

PORT AUTHORITIES (AMENDMENT) BILL, 2025

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PORT AUTHORITIES (AMENDMENT) BILL, 2025

A BILL FOR AN ACT TO AMEND THE PORT AUTHORITIES ACT

Enacted by the Parliament of The Bahamas

1. Short title and commencement.

- (1) This Act, which amends the Port Authorities Act (Ch. 269) shall be cited as the Port Authorities (Amendment) Act, 2025.
- (2) This Act shall come into force on the 1st day of July, 2025.

2. Amendment of section 2 of the principal Act.

Section 2 of the principal Act is amended by the insertion in the appropriate alphabetical order of the following new definitions—

“**Chief Valuation Officer**” means the public officer appointed in accordance with the Real Property Tax Act (*Ch. 375*);

“**commercial seabed**” means marinas, private destinations, commercial operations, and commercial ports;

“**foreign vessel**” means a vessel beneficially owned by a foreign entity;

“**jetty**” means a structure constructed or situated over a body of water, which provides mooring or access for vessels, or a similar purpose;

“**leaseholder**” means a person or entity to whom a seabed lease is granted;

“**seabed**” means the body of land beneath the sea or other navigable waters, including seabed created through dredging or a similar process and excluding land created or reclaimed through dredging or a similar process, except for canals and ponds;

“**seabed lease**” means the lease referred to in section 41A;

“**sufferance wharf**” means a place for the loading or unloading of goods that is owned or operated by or on behalf of a person or entity other than the Government and appointed as a Customs place under the under section 13 Customs Management Act (Ch. 293);”.

3. Insertion of new section 6A into the principal Act.

The principal Act is amended by the insertion, immediately after section 6, of the new section 6A as follows —

“6A. Regulations for marine traffic.

- (1) Without prejudice to section 6 of this Act, the Minister may make regulations for any of the following purposes —
 - (a) to establish and regulate the use of anchorage zones;
 - (b) to establish procedures governing maritime cabotage, in the case of marine transport of goods and passengers between port areas;
 - (c) to implement and manage marine traffic services for the safe and efficient navigation of boats and watercrafts throughout port areas;
 - (d) to implement measures to prevent and respond to marine incidents, including but not limited to vessel collisions, groundings, and pollution events, such as oil or hazardous substance spills; and
 - (e) to issue and disseminate navigational warnings, including mariner notices concerning hazards to navigation and weather considerations.
- (2) The Minister may provide, in any regulations made under this section, for the imposition upon any person, upon summary conviction for an offence against any such regulations and such other penalty as the Minister deems appropriate to the offence concerned.”.

4. Amendment of section 19 of the principal Act.

Section 19 of the principal Act is amended —

- (a) by the deletion of the full stop at the end of paragraph (g) and the substitution of a semi-colon;
- (b) by the insertion of additional subsections, immediately after paragraph (g), as follows —
 - “(h) to cooperate with public sector agencies, to verify the capacity of reception facilities to receive ship-generated waste and residue within declared port areas, in accordance

with standards set by international conventions to which The Bahamas is a party;

- (i) generally to cooperate with local and international agencies, for the purpose of ensuring compliance with national, regional and international maritime law;
- (j) to ensure that training programmes are made available for port personnel on pollution response, including procedures for containment and cleanup of oil spills, hazardous substances, and other pollutants;
- (k) to ensure that training programmes are made available for port personnel on the certification of port state control officers and the conduct of marine casualty investigations;
- (l) to coordinate with local and international agencies, for periodic joint exercises and drills to enhance preparedness for marine pollution incidents;
- (m) to cooperate with public sector agencies, for the provision of hydrographic services, including marine surveying and charting, to ensure safe navigation in declared port areas;
- (n) to maintain a register of certified fuel oil suppliers operating within declared port areas;
- (o) as necessary, to enter into an agreement with public sector agencies, for the purpose of fulfilling any provision of this Act.” .

5. Insertion of new section 28A into the principal Act.

The principal Act is amended by the insertion, immediately after section 28, of the new section 28A as follows —

“ 28A. Minister may enter into agreement for upkeep of lights, lighthouses, etc.

