

ENVIRONMENTAL PLANNING AND PROTECTION BILL, 2017

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ENVIRONMENTAL PLANNING AND PROTECTION BILL, 2017

A BILL FOR AN ACT TO PROVIDE FOR ENVIRONMENTAL PLANNING AND PROTECTION AND FOR CONNECTED PURPOSES

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, 2017.
- (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 —
 - “**air**” means the unconfined portion of the atmosphere, that is, excluding that within any structure or underground space;
 - “**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;
 - “**climate impacts**” means an adverse effect in the physical environment or biota resulting from climate change which have significant deleterious effects on the composition, resilience or productivity of natural and managed ecosystems or on the operation of socio-economic systems or on human health and welfare;

“coastal zone” means the coastal waters and the adjacent shore lands, and includes islands, transitional and intertidal areas, salt marshes, mangrove swamps, the seabed, wetlands, and beaches and extends inland from the shoreline to the extent necessary to include shore lands whose uses have a direct and significant impact on the coastal waters and extends seaward to the outer limit of title and ownership under the Archipelagic Waters and Maritime Jurisdiction Act (*Ch. 282*);

“contaminant or pollutant” means any solid, liquid, gas, odor, heat, sound, vibration, radiation or combination of any of those resulting directly or indirectly from the activities of man which may —

- (a) impair ecosystem functioning;
- (b) impair the quality of the natural environment of any use that can be made of it;
- (c) cause injury or damage to property or to plant or animal life;
- (d) cause harm or material discomfort to any person;
- (e) adversely affect the health or impair the safety of any person;
- or
- (f) render any property or plant or animal life unfit for use by man;

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

“Department” means the Department of Environmental Planning and Protection;

“developer” means a person or body seeking to obtain a Certificate of Environmental Compliance in accordance with section 13;

“Director-General” means the person appointed pursuant to section 6 of the Ministry of the Environment Act, 2017;

“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;

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

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

- (a) ecosystems and their constituent parts including people and communities;
- (b) all natural and physical resources;

- (c) the physical qualities and characteristics of an area that contribute to people'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), (b) and (c);

“Environmental Advisory Board” means the Board established under section 10 of the Ministry of the Environment Act;

“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 appropriate combination of environmental control measures and strategies;

“Environmental Impact Assessment” means a study identifying and evaluating —

- (a) the likely impacts of a proposed activity on the environment,
- (b) alternatives to the proposed activity; and
- (c) potential means of mitigating the likely impacts of the proposed activity;

“Environmental Impact Statement” means a document prepared to outline the effects for proposed activities on the environment;

“environmental incident” means an occurrence or set of circumstances as a consequence of which pollution (air, water, noise or land) or an adverse environmental impact (naturally occurring or man-made) has occurred, is occurring or is likely to occur;

“environmental management plan” means a document drawn up by a developer outlining —

- (a) the environmental management measures that will be carried out during the construction and implementation of a proposed project; and
- (b) the course of action to be taken during an environmental incident,

in order to ensure that the project is environmentally acceptable;

“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 quality goals” means the objectives made with state of environmental conditions in mind, expressed in terms of indicators related to environmental quality standards;

“general environmental duty” means a person must not carry out any activity that causes or is likely to cause environmental harm unless measures to prevent or minimise the harm have been taken;

“hazardous waste” means any waste that exhibits any one or more of the following characteristic properties of ignitability, corrosivity, reactivity or toxicity or such other characteristic properties that may be listed in any other Act;

“invasive 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 and 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;

“liquid waste” means —

- (a) sewage and human body wastes and other organic wastes and waste water from toilets and other receptacles intended to receive body wastes;
- (b) drainage from medical activities and facilities;
- (c) drainage from places where animals are held, reared or slaughtered;
- (d) drainage and waste water from domestic, industrial, commercial and agricultural operations, including hotels, resorts, marinas, feedlots, and facilities for the manufacture and storage of chemicals; and
- (e) other waste waters;

“mining” —

- (a) when used as a verb, means to intentionally extract or win minerals and includes any activities directly or indirectly incidental thereto;
- (b) when used as a noun, refers to the tangible shaft, cuttings, excavations and diggings from which or through which minerals are extracted from the earth;

“**Minister**” means the Minister responsible for environmental planning and protection;

“**Multilateral Environmental Agreements**” means the treaties, conventions, protocols and other legally binding instruments created by the by the United Nations between multiple nations that limit negative environmental impacts;

“**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;

“**pollution prevention**” means source reduction, but also includes other practices that reduce or eliminate the creation of pollutants through increased efficiency in the use of raw materials, energy, water, or other resources or protection of natural resources by conservation;

“**public health**” means human health and includes the health of domesticated animals and other creatures;

“**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 any liquid collection site whether natural or man-made, above ground or below whether permanent, temporal or seasonal, coastal marine or inland of saline, brackish or fresh quality, including natural and artificial drainage courses.

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

3. Objectives.

- (1) The objectives of this Act are —
 - (a) to protect the environment of the islands of The Commonwealth of The Bahamas while providing for development in a way that

- maintains ecological integrity and the social and economic welfare of the community;
- (b) to provide a legal framework for the protection, enhancement, and conservation of the environment for the sustainable management, use, development and enjoyment of the people of The Bahamas for present and future generations;
 - (c) to promote best practices in environmental management to minimize harm to the environment through strategic planning, public consultation and effective policies;
 - (d) to establish a mechanism for effective public participation in environmental policy formulation to assist decision making;
 - (e) to create a regime for the regulation and oversight of projects, programs and activities within The Bahamas to avoid and mitigate the adverse effects on the environment.
- (2) For the purposes of achieving the objectives set out in subsection (1), this Act shall be administered as far as practicable, in consultation with, and having regard to the views and interests of relevant stakeholders.

