restrict, either indefinitely or for a period specified in the notice, any hunting or removal of any flora or fauna specified in the notice in or from an area defined in the notice, where the Minister considers necessary for -

(a) the control of the spread of disease;

(b) the protection of human life and property;

(c) the conservation and management of flora and fauna; or

(d) biodiversity.

(2) A person who contravenes this section commits an offence and is liable -

(a) upon summary conviction to a fine not exceeding ten thousand dollars or a term of imprisonment not exceeding one year, or to both;

(b) upon conviction on information to a fine not exceeding fifty thousand dollars or a term of imprisonment not exceeding five years, or to both.

23. Designation of environmentally sensitive areas and species.

(1) The Minister may, by order, designate -

(a) an area of land within The Bahamas to be an environmentally sensitive area; or

(b) any species of living plant or animal as an environmentally sensitive species,

that requires special protection to achieve the objects of this Act.

(2) An order made under subsection (1) shall include -

(a) a comprehensive description of the area or species to be so designated;

(b) the reasons for such designation;

(c) the specific limitations on use of or activities within such area or with regard to such species which are required to adequately protect the identified environmental concerns.

(3) A designation of an environmentally sensitive area or environmentally sensitive species -

(a) may permit the wise use of such area or species and provide for the undertaking of appropriate mitigation measures, but shall not otherwise be deemed to authorise or permit any activity not previously authorised or permitted with respect to such area or species; and

(b) shall only require compliance with the specific limitations on use or activities specified in the designation.

24. Designation of closed areas.

(1) The Minister may, from time to time, designate, by order, a closed area within or outside an environmentally sensitive area if he considers it necessary for the survival of any biological resource, genetic material, ecosystem or endangered species located in such area.

(2) An order made under subsection (1) shall include -

(a) a comprehensive description of the area so designated;

(b) the reasons for such designation;

(c) the specific limitations on use of or activities within such area or with regard to such biological resource, genetic material, ecosystem or endangered species which are required to adequately protect the identified environmental concerns.

(3) Where an area has been designated as a closed area under subsection (1), no person shall enter that area.

(4) The Director shall cause to be erected at a closed area a sign that includes —

(a) the period of time for which the area is so designated as closed;

(b) the reasons for the closure of the area; and

(c) the activities that are prohibited within the closed area.

POLLUTION CONTROL

25. Prohibited pollutants.

No person shall -

(a) release or cause to be released any air pollutant or water pollutant into the environment which is in violation of any applicable standards, conditions or permit requirements under this Act or any regulations made thereunder; or

(b) emit or cause to be emitted any noise which is in violation of any applicable standards, conditions or permit requirements under this Act or any regulations made thereunder.

26. Pollution control permits.

(1) No person shall, except under and in accordance with a pollution control permit issued by the Director -

(a) release or cause to be released; or

(b) emit or cause to be emitted,

on or into land or water, or in the air in quantities in excess of the prescribed standard.

(2) A person shall, in accordance with prescribed regulations, submit an application to the Director along with the prescribed fee for the grant of a pollution control permit.

(3) A pollution control permit shall -

(a) be subject to such terms and conditions as the Director may determine; and

(b) be issued in such form as the Director thinks fit.

(4) The Director shall monitor the performance of a person who has been granted a pollution control permit to ensure compliance with the information and description provided in the application for the permit.

(5) A person who releases a pollutant from any premises without being first issued a permit in accordance with this Act or any regulations made thereunder commits an offence and is liable upon summary conviction to a fine not exceeding ten thousand dollars or a term of imprisonment not exceeding one year, or to both.

27. Management of pollution.

(1) The Director shall, as soon as practicable after the commencement of this Act, investigate the environment generally and such premises and vehicles as he deems necessary for the purposes of -

(a) ascertaining the extent of water, air, and noise pollution and the significant sources of pollutants which, by their release causes or contributes to such pollution; and

(b) characterising or describing such pollution.

(2) The Director shall, in accordance with section 38(1)(f), maintain within the Environmental Registry data on the sources of water, air and noise pollution, particularly data that identifies the quantity, conditions or concentrations relevant to the identification of each pollutant.

28. Liability for historical pollution.

(1) If any person is found to have polluted any part of the environment before the coming into force of this Act, the Director may, by notice, require such person to take such measures to rehabilitate the environment in the manner specified in the notice.

(2) Where the Director finds that more than one person was responsible for having polluted any part of the environment before the coming into force of this Act, the liability for undertaking the rehabilitation measures required pursuant to subsection (1) shall be assessed against those persons on a *pro rata* basis.

