

## CHAPTER 235

### PREVENTION OF FLOODS

1951-65

This Act came into operation on 12th November, 1951.

#### **Amended by:**

*1958-55*  
*1967/168*

*1978-13*  
*1996-12*

*1998-39*

#### **Law Revision Orders**

*The following Law Revision Order or Orders authorized the insertion and removal of pages as the case may be under the Law Revision Act Cap.2 now repealed:*

1997

1998

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#### **Guide to symbols in historical notes:**

- indicates an amendment made by an Act

/ indicates an amendment made by statutory instrument



## **CHAPTER 235**

### **PREVENTION OF FLOODS 1951-65**

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**BARBADOS****PREVENTION OF FLOODS**

1951-65

*An Act to make provision for the execution of works necessary to prevent and control flooding and inundations caused by excessive rains and by high tides and by reason of the low level of various places, causing inconvenience to persons and injury to health and property and to authorise the Minister to take all reasonable steps in connection therewith.*

[Commencement: 12th November, 1951]

**Short title**

1. This Act may be cited as the *Prevention of Floods Act*.

**Interpretation**

2. For the purposes of this Act

“flood area” means any area declared by the Minister to be a flood area under section 2A;

[1996-12]

“flood works” includes

- (a) the entire or partial construction, alteration, repair, improvement, cleaning, raising, lowering or grading of any bank, channel or watercourse or of any land adjacent to such bank, channel or watercourse;
- (b) the digging or clearing of wells and drains;
- (c) the removal of any plant, tree, growing crops, building, structure or any other thing that prevents the free drainage of water,

which is necessary for the protection of persons and lands from floods and inundations.

[1996-12]

“lands” includes messuages, buildings, erections, tenements and hereditaments of any tenure, and rights and easements in, over, under or in respect of the same;

“Minister” means the Minister responsible for Communications;

“owner” means the person for the time being receiving the rack rent of the land in connection with which the word is used, whether on his own account or as agent or trustee for any other person, or who would so receive the same if the land were let at a rack rent;

“premises” includes lands and streets.

### **Declaration of flood area**

**2A.(1)** The Minister may by order declare an area to be a flood area.

(2) The Minister shall, before he makes an order under subsection (1), lay before both Houses of Parliament a map delineating the boundaries of the proposed flood area.

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[1996-12]

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**Coastal zone management plan**

**2B.** In the exercise of his functions under this Act, the Chief Technical Officer shall have regard to the coastal zone management plan referred to under the *Coastal Zone Management Act*, Cap. 394.

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[1998-39]

**Flood works to be executed in accordance with plans**

**3.(1)** The Chief Technical Officer may from time to time prepare or cause to be prepared plans for the approval of the Minister for the execution of flood works in any flood area.

(2) The plans so prepared shall show the limits of the flood area, the line level and type of flood works which are in the opinion of the Chief Technical Officer necessary for protecting persons and premises from floods and inundations.

[1978-13; 1996-12]

(3) When the plans have been approved in accordance with this section, written notice thereof shall be given to any person whose land, premises, plants, trees or growing crops may be affected by such flood works.

(4) A copy of such plans shall be deposited in the Registration Office and may be inspected by any person free of charge.

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[1996-12]

**Power to execute flood works**

**4.(1)** The Chief Technical Officer may execute, carry out and complete all or any of the flood works in such flood areas as are specified in the said plan.

(2) *[Repealed by 1996-12.]*

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[1996-12]

**Power to enter and execute flood works**

- 5.(1) The Chief Technical Officer or anyone authorised by him
- (a) may enter upon any premises for the purpose of doing any work necessary
    - (i) for the preparation of plans,
    - (ii) for the estimation or preparation of flood works to be executed, or
    - (iii) for an evaluation of compensation to be paid;
  - (b) may enter upon any private premises represented in a plan approved under section 3 and execute any flood works; or
  - (c) may, in the execution of flood works, carry the flood works through, along, across or under any premises, sidewalk or cellar.
- (2) The Chief Technical Officer or any person authorised by the Chief Technical Officer to enter upon premises for the purpose of subsection (1)(a) shall, not less than 48 hours before the proposed entry, give to the owner or occupier of the premises, notice in writing to that effect.

