

CHAPTER 394

COASTAL ZONE MANAGEMENT

ARRANGEMENT OF SECTIONS

SECTION

PART I

Preliminary

1. Short title.
2. Interpretation.

PART II

*The Coastal Zone Management Plan
and Management Area and Appeals*

3. Draft management plan and management area.
4. Content of management plan.
5. Public enquiry.
6. Revision of draft management plan and management area.
7. Approval of draft management plan and management area.
8. Authorities to have regard to management plan.
9. Amendment of management plan.
10. Amendment of order delimiting the coastal management area.
11. Review of management plan.

SECTION

12. Regulations.
13. Appeal to Tribunal.
14. Appeal to High Court.

PART III

Preservation and Enhancement of Marine Areas

15. Restricted areas.
16. Power to arrest, search and seize.
17. Regulations respecting restricted areas.
18. Functions of the Commission.
19. Regulations respecting underwater parks and art centres.
20. Land acquisition.
21. Expenses of Commission.

Coral Reef Protection

22. Prohibition on harvesting etc. of coral.
23. Permit for scientific study and research.
24. Appeal.
25. Forfeiture of coral.
26. Minor offence.
27. Damage by explosives or poison.

SECTION

Beach Protection

28. Removal of vegetation, sand etc., from the foreshore etc.
29. Fouling of foreshore prohibited.
30. Arrest with or without a warrant.
31. Forfeiture of vehicles etc. used in the commission of offences.
32. Measurement of high water mark.

PART IV

*Powers and Functions of Director;
Coastal Zone Inspectors*

33. Functions of Director.
34. Coastal zone inspectors.
35. Ministerial directions to Director.
36. Powers of Director, inspectors.
37. Specific powers of inspectors.
38. Orders by magistrates.
39. Regulations.

PART V

Offences and Penalties

40. Assaulting, obstructing Director etc.
41. Penalties.

SECTION

PART VI

Miscellaneous

- 42. Power to institute proceedings.
- 43. Transitional.
- 44. Repeals.
- 45. Application to Crown.

SCHEDULE

CHAPTER 394

COASTAL ZONE MANAGEMENT

An Act to provide for the more effective management of the coastal resources of Barbados, for the conservation and enhancement of those resources and for matters related thereto. 1998-39.

[1st May, 2000] Commence-
ment.
2000/40.

PART I

Preliminary

1. This Act may be cited as the *Coastal Zone Management Act*. Short title.

2. In this Act

Interpreta-
tion.

“badge” means the identification device provided by the Director under section 36(3);

“beach” means the entire area associated with the shoreline, composed of unconsolidated materials, typically sand and beachrock, that extends landwards from the high water mark to the area where there is a marked change in material or natural physiographic form or to a distance of 500 metres landward from the mean high water mark, whichever is the lesser distance;

“beachrock” means formerly unconsolidated materials of the area associated with the shoreline which have been naturally cemented into rock;

“coastal area” means all those areas in which coastal resources are located;

“coastal resources” means the land, water and living resources associated with the shoreline and marine areas of Barbados, including beaches, shorecliffs, coral reefs, coral rubble, algal beds, seagrass beds, sand dunes, wetlands and other ecosystems found along the shore together with the flora and fauna found in these areas;

“coastal zone inspector” or “inspector” means a public officer designated as a coastal zone inspector under section 34(1);

“coastal zone management area” or “coastal management area” means the area established as such by order made by the Minister under section 7(2);

“coastal zone management plan” or “management plan” means the coastal zone management plan approved under section 7(1) and published in accordance with section 7(2);

Cap. 393. “Commission” means the National Conservation Commission established by section 4 of the *National Conservation Commission Act*;

Cap. 240. “development” means development within the meaning of section 13 of the *Town and Country Planning Act*;

“Director” means the Director of the Coastal Zone Management Unit;

“draft plan” means a draft coastal management plan or draft management plan;