(3) If any person fails or refuses to comply with a requirement imposed by the Director within the period of time allowed for compliance as specified in the notice, the Director may undertake the necessary rehabilitation measures and may recover the costs of so doing as a civil debt in a court of competent jurisdiction.

(4) A person who, in accordance with this section, is found to be solely or partly responsible for pollution may appeal to a Supreme Court Justice in chambers within twenty-eight days of the date of the service of the notice issued under this section.

29. Record keeping and monitoring requirements.

The Director may, in accordance with prescribed regulations, require any person who releases a pollutant from any premises or vehicle, or who engages in the handling of any hazardous substance, on a one-time or periodic basis to -

(a) sample and analyse the pollutant, hazardous substance, or the material which has become contaminated with such pollutant or hazardous substance, for specified constituents or characteristics;

(b) install, use and maintain monitoring equipment, and implement such environmental audit procedures, as may be specified in any permit issued in accordance with prescribed regulations;

(c) establish and maintain records regarding sampling, monitoring and environmental audit activities;

(d) establish and maintain records regarding pollution control equipment on the premises, including records on control equipment parameters, production variables and other indirect data when direct monitoring is not required;

(e) submit reports and compliance certifications; and

(f) provide such other information as the Director may require.

HAZARDOUS SUBSTANCES AND HAZARDOUS WASTE

30. Prohibition of hazardous substances, etc.

(1) No person shall discharge any hazardous substance, chemical, oil or mixture containing oil into any waters or any segment of the environment, except in accordance with prescribed regulations.

(2) A person who discharges a hazardous substance, chemical, oil or a mixture containing oil into any waters or other segment of the environment contrary to subsection (1) commits an offence and is liable —

(a) upon summary conviction to a fine not exceeding seven thousand dollars or a term of imprisonment not exceeding six months, or to both;

(b) upon conviction on information to a fine not exceeding five hundred thousand dollars or a term of imprisonment not exceeding five years, or to both.

(3) Upon conviction, the person discharging a hazardous substance, chemical, oil or a mixture containing oil into the environment shall, in addition to any other sentence imposed by the court -

(a) pay the cost for the restoration of the environment so affected, including any costs which may be incurred by any governmental agency or organ in the restoration of the environment damaged or adversely affected as a result of the discharge; and

(b) pay such costs to cover damages for losses of persons adversely affected by the discharge of any hazardous substance, chemical, oil or mixture containing oil into any waters or any segment of the environment.

(4) The Director shall adopt standard criteria for determining persons who are adversely affected in respect of the discharge of a hazardous substance, chemical, oil or a mixture containing oil into the environment.

31. Management of hazardous waste.

(1) No person shall, except in accordance with prescribed regulations, discharge any hazardous waste into the environment.

(2) The Director shall adopt standard criteria for the classification of hazardous wastes with regard to determining-

(a) extremely hazardous waste;

(b) corrosive waste;

(c) carcinogenic waste;

(d) flammable waste;

(e) persistent waste;

(f) toxic waste;

(g) explosive waste; and

(h) any other category of waste the Director may consider necessary.

PART V - SPILLS, ACCIDENTAL RELEASES AND ENVIRONMENTAL RESTORATION

32. Environmental contingency plan.

(1) The Director may require a person who -

(a) owns, operates or controls any premises on which a pollutant, hazardous substance or hazardous waste is handled; or

(b) transports any pollutant, hazardous substance or hazardous waste,

to prepare and submit for approval, an environmental contingency plan to deal with a spill or accidental release of such pollutant, hazardous substance or hazardous waste.

(2) An environmental contingency plan prepared under subsection (1) shall be communicated to the staff and contractors of the person required to prepare such a plan, and shall include -

(a) the countermeasures to be adopted in the event of a spill or accidental release of a pollutant, hazardous substance or hazardous waste;

(b) information in respect of -

(i) first person response;

(ii) location of equipment for remedial action;

(iii) an analysis of potential accidents and responses; and

(c) the steps to be taken to restore the environment as near as possible to the state it was in before the spill or accidental release of the pollutant, hazardous substance or hazardous waste.

33. Duty to notify of spills and accidental releases.

If a spill or accidental release of a pollutant, hazardous substance or hazardous waste occurs, the person who -

(a) owns, operates or controls any premises on which a pollutant, hazardous substance or hazardous waste is handled, or a spill or an incident occurs; or

(b) transports any pollutant, hazardous substance or hazardous waste,

shall, as soon as is reasonably practicable -

(i) notify the Director and the relevant agencies;

(ii) implement the approved contingency plan; and

(iii) take measures necessary or expedient to minimise any resulting threat to human health or the environment according to such directions as the Director may give.