The Minister may enter into an agreement for the upkeep and maintenance of lights, lighthouses and navigational structures within The Bahamas, and for the assessment thereof.” .

6. Amendment of section 40A of the principal Act.

Section 40A of the principal Act is amended —

- (a) in subsection (1) by the deletion of the words “1st January 2025” and the substitution of the words “1st July 2025” ;
- (b) in subsection (4)(b), by the insertion of the words “Port Controller or” immediately before the word “Administrator”;

- (c) in subsection (5)(b), by the insertion of the words “Port Controller or” immediately before the word “Administrator”;
- (d) by the insertion of a new subsection (7) immediately after subsection (6) as follows –
 - “(7) Nothing in this Act shall be construed to exempt a leaseholder with a jetty, groin, mooring, causeway or pipeline on or over the leased seabed area from the requirement to obtain and maintain a valid seabed lease under this Act.”.

7. Insertion of new section 40B into the principal Act.

The principal Act is amended by the insertion, immediately after section 40A of the new section 40B as follows -

“40B. Automatic Identification System.

- (1) Every foreign vessel, fifty (50) feet and over in length, that is in Bahamian waters shall at all times —
 - (a) be equipped with an automatic identification system;
 - (b) ensure that the automatic identification system is properly functioning; and
 - (c) ensure the automatic identification system is turned on.
- (2) For the avoidance of doubt subsection (1) applies whether the foreign vessel is —
 - (a) docked in The Bahamas;
 - (b) traversing the waters of The Bahamas; or
 - (c) passing through The Bahamas.
- (3) An owner of a foreign vessel or the master who contravenes subsection (1), commits an offence and is liable, on summary conviction to a fine of one thousand dollars.”.

8. Repeal and replacement of section 41A to the principal Act.

Section 41A to the principal Act is repealed and replaced as follows —

“41A. Seabed Lease.

- (1) Any person or entity desiring to construct an industrial, commercial or private pier, wharf, jetty, groin, mooring or abutment, or undertake any other activity on or affecting the seabed shall—
 - (a) apply for a lease of the area of the seabed on which the pier, wharf, jetty, groin, mooring or abutment is to be constructed or the activity undertaken in Form I of the Sixth Schedule;

- (b) furnish supporting documents as may be reasonably required, including financial statements of the applicant, a site plan, and any licences or permits related to the proposed activity;
 - (c) demonstrate compliance with all applicable environmental and regulatory requirements.
- (2) When considering an application made under subsection (1) of this section, the Minister shall be guided by—
 - (a) the Environmental Planning and Protection Act;
 - (b) the technical expertise of the Department of Lands and Surveys.
- (3) The maximum term for any seabed lease granted under this Act shall not exceed twenty-five years, with the option to renew.
- (4) The Minister shall, by Order, prescribe the rates for a seabed lease.
- (5) In addition to the rates charged for the lease of any area of the seabed, the Minister shall —
 - (a) charge a seabed environmental levy fee annually; and
 - (b) by Order, prescribe the rate of the seabed environmental levy fee.
- (6) A phased penalty structure shall apply to every leaseholder who fails to make payments in accordance with the terms of their seabed lease, as follows —
 - (a) if a leaseholder fails to pay the annual fee within thirty days of the due date, the leaseholder shall be liable to pay, a late payment fee as provided in section 76A;
 - (b) if a leaseholder fails to pay the annual fee and any penalties, after one hundred and ninety days of the due date the Minister may terminate the lease agreement by written notice to the leaseholder.
- (7) Where a leaseholder breaches any term or condition of the seabed lease, other than a payment obligation, the leaseholder shall be liable to a penalty not exceeding one hundred thousand dollars, and the Minister may, in addition to imposing such penalty, terminate the lease.
- (8) A lease granted in accordance with this section —
 - (a) shall not be transferred or assigned to any other person or entity without the prior written approval of the Minister;

(b) shall be subject to the prescribed fees which shall be collected by the Port Controller and paid into the Consolidated Fund.

