

# ENVIRONMENTAL PLANNING AND PROTECTION (AMENDMENT) BILL, 2024

## Arrangement of Sections

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### Section

1.	Short title.....	2
2.	Amends section 2 of the principal Act.....	2
3.	Amends section 11 of the principal Act.....	2
4.	Amends section 12 of the principal Act.....	3
5.	Amends section 20 of the principal Act.....	3
6.	Amends section 22 of the principal Act.....	4
7.	Amends section 26 of the principal Act.....	4
8.	Amends section 30 of the principal Act.....	4
9.	Amends section 55 of the principal Act.....	4
10.	Amends section 56 of the principal Act.....	5
11.	Amends section 58 of the principal Act.....	5
12.	Amends section 60 of the principal Act.....	5
13.	Inserts new section 60A into the principal Act.....	5

### OBJECTS AND REASONS

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# ENVIRONMENTAL PLANNING AND PROTECTION (AMENDMENT) BILL, 2024

## A BILL FOR AN ACT TO AMEND THE ENVIRONMENTAL PLANNING AND PROTECTION ACT

### Enacted by the Parliament of The Bahamas

#### 1. Short title.

This Act, which amends the Environmental Planning and Protection Act, 2019,<sup>1</sup> may be cited as the Environmental Planning and Protection (Amendment) Act, 2024.

#### 2. Amends section 2 of the principal Act.

Section 2 of the principal Act is amended by inserting the following definition in the appropriate alphabetical position —

“**environmentally sensitive area** means an area —

- (a) in which plant or animal life or their habitats are either rare or especially valuable because of their special nature or role in an ecosystem and which may easily be disturbed or degraded by human activities and developments; and
- (b) designated under section 23;”.

#### 3. Amends section 11 of the principal Act.

Section 11 of the principal Act is amended —

- (a) in subsection (2) —

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<sup>1</sup> (No. 40 of 2019)

- (i) in paragraph (a), by deleting the words “five thousand dollars or a term of imprisonment not exceeding one year” and substituting therefor the words “three hundred thousand dollars or a term of imprisonment not exceeding five years”, and
- (ii) in paragraph (b), by deleting the words “ten thousand dollars or a term of imprisonment not exceeding three years” and substituting therefor the words “six hundred thousand dollars or a term of imprisonment not exceeding ten years”; and
- (b) by inserting, immediately after subsection (2), the following as new subsections (3) and (4) —
  - “(3) A person who fails to comply with the conditions in a Certificate of Environmental Clearance as prescribed, commits an offence and is liable on conviction to a fine not exceeding three hundred thousand dollars or to a term of imprisonment not exceeding five years.
  - (4) Notwithstanding subsection (1), the Director may, after inspection by an Environmental Officer —
    - (a) exempt a person from the conditions in a Certificate of Environmental Clearance; and
    - (b) allow the person to commence work on the operation, repair, maintenance, minor alteration of existing public or private structures, facilities, mechanical equipment, or topographical features, but such work shall not result in any change to the existing structures, facilities, equipment or features; or
    - (c) permit the construction of —
      - (i) a residential dwelling (single-family), or
      - (ii) not exceeding a six multi-family dwelling.”.

**4. Amends section 12 of the principal Act.**

Section 12(2) of the principal Act is amended, in paragraph (f), by deleting the words “five hundred thousand dollars and terms of imprisonment not exceeding ten years” and substituting therefor the words “two million dollars or a term of imprisonment not exceeding twenty years”.

**5. Amends section 20 of the principal Act.**

Section 20(1) of the principal Act is amended —

- (a) in paragraph (a), by deleting the words “ten thousand dollars or a term of imprisonment not exceeding three years” and substituting

therefor the words “six hundred thousand dollars or a term of imprisonment not exceeding ten years”; and

- (b) in paragraph (b), by deleting the words “fifty thousand dollars or a term of imprisonment not exceeding five years” and substituting therefor the words “one million dollars or a term of imprisonment not exceeding twenty years”.

**6. Amends section 22 of the principal Act.**

Section 22(2) of the principal Act is amended —

- (a) in paragraph (a), by deleting the words “ten thousand dollars or a term of imprisonment not exceeding one year” and substituting therefor the words “six hundred thousand dollars or a term of imprisonment not exceeding ten years”; and
- (b) in paragraph (b), by deleting the words “fifty thousand dollars or a term of imprisonment not exceeding five years” and substituting therefor the words “one million dollars or a term of imprisonment not exceeding twenty years”.