34. Emergency response actions.

(1) Where the Director reasonably believes that a spill or accidental release of a pollutant, hazardous substance or hazardous waste or the threat of such spill or accidental release presents a threat to human health or the environment, the Director shall, in coordination with other relevant government agencies -

(a) notify, in such manner as may be effective, any person or category of persons who may be adversely affected by such spill or accidental release; and

(b) undertake any emergency response actions necessary to protect human health or the environment.

(2) Where a person is found to be responsible for a spill or accidental release of a pollutant, hazardous substance or hazardous waste or the threat of such spill or accidental release, the Director may, in a court of competent jurisdiction, recover the costs for any emergency response actions as a civil debt.

35. Environmental emergency response guidelines.

The Director may issue guidelines for the prevention of, preparedness for and response to an environmental emergency.

36. Environmental restoration order.

(1) The Director may, in respect of a matter relating to the management of the environment, issue and serve on a person an environmental restoration order (hereinafter referred to as an "order") .

(2) An order issued under subsection (1) shall-

(a) require the person on whom it is served to restore the environment as near as he can to the state it was in before the taking of the action which is the subject of the order;

(b) prevent the person on whom it is served from taking any action which would or is reasonably likely to cause harm to the environment; and

(c) in accordance with an administrative civil assessment under section 49(1)(c), award compensation to a person whose environment, property or livelihood has been harmed by the action which is the subject of the order.

(3) An order may contain terms and conditions and impose obligations on the persons on whom it is served.

(4) If a person who is served with an order fails to comply with any aspect of the order, the Director may undertake all actions stipulated in the order, and may, in accordance with an administrative civil assessment under section 49(1)(d), recover from that person all costs incurred to restore the environment.

(5) A person who has been served with an order may, within twenty-eight days from receipt of the order, appeal to the Minister.

(6) An appeal to the Minister does not have the effect of suspending an order issued under this section.

37. Environmental restoration guidelines.

The Director may issue guidelines for restoring the environment under section 36.

PART VI - ENVIRONMENTAL INFORMATION, RESEARCH, EDUCATION AND TRAINING

38. Establishment of Environmental Registry.

(1) The Director shall establish a registry to be known as the Environmental Registry, hereinafter referred to as the "Registry", which shall contain the following records -

(a) permits issued under this Act or any regulations made thereunder;

(b) certificates issued under this Act or any regulations made thereunder;

(c) orders made under this Act;

(d) approved Environmental Impact Statements and Environmental Impact Assessments prepared in accordance with prescribed regulations;

(e) information identifying wetlands of national and international importance;

(f) annual reports prepared in accordance with this Act;

(g) information relating to the sources of pollution;

(h) any enforcement proceeding undertaken under this Act;

(i) a list of qualified and accredited environmental consultants, environmental mediators and environmental laboratories;

(j) any guidelines made in accordance with this Act or any regulations made thereunder;

(k) copies of all notices issued in accordance with this Act; and

(l) any other matter required to be kept in the Registry under this Act or that may be prescribed by regulations.

(2) The records in the Registry shall be kept in such form and manner as the Director deems appropriate, including by electronic means.

(3) A person may, during the normal working hours of the Department, and on payment of the prescribed fee -

(a) inspect any record contained in the Registry;

(b) obtain from the Director a certified copy of any document contained in the Registry.

(4) A person shall not have access to a document contained in the Registry if —

(a) the Director determines that disclosure of the information would be contrary to the public interest; or

(b) the information is subject to a trade secret or confidentiality claim.

(5) The Director shall provide a written explanation of any refusal to make information available when requested by a person under this section.

39. Information gathering.

The Director may cause information relating to the environment to be collected by means of voluntary surveys, questionnaire inquiries and any other appropriate means for the purpose of -

(a) conducting research;

(b) creating an inventory of data;

(c) formulating objectives, guidelines and codes of practice;

(d) reporting on the state of the environment; or

(e) administering any provision of this Act or any regulations made thereunder.

40. Scientific, technical and management research.

(1) The Director shall encourage, develop and support scientific, technical and management research programmes on environmental issues and topics, including -

(a) ecological processes;

(b) threatened, endangered or invasive alien species;

(c) the development of measures for the management, recovery, and protection of closed areas, environmentally sensitive areas and species, protected wildlife and their habitats;

(d) assessments of the effectiveness of measures taken to implement management and recovery plans;

(e) monitoring programmes;

(f) assessments of the archaeological, historical and cultural heritage of areas of The Bahamas; and

(g) any other environmental issue and topic as the Director deems appropriate.

(2) The Director may -

(a) provide technical assistance for training, research, education, and management pertaining to environmental issues and topics; and

(b) seek information as necessary from scientifically or technically qualified experts and organisations.