(9) Any person who contravenes any provision of this section, for which no penalty applies, shall be liable to a fine not exceeding two hundred and fifty thousand dollars or to imprisonment for a term not exceeding two years or both.”.

9. Insertion of new section 75A into the principal Act.

The principal Act is amended by the insertion, immediately after section 75, of the new section 75A as follows —

“75A. Penalty for using seabed area without a lease.

Any individual or entity that exploits, uses or occupies a seabed area without a valid seabed lease issued under this Act shall be guilty of an offence and liable to a penalty of fifty thousand dollars per acre of the area used unlawfully or to imprisonment for a term not exceeding two years or both.”.

10. Insertion of new section 77A into the principal Act.

The principal Act is amended by the insertion, immediately after section 77, of the new section 77A as follows —

“77A. Offences by company.

Where any offence under this Act is committed by a company, firm, or other association of individuals, every director and officer of the company, every partner and officer of the firm or every member and every person concerned in the management of the affairs of the association, as the case may be, shall severally be liable to be prosecuted and punished for the offence in like manner as if he had himself committed the offence, unless the act or omission constituting the offence took place without his knowledge, consent or connivance.”.

11. Insertion of new Sixth Schedule into the principal Act.

The principal Act is amended by the insertion, immediately after the Fifth Schedule of the new Sixth Schedule as follows —

“ SIXTH SCHEDULE

(Section 41A)

FORM I

APPLICATION FOR A SEABED LEASE AGREEMENT

Under

THE PORT AUTHORITIES ACT (CH. 269)

1. Name of applicant (Individual or Entity):
2. Address of applicant:
3. Phone number:
4. Nationality (for individuals) / Country of Incorporation (for entities):
5. Purpose of lease (e.g. mooring, dock construction, resource extraction, etc.):
6. Duration of lease requested:
7. Estimated start date of project:
8. Location of relevant seabed area (coordinates or description):
9. Seabed area (in acres) requested for lease:
10. Coordinates of seabed boundary lines using World Geodetic System 84 (WGS 84):
.....
11. Is the requested seabed area located in a protected or restricted area?
Yes or No.
12. Has an Environmental Impact Assessment been conducted? Yes or No
13. Please list any regulatory compliance requirements your project will adhere to

I, the undersigned, hereby certify that all information provided in this application is accurate and complete to the best of my knowledge. I understand that providing false or misleading information may result in the rejection of this application or the revocation of an existing lease.

.....

Signature of Applicant

.....

Date

NOTE: Please submit this completed application form and the required supporting documents to the Port Department. Note that the maximum penalty for making a Declaration which is to the knowledge of the declarant false or in any material respect misleading shall not exceed one thousand dollars. ”.

OBJECTS AND REASONS

- Clause 1 of the Bill sets out the Short Title and commencement.
- Clause 2 of the Bill seeks to amend section 2 of the principal Act by inserting new definitions,
- Clause 3 of the Bill seeks to grant the Minister additional regulatory-making powers with respect to marine traffic.
- Clause 4 of the Bill seeks to expand the duties of the Port Controller, amongst other things, to cooperate with public sector and international agencies to ensure compliance with maritime laws and standards and to enhance preparedness for marine pollution incidents.
- Clause 5 seeks to authorise the Minister to enter into agreements for the maintenance of lights and lighthouses.
- Clause 6 of the Bill seeks to increase the fees for Moorings.
- Clause 7 of the Bill seeks to impose the duty on all foreign vessel in Bahamian waters to utilize an automated identification system at all times and the penalty of \$1000.00 for persons who do not comply.
- Clause 8 of the Bill seeks to repeal and replace section 41A to strengthen the regulatory regime for the grant of seabed leases.
- Clause 9 of the Bill seeks to provides for a penalty for using a seabed area without a lease.
- Clause 10 of the Bill seeks to provide for offences committed by a company.
- Clause 11 of the Bill seeks to amend the Schedule to provide for an application for a seabed lease.