“flora and fauna” includes any part of a coral reef or other deposit in its natural condition;

“foreshore” means the area between the low and high water marks;

“high water mark” means the line of the highest run up of waves at the mean tide between spring and neap tides, determined as specified in section 32;

“low water mark” means the line of exposed land at the coast of Barbados at mean low water spring tide;

“marine areas” means the submarine areas within the territorial waters of Barbados and includes any adjoining land or swamp area that forms with any such submarine area a single ecological entity;

“prohibited area” means an area so designated in the coastal zone management plan under section 4(1)(g);

“receiver of wreck” means a receiver of wreck appointed under section 267 of the *Shipping Act*;

Cap. 296.

“restricted area” means an area designated by the Minister under section 15;

“Tribunal” means the Coastal Management Appeal Tribunal;

“wreck” means sunken boats, ships and derelicts abandoned by their owners found within the territorial waters of Barbados and are not in the custody of the receiver of wreck.

PART II

The Coastal Zone Management Plan and Management Area

3. As soon as possible after 1st May, 2000, the Director shall prepare for the approval of the Minister

Draft management plan and management area.

- (a) a draft coastal zone management plan; and
- (b) a draft order delimiting a coastal zone management area.

4. (1) The management plan shall comprise policies, strategies and standards that provide for the management and conservation of coastal resources and may include

Content of management plan.

- (a) policies, strategies and standards for the development and the maintenance of structures in the coastal zone management area or the proposed coastal zone management area;

- (b) standards for environmental impact assessment for development which may affect the conservation and management of coastal resources;
- (c) standards for water quality in coastal and marine areas to effect the maintenance, rehabilitation and enhancement of coastal and marine habitats;
- (d) provisions for public access through and to the beach and other natural areas of the coastal zone;
- (e) standards for activities other than those specified in paragraphs (a) to (c) that may affect coastal resources, including beachrock removal, coral rubble removal, removal of seagrasses, offshore sandmining, dredging, use of explosives and chemicals, use of vehicles on beaches and the movement and the anchoring of vessels;
- (f) standards for the management of underwater parks and of restricted areas; and
- (g) provisions designating any area of the beach as a prohibited area for the purpose of removing vegetation, sand, stones, shingle or gravel.

(2) The Director may include such maps and descriptive material in the management plan as may be necessary to illustrate any strategy, policy, standard or designation in the plan with particularity.

Public
enquiry.

5. When the draft

- (a) management plan; and
- (b) order delimiting a coastal management area

Schedule.

referred to in section 3 are presented to the Minister for approval, the Minister shall, in accordance with the provisions of the *Schedule*, cause a public enquiry to be held at which the Director shall present the draft management plan and the draft order for discussion and representations.

6. (1) Where a public enquiry has been held under section 5, the Director shall consider what, if any, revisions ought to be made to the draft management plan or order delimiting the coastal zone management area in the light of any discussions or representations resulting from the enquiry.

Revision of draft management plan and management area.

(2) Where the Director has determined that a revision of the draft management plan and draft order delimiting the coastal zone management area is necessary pursuant to sub-section (1), the Director shall revise the draft plan or order and resubmit the revised plan or order as the case may be, to the Minister for approval.

7. (1) The Minister may approve

(a) the draft management plan; and

(b) the draft order delimiting the coastal zone management area,

Approval of draft management plan and management area.

submitted under section 6(2) without modifications or subject to such modifications as the Minister considers expedient.

(2) Where the Minister has approved

(a) the draft management plan pursuant to subsection (1)(a); and

(b) the draft order delimiting the coastal zone management area pursuant to subsection (1)(b),

the Minister shall by order published in the *Official Gazette* establish the coastal zone management plan and the coastal zone management area of Barbados.

(3) An order made under subsection (2) is subject to negative resolution.

(4) The Director shall make the management plan available for inspection by members of the public on the payment of a prescribed fee from the date of the publication of the order.