41. Permission for scientific research.

(1) A person who wishes to engage in any scientific research operation with respect to any flora or fauna found in The Bahamas, where such research involves the taking of such flora or fauna, or any part thereof, dead or alive, shall make a written application to the Director to do so.

(2) A person who submits an application under subsection (1) shall furnish the Director with a plan for the proposed operation and such other information as the Director may reasonably require in order to make a decision.

(3) The Director shall only grant permission for a scientific research operation to a person who satisfies the Director -

(a) that he has access to, or a guarantee of sufficient funds to undertake the operations in a satisfactory manner; and

(b) that he has the scientific competence to undertake the operations, as assured by any recognised learned society or institution of higher learning.

(4) The Director may attach such terms, conditions and limitations to any permission granted under this section, including a requirement that the data and results of the scientific operations are shared with the Director.

(5) Without prejudice to the generality of subsection (4), the Director may attach to permission granted under this section for bio-prospecting operations, such terms, conditions and limitations concerning the ownership of intellectual property and sharing of financial returns from the commercialisation of products derived from the biological diversity of The Bahamas, as the Director considers appropriate in the public interest.

(6) A person may appeal the decision of the Director to refuse to grant permission under this section or to grant permission with conditions, to the Minister, within twenty-eight days from receipt of notice of the decision.

42. Public information, education and training.

The Director shall develop programs for public information, education and training to promote basic understanding of the environment and awareness of, and compliance with the provisions of this Act and any regulations made thereunder.

PART VII - COMPLIANCE AND ENFORCEMENT

43. Power of entry and inspection.

(1) An environmental officer may, at all reasonable times, enter any premises for the purpose of-

(a) ascertaining whether any contravention of the provisions of this Act or any regulations made thereunder has occurred thereon and examining the premises and taking away samples of any thing by means of or in relation to which he believes any provision of this Act or any regulations made thereunder has been contravened;

(b) ascertaining whether or not circumstances exist which would authorise or require the Director to take any action, execute any work under this Act or implement any regulations made thereunder;

(c) taking any action, performing any function 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

(e) generally examining and inspecting the premises.

(2) Any person claiming the right to enter any premises must produce the document authorising him to do so.

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

(4) In the execution of his functions under this Act, an environmental officer may call upon any police officer to lend such assistance as may be required, and such police officer shall assist accordingly.

(5) This section applies *mutatis mutandis,* with the necessary modifications, to the Director, Deputy Director and an Assistant Director appointed under this Act.

44. Obtaining information and samples.

(1) In the course of any entry permitted by section 43, an environmental officer shall be allowed to review and copy any document or record, take photographs, inspect any premises or vehicle and take any sample for the purpose of laboratory analysis of any air, water, soil or other material from such premises or vehicle.

(2) If any samples are taken pursuant to subsection (1), the owner or operator of the premises or vehicle shall, upon request, be provided with-

(a) a receipt for the sample collected which identifies the types of analyses to be performed; and

(b) a portion of the sampled material properly collected in an appropriate container.

(3) In any instance where the Director requests any information from a person under this section and the person asserts a claim that the information provided to the Director should be treated as a trade secret or confidential business information, the Director shall treat such information as confidential unless-

(a) the person does not disclose any valid basis for the confidentiality claim within fourteen days after receipt of a request by the Director; or

(b) the Director determines that the public interest in disclosing the information clearly outweighs any prejudice to the person who has

supplied the information to the Director, and the Director provides such person with a reasonable opportunity to contest such determination prior to any public disclosure of the information.

45. Environmental monitoring.

(1) The Director shall monitor-

(a) all environmental phenomena with a view to making an assessment of any possible changes in the environment and their possible impacts;

(b) the operation of any industry, project or activity with a view of determining its immediate and long-term effects on the environment.

(2) An environmental officer may enter upon any land or premises for the purposes of monitoring the effects upon the environment of any activities carried on at that land or premises.

46. Scientific evidence.

(1) The Minister shall, by order published in the *Gazette,* designate at least one scientific laboratory, in The Bahamas or elsewhere, to be a scientific laboratory for the purposes of this Act.

(2) A certificate signed by the person in charge of a scientific laboratory designated under subsection (1) stating that an object or substance has been analysed or examined and that the results of such analysis or examination is admissible in any proceeding under this Act is sufficient evidence-

(a) of the matters in the certificate; and

(b) of the correctness of the results of the analysis or examination.

(3) Notwithstanding subsection (2), a certificate shall not be admitted into evidence in any proceedings for an offence under this Act unless the opposing party to the action has been given -

(a) reasonable notice of the intention to produce the certificate as evidence in the proceedings; and

(b) a copy of the certificate.

