



**BERMUDA
1950 : 18**

AMENITIES (CONTROL OF RUINOUS STRUCTURES) ACT 1950

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[4 April 1950]

[*preamble and words of enactment omitted*]

Interpretation

- 1 (1) In this Act—
- "clearance order" has the meaning given in section 5;
- "Department" means the Department of Works and Engineering;
- "estate road" has the meaning given in section 2 of the Motor Car Act 1951 [*title 21 item 4*];
- "the Minister" means the Minister charged with responsibility for Works and Engineering;

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"Municipality" means the Corporation of Hamilton or the Corporation of St. George's; and "municipal" shall be construed accordingly;

"premises" includes messuages, buildings and lands;

"public place" means any highway, estate road or wharf, any foreshore or beach, and any open space belonging to or under the control of the Government of Bermuda;

"ruinous structure" means any building, fencing, erection or other structure—

- (i) which is ruinous to such an extent that it is no longer capable of serving effectually its original purpose; or
- (ii) which is in ruins; and in either case "ruinous structure" shall be construed as extending to any materials of the structure which have become displaced;

"screening order" has the meaning given in section 5.

(2) In this Act any reference to the execution of any work shall be construed as including a reference to causing or procuring the execution of that work.

Act extends to municipal areas

2 (1) The provisions of this Act shall have effect throughout Bermuda, and accordingly no provision in any ordinance made under the Municipalities Act 1923 [*title 4 item 1*], whether made before or after the commencement of this Act, shall have any effect in so far as such provision is at variance with any of the provisions of this Act.

(2) Notwithstanding anything in the succeeding provisions of this Act, each Municipality shall be charged with the execution of the provisions of this Act with respect to ruinous structures situated on premises within its municipal area; and accordingly where in the succeeding provisions of this Act there occurs any reference to the Minister as the authority for the exercise of any power or for the carrying out of any duty, then in any such case such reference shall, where the power is to be exercised or, as the case may be, the duty is to be carried out, in relation to a ruinous structure situated on premises within a municipal area, be construed as a reference to the Municipality concerned.

Prevention of unsightly ruinous structures

3 No person shall cause or allow a ruinous structure to be or to remain on any premises owned or occupied by him where the structure is unsightly and is conspicuous to a material degree in the view of persons in any public place in the vicinity.

Minister may apply Act by order

4 If it appears to the Minister that a ruinous structure, ordinarily visible to persons in any public place in the vicinity, is unsightly and conspicuous in the view of persons in that public place, then the Minister may by an order declare the ruinous structure to be an unsightly structure; and the succeeding provisions of this Act shall have effect accordingly.

Minster may require work to be done

5 (1) Where the Minister has declared a ruinous structure to be an unsightly structure he may, by order served on the owner or occupier of the premises on which the ruinous structure is situated, require the owner or occupier—

- (a) to execute such work including fencing, hedging, covering, planting or otherwise as the Minister thinks necessary for the effectual screening of the ruinous structure from the view of persons in any public place in the vicinity; or
- (b) to remove, destroy or otherwise dispose of anything forming part of the ruinous structure, or any displaced materials, to such extent and in such manner and subject to such conditions as the Minister thinks expedient for remedying the unsightliness of the ruinous structure:

Provided that in the case of a ruinous structure of stone or brick the Minister, before making any order under this subsection, shall consult with the Bermuda National Trust and the Minister shall pay due regard to any representations made by the Bermuda National Trust.

(2) Any order made by the Minister in respect of requirements mentioned in subsection (1)(a) is hereinafter in this Act referred to as a screening order, and, in respect of requirements mentioned in subsection (1)(b) as a clearance order.

(3) An order made by the Minister under subsection (1)—

- (a) shall, if it is a screening order, specify the work to be executed;
- (b) shall, if it is a clearance order, specify the nature of the things or materials to be removed, destroyed or otherwise disposed of, and the extent to which, or conditions under which, such removal, destruction or disposal is to be carried out; and
- (c) in either such case—

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- (i) shall state the time (which shall not be less than twenty-eight days) within which the work is to be executed or, as the case may be, the removal, destruction or disposal is to be carried out; and
- (ii) shall inform the person upon whom the order is served of his right of appeal under section 13, and shall also state the time within which an appeal may be brought as provided in that section.

Service of order

6 A screening order or a clearance order may be served on the owner or occupier of any premises on which is situated a ruinous building—

- (a) by delivering the order to him; or
- (b) by leaving the order, or by sending the order in a prepaid letter addressed to him, at his usual or last known residence ; or
- (c) where it is not practicable after reasonable enquiry to ascertain the name and address of the owner or occupier, by addressing the order to the person concerned by the description of "owner" or "occupier" of the premises (naming them) to which the order relates, and by delivering it to some person on the premises to whom it can be delivered, or, if there is no person on the premises to whom it can be delivered, by affixing the order, or a copy thereof, to some conspicuous part of the premises.

Failure to comply

7 Any person who, being a person on whom a screening order or a clearance order has been duly served in the manner provided in section 6, fails to comply with any requirement or condition specified in the order within the time specified therein, unless he satisfies the court before which he is charged—

- (a) that he used all due diligence to comply with the order; or
- (b) that, where service of the order was effected in the manner provided in section 6(a) or (b), he had not had notice of the order,

commits an offence against this Act:

Punishment on summary conviction: a fine of \$420 and in the case of a continuing offence a further fine of \$84 for every day during which the offence continues.