Authorities to have regard to management plan.

8. (1) Subject to subsection (2), any person or authority exercising any function under this Act or regulations or any coastal zone management related function under any enactment that may, in the opinion of the Director, affect the conservation and management of coastal resources, shall have regard to the management plan.

Cap. 391.

(2) To the extent that the management plan and any fisheries scheme set up under the *Fisheries Act* both apply to the living resources of the coastal zone outside a restricted area, in the case of any conflict between the scheme and the management plan, the fisheries scheme shall prevail.

Cap. 240.

(3) Notwithstanding the provisions of this Act, the management plan shall not be construed as authorising any development that is not permitted under the *Town and Country Planning Act* or any other enactment.

Amendment to management plan.

9. (1) The Director may at any time prepare and propose for the approval of the Minister draft amendments to the management plan.

(2) Any amendments made to the management plan pursuant to subsection (1), shall be made in accordance with sections 4 to 7; and when approved and published under section 7, the management plan as amended shall constitute the coastal zone management plan established under that section.

Amendment of order delimiting the coastal management area.

10. (1) The Director may, with the approval of the Minister, at any time prepare draft proposals for amending the order delimiting the coastal zone management area.

(2) Any amendments made to the order delimiting the coastal zone management area pursuant to subsection (1) shall be prepared in accordance with sections 5 to 7; and, when approved and published under section 7, the coastal zone management area as amended shall constitute the coastal zone management area established under that section.

11. (1) At least once in every 5 years after the date on which the coastal zone management plan first comes into effect under section 7(2), the Director shall conduct a full review of the plan and submit to the Minister a report on the review together with proposals for any amendments which appear to him to be required. Review of management plan.

(2) The proposals of the Director for amendments under subsection (1) shall be treated as draft amendments under section 9.

12. The Minister may make regulations Regulations.

(a) with respect to the preparation, making, and implementation of the management plan and management area; and

(b) for prescribing any fees payable under this Part.

13. (1) For the purpose of this Part the Coastal Management Appeal Tribunal, in this Act referred to as the Tribunal is established. Appeal to Tribunal.

(2) The Tribunal shall be appointed by the Minister and shall comprise the following 3 members:

(i) an Attorney-at-Law of at least 10 years standing, who shall be Chairman;

(ii) the Chief Town Planner or his nominee; and

(iii) a Marine Resource or Coastal Resource Scientist of at least 10 years experience.

(3) Any person who is aggrieved by a management plan and who desires to question the validity of the plan or any provision contained in the plan on the grounds that

(a) it is not within the powers of this Act; or

(b) any requirement of this Act or of any regulations made under the Act have not been complied with in relation to the approval or preparation of the plan or management area,

may, within six weeks from the date on which the notice is published in the *Official Gazette* under section 7(2), and in a daily newspaper circulated in Barbados, whichever is later, make an application to the Tribunal who may review, vary or rescind any management plan.

Appeal to
High Court.

14. (1) Where a person is aggrieved by the decision of the Tribunal he may make an application to the High Court under this section in accordance with the rules of the Supreme Court.

(2) On any application under this section, the High Court, if satisfied

- (a) that the plan, or any powers contained therein, are not within the powers of this Act; or
- (b) that the interests of the applicant have been substantially prejudiced by a failure to comply with any requirement of this Act or of any regulations,

may quash the plan or any provision contained therein, either generally or in so far as it affects any property of the applicant.

(3) Where the whole plan is quashed under subsection (2), the Director shall prepare a fresh plan to which sections 3 to 7 shall apply.

(4) Where a provision of the plan is quashed under subsection (2), but not the whole plan, the plan with the exclusion of the quashed provision shall be deemed to be an approved amended plan under section 9.

PART III

Preservation and Enhancement of Marine Areas

Restricted
areas.