(4) In any proceedings for an offence under this Act, the defendant shall not adduce evidence in rebuttal of a certificate issued by a designated scientific laboratory in relation to any matter of which the certificate is evidence unless the defendant gives notice, in writing, of his intention to adduce the rebuttal evidence to the prosecutor within -

(a) fourteen days after a copy of the certificate has been given under subsection (3); or

(b) such further time as the court may allow.

47. Notice of violation.

(1) Where a provision of this Act specifically requires that an action be taken where the Director reasonably believes that a person has committed an offence under this Act or any regulations made thereunder, the Director shall cause a written notice of violation to be served on such person in the form determined by the Director, which shall include -

(a) a request that the person make such modifications to the activity within a specified time, as may be required to allow continuation of the activity; and

(b) an invitation to the person to make representations within a specified time to the Director concerning the matters specified in the notice.

(2) Where a matter specified in the notice may be satisfactorily explained or otherwise resolved within twenty-eight days of service of the notice, the Director may -

(a) cancel the notice or dismiss the matters specified therein; or

(b) enter into a consent agreement containing such terms and conditions as the Director deems fit.

48. Issue of administrative order.

(1) The Director may issue an administrative order where a person -

(a) fails to make representations to the Director as required under section 47(1)(b) within the time specified in the notice; or

(b) is unable to resolve with the Director all matters specified in the notice.

(2) An administrative order shall, where appropriate -

(a) specify details of the violation of anything required under the Act or any regulations made thereunder;

(b) direct a person to immediately cease and desist from the violation or specify a date for coming into compliance;

(c) direct a person to immediately remedy any environmental conditions or damages to the environment arising out of the violation or specify a date by which such remedial action shall be completed;

(d) direct a person to undertake an investigation regarding any environmental circumstances within that person's responsibility or control, including any release of a pollutant, hazardous substance or hazardous waste into the environment;

(e) direct a person to perform any monitoring or record keeping activities;

(f) include a proposed administrative civil assessment made by the Director; or

(g) direct a person to comply with any other requirement under this Act or any regulations made thereunder.

(3) A person served with an administrative order may -

(a) elect to negotiate a consent agreement with the Director; or

(b) within twenty-eight days of the service of the administrative order, appeal the administrative order to the Minister.

49. Administrative civil assessment.

(1) The Director may make an administrative civil assessment of -

(a) compensation for actual costs incurred by the Director to respond to environmental conditions or other circumstances arising out of a violation referenced in an administrative order or a notice of violation;

(b) compensation for actual costs incurred by the Director in responding to a spill or accidental release of a pollutant, hazardous substance or hazardous waste;

(c) compensation to be paid by a person served with an environmental restoration order to another person whose environment, property or livelihood has been adversely affected by the action which is the subject of the order;

(d) compensation for actual costs incurred by the Director or a government entity or private person to restore the environment after the failure of a person served with an environmental restoration order to comply with its terms and conditions;

(e) damages at large where the damage to the environment is permanent or the effect of the environmental damage will last more than ten years;

(f) damages for losses suffered by a third party.

(2) For the purposes of determining the amount of any damages to be assessed under subsection (1)(f), the Director shall take into account -

(a) the nature, circumstances, extent and gravity of the violation;

(b) the degree of wilfulness or culpability in committing the violation and any good faith efforts to cooperate with the Director.

50. Other actions by the Director.

If the Director reasonably believes that any person is culTently in violation of any provision of this Act or any regulations made thereunder, or is engaged in any activity that is likely to result in a violation, the Director may, in addition to, or in lieu of any actions authorised under this Act -

(a) seek a restraining order or other injunctive or equitable relief to prohibit the continued violation or to prevent the activity that would lead to violation;

(b) seek an order for the closure of any facility or any prohibition against the continued operation of any processes or equipment at such facility in order to halt or prevent any violation; or

(c) pursue any other remedy which may be provided by law.

51. Private party actions.

(1) Any person who is aggrieved by a violation of this Act or any regulations made thereunder may, with the leave of the court, institute proceedings in a court of competent jurisdiction against any other person whom he reasonably suspects is responsible for that violation.

(2) The court may grant leave to institute proceedings pursuant to subsection (1) to any person or group of persons having a specific interest in the claimed violation of the Act or any regulations made thereunder or any other person or group of persons who can satisfy the court that the proceedings are justifiable in the public interest.

(3) In any proceedings brought under this section -

(a) the burden of proof is on the person who institutes the proceedings;

(b) the Attorney-General may intervene at any time as a matter of right.