[1996-12]

- (3) The Chief Technical Officer shall, before executing flood works, give to the owner or occupier of land intended to be affected by the flood works, not less than 14 days notice in writing of the proposed flood works and the nature of the work to be executed.

[1996-12]

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[1996-12]

**Power to execute urgent flood works**

**5A.** Notwithstanding sections 2A, 3, 4 and 5, where flooding occurs or there is an immediate danger of flooding either

- (a) in a location that is not included in an area declared to be a flood area; or
- (b) in an area declared to be a flood area but in respect of which plans have not been prepared or approved in accordance with section 3,

the Chief Technical Officer may enter, without prior notice, upon any private premises in such location or area and execute such flood works as are necessary to prevent flooding or to facilitate the drainage of flood waters.

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[1996-12]

**Removal of buildings, trees and growing crops**

**6.(1)** Whenever the flood works, or any part of such works to be executed in a flood area, consist of the removal of any building, structure or any plants, trees or growing crops, or any other matter or thing of any kind whatsoever, the Chief Technical Officer may by notice in writing require the owner to remove the same within such time as the Officer may deem fit.

(2) When in the execution of any flood works any person is required to remove any building or structure or any plants, trees, growing crops or other things as provided in subsection (1), the owner of such buildings or plants, trees or growing crops or other things shall be entitled to such reasonable allowance as the Minister may deem fit towards the expense of removing the same.

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[1996-12]

**Execution of works for protection of persons and lands from floods and inundations**

**6A.(1)** For the protection of persons and lands from floods and inundations every owner or occupier of lands on which there are suck wells shall, at least once a year, clean or cause the suck wells to be cleaned.

(2) Where it appears to the Chief Technical Officer that an owner or occupier of lands on which there are suck wells has refused to comply with the provisions of subsection (1) the Chief Technical Officer may serve or cause to be served on the owner or occupier of such lands a notice in writing signed by the Chief Technical Officer or by any person authorised by the Chief Technical Officer in that behalf requiring the owner or occupier to execute such flood works as the Chief Technical Officer considers necessary.

(3) Where personal service of a notice under subsection (2) cannot be effected, whether by reason of absence of the owner or occupier from Barbados or otherwise, the Chief Technical Officer may, on an affidavit that the owner cannot be found, direct that notice be served

(a) by affixing a copy thereof to a conspicuous part of the premises; and

(b) by publishing the notice in a daily newspaper circulated in Barbados.

(4) A notice referred to in subsection (2) shall specify the nature of the flood works to be executed and the period of time for the execution of the works, after the expiration of which period the Chief Technical Officer may cause the works to be carried out if they have not previously been carried out.

(5) Where flood works are executed by the Chief Technical Officer in accordance with subsection (4) the Chief Technical Officer shall demand, from the owner or occupier of the land on which the flood works were carried out, payment of the actual costs incurred.

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[1996-12]

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**Owner or occupier of land to pay for flood works**

**6B.** Where an owner or occupier of land injures, obstructs or alters a highway thereby adversely interfering with the drainage of the highway he shall pay to the Crown the actual costs of any flood works required to be carried out by the Chief Technical Officer to rectify the owner's injury, obstruction or alteration of the highway.

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[1996-12]

**Buildings and crops prohibited in flood area without permission**

**7.(1)** No person shall, on or in a flood area, erect or cause or permit to be erected any building therein or grow, cultivate or allow to be grown or cultivated any shrub, tree, plant or any growing crop therein without the written permission of the Minister and upon such terms and conditions as the Minister may prescribe.

(2) Any person who contravenes this section shall be guilty of an offence and shall be liable on conviction by a court of summary jurisdiction to a fine of \$200 or to 6 months imprisonment or to both such fine and imprisonment.

**Power of Crown to take lands**

**8.** Whenever for the purpose of executing any flood works in accordance with this Act, it is in the opinion of the Minister necessary to take any premises or lands, the Crown may take and use such premises and lands which may be required for the purpose of executing such works and shall for such purpose have and exercise all the powers conferred upon the Crown by the *Land Acquisition Act*, Cap. 228 in relation to the taking of lands for public purposes.