15. (1) The Director may in consultation with the Commission, prepare for the approval of the Minister, draft orders designating any portions of the marine areas of Barbados as restricted areas where he considers it necessary for the following purposes:

- (a) the preservation or enhancement of the natural beauty of the areas;

-
- (b) the protection or rehabilitation of the flora and fauna found in the areas;
 - (c) the protection of wrecks and other items of archaeological and historical interest found in the areas;
 - (d) the promotion of the enjoyment by the public of the areas; and
 - (e) the promotion of scientific study and research in respect of the areas.

(2) An area designated as a restricted area under subsection (1) shall be described in the order made by the Minister under that subsection and shall be limited by reference to a map or other such descriptive document as may be necessary for the purpose.

(3) Before approving any order designating a restricted area, the Minister shall arrange for a public enquiry to be held in conformity with the provisions of the *Schedule* at which the Director shall present the draft order for discussion and comment. Schedule.

(4) The Minister may combine a public enquiry under this section with a public enquiry under section 5.

(5) After the public enquiry has been held, the Minister shall consider what, if any, revisions ought to be made to the draft order and shall settle the designation of the restricted area by making the order and publishing it in the *Official Gazette*.

(6) The Director may with the approval of the Minister, at any time prepare draft proposals for amending an order designating a restricted area.

(7) The amendment of the order designating a restricted area in accordance with such draft proposals shall comply with subsections (2) to (5).

Power to arrest, search and seize.

16. A coastal zone inspector or a police officer may without a warrant

- (a) arrest any person who is found removing, aiding or assisting in removing contrary to this Act, any flora, fauna, wreck and any other items of archaeological or historic interest from a restricted area;
- (b) search and seize any vehicle, vessel or other means of conveyance reasonably suspected by the inspector or police officer to have been used in the commission of an offence under paragraph (a),

and, as soon as is reasonably practicable, bring the offender before a magistrate to be dealt with in accordance with the provisions of this Act.

Regulations respecting restricted areas.

17. The Minister may make regulations governing

- (a) the care, control and management of the restricted areas;
- (b) the protection of coral reefs in any restricted area, and in particular prohibiting or regulating
 - (i) diving;
 - (ii) fishing; and
 - (iii) navigation and anchoring of vessels or any class thereof;
- (c) the protection of the flora and fauna and wrecks in the restricted areas;
- (d) the use of guides by visitors to any restricted area;
- (e) fees to be prescribed for the services provided by the guides referred to in paragraph (d);
- (f) the seizure and confiscation of any flora, fauna, wreck or any part thereof taken in contravention of the regulations and of any vehicle, vessel or other means of conveyance whatsoever upon which the same may be found.

18. (1) The Commission may, in consultation with the Director and with the approval of the Minister, establish

Functions of the Commission.

- (a) underwater parks in a restricted area; or
- (b) art centres for the display of underwater objects.

(2) The Commission shall have the management and control of the underwater parks and art centres established under subsection (1).

19. The Commission may, with the approval of the Minister, make regulations

Regulations respecting underwater parks and art centres.

- (a) for the care, control and management of the art centres and underwater parks established by the Commission;
- (b) respecting the use and enjoyment of any art centre or underwater park established by the Commission;
- (c) respecting the use of parking and refreshment facilities used in connection with any restricted area or with any art centre or underwater park established by the Commission;
- (d) relating to the provision of guides required by visitors to the restricted areas;
- (e) permitting entry to art centres and underwater parks established by the Commission upon such terms and conditions as the Commission determines;
- (f) prescribing the fees to be charged for any of the services referred to in this subsection and for the use of any art centre or underwater park established by the Commission.

20. (1) Subject to subsection (2), the Commission may, with the approval of the Minister, enter into agreements for the use, right of access to and the right to control any land required by it for the purposes of this Part.

Land acquisition.

(2) Any land required for the carrying out of the purposes of this Act may be acquired by the Crown in accordance with the *Land Acquisition Act*.