52. Voluntary reports.

(1) Where a person has knowledge of the commlss10n or reasonable likelihood of an offence under this Act or any regulations made thereunder, but is not required to report the matter under this Act, that person may report any information relating to the offence or likely offence to the Director, and the Director shall investigate the report and take such action as necessary.

(2) No person shall disclose or cause to be disclosed the identity of a person who makes a report under subsection (1) or any information that could reasonably be expected to reveal the identity of such a person without the expressed permission of the person who made the report.

(3) No employer shall dismiss, suspend, demote, discipline, harass or otherwise disadvantage an employee, or deny an employee a benefit of employment by reason that the employee -

(a) has made a report under subsection (1);

(b) acting in good faith and on the basis of a reasonable belief-

(i) has refused or stated an intention of refusing to do anything that is an offence under this Act or any regulations made thereunder; or

(ii) has done or stated an intention of doing anything that is required to be done by or under this Act or any regulations made thereunder.

(4) Notwithstanding any provision in any law prescribing the period within which summary proceedings may be commenced, proceedings for an offence under this Act or any law that affects the operation of this section may be commenced at any time within -

(a) the period of three months from the date on which, in the determination of the Director, sufficient evidence to justify a prosecution for the offence comes to its knowledge; or

(b) the period of twelve months after the commission of the offence.

53. Liability of corporate officers.

Where a corporation is in violation of any provision of this Act or any regulations made thereunder, any individual who, at the time of the violation, was a director, manager, supervisor, partner or other similar officer or responsible individual, or who was purporting to act in such capacity, may be found individually liable for that violation if, having regard to the nature of his functions in that capacity, the resources within his control or discretion and his reasonable ability to prevent the violation -

(a) the violation was committed with his direct consent or connivance; or

(b) he, with knowledge, did not exercise reasonable diligence to prevent the commission of the violation.

54. Other proceedings and remedies not affected.

For the avoidance of doubt, nothing in this Act takes away from or interferes with the right of the Crown or any other person to sue for and recover, under any other law or at common law, compensation for or in respect of damage or injury caused by an offence under this Act or any regulations made thereunder.

PART VIII - OFFENCES AND PENALTIES

55. Damage to environment and death or harm to persons.

(1) Any person who -

(a) intentionally or recklessly causes a disaster that results in a loss of the use of the environment;

(b) shows wanton or reckless disregard for the lives or safety of other persons and thereby causes a risk of death or harm to another person,

commits an offence and is liable on conviction on information to a fine of not less than twenty-five thousand dollars and not exceeding thirty million dollars or a term of imprisonment not exceeding ten years, or to both, or in the case of a conviction under paragraph (a), to three times the assessed value of the damage caused, whichever is the greater or a term of imprisonment not exceeding ten years, or to both.

(2) A person shall not be convicted under this section if he establishes that he exercised due diligence to prevent the commission of the offence.

56. Discharge to water resource.

(1) No person shall discharge or emit any pollutant into a water resource other than in accordance with the provisions of this Act or any regulations made thereunder.

(2) A person is considered to have caused a water resource to become polluted if -

(a) the person causes or permits to be released into an underground water system, water way or water body, any waste, whether solid, liquid or gaseous that -

(i) is prohibited under this Act or any regulations made thereunder; or

(ii) does not comply with any standard prescribed for the management of water resources; or

(b) the person causes or permits the discharge of any hazardous substance, whether solid, liquid or gaseous, into an underground water system, water way or water body in contravention of this Act or any regulations made thereunder.

(3) A person who contravenes subsection (1) commits an offence and is liable —

(a) upon summary conviction to a fine not exceeding five thousand dollars or a term of imprisonment not exceeding one year, or to both; or

(b) upon conviction on information to a fine that is proportionate to the scale of any environmental damage caused or a term of imprisonment not exceeding ten years and confiscation of any thing used in the commission of the offence.

57. Discharge into the atmosphere.

No person shall discharge or emit any gaseous substance into the atmosphere other than in accordance with the provisions of this Act or any regulations made thereunder.

58. Obstruction of environmental officers, etc.

Any person who assaults, obstructs or hinders the Director, Deputy Director, an Assistant Director or any environmental officer of the Department in the execution of their duty under this Act or any regulations made thereunder commits an offence and is liable on summary conviction -

(a) to a fine not exceeding three thousand dollars, or to a term of imprisonment not exceeding six months, or to both;

(b) in the case of a second or further offence, to a fine not exceeding five thousand dollars or to a term of imprisonment not exceeding nine months, or to both.

59. Continuing offence.

Where an offence under this Act or any regulations made thereunder is committed or continued on more than one day, the person who committed the offence is liable to be convicted for a separate offence for each day on which the offence is committed or continued.