**7. Amends section 26 of the principal Act.**

Section 26(5) of the principal Act is amended by deleting the words “ten thousand dollars or a term of imprisonment not exceeding one year” and substituting therefor the words “six hundred thousand dollars or a term of imprisonment not exceeding ten years”.

**8. Amends section 30 of the principal Act.**

Section 30(2) of the principal Act is amended —

- (a) in paragraph (a), by deleting the words “seven thousand dollars or a term of imprisonment not exceeding six months” and substituting therefor the words “four hundred and twenty thousand dollars or a term of imprisonment not exceeding five years”; and
- (b) in paragraph (b), by deleting the words “five hundred thousand dollars or a term of imprisonment not exceeding five years” and substituting therefor the words “three million dollars or a term of imprisonment not exceeding twenty years”.

**9. Amends section 55 of the principal Act.**

Section 55(1) of the principal Act is amended by deleting the words “twenty-five thousand dollars and not exceeding thirty million dollars or a term of imprisonment not exceeding ten years” and substituting therefor the words “five

hundred thousand dollars and not exceeding thirty million dollars or a term of imprisonment not exceeding twenty years”.

**10. Amends section 56 of the principal Act.**

Section 56(3) of the principal Act is amended, in paragraph (a), by deleting the words “five thousand dollars or a term of imprisonment not exceeding one year” and substituting therefor the words “three hundred thousand dollars or a term of imprisonment not exceeding five years”.

**11. Amends section 58 of the principal Act.**

Section 58 of the principal Act is amended —

- (a) in paragraph (a), by deleting the words “three thousand dollars or a term of imprisonment not exceeding six months” and substituting therefor the words “one hundred and eighty thousand dollars or a term of imprisonment not exceeding three years”;
- (b) in paragraph (b), by deleting the words “five thousand dollars or a term of imprisonment not exceeding nine months” and substituting therefor the words “three hundred thousand dollars or a term of imprisonment not exceeding five years”.

**12. Amends section 60 of the principal Act.**

Section 60 of the principal Act is amended by deleting the words “twenty-five thousand dollars or imprisonment for seven years” and substituting therefor the words “one million dollars or a term of imprisonment not exceeding twenty years”.

**13. Inserts new section 60A into the principal Act.**

The principal Act is amended by inserting, immediately after section 60, the following as a new section 60A —

**“60A. Special procedure in respect of certain offences.**

- (1) An environment officer or maritime inspector who has reason to believe that a person (“the alleged offender”) is committing or has committed an offence under this Act or regulations made under this Act, may serve the alleged offender a written penalty notice charging him with the commission of the offence.
- (2) At the time of service, the environment officer or maritime inspector shall notify the alleged offender that if the alleged offender does not wish to have a complaint of the offence heard and determined by a court, the amount specified in the

notice may be paid to an authorised person within fourteen days after the penalty notice is served.

- (3) If the alleged offender fails to pay the spot fines specified in the penalty notice, the Department of Environmental Planning and Protection may institute proceedings against the alleged offender or the maritime inspector may detain the ship.
- (4) The penalty notice shall —
  - (a) be in the form as prescribed under the regulations;
  - (b) contain a description of the offence;
  - (c) specify the spot fines for the offence as prescribed under the regulations;
  - (d) state that if the alleged offender wishes to waive an appearance before the court, the amount specified in the notice shall be paid into court, within seven days after the notice is served, and transferred to the Environmental Administration Fund.
- (5) No proceedings shall be taken against the alleged offender until the end of seven days following the date of the penalty notice.
- (6) Where the alleged offender does not make payment of spot fines the notice issued under subsection (1) shall be deemed to be a summons issued by the court specified in the notice for the appearance of that person and the penalty notice shall serve as a charge sheet for arraignment purposes.
- (7) For the purposes of this section “spot fines” mean the fine specified in relation to an offence as may be prescribed in the regulations.”.

### **OBJECTS AND REASONS**

This Bill seeks to amend the Environmental Planning and Protection Act to provide for the increase in penalties associated with certain offences. The increased penalties will serve as a deterrent.

Also, this Bill provides a definition for environmentally sensitive areas. An environmentally sensitive area is an area in which plant or animal life or their habitats are either rare or especially valuable because of their special nature or role in an ecosystem and which may easily be disturbed or degraded by human activities and developments.

Further, this Bill introduces spot fines. Pursuant to the Act, the offender would receive a notice issued by an environmental officer or maritime inspector. The offender would use the notice to pay or contest the fine in a magisterial court.