Cap. 228.

Expenses of
Commission.

21. The expenses of the Commission in carrying out the provisions of this Part shall be defrayed out of

- (a) the revenue of the Commission collected under section 19(f);
- (b) any other moneys received by the Commission for the purposes of its functions under this Part, whether by way of grant, loan, or otherwise; and
- (c) moneys voted for the purpose by Parliament.

Coral Reef Protection

Prohibition
on
harvesting
etc, of coral.

22. (1) From 1st May, 2000 and subject to section 23, any person who

- (a) harvests any coral in Barbados, its territorial waters or its exclusive economic zone; and
- (b) for the purposes of trade, imports into Barbados or exports from Barbados any coral or any item manufactured in whole or in part from coral,

is guilty of an offence.

(2) Any person who, any time after a period of 6 months from 1st May, 2000, buys, sells or otherwise trades in any coral or any item manufactured in whole or in part from coral is guilty of an offence.

Permit for
scientific
study and
research.

23. (1) The Minister may, on application to him for the purpose, issue a permit for the harvesting, importing or exporting for trade of, or the buying, selling or trading in coral for purposes of scientific study and research.

(2) The Minister may by regulations prescribe the form of application and the fees to be paid for the issue of permits under subsection (1).

(3) The Minister may suspend or revoke any permit for contravention of any term or condition of the permit or where the Minister is advised by the Director that the suspension or revocation is necessary for the protection of the environment.

24. Where a Minister denies an application made under section 23(1) or suspends or revokes a permit pursuant to section 23(3) the aggrieved applicant or permit holder may, within 21 days of the receipt of notification of that decision, appeal against it to a Judge in Chambers. Appeal.

25. The court shall, in addition to imposing a penalty specified in section 41 on a person who has been convicted under subsection (1) of that section, order that the coral that was the subject matter of the offence be forfeited to the Crown. Forfeiture of coral.

26. Any person who breaks off a piece of coral from a reef is guilty of an offence and is liable on summary conviction to a fine of \$5 000 or to imprisonment for 2 years or to both. Minor offence.

27. (1) Any person who

- (a) uses any explosive, poison or other noxious substance for the purpose of harvesting coral or catching, taking or harvesting fish;
- (b) permits any explosive, poison or other noxious substance to be used for that purpose;
- (c) carries, or has in his possession or control, or is found on any boat carrying, any explosive, poison or other noxious substances in circumstances indicating any intention of using such explosive, poison or other noxious substance for the purpose of harvesting coral or catching, taking or harvesting fish; or
- (d) wilfully or negligently causes physical damage to any coral reef, fish or other coastal resource

Damage by explosives or poison.

is guilty of an offence and is liable on summary conviction to a fine of \$300 for every square metre of coral reef damaged or to imprisonment for 5 years or to both.

(2) Any explosive, poison or other noxious substance found on board any boat is presumed, unless the contrary is proved, to be intended for the purpose of harvesting coral or catching, taking or harvesting fish.

(3) Any boat, dynamite or any other explosive substance or any poison or any noxious material found in the possession of a person who is arrested for the commission of an offence under this Part may be seized by the person making the arrest.

(4) For the purpose of this section, a certificate as to the cause and manner of death of or injury to any coral reef

(a) caused by a noxious substance or chemical, shall be signed by the Director of Analytical Services; or

(b) caused by explosives, shall be signed by the Director,

or such other person as the Director may designate in writing, and shall be admitted as *prima facie* evidence in court without proof of signature of the person purporting to have signed the certificate.

(5) For the purpose of subsection (4), the defendant to proceedings brought under this section is entitled to 14 days notice in writing of the intention of the prosecution to produce the certificate in evidence.

(6) The magistrate may, on due proof that a boat seized pursuant to subsection (3) is owned by the person who is convicted under subsection (1), order that the boat be forfeited.