60. Penalty for breach of regulations.

Where offences are prescribed by regulations under section 65, the penalties shall not exceed a fine of twenty-five thousand dollars or imprisonment for seven years.

PART IX - MISCELLANEOUS

61. Reports.

(1) The Director shall, on or before April 30th in each year, prepare and cause to be submitted to the Minister in such form as the Minister may require a report detailing the technical and financial activities of the Department, and if so requested, such other reports as the Minister may require

concerning the operation of the Department and the state of the environment.

(2) A copy of every report submitted under this section shall form a part of the annual report of the Ministry.

(3) For the purposes of this section, **"annual report of the Ministry"** means the report of the Ministry referred to under section 9 of the Ministry of the Environment Act, 2019.

62. Service of documents.

(1) Any notice or other document required or authorised to be served under this Act or any regulations made thereunder, or any order, direction or other instrument so made, may be served -

(a) in the case of a natural person, by delivering it directly to the person on whom it is to be served, or -

(i) in a case where an address for service has been provided by the person on whom service is to be effected, by delivering it or sending it by registered mail to that person at that address; or

(ii) by such means of substituted service as are recognised under the Rules of the Supreme Court *(SI. 46/1978);*

(b) in the case of a body corporate, by serving it in accordance with the process for effecting service on a company in accordance with the Rules of the Supreme Court *(SI. 46/1978).*

(2) Where a document is required to be served on the Director, service is effected by delivering or sending the document by registered post addressed to the Director at the Office of the Director.

(3) Where a document is required to be served on a person having an interest in land and the name of that person cannot be ascertained after reasonable enquiry, the document is deemed to be duly served if, being addressed to the "owner" or "occupier" of the premises, it is -

(a) delivered or sent to the premises by registered mail and is not returned to the sender; or

(b) affixed conspicuously to some building or fixed object on the premises.

63. Fines, fees and penalties.

(1) Any fine, fee or penalty imposed and collected under this Act shall be paid into the Environmental Administration Fund.

(2) For the purposes of this section, **"Environmental Administration Fund"** means the Environmental Administration Fund established under section 8 of the Ministry of the Environment Act, 2019.

64. Amendment of schedules.

The Minister may, by order, amend any of the Schedules to this Act.

65. Regulations.

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 prevention and control of pollution or contamination of the air, water and land;

(b) specify standards in excess of which pollutants discharged into the environment shall not be discharged or emitted;

(c) the designation of hazardous substances or categories of hazardous substances, and the performance standards, procedures and safeguards of such substances;

(d) the requirements with respect to the handling and disposal of categories of hazardous waste;

(e) the preparation and implementation of actions to prevent pollution or the preparation and implementation of environmental management systems;

(f) the restriction or prohibition of ozone depleting substances;

(g) the establishment of ambient air quality standards, an air pollution monitoring system and index, and the manufacture, use and emission of air contaminants;

(h) fulfilling obligations under Multilateral Environmental Agreements;

(i) the records to be kept in the Environmental Registry;

(j) control and monitoring of scientific research pertaining to the environment in The Bahamas;

(k) the payment of fees or any other charges payable under this Act;

(l) the payment of any compensation under this Act and the manner for applying for such compensation;

(m) the prescribing of measures to be taken with respect to spills and accidental releases and emergency prevention and preparedness;

(n) the recovery of costs and expenses incurred in carrying out any work done as a consequence of any default by any person in accordance with this Act or the regulations;

(o) a program for efficient, coordinated and effective action to environmental emergencies in The Bahamas;

(p) the designation, management and enforcement of environmental clearance conditions;

(q) the form of any application, notice or other document to be made, issued or served under this Act;

(r) any other matter which, in the interest of environmental protection, is concerned with or incidental to the protection, preservation and conservation of the environment or the sustainable management of natural resources.

66. Consequential amendments.

The laws set forth in the first column of the *Second Schedule* are amended to the extent set forth in the second column thereof.

67. Act binds Crown.

This Act binds the Crown.

68. Application of Act.

This Act shall apply to -

(a) the Island of New Providence;

(b) the Island of Grand Bahama inclusive of the Port Area as defined-

(i) in the agreement set out in the Schedule to the Hawksbill Creek, Grand Bahama (Deep Water Harbour and Industrial Area) Act *(Ch. 261);*

(ii) in section 2 of Freeport Bye-laws Act *(Ch. 29);and*

(c) any cay or Island of The Commonwealth of The Bahamas as the Minister may from time to time, extend by Order as published in the *Gazette.*

FIRST SCHEDULE

(section 3(2))

PRINCIPLES OF ENVIRONMENTAL PROTECTION

1. **Principle of integration of economic, social and environmental considerations**

(1) Sound environmental practices and procedures should be adopted as a basis for ecologically sustainable development for the benefit of all human beings and the environment.