PART II – DEPARTMENT OF ENVIRONMENTAL PLANNING AND PROTECTION

ESTABLISHMENT, FUNDS AND FUNCTIONS OF THE DEPARTMENT

4. Establishment of the Department of Environmental Planning and Protection.

- (1) There shall be established a department of Government to be known as the Department of Environmental Planning and Protection, which shall have overall responsibility for regulating matters relating to environmental policy, planning and protection.
- (2) The Department shall be under the general control and direction of the Minister.
- (3) The Department shall comprise such directors as are appointed pursuant to section 6 and such other officers as may be necessary for the efficient working of the Department.

5. Functions of the Department.

- (1) The Department shall have the technical responsibility for —

- (a) making recommendations on, administering and giving effect to environmental policies, regulations, guidelines and codes of practice;
- (b) coordinating and implementing international policies and obligations;
- (c) coordinating a protocol for public consultation and formal communication of environmental information to the general public;
- (d) promoting environmental awareness and education;
- (e) regulating and overseeing the review of environmental impact assessments;
- (f) developing a management plan for protected and ecologically sensitive areas and parks in collaboration with other relevant agencies;
- (g) developing as necessary, any additional resource management plans;
- (h) developing in collaboration with any relevant non-governmental organizations a national conservation strategy and action plan and to implement same in conjunction with such other relevant departments and agencies;
- (g) developing objectives and standards with respect to environmental protection;
- (h) developing a plan for the conservation and development of surface waters, wetlands and mangroves;
- (i) developing a plan for the conservation of ground water resources;
- (j) overseeing and approving the activities of agencies responsible for water management;
- (k) establishing procedures for environmental emergency preparedness, prevention and environmental monitoring in collaboration with other relevant agencies;
- (l) causing to be established an accredited and standardized environmental laboratory;
- (m) promoting and enforcing compliance with this Act and any regulations made thereunder;
- (n) administering and giving effect to any environmental policy to which this Act applies;
- (o) ensuring that the provisions of the Act are being administered;
- (p) causing collaboration and communication among government agencies and relevant stakeholders;

- (q) consulting with any person or body outside the Department, local or otherwise, with respect to any matter or submission made under this Act;
 - (r) communicating environmental impacts to the general public; and
 - (s) to carry out such other functions as are provided for under this Act.
- (2) The Department shall, not less than four months after the end of the fiscal year prepare and cause to be submitted to the Minister in such form as the Minister may require an annual report of 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.
- (3) The Minister shall lay or cause to be laid before the House of Assembly any report prepared pursuant to subsection (2).

APPOINTMENT OF DIRECTORS

6. Appointment of directors.

- (1) There shall be appointed one or more suitably qualified persons to be directors who shall have responsibility for administering the provisions of this Act.
- (2) No person shall be appointed to the office of director unless that person —
- (a) is a public officer; and
 - (b) holds a bachelor's degree in a relevant environmental subject from a recognised University and has at least five years experience in environmental science or a related subject.
- (3) The directors of the Department shall discharge the functions under this Act as authorised and directed by the Director-General and in so doing shall be deemed to be acting under the authority of the Act.

PART III – ENVIRONMENTAL PLANNING AND PROTECTION

ENVIRONMENTAL PLANNING

7. Environmental development plans.

- (1) The Department, in consultation with any other relevant Ministry or body, shall develop plans 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, which shall take into account
 -
 - (i) an inventory of the resource and its capabilities; and
 - (ii) conservation and development objectives as the Department may establish.
- (2) A plan developed under subsection (1) —
 - (a) shall be laid on the table of the House of Assembly at least once every three years;
 - (b) may be updated from time to time; and
 - (c) shall take into consideration any procedure set out herein or in any regulations made thereunder.

8. Purposes of an Environmental Impact Statement or Assessment.

The purpose of an Environmental Impact Statement or an Environmental Impact Assessment is —

- (a) to assess—
 - (i) the potential adverse and beneficial environmental, economic and social impact of a project; and
 - (ii) the management, monitoring, planning and other measures proposed to minimise any adverse environmental impacts of the project;
 - (iii) where practicable, climate change risk and adaptation;
- (b) to consider feasible alternative ways to carry out the project;
- (c) to prepare or propose an environmental management plan for the project;
- (d) to help the director with responsibility for planning to decide whether to recommend the approval or disapproval of the project to the Director-General;
- (e) to satisfy the pre-requisite approvals under the Planning and Subdivision Act;

9. When an Environmental Impact Statement is required.

- (1) A project of a type not otherwise referred to in Part A of the *Schedule*, shall require the preparation of an Environmental Impact Statement.

- (2) An Environmental Impact Statement must —
 - (a) provide a description of the project, site description and its key components, including construction, operation and decommission;
 - (b) specify the potential impacts and the degree of such impacts, of a proposed undertaking on the environment and society; or
 - (c) identify the measures to be established to mitigate against any potential adverse impacts that might occur as a result of the proposed undertaking; and
 - (d) include —
 - (i) an executive summary of the findings and recommendations of the Environmental Impact Statement; and
 - (ii) a compilation of references along with baseline data, studies and ancillary materials that informed the Environmental Impact Statement's process, findings and recommendations.
- (3) The Department may determine the manner in which an Environmental Impact Statement may be produced and the number of copies to be distributed.
- (4) Where an amendment is proposed to a project to which this section refers, the developer shall seek approval thereof and failure by the developer to comply with such conditions may result in the refusal of the submission.
- (5) The proposed Environmental Impact Statement shall be accompanied by the prescribed fee.