Provided that the court by which the person is convicted of the original offence may specify a reasonable period to run from the date of conviction within which the convicted person is to comply with any directions given by the court; and, where a court has specified such a period, no daily penalty shall be imposed in respect of any day before the expiration of the period.

Default power in relation to section 7

8 Without prejudice to section 7, where any requirement in a screening order or in a clearance order is not complied with within the time specified therein, the Minister may himself execute any or all of the work specified in the order; and any expenses incurred by the Minister in so doing shall, without limit of amount, be recoverable by the Minister from the person on whom the order was served before a court of summary jurisdiction in the manner provided in the Magistrates Act 1948 [*title 8 item 15*], for the recovery of a debt or liquidated demand.

9 [*repealed by 1987:24*]

Wilful obstruction

10 Any person who wilfully obstructs any other person acting in the execution of any provision of this Act commits an offence against this Act:

Punishment on summary conviction: a fine of \$168.

Summary prosecution

11 Offences against this Act shall be prosecuted before a court of summary jurisdiction.

Who may bring proceedings

12 (1) Proceedings in respect of an offence against this Act shall not, without the written consent of the Director of Public Prosecutions, be instituted except by or on behalf of the Minister.

(2) A prosecution for an offence against this Act may be conducted before a court of summary jurisdiction by any officer of the Department.

[*Section 12 subsection (1) amended by 1999:8 s.2 & Sch 1 effective 1 April 1999*]

Appeals

13 (1) A person on whom a screening order or a clearance order has been served may appeal to a court of summary jurisdiction on any of the following grounds which are appropriate in the circumstances of the particular case, —

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- (a) that there is some material informality, defect or error in, or in connection with, the order; or
- (b) where the order is a screening order, that the Minister has refused unreasonably to approve the execution of

alternative work, or that the work required by the order to be executed is otherwise unreasonable in character or extent or is unnecessary; or

- (c) where the order is a clearance order, that the Minister has refused unreasonably to approve the execution of work on or in connection with the ruinous structure in place of any requirement in the order, or that any requirement in the order is unreasonable in character or extent, or is unnecessary, or that any condition or term in the order is unreasonable or unnecessary; or
- (d) that the time within which work is to be executed, or as the case may be, the removal, destruction or other disposal is to be carried out, is not reasonably sufficient for the purpose;
- (e) *[deleted by 1987:24]*
- (f) that the order might lawfully have been served on the occupier of the premises in question instead of on the owner, or upon the owner instead of the occupier, and that it would have been equitable for it to have been so served.

(2) Where the grounds upon which an appeal under this section is brought include a ground specified in subsection (1)(f), the appellant shall serve a copy of his notice of appeal on the other person referred to, and in the case of an appeal on any ground under this section may serve a copy of his notice of appeal on any other person having an estate or interest in the premises in question; and on the determination of the appeal the court may make such order as it thinks just with respect to the work to be executed, or other requirement to be complied with, by any person and the contribution to be made by any person towards the cost of the work or other requirement to be complied with, or as to the proportions in which any expenses which may become recoverable by the Minister are to be borne by the appellant and by such other person. In exercising its power under this subsection, the court shall have regard—

- (a) as between an owner and an occupier, to the terms and conditions, whether contractual or statutory, of the tenancy and to the nature of the work or other requirement; and
- (b) in any case, to the degree of benefit to be derived by the different persons concerned.

(3) An appeal under this section shall be brought by delivering a notice of appeal to a court of summary jurisdiction within fourteen days from the date on which the order appealed against was served on the appellant; and the appeal shall be heard and determined by the court in a summary way, and the court may order such costs to be paid as appear to the court to be equitable.

(4) Notwithstanding anything in the foregoing provisions of this Act, all proceedings, requirements and liabilities arising by virtue of a screening order, or, as the case may be, of a clearance order, shall be stayed and shall be of no effect pending the determination of an appeal in respect of the order or notice in question.

(5) Where upon the determination of an appeal under this section a court varies or reverses any order of the Minister, then it shall be the duty of the Minister to give effect to the order of the court.

(6) An appeal shall lie from a determination by a court of summary jurisdiction of an appeal thereto brought under this section as though the appeal was an appeal from the judgment of a court of summary jurisdiction in a civil cause or matter.

(7) In any proceedings taken by the Minister under this Act against a person for the recovery of any expenses which the Minister is entitled to recover from him, it shall not be open to that person to raise any question which he could have raised by way of an appeal under this section to a court of summary jurisdiction.

Entry on premises

14 The Minister or any person authorized by him in that behalf may enter upon any premises on which is situated a dump or a ruinous structure for the purpose of exercising any power conferred upon the Minister by any of the foregoing provisions of this Act.

Minister may do work in default

15 The Minister may by agreement with the owner or occupier of any premises himself execute at the owner's or occupier's expense any work or other requirement which, in pursuance of this Act, the Minister has required the owner or occupier to execute or carry out; and for that purpose the Minister shall have such rights as the owner or occupier would have had if he had himself executed the work or carried out the requirements.

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[Amended by:

1952 : 11

1968 : 231

1987 : 24

1988 : 19

1999 : 8]