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[1967/168]

**Compensation**

9.(1) Subject to section 6, any person may claim compensation for any damage caused by the execution of any flood works or in respect of any lands or interest therein taken, used or injuriously affected.

(2) When any person liable to execute flood works or any other person and the Minister are unable to agree as to the amount of compensation, if any, the same shall be determined by arbitration in accordance with this Act.

**Matters to be disregarded in computing compensation**

10.(1) No compensation shall be payable in respect of any of the following provisions in a flood area, namely any provision which

- (a) prohibits or restricts building operations permanently on the ground that by reason of the situation or nature of the land, the erection of dwellings thereon would be likely to involve danger or injury to health or to the life and safety of the inmates of such dwellings; or
- (b) prohibits (otherwise than by way of prohibiting building operations) the use of land for a purpose likely to involve danger or injury to health or to the life and safety of persons resorting thereto or restricts (otherwise than by way of restricting building operations) the use of land so far as may be necessary for preventing such danger or injury.

(2) The fact that any land was used or capable of being used for the erection of dwellings prior to the 12th November, 1951,\* shall not be taken into account in the assessment of compensation and no account shall be taken of the rental value of such land.

*\*[Date of commencement of this Act.]*

(3) Any enhancement of the value of other land shall be taken into account in the assessment of compensation.

(4) Where the Minister has declared an area to be a flood area in accordance with sections 2A and 3 and it is proved to the satisfaction of the Minister that the

owner or occupier of any land or building in such area was given due notice prior to such declaration whether before or after the 12th November, 1951 to the effect that no building should be erected thereon, no compensation shall be payable in respect of any building in such flood area, the erection of which was begun after due notice was so given.

[1978-13]

**11.** [Spent.]

**Arbitration**

**12.(1)** Any question in dispute which is required by any provision of this Act to be settled by arbitration shall be referred to the determination of 2 arbitrators, one to be appointed by each party to the dispute or to an umpire in case such arbitrators fail to agree such umpire to be chosen by the arbitrators before entering upon the matters submitted to them.

(2) Where, for the space of 14 days after such dispute arises and after a request in writing (in which shall be stated the matter so required to be referred to arbitration) is served by the one party on the other party to appoint an arbitrator, such last-mentioned party fails to appoint such arbitrator, then upon such failure the party making such request and having himself appointed an arbitrator may appoint such arbitrator to act on behalf of both parties, and such arbitrator may proceed to hear and determine the matter which shall be in dispute.

(3) The award or determination of the question in dispute by a single arbitrator, the arbitrators or the umpire, as the case may be, shall be final and binding on the parties in difference and every submission to arbitration under this section shall be deemed to be an arbitration within the *Arbitration Act*, Cap. 110, and be subject to the provisions relating to arbitration contained in that Act.

**Notices**

**13.** Any notice under this Act may be served on the owner or occupier of any premises by leaving it with the occupier of such premises or with some inmate

of his abode; and, if there is no occupier, by putting up such notice or plan in a conspicuous part of the premises.

### **Offences**

- 14.** Any person who
- (a) assaults, resists, obstructs or intimidates the Chief Technical Officer or any person authorised by the Chief Technical Officer in the execution of his duties under this Act;
  - (b) uses abusive, indecent or insulting language to the Chief Technical Officer or any person authorised by the Chief Technical Officer in the execution of his duties under this Act;
  - (c) interferes with or hinders the Chief Technical Officer or any person authorised by the Chief Technical Officer in the execution of his duties under this Act; or
  - (d) contravenes any provision of this Act,

is guilty of an offence and is liable on summary conviction to a fine of \$2 500 or to imprisonment for 12 months or both.

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[1996-12]

### **Recovery of costs**

**15.** The costs of carrying out flood works by the Chief Technical Officer under section 6A or 6B is a debt due to the Crown and is recoverable in summary proceedings before a magistrate for District 'A' notwithstanding that the costs exceed the monetary limit on the jurisdiction of the Magistrate's Court.

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[1996-12]