10. When an Environmental Impact Assessment is required.

- (1) A project of a type referred to in Part A of the *Schedule* that is —
 - (a) likely to give rise to adverse effects on the environment by virtue of its nature, size, complexity or location;
 - (b) proposed for sensitive lands or for lands with natural importance;
 - (c) likely to give rise to encroachment on the surrounding coast line; or
 - (d) of a nature that may have potentially adverse affects to ecosystems.shall require the preparation of an Environmental Impact Assessment.
- (2) An Environmental Impact Assessment must —
 - (a) provide a description of the project, site description and its key components, including construction, operation and decommission;
 - (b) specify the potential impacts and the degree of such impacts, of a proposed undertaking on the environment and society;

- (c) identify the measures to be established to mitigate against any potential adverse impacts that might occur as a result of the proposed undertaking;
- (d) include —
 - (i) a statement of the proposed undertaking;
 - (ii) the terms of reference that informed the preparation and details of the Environmental Impact Assessment;
 - (iii) a description of the potentially affected environment including specific information necessary for the identification and assessment of the potential environmental, societal, economic, cultural and legal effects of the proposed undertaking;
 - (iv) an assessment of the potential impacts of the proposed undertaking and the alternatives on the environment;
 - (v) identification and description of proposed measures to mitigate impacts of the proposed undertaking and alternatives along with an assessment of those mitigating measures;
 - (vi) a description of the practical alternatives to the project;
 - (vii) an indication of the gaps or absences in knowledge and uncertainties which may be encountered in compiling the required information;
 - (viii) an indication of whether the environment of any other area beyond the impact area as determined initially is likely to be affected by the proposal or its alternative;
 - (ix) the most desirable course of action based on the findings and the exploration and weighing of alternatives;
 - (x) an executive summary of the findings and recommendations of the Environmental Impact Assessment; and
 - (xi) a compilation of references along with baseline data, studies and ancillary materials that informed the Environmental Impact Assessment's process, findings and recommendations.
- (3) The Department shall conduct an audit and prepare an evaluation and monitoring plan for the project.
- (4) The Department may determine the manner in which an Environmental Impact Assessment may be produced and the number of copies to be distributed.
- (5) Where an amendment is proposed to a project to which this section refers, the developer shall seek approval thereof and failure by the developer to comply with such conditions may result in the refusal of submission.

- (6) An Environmental Impact Assessment shall be prepared by a person who —
 - (a) has been approved by the Director-General in accordance with prescribed standards;
 - (b) possesses a business license issued under the Business Licence Act; and
 - (c) if necessary, possesses a valid work permit.
- (7) The proposed Environmental Impact Assessment shall be accompanied by the prescribed fee.
- (8) Upon approval of an Environment Impact Assessment, the developer shall submit an Environment Management Plan in respect of the proposed project.
- (9) The environmental management plan shall be accompanied by the prescribed fee.

11. When neither an Environmental Impact Statement or an Environmental Impact Assessment is required.

- (1) A project of a type —
 - (a) referred to in Part B of the *Schedule*; or
 - (b) that does not alter, threaten or degrade the environment,shall not require the preparation of either an Environmental Impact Statement or an Environmental Impact Assessment.
- (2) Notwithstanding subsection (1), the Director-General may request a developer to prepare an Environmental Impact Assessment or an Environmental Impact Statement, where, in the opinion of the Director-General is deemed necessary based on prevailing environmental conditions.

12. Public notification.

- (1) The Department shall within thirty days after the submission of an Environmental Impact Statement or Assessment give written notice about the proposed Environmental Impact Statement or Assessment to—
 - (a) each affected person impacted by the project; and
 - (b) each interested person.
- (2) Where notice is given in accordance with subsection (1), the developer shall —
 - (a) notify the public by publishing such notice in —
 - (i) a newspaper circulating in The Bahamas; and

- (ii) such other way that the Department deems fit; and
 - (b) make a copy of the submitted Environmental Impact Statement or Assessment available on the official website of the Ministry of the Environment.
- (3) The Environmental Impact Statement or Assessment notice must be in the approved form and state the following—
 - (a) a brief description of the project and the area under consideration;
 - (b) where the submitted Environmental Impact Statement or Assessment may be inspected;
 - (c) where copies of, or extracts from, the submitted Environmental Impact Statement or Assessment may be obtained;
 - (d) that anyone may make a submission to the Director-General about the submitted Environmental Impact Statement or Assessment;
 - (e) the manner in which the submissions and comments are to be made; and
 - (f) the period during which submissions are to be received.
- (4) In accordance with prescribed regulations, the Minister may require a developer to conduct a town meeting with respect to the project of the developer.

13. Decision on Environmental Impact Statements or Assessments.

- (1) Upon review of an Environmental Impact Statement or Assessment prepared in accordance with sections 9 or 10, the Department may —
 - (a) approve the Statement or Assessment with no conditions;
 - (b) approve the Statement or Assessment subject to such conditions deemed necessary; or
 - (c) refuse to approve the Statement or Assessment and make such recommendations as considered necessary,and in any event, the Department shall notify the developer of such decision.
- (2) A condition imposed pursuant to subsection (1)(b) may include the requirement to amend the Environmental Impact Statement or Assessment.

14. Certificate of Environmental Compliance.

- (1) Where an Environmental Impact Statement or Assessment is approved, the Department shall, with the written approval of the Director-General and subject to such terms and conditions as the Department may impose, issue a certificate in the prescribed form indicating approval of

compliance (hereinafter referred to as a “Certificate of Environmental Compliance”).

- (2) The Department shall publish the Certificate of Environmental Compliance on the official website of the Ministry of the Environment.
- (3) Where development does not occur within two years from the date of issue, a Certificate of Environmental Compliance is void and the person to whom such Certificate applied shall resubmit a new application in respect of the project.
- (4) A project for which a Certificate of Environmental Compliance has been granted will be reviewed every two years until completion to assess the progress of the project and determine whether an extension shall be granted.
- (5) Subsection (3) shall not apply where an extension has been granted.

15. Ministerial review of refusal to approve submission.

- (1) Where the Department refuses to approve a submitted Environmental Statement or Assessment, a person may apply in writing to the Minister for review of the decision.
- (2) The Minister shall consider the written submission within thirty days of receipt thereof and he may —
 - (a) extend the time for consideration of such submission and consult the Environmental Advisory Board in respect thereof; and
 - (b) approve or refuse the submission and state his reasons for so doing.