(2) This principle requires the effective integration of economic, social and environmental considerations in decision making processes with the need to improve community well-being and the benefit of future generations.

(3) Any measures adopted should be cost effective and in proportion to the significance of the environmental problems being addressed.

2. **Precautionary principle**

(1) If there are threats of serious or irreversible environmental damage, lack of full scientific certainly should not be used as a reason for postponing measures to prevent environmental degradation.

(2) Decision making should be guided by -

(a) a careful evaluation to avoid serious or irreversible damage to the environment whereever practicable; and

(b) an assessment of the risk-weighted consequences of various options.

3. **Principle of intergenerational equity**

The present generation should ensure that the health, diversity and productivity of the environment is maintained or enhanced for the benefit of future generations.

4. **Polluter pays principle**

The polluter should bear the cost of measures to reduce pollution decided upon by public authorities to ensure that the environment is in an acceptable state, and should compensate persons for the harm they suffer from pollution.

5. **Principle of conservation of biological diversity and ecological integrity**

The conservation of biological diversity and ecological integrity should be a fundamental consideration in decision making.

6. **Principle of improved valuation, pricing and incentive mechanisms**

(1) Environmental factors should be included in the valuation of assets and services.

(2) Persons who generate pollution and waste should bear the cost of containment, avoidance and abatement.

(3) Users of goods and services should pay prices based on the full life cycle costs of providing the goods and services, including costs relating to the use of natural resources and the ultimate disposal of wastes.

(4) Established environmental goals should be pursued in the most cost effective way by establishing incentive structures, including market mechanisms, which enable persons best placed to maximise benefits or minimise costs to develop solutions or responses to environmental problems.

7. Principle of shared responsibility

(1) Protection of the environment is a responsibility shared by all levels of Government and industry, business, communities and the people of The Bahamas.

(2) Producers of goods and services should produce competitively priced goods and services that satisfy human needs and improve quality of life while progressively reducing ecological degradation and resource intensity throughout the full life cycle of the goods and services to a level consistent with the sustainability of biodiversity and ecological systems.

8. Principle of product stewardship

Producers and users of goods and services have a shared responsibility with the Governmnent to manage the environmental impacts throughout the life cycle of the goods and services, including the ultimate disposal of any wastes.

9. Principle of waste hierarchy

Wastes should be managed in accordance with the following order of preference —

(a) avoidance;

(b) reuse;

(c) recycling;

(d) recovery of energy;

(e) treatment;

(f) containment;

(g) disposal.

10. Principle of integrated environmental management

If approaches to managing environmental impacts on one segment of the environment have potential impacts on another segment, the best practicable environmental outcome should be sought.

11. Principle of enforcement

Enforcement of environmental requirements should be undertaken for the purpose of -

(a) better protecting the environment and its economic social uses;

(b) ensuring that no commercial advantage is obtained by any person who fails to comply with environmental requirements;

(c) influencing the attitude and behaviour of persons whose actions may adverse environmental impacts or who develop, invest in, purchase or use goods and services which may have adverse environmental impacts.

12. Principle of accountability

(1) The aspirations of the people of The Bahamas for environmental quality should drive environmental improvement.

(2) The public should therefore be given -

(a) access to reliable and relevant information in appropriate forms to facilitate a good understanding of environmental issues;

(b) opportunities to participate in policy and programme development.

13. Principle of avoidance

It is preferable to avoid environmental damage as it can be impossible or more expensive to repair rather than prevent damage.

SECOND SCHEDULE

(section 66)

CONSEQUENTIAL AMENDMENTS

LAW	EXTENT OF AMENDMENT
Environmental Health Services Act (*Ch 232)*	Delete sections 17(1)(e) and (l)(p)
Planning and Subdivision Act, 2010 *(No. 4 of 2010)*	Delete section 14
Wild Animals (Protection) Act *(Ch. 248)*	(a) In the long title, insert immediately after the words "provision for the" the words "protection of, and". (b) Insert immediately after section 4 the following new section - **"4A. Protection of wild animals.** (1) The Minister may, by notice published in the *Gazette*, prohibit or restrict, either indefinitely or for a period specified in the notice, any hunting or removal of any wild animal specified in the notice in or from an area defined in the notice, as the Minister considers necessary for - (a) the control of the spread of disease; (b) the protection of human life; (c) the conservation and management of flora and fauna; or (d) biodiversity.

	(2) A person who contravenes this section commits an offence and is liable to a fine not exceeding five thousand dollars or a term of imprisonment not exceeding one year, or to both.".