Beach Protection

Removal of
vegetation,
sand etc.,
from the
foreshore
etc.

28. (1) Subject to subsection (2), any person who removes, or aids in or assists in removing, any vegetation, sand, stones, shingle or gravel from any part of the foreshore or a prohibited area is guilty of an offence.

(2) Subsection (1) does not apply where the material to which subsection (1) refers, is removed by or on behalf of the Director for the purpose of carrying out scientific research.

(3) It shall not be an offence for the owner or occupier of land in a prohibited area to remove any sand, stones, shingle or gravel from that land for his own domestic purposes where the amount of the sand, stones, shingle or gravel removed does not exceed in aggregate 5 kilograms.

29. Any person who fouls any part of the beach or foreshore by the deposit of offal, garbage or other waste, or in any other manner whatsoever, is guilty of an offence. Fouling of foreshore prohibited.

30. A coastal zone inspector or a police officer with or without a warrant Arrest with or without a warrant.

- (a) may apprehend any person found removing, or aiding or assisting in removing, any vegetation, sand, stones, shingle or gravel from the foreshore or from any prohibited area, contrary to this Act; and
- (b) may as soon as is reasonably practicable carry him before a magistrate to be dealt with according to this Act.

31. (1) Where any vehicle, boat or other means of conveyance is used by any person in the removal of vegetation, sand, stones, shingle or gravel from the foreshore or from any prohibited area, a coastal zone inspector or a police officer with or without a warrant Forfeiture of vehicles etc. used in the commission of an offence.

- (a) may seize and detain the vehicle, boat or other means of conveyance; and
- (b) lay an information in relation thereto before the magistrate of the district.

(2) The magistrate may, on due proof that the vehicle, boat or other means of conveyance has been used by its owner in the commission of an offence under section 28(1) of which that owner has been convicted, order that the vehicle, boat or other means of conveyance be forfeited.

Measure-
ment of high
water mark.

32. Any observations or measurements to determine the high water mark shall be made at the time of any ordinary high tide occurring on the sixth, seventh or eighth days before or after the day of a full moon.

PART IV

Powers and Functions of Director, Coastal Zone Inspectors

Powers of
Director.

33. (1) The Director shall advise all Ministers, Boards, Commissions and other statutory authorities on the policy to be adopted in the exercise of their powers in respect of coastal zone management under this Act and under any Act affecting the conservation and management of coastal resources.

(2) The Director shall be charged with the general responsibility of enforcing the provisions of this Act and shall have authority to enforce the coastal zone management related provisions of any Act affecting the conservation and management of coastal resources.

(3) Subject to subsection (4), any person who is required to exercise any coastal zone management related powers under any Act affecting the conservation and management of coastal resources, shall first consult with the Director.

(4) The obligation to consult under subsection (3) in respect of a particular matter shall not apply where the Director has waived his right to be consulted under subsection (5) in respect of that matter.

(5) The Director may, with the approval of the Minister, waive his right to be consulted, and any such waiver shall take effect when the Minister gives notice of the waiver by order published in the *Official Gazette*.

(6) A waiver under subsection (5) may relate to the exercise of any of the powers with which the Director is charged including the exercise of a power in a specific instance.

34. (1) The Director shall be assisted by such number of public officers as may be designated by the Minister to discharge the functions of coastal zone inspectors under this Act. Coastal zone inspectors.

(2) The Director may seek the assistance of the Barbados Defence Force Coast Guard where he deems it necessary for the management of coastal resources and the Defence Force shall assist when called upon to do so.

35. The Director shall be subject to such directions whether of a special or general character in relation to the policy to be followed in the exercise of the powers conferred and the duties imposed on the Director as the Minister gives in writing on any matter that affects the public interests of Barbados; and the Director shall give effect to such directions. Ministerial directions to Director.