16. Developer may resubmit Environmental Impact Statement or Assessment.

- (1) This section shall apply where the Department refuses to approve an Environmental Impact Statement or Assessment under section 13.
- (2) Where the Department refuses to approve an Environmental Impact Statement or Assessment and the developer—
 - (a) does not apply, under section 15, to the Minister to review the decision; or
 - (b) applies, under section 15, to the Minister to review the decision and the Minister confirms the decision,the developer may resubmit, with changes, the Environmental Impact Statement or Assessment to the Department within—
 - (i) three months after the notice of the decision is given to the developer under section 13 or 15; or

- (ii) such period agreed upon where the Department and the developer have, within the three months, agreed to a different period.
- (3) The developer may resubmit the Environmental Impact Statement or Assessment under subsection (2) only once.
- (4) The resubmitted Environmental Impact Statement or Assessment must be accompanied by the prescribed fee.
- (5) Sections 13-16 shall apply *mutatis mutandis* to a resubmitted Environmental Impact Statement or Assessment.

17. Changes to project.

- (1) Where changes occur to a project or in ownership of a project, the Certificate of Environmental Compliance is void and an new Environmental Impact Assessment shall be submitted that reflects such changes, along with the prescribed fee.
- (2) When the developer who has been issued a Certificate of Environmental Compliance in respect of a project ceases to be responsible for the implementation of such project, the developer must surrender the Certificate of Environmental Compliance to the Department.
- (3) Sections 13-16 shall apply *mutatis mutandis* in respect to a resubmitted Environmental Impact Assessment.

18. Appeal.

A person to whom this Part applies may appeal any decision made by the Department or the Minister to a court of appropriate jurisdiction in the Commonwealth of The Bahamas.

ENVIRONMENTAL PROTECTION

19. General duty to protect the environment.

- (1) No person shall authorize or permit any environmental activity that will negatively impact the environment unless in accordance with this Act.
- (2) For the purposes of protecting the environment, social, economic and sustainable development, a person must not carry out any unusual activity that causes or is likely to cause environmental harm.

20. Duty of Department to promote 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.

PART IV - ENVIRONMENTAL INCIDENTS AND EMERGENCIES

21. Duty to notify of environmental harm.

- (1) Without prejudice to the Disaster Preparedness and Response Act (Ch. 34A), where a person is responsible for, contributes to or becomes aware of —
 - (a) an environmental incident;
 - (b) the potential for an environmental incident; or
 - (c) the discharge into the environment of any contaminant or pollutant in a level in excess than that permitted,that person shall immediately notify the Department.
- (2) Once the Department receives notification pursuant to subsection (1), the Department shall notify —
 - (a) the person who is responsible for the incident of the emergency reported;
 - (b) any person or category of persons who may directly or indirectly be adversely affected by the incident;
 - (c) any relevant department, agency or local government body of the incident.
- (3) The Department may give directions as to the measures to be taken —
 - (a) to protect the environment, human health and safety;
 - (b) to prevent, repair, mitigate or reduce the adverse effects of the incident,and the Department may impose such conditions as it considers necessary, including, but not limited to, requiring the person responsible to take all reasonable measures consistent with the protection of the environment and human health and safety to prevent, repair, mitigate or reduce the adverse effects of the incident.
- (4) Pursuant to subsection (1)(c), the levels of contaminants and pollutants permitted shall be prescribed in regulations.

22. When an environmental protection order may be issued.

Where a person fails to comply with a directive of the Department, the Director-General may issue an order to impose a requirement upon a person which is relevant to an environmental matter (hereinafter referred to as an “environmental protection order”) to secure compliance by the person with respect to —

- (a) the general environmental duty as outlined at section 19 or an environmental protection policy;
- (b) a condition of development approval;
- (c) a prescribed condition for carrying out mining activity;
- (d) a condition of a site management plan;
- (e) an environmental audit;
- (f) a rehabilitation direction;
- (g) a regulation;
- (h) any directive given;
- (i) noise standards, as may be prescribed;
- (j) deposition of prescribed water contaminants in waters;
- (k) pollution from any release from boats into coastal waters;
- (l) air contamination;
- (m) fuel standards; and
- (n) such other matters that the Department deems necessary.

23. Non-compliance with environmental protection order.

- (1) A person who fails to comply with an order issued under section 22 commits an offence and is liable to a fine of one hundred and twenty thousand dollars.
- (2) The Department is entitled to recoup the costs incurred to rectify damage to the environment where a person fails to comply with an order issued by the Department pursuant to section 22.

24. Liability for environmental incidents or emergency.

- (1) A person who owns or has the charge, management or control of a substance or activity that is the cause of an environmental incident or emergency shall be strictly liable without regard to fault, except where it is demonstrated and proven to the satisfaction of the Minister that the environmental damage arose from a major environmental incident caused by —
 - (a) force majeure;
 - (b) an act of terrorism; or

- (c) an act of belligerency against The Bahamas.
- (2) Subject to subsection (1), a person who owns or has the charge, management or control of a substance or activity that is the cause of an environmental incident or emergency shall be liable —
 - (a) for any adverse effects or damage associated with human health and safety and personal property as a result of the incident;
 - (b) for restoring any part of the environment damaged by or during the incident; and
 - (c) for all reasonable costs and expenses incurred by the Minister and any other government agency in respect of measures taken to prevent, repair, remedy or minimize the damage resulting from the incident.

PART V – ENVIRONMENTAL INFORMATION, RESEARCH, EDUCATION AND TRAINING

25. Information gathering.

The Department —

- (a) shall create and maintain a database —
 - (i) to assist in the formulation of policies; and
 - (ii) to provide information for reporting on the state of the environment;
- (b) may, for the purpose of enforcing any provision under this Act, request any person to provide information that may be in the possession of that person or to which that person may reasonably be expected to have access.

26. Scientific technical and management research.

- (1) The Minister shall encourage, develop and support scientific, technical and management research on environmental issues and topics, including, in particular —
 - (a) ecological processes;
 - (b) research on threatened, endangered or invasive species;
 - (c) development of measures for the management, recovery, and protection of protected areas and species of their habitats;
 - (d) assessments of the effectiveness of measures taken to implement management and recovery plans;
 - (e) monitoring programs; and

- (f) assessments of the archaeological, historical and cultural heritage of areas of The Bahamas.
- (2) The Minister 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 organizations.
- (3) The Minister shall make regulations for the control and monitoring of scientific research pertaining to the environment in The Bahamas, to ensure that such research, when it involves the collection of samples or field investigations, is conducted in a coordinated manner and in a manner that does not place an undue burden upon and adequately protects the environment of The Bahamas.
- (4) In making regulations pursuant to subsection (3), the Minister shall take into account the priorities and goals of the Department of Agriculture and the Department of Marine Resources for environmental research in The Bahamas.
- (5) Any person who carries out scientific research pertaining to the environment in The Bahamas that involves collections of samples or field investigation shall prepare and submit to the Minister a report on the findings of the research conducted.

27. Public information, education and training.

The directors appointed under this Act shall collaborate and develop programmes for public information, education, and training —

- (a) to promote basic environmental understanding and awareness, as well as the skills necessary for effective environmental assessment and management;
- (b) to promote awareness of and compliance with the environmental impact assessment program as well as other environmental standards, guidelines, and regulations; and
- (c) to promote knowledge of national and international developments in environmental science and technology, and to develop effective environmental curricula for schools in The Bahamas.

PART VI – INVESTIGATION AND ENFORCEMENT

INVESTIGATION

28. Entry on premises by authorized persons.

- (1) The Director-General or any person authorized in writing by the Minister 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 has been contravened;
 - (b) ascertaining whether or not circumstances exist which would authorize or require the Director-General to take action, execute any work under this Act or implement any guidelines or regulations made thereunder;
 - (c) taking any action, performing any function or executing any thing authorized or required to be done under this Act or any guidelines or regulations made thereunder; or
 - (d) generally examining and inspecting the premises.
- (2) Any person claiming the right to enter any premises must produce the document authorizing him to do so.
- (3) Any officer or person authorized 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.

29. Detention.

- (1) Where, during the course of an inspection or a search, an official of the Department has reasonable grounds to believe that a provision of this Act or the regulations has been contravened, such official may seize and detain anything —
 - (a) by means of or in relation to which the official reasonably believes the contravention occurred; or
 - (b) that the official reasonably believes will afford evidence of the contravention.
- (2) An official of the Department shall not seize anything under subsection (1) unless the thing is required as evidence or for purposes of analysis or the official is of the opinion that the seizure is necessary in the interest of the public.

- (3) An official who has seized and detained a thing under subsection (1) shall, at the time of seizure —
 - (a) provide a written document of the things confiscated;
 - (b) advise the person in whose possession it was;
 - (c) state the provision of this Act or the regulations that the official believes has been contravened.
- (4) Anything seized under subsection (1) other than a ship, aircraft, platform or other structure, shall not be detained —
 - (a) after the owner of the thing or the person in whose possession it was in at the time of the seizure applies in writing to the Department, and the Department is satisfied that it is not necessary in the public interest to continue to detain the thing or that it is not required as evidence or for purposes of analysis; or
 - (b) after the expiry of ninety days after the day of seizure, unless before that time —
 - (i) proceedings have been instituted in respect of the contravention in relation to which the thing was seized, in which case it may be detained until the proceedings are finally concluded; or
 - (ii) the Director-General has served or made reasonable efforts to serve notice of an application for an order extending the time during which the thing may be detained.

30. Director-General may issue order.

- (1) Where the Director-General is in receipt of a credible report and is of the opinion that a contaminant or pollutant is adding to, emitting or discharging into the environment any contaminant or pollutant that constitutes, or the amount, concentration or level of which constitutes an immediate danger to life or the health and safety of any persons or to property, the Director-General may issue an appropriate order directed to the person responsible for the source of such contaminant or pollutant to discontinue adding to, emitting or discharging such contaminant or pollutant, and such person shall comply with the order of the Director-General.
- (2) An order issued under subsection (1) may not be issued for a period of more than six months.
- (3) Any person subject to an order issued under subsection (1) may appeal that order to the Supreme Court, but must comply with that order until authorized otherwise by an order of the court or until the order is removed by the Director-General.

31. Voluntary reports.

- (1) 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 Department, 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.
- (2) Where a person has knowledge of the commission or reasonable likelihood of an offence under this Act, but is not required to report the matter under this Act, the person may report any information relating to the offence or likely offence to the Department.
- (3) 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 their identity without the expressed permission of the said person;
- (4) 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 has made a report under subsection (1) or the employee, acting in good faith and on the basis of a reasonable belief —
 - (a) has refused or stated an intention of refusing to do anything that is an offence under this Act; or
 - (b) has done or stated an intention of doing anything that is required to be done by or under this Act.

ENFORCEMENT

32. Employer's liability.

A person may be convicted of an offence under this Act where it is established that the offence was committed by the person's employee acting in the course of his employment, whether or not the employee has been identified or was prosecuted for the offence.

33. Liability of corporate officers.

Where a Corporation commits an offence under this Act, any officer, director, manager, or agent of the corporation who knowingly or negligently directed, authorized, asserted to, acquiesced in or participated in the commission of the

offence is a party to and guilty of the offence, and is liable to the punishment for the offence, whether or not the Corporation has been prosecuted or convicted for the offence.

34. Orders of court.

- (1) Where an offender has been convicted of an offence under this Act, in addition to any other punishment that may be imposed under this Act, the court may, having regard to the nature of the offence and the circumstances surrounding its commission, make an order having any or all of the following effects —
 - (a) prohibiting the offender from doing any act or engaging in any activity that may result in the continuation or repetition of the offence;
 - (b) directing the offender to take any action that the court considers appropriate to remedy or avoid any harm to the environment that results or may result from the act or omission that constituted the offence;
 - (c) directing the offender to prepare and implement actions to prevent pollution, including an environmental incident management plan or an environmental management system;
 - (d) directing the offender to carry out environmental monitoring in the manner established by the Minister or directing the offender to pay, in the manner prescribed by the court, an amount for the purposes of environmental monitoring;
 - (e) directing the offender to have an environmental audit conducted by a person of a class and at the times specified by the court and directing the offender to remedy any deficiencies revealed during the audit;
 - (f) directing the offender to publish, in the manner directed by the court, the facts relating to the conviction;
 - (g) directing the offender to notify, at the offender's own cost and in the manner directed by the court, any person aggrieved or affected by the offender's conduct of the facts relating to the conviction;
 - (h) directing the offender to post any bond or pay any amount of money into court that will ensure compliance with any order made under this section;
 - (i) directing the offender to compensate the Minister, in whole or in part, for the cost of any remedial or preventive action taken by or caused to be taken on behalf of the Minister as a result of the act or omission that constituted the offence;