36. (1) The Director and every inspector shall, in the performance of their duties related to the enforcement functions of the Director under section 33(2), have all the powers, rights, privileges and protection of a member of the Police Force, and the specific powers conferred by this Act on the Director or any inspector are conferred without prejudice to the generality of these powers, rights, privileges and protection. Powers of Director, inspectors.

(2) When acting on a general or particular request of the Director, a member of the Police Force shall have, in addition to such powers as are conferred on that member otherwise than by this Act, all the powers conferred on an inspector by this Act.

(3) The Director shall provide himself and each inspector with a badge, which shall be carried by himself and each environmental inspector while engaged in the performance of their duties under section 37(1).

37. (1) For the purposes of this Act, an inspector may, acting under the general or particular directions of the Director, without a warrant or court order, at any reasonable time Specific powers of inspectors.

(a) enter and search any place where the inspector reasonably believes infringement of the provisions of this Act or any Act

that affects coastal zone management has occurred or is imminent;

- (b) enter and search any place where the inspector reasonably believes that evidence of infringement of the provisions of this Act or any Act that affects coastal zone management will be found;
- (c) stop and search any vehicle or vessel in relation to which the inspector reasonably believes infringement of the provisions of this Act or any Act that affects coastal zone management has occurred or is imminent;
- (d) stop and search any vehicle or vessel in or on which the inspector reasonably believes that evidence of infringement of the provisions of this Act or any Act that affects coastal zone management will be found;
- (e) require the production of any document which the inspector reasonably believes contains information relevant to an infringement, which the inspector reasonably believes has occurred or is imminent, and that affects the protection of the coastal zone;
- (f) require the production of any document required to be kept under the provisions of this Act or any Act that affects coastal zone management;
- (g) make reasonable inquiries of any person, orally or in writing; and
- (h) exercise any other power related to investigation under the provisions of this Act or any Act that affects coastal zone management or any regulations made under either Act.

(2) A person who operates a vehicle or vessel shall stop the vehicle or vessel when required to do so by another person who identifies himself as an inspector and who is acting under paragraphs (c) and (d) of subsection (1).

(3) An inspector who is desirous of exercising power under subsection (1) shall identify himself by the production of his badge and shall explain the purpose of the inspection.

(4) A power under paragraph (a) or (b) of subsection (1) shall not be exercised in relation to a dwelling house except under the authority of an order issued under section 38(1).

(5) For the purposes of subsection (1), “search” includes taking samples of substances for the purpose of analysis.

(6) Any requirement to produce documents under this section shall not extend to any document where the person to whom the requirement is addressed could not, otherwise than under this Act, be ordered by a court to produce that document in any civil or criminal proceedings.

38. (1) Where a magistrate is satisfied, on evidence on oath by an inspector, that it would be reasonable for the inspector to exercise a power under section 37(1), and that Orders by magistrates.

- (a) the power is to be exercised in relation to a dwelling house; or
- (b) the inspector may not be able effectively to carry out his duties without an order under this section because
 - (i) no occupier is present to grant access to a place, vehicle or vessel that is locked or is otherwise inaccessible,
 - (ii) a person has prevented the inspector from exercising a power under section 37(1),
 - (iii) there is reasonable ground to believe that a person may prevent the inspector from exercising a power under section 37(1), or
 - (iv) there is reasonable ground to believe that an attempt by the inspector to exercise a power under section 37(1) without the order might otherwise defeat the purpose thereof or endanger human life, human health, property or the environmental quality of the coastal zone,

the magistrate may issue or renew an order authorising the inspector to exercise any power under section 37(1) that is specified in the order for the period of time specified in the order.

(2) An order under this section expires not later than 30 days after the date on which it is made unless renewed and may be renewed for any reason mentioned in subsection (1) before or after expiry for one or more periods each of which is not more than 30 days.

(3) An order under this section shall be carried out during daylight hours unless the order authorises otherwise.

(4) An order under this section may be issued or renewed on application notwithstanding that no notice of the application is given to any person who may be affected thereby.