- (j) directing the offender to perform community service, subject to any reasonable conditions that may be imposed in the order;
 - (k) directing the offender to pay, in the manner prescribed by the court, an amount for the purposes of conducting research into the ecological use and disposal of the substance;
 - (l) directing the offender to pay, in the manner prescribed by the court, an amount to environmental, health or other groups to assist in their work in the community where the offence was committed;
 - (m) directing the offender to pay, in the manner prescribed by the court, an amount to an educational institution for scholarships for students enrolled in environmental studies; and
 - (n) requiring the offender to comply with any other reasonable conditions that the court considers appropriate and just in the circumstances for securing the offender's good conduct and for preventing the offender from repeating the same offence or committing other offences.
- (2) Where an offender fails to comply with an order made under paragraph (1)(f) directing the publication of the facts relating to the offence, the Minister may publish the facts in compliance with the order and recover the costs of publication from the offender.
- (3) Where the court makes an order under paragraph (1)(i) directing an offender to pay costs or the Minister incurs publication costs under subsection (2), the costs constitute a debt due to the Government of The Bahamas and may be recovered in any court of competent jurisdiction.

35. Institution of proceedings.

The Attorney-General may institute proceedings against any person for an offence against and for the recovery of any fine under this Act.

PART VII – MISCELLANEOUS

RELATIONSHIP WITH OTHER LAWS RELATING TO THE ENVIRONMENT

36. Pre-requisites for development approval under Planning and Subdivision Act.

The Director of Planning under the Planning and Subdivision Act shall not approve an application for development under that Act unless —

- (a) a person making application thereunder complies with this Act; and

- (b) a Certificate of Environmental Compliance has been granted by the Director-General under section 14 of this Act.

37. Provisions of this Act to prevail.

Where there is a conflict between any provision of this Act and any provision of any other law, the provision of this Act shall prevail and that law shall be read and construed accordingly.

GENERAL

38. Confidentiality.

- (1) Subject to subsection (2), the Department shall not publish, provide or otherwise disclose information that in the view of the Department would be commercially confidential where disclosure of such information —
 - (a) in the view of the Department, is not necessary for effectual or substantive performance of the Department's functions under this Act or any law that affects the operation of this section; and
 - (b) does not serve the interest of the public.
- (2) Nothing in this Act shall limit the Department's duty to provide information to the court.
- (3) All members, officers, employees and agents of the Department must comply with the confidentiality provisions under their terms of employment and a person who contravenes such provisions commits an offence and is liable on summary conviction to a fine not exceeding twenty-five thousand dollars or to a term of imprisonment not exceeding two years or to both such fine and imprisonment.

39. Bonding provisions.

The Minister shall require every developer to enter into a bond with one or more sureties for —

- (a) the purpose of ensuring that the environment can be placed in its previous state where the developer defaults; and
- (b) discharging any personal injury or damage to property to a like amount.

40. Offences and penalties.

- (1) No person shall deposit in, add to, emit or discharge into the environment or permit the deposit, emission or discharge into the environment of any contaminant, pollutant or solid or liquid waste from any source that causes, or is likely to cause, environmental harm unless the person demonstrates that he has taken all reasonable and practicable measures to prevent or minimise the harm.
- (2) A person who contravenes subsection (1) commits an offence and is liable to a fine not exceeding one hundred and twenty thousand dollars or to imprisonment for a term not exceeding two years or to both such fine and imprisonment and in the case of a continuing offence to a further fine of five thousand dollars for every day during which the offence continues.
- (3) A person who —
 - (a) knowingly or negligently provides false information to the Department; or
 - (b) contravenes any provision of this Act or of the regulations for which a penalty is not specified,commits an offence and is liable to a fine not exceeding one hundred and twenty thousand dollars or to imprisonment for a term not exceeding two years or to both such fine and imprisonment.
- (4) A company that contravenes any of the provisions of this Act or any regulations made thereunder commits an offence and where there is no specific penalty provided, is liable on conviction —
 - (a) to a fine not exceeding fifteen million dollars; or
 - (b) to imprisonment for a term not exceeding twenty five years; or
 - (c) to both such fine and imprisonment,and in the case of a continuing offence, to a further fine of five thousand dollars for every day during which the offence continues and in the case of a second or subsequent offence, to a further fine not exceeding fifteen million dollars.

41. Compensation for loss of property.

Where an offender has been convicted of an offence under this Act, the court may, at the time sentence is imposed and on the application of the person aggrieved, order the offender to pay to that person an amount by way of satisfaction or compensation for loss or damage to property suffered by that person as a result of the commission of the offence.

42. Regulations.

- (1) The Minister may make regulations for giving effect to and carrying out the purpose, intention and provisions of this Act and without prejudice to the generality of the foregoing, such regulations may provide for —
 - (a) protection and monitoring of water resources and the prevention and control of water pollution;
 - (b) the setting of standards for, and the regulation and control of public and private liquid waste disposal systems and works including sanitary facilities;
 - (c) prevention and control of radiation and the release, transport and disposal of toxic, contaminated or hazardous substances and waste;
 - (d) the prevention and control of pollution or contamination of the air and land;
 - (e) control of the use of land for the deposit of pollutants, contaminants and wastes therein;
 - (f) the use, regulation and control of beaches and areas of the foreshore both above and below high water mark;
 - (g) the preparation and implementation of actions to prevent pollution or the preparation and implementation of environmental management systems;
 - (h) the content, preparation and publication of corporate environmental reports;
 - (i) any environmental policy made under this Act;
 - (j) conserving and protecting the environment, fulfilling national obligations under Multilateral Environmental Agreements, achieving environmental quality goals and providing methods of financing environmental programs;
 - (k) the prevention and control of greenhouse gas emissions, including the control of combustion processes, and the prevention and control of emissions of ozone depleting substances;
 - (l) control and monitoring of scientific research pertaining to the environment in The Bahamas;
 - (m) the prescribing of any application fee or development charge to be paid under this Act;
 - (n) the specification of fees or charges or a system for fixing deposit fees or charges to be paid for any license, certificate, service rendered or any other matter under this Act;

- (o) the prescribing of measures to be taken with respect to environmental incident and emergency prevention and preparedness;
 - (p) 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;
 - (q) compensation for damage or destruction of any property in the exercise of any powers conferred by this Act;
 - (r) a program for efficient, coordinated and effective action to prevent and minimize adverse environmental impacts from environmental incidents and emergencies in The Bahamas;
 - (s) the developing of codes and standards, including guidelines for the use and procurement of products, goods and services to encourage consumers to consider sustainable use of waste reduction in their purchasing decisions;
 - (t) the establishing of procedures for the issue, variation, suspension or revocation or trading of licenses or certificate in respect of any activity contemplated by this Act;
 - (u) the prescribing of forms for the purposes of this Act;
 - (v) appropriate exemptions and special defenses in respect of any requirements and proceedings under this Act or the regulations;
 - (w) appeals to a court against any act or decision of any person performed or made under this Act or the regulations;
 - (x) their application throughout the Commonwealth of The Bahamas or such part or parts thereof as may be prescribed by the Minister therein or from time to time;
 - (y) the reporting of, response actions and compensation for environmental incidents; and
 - (z) 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.
- (2) Regulations made pursuant to subsection (1) shall be made —
- (a) in respect of New Providence, no later than two years from the date of the commencement of this Act; and
 - (b) for each island of The Bahamas, no later than five years from the date of the commencement of this Act.

43. Protection of Minister and officers from liability.

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

44. Act binds Crown.

This Act binds the Crown.

SCHEDULE

PART A

(section 10(1))

1. Infrastructure projects

An infrastructure project is a project that involves—

- (a) a port or harbour
- (b) a subdivision exceeding 100 lots
- (c) reclamation
- (d) a dredging activity (marina or inland harbour)
- (e) a highway
- (f) a bridge
- (g) an airport
- (h) a hospital
- (i) a water or electrical distribution system

2. Service projects

A service project is one that involves —

- (a) a funeral parlour or similar facility
- (b) an abattoir
- (c) a water treatment facility
- (d) a power generation plant (including the use of biomass and other renewable sources)
- (e) a hotel exceeding 100 rooms
- (f) an eco resort
- (g) gas stations
- (h) liquified petroleum facilities

3. Processing operations

A processing operation is a plant operation that involves —

- (a) the release, use or keeping of genetically modified organisms, stem cell (research labs)
- (b) food processing
- (c) distillery, brewery or beverage manufacturing
- (d) petroleum processing or petrochemical
- (e) paint manufacturing
- (f) a pharmaceutical manufacturing

4. Mining or mineral projects

A mining project is one that involves —

- (a) aragonite;
- (b) salt;

- (c) aggregates;
- (d) downstream petroleum activities; or
- (e) any other minerals

5. Agriculture and fisheries projects

An agriculture and fisheries project is one that involves —

- (a) an agricultural and fisheries development greater than 500 acres
- (b) a livestock husbandry and production
- (c) a agriculture or aquaculture facility

6. Wood processing and manufacturing (forestry) projects

A forestry project is one that involves —

- (a) a saw milling/wood processing plant
- (b) harvesting of less than one thousand acres (small scale operation)
- (b) harvesting of timber or non-timber, forest produce from an area or forest produced from an area of one thousand acres or greater (large scale operation)

7. Waste handling projects

A waste handling project is one that involves —

- (a) a facility which stores, treats or disposes of waste
- (b) a landfill site
- (c) an incinerator

PART B

(section 11(1))

1. Garden huts other than garages, in approved subdivisions and not used for human habitation or for the conduct of any activity of a commercial nature.
2. Side and rear boundary walls and fences not exceeding 6 feet 0 inches in height.
3. Agricultural out buildings not used for human habitation and enclosures and works on agricultural holdings that are requisite for, or incidental to, the use of land for the purposes of agriculture but not including the subdivision of land for agricultural purposes.
4. Repairs to roads, bridges and harbour installations that does not involve a change to the major structure of the road, bridge or harbour installation.
5. Repairs to services and public infrastructures.

6. Internal alterations to buildings not involving changes to the basic structure or facade of the buildings.
7. Creation of parks.
8. Construction of buildings for residential use.

OBJECTS AND REASONS

This Bill seeks to establish the Ministry of the Environment, to make the Minister responsible for the Environment a corporation sole and for connected matters.

Part I of the Bill seeks to provide for matters that are preliminary in nature, and in that connection, clauses 1-3 of the Bill seeks to provide for the short title and commencement, the interpretation of certain terms used in the Bill and the objectives of the Bill.