Regulations. **39.** (1) The Minister may make regulations for the general purpose of implementing the provisions of this Part.

Cap. 391. (2) To the extent that regulations made under this Part and regulations made under the *Fisheries Act* both apply to the living resources of the coastal zone outside a restricted area, the regulations made under the *Fisheries Act* shall prevail in the case of any conflict.

(3) Regulations made under this Part shall be subject to negative resolution.

PART V

Offences and Penalties

Assaulting, obstructing Director etc. **40.** A person who assaults or obstructs the Director, an inspector or a member of the Police Force in the execution of his duty under section 36 or 37 is guilty of an offence.

Penalties. **41.** (1) Any person who commits an offence other than the offences stated at sections 26 and 27, under this Act or the regulations is liable on the first conviction for that offence

(a) on indictment, to a fine of \$200 000 together with, where applicable, an amount equal to the value of the property seized

or to imprisonment for a term of not more than 5 years, or to both; or

(b) on summary conviction, to a fine of \$5 000 or to imprisonment for a term of not more than 2 years, or to both.

(2) Any person who commits an offence under this Act or the regulations is liable on the second or any subsequent conviction for that offence

(a) on indictment, to a fine of \$400 000 together with, where applicable, an amount equal to the value of the property seized or to imprisonment for a term of not more than 5 years, or to both; or

(b) on summary conviction, to a fine of \$10 000 or to imprisonment for a term of 2 years, or to both.

(3) The court shall not impose under paragraph (a) of subsection (1) or (2) an amount equal to the value of the property seized unless the prosecutor has notified the defence in writing that the court will be asked to do so and the prosecution has so asked.

(4) Where the condition in subsection (3) is satisfied, the court shall not impose a penalty equal in value to the property seized under subsection (1) or (2) before 8 weeks have elapsed after the receipt by the defence of the notice under subsection (3); and the court shall ensure that the defence is provided with an opportunity after those 8 weeks have elapsed to present its case in relation to the appropriateness of imposing, and the calculation of, the penalty.

PART VI

Miscellaneous

42. Where an offence is created by this Act, the Director, an inspector, or a member of the Police Force may, in respect of that offence, institute proceedings in a court. Power to institute proceedings.

Transitional.
Cap. 389.
Cap. 392.

43. Notwithstanding section 44, the statutory instruments made under the *Beach Protection Act* and the *Marine Areas (Preservation and Enhancement) Act* shall, in so far as they are in force on 1st May, 2000 and are not inconsistent therewith, continue in force and may be amended or revoked as if made under the corresponding provisions of this Act.

Repeals.
Cap. 389.
Cap. 392.

44. The *Beach Protection Act* and the *Marine Areas (Preservation and Enhancement) Act* are repealed.

Application
to Crown.

45. This Act binds the Crown.

SCHEDULE

(Sections 5, 15(3))

PUBLIC ENQUIRY PROCEDURE

1. Where a public enquiry is to be held under the provisions of this Act, the Minister shall by instrument in writing appoint a person to hold the public enquiry on his behalf.

2. A person so appointed to hold a public enquiry shall have the same powers as regards the regulation of the proceedings of the enquiry and the summoning and examination of witnesses and shall enjoy the same privilege of immunity from suit as a Commissioner appointed under the *Commissions of Enquiry Act*, and that Act shall apply with such modifications and adaptations as may be required in relation to an enquiry under this Schedule and to any person summoned to give or giving evidence at any such enquiry.

3. The name of every person appointed to hold a public enquiry under this Act shall be published in the *Official Gazette*.

4. Notice shall be published in 3 issues of the *Official Gazette* and in at least one newspaper published in Barbados of the date appointed by the Minister for the holding of a public enquiry under this Act, the first such notice being not less than 2 weeks before the date so appointed.

5. The Director shall appear or be represented at every public enquiry convened in accordance with this Act.