Part II of the Bill seeks to provide for the Department of Environmental Planning and Protection, and in that connection —

- (a) clause 4 of the Bill seeks to provide for the establishment of the Department of Environmental Planning and Protection, which shall have overall responsibility for regulating matters relating to environmental planning policies and protection;
- (b) clause 5 of the Bill seeks to provide for the functions of the Department;
- (c) clause 6 of the Bill seeks to provide for the appointment of directors who shall have the responsibility of administering the Act

Part III of the Bill seeks to provide for the Environmental Planning and Protection, and in that connection —

- (a) clause 7 of the Bill seeks to provide for environmental development plans, which shall be developed by the Department in consultation with any other relevant Ministry or body for the sustainable use and management of water resources and the management of natural resources and such plans are to be laid in the House of Assembly at least once every three years;
- (b) clause 8 of the Bill seeks to provide for the purposes of an Environmental Impact Statement or Assessment, which, amongst other things, shall be to assess the potential adverse and beneficial environmental, economic and social impact of a project, to consider feasible alternative ways to carry out the project and to prepare or propose an environmental management plan for the project;
- (c) clauses 9-11 of the Bill seek to provide for those instances when an Environmental Impact Statement is required, when an Environmental Impact Assessment is required and when neither an Environmental Impact Statement or Assessment will be required;

- (d) clause 12 of the Bill seeks to provide for the Department to give written notice of the Environmental Impact Statement or Assessment to affected or interested persons of the project or to any other person determined by the Director-General;
- (e) clause 13 of the Bill seeks to provide for the Department to approve an Environmental Impact Statement or Assessment with no conditions, approve and Environmental Impact Statement or Assessment subject to conditions or to refuse the approval of an Environmental Impact Statement or Assessment and to make recommendations it considers necessary;
- (f) clause 14 of the Bill seeks to provide for the issuance of a Certificate of Environmental Compliance where an Environmental Impact Statement or Assessment has been approved
- (g) clause 15 of the Bill seeks to provide for a person to apply in writing to the Minister for review of the refusal of a submitted Environmental Impact Statement or Assessment;
- (h) clause 16 of the Bill seeks to provide for the developer to resubmit and Environmental Impact Statement or Assessment;
- (i) clause 17 of the Bill seeks to provide that where changes occur to a project or in ownership of that project the Certificate of Environmental Compliance is void and that were the developer of a project ceases to be responsible for a project the Certificate of Environmental Compliance must be surrendered to the Department;
- (j) clause 18 of the Bill seeks to provide for a person to appeal any decision made by the Court or the Minister to a court of appropriate jurisdiction;
- (k) clause 19 of the Bill seeks to provide for a general duty to protect the environment and social, economic and sustainable activity;
- (k) clause 20 of the Bill seeks to provide for the duty of the Department to promote best environmental practices.

Part IV of the Bill seeks to provide for Environmental Incidents and Emergencies, and in that connection –

- (a) clause 21 of the Bill seeks to provide for the duty to notify of environmental harm in respect of environmental incidents, the potential for an environmental incident or the discharge into the environment of any containment or pollutant in a level in excess than that permitted;

- (b) clause 22 of the Bill seeks to provide for the Director-General to issue an environmental protection order in order to secure compliance by a person of a directive issued by the Department;
- (c) clause 23 of the Bill seeks to provide for the penalties for non-compliance with an environmental protection order;
- (d) clause 24 of the Bill seeks to provide for the liability of a person who owns or has the charge, management or control of a substance or activity that is the cause of an environmental incident or emergency.

Part V of the Bill seeks to provide for Environmental Information, Research, Education and Training, and in that connection –

- (a) clause 25 of the Bill seeks to provide for information gathering by the director with responsibility for planning;
- (b) clause 26 of the Bill seeks to provide for the Minister to encourage, develop and support scientific, technical and management research on environmental issues and topics;
- (c) clause 27 of the Bill seeks to provide for the directors appointed under the Act to collaborate and develop programmes for public information, education and training.

Part VI of the Bill seeks to provide for Investigation and Enforcement, and in that connection –

- (a) clause 28 of the Bill seeks to provide for the Director-General or persons authorised by the Minister in writing to enter premises for purposes including ascertaining whether or not circumstances exist which would authorise or require the Director-General to take action, execute any work under the Act or implement any guidelines or regulations made thereunder;
- (b) clause 29 of the Bill seeks to provide for the detention of anything found during the course of an inspection or search, which will afford evidence of the contravention or is related to or the means by which the contravention occurred;
- (c) clause 30 of the Bill seeks to provide for the Director-General to issue an order where he is in receipt of a credible report and is of the opinion that a contaminant or pollutant is adding to, emitting or discharging into the environment in a level that constitutes an immediate danger to life or the health of any person or property;

- (d) clause 31 of the Bill seeks to provide for the making of voluntary reports to the Department by a person who has knowledge of the commission or reasonable likelihood of an offence under the Act;
- (e) clause 32 of the Bill seeks to provide for the liability of the employer where it is established that an offence was committed by his employee in the course of his employment;
- (f) clause 33 of the Bill seeks to provide for the liability of corporate officers in respect of an offence committed by a corporation;
- (g) clause 34 of the Bill seeks to provide for the court to make orders directing the offender to do a particular thing or prohibiting him from doing a particular thing;
- (h) clause 35 of the Bill seeks to provide for the Attorney- General to institute proceedings to recover a fine under this Act.

Part VII of the Bill seeks to provide for the miscellaneous provisions, and in that connection –

- (a) clause 36 of the Bill seeks to provide for the pre-requisites for development approval under the Planning and Subdivision Act;
- (b) clause 37 of the Bill seeks to provide for the provisions of this Act to prevail where there is a conflict between the provisions of this Act and any other Act;
- (c) clause 38 of the Bill seeks to provide for the confidentiality provisions with respect to the Department;
- (d) clause 39 of the Bill seeks to provide that the Minister shall require every developer to enter into a bond with one or more sureties for the purposes of ensuring that the environment can be placed in its previous state where the developer defaults and to discharge any personal injury or damage to property to a like amount;
- (e) clause 40 of the Bill seeks to provide for provisions with respect to the offences and penalties;
- (f) clause 41 of the Bill seeks to provide for the court to order the offender to compensate the person aggrieved for the loss of property;
- (g) clause 42 of the Bill seeks to provide for the Minister to make regulations for giving effect to and carrying out the purpose intention and provisions of the Act;
- (d) clause 43 of the Bill seeks to provide for the protection of the Minister and officers from liability;

- (e) clause 41 of the Bill seeks to provide for the Act to bind the Crown.

The *Schedule* to the Bill is divided into two parts –

- (a) Part A seeks to provide for those projects that require an Environmental Impact Assessment; and
- (b) Part B seeks to provide for those projects for which neither an Environmental Impact Statement or Environmental Impact Assessment is required.