

BERMUDA STATUTORY INSTRUMENT

SR&O 56/1971

PEMBROKE MARSH CANAL REGULATIONS 1971

[made under section 5 of the Pembroke Marsh Canal Act 1969 [title 19 item 14] and brought into operation on 4 September 1971]

ARRANGEMENT OF REGULATIONS

- 1 Storm water not to be deposited without written authority
- 2 Prohibited effluents
- 3 Power to prohibit discharge of other effluents
- 4 Prohibition of development within 14 feet of edge of canal
- 5 Special permission for roads and storage
- 6 Restriction on development in adjacent area
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- 8 Application for any permission under these Regulations
- 9 Certificate
- 10 Liability of owner and occupier
- 11 Removal of unauthorized development
- 12 *[omitted]*

Storm water not to be deposited without written authority

1 (1) No person shall deposit, or cause or permit to be deposited, any storm water in the Canal or construct or cause or permit to be constructed any works whereby storm water might reasonably be expected to be deposited in the Canal except under and in accordance with written authority of the Permanent Secretary for the Department of Works and Engineering (hereinafter referred to as "the Permanent Secretary").

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(2) Any such authority as is specified in paragraph (1) may be given for such period and subject to such conditions and restrictions as the Permanent Secretary may in each case impose.

Prohibited effluents

2 No person shall deposit or cause or permit to be deposited any of the following effluents in the Canal—

- (a) foul water from domestic or commercial premises of any kind or from a septic tank, cesspit or other place of storage;
- (b) effluent from a laundry;
- (c) petroleum spirit.

Power to prohibit discharge of other effluents

3 The Permanent Secretary may by notice in writing under his hand served on any person whom the Permanent Secretary believes is depositing or causing or permitting to be deposited any effluent in the Canal which, in the opinion of the Permanent Secretary—

- (a) is likely to injure the Canal or to interfere with the free flow of water therein; or
- (b) to be dangerous in any manner whatsoever; or
- (c) to be a nuisance or prejudicial to health; or
- (d) otherwise, in the opinion of the Permanent Secretary, ought not to be deposited in the Canal,

require such person to cease to deposit or cause or permit the deposit of such effluent in the Canal, either forthwith or within such time as the Permanent Secretary may in the notice allow, and any person who fails to comply with any such notice shall, unless he establishes that the deposit was caused by circumstances beyond his control, be deemed to have contravened these Regulations.

Prohibition of development within 14 feet of edge of canal

4 (1) For the purposes of this regulation "the edge of the Canal" means—

- (a) the existing edge of the Canal, where no proposals for widening the Canal are shown on plan Number 3/14/110 held in the office of the Department of Works and Engineering, and
- (b) where proposals for widening the Canal are shown on the plan referred to in sub-paragraph (a) hereof, the proposed edge of the Canal as shown on that plan.

(2) Subject to regulation 5, no development shall be permitted above ground within a distance of fourteen feet from the edge of the Canal.

Special permission for roads and storage

5 Notwithstanding regulation 4 the Permanent Secretary may give permission in writing—

- (a) to carry any road, access way, pipe or cable over under and along the canal or to improve any road or access way over the canal and to construct such works as may be necessary for such purposes; or
- (b) to use any land within the area referred to in paragraph (2) of Regulation 4 for storage purposes,

and he may grant such permission for such period and subject to such conditions and restrictions as he may in each case, determine.

Restriction on development in adjacent area

6 Within the adjacent lands outside the area referred to in paragraph (2) of regulation 4 development involving the carrying out of building, engineering or other operations in, on, over or under the land shall require the permission in writing of the Permanent Secretary and, when application is made to the Permanent Secretary for permission under this regulation, the Permanent Secretary may—

- (a) refuse permission where he is of the opinion that—
 - (i) the development applied for would affect the Canal detrimentally or the operation thereof or result in the discharge of storm water or effluent therein; or
 - (ii) the Canal or works undertaken in connection with the maintenance or improvement of the Canal would affect the stability or use of the building or other structure to which the application relates;
- (b) grant permission either unconditionally or subject to such conditions relating to the avoidance of the effects specified in sub-paragraphs (a)(i) and (a)(ii) hereof, as he may see fit to impose.

Planning permission required

7 Permission to carry out development in the adjacent lands under these Regulations shall not dispense with the need to obtain permission in respect of the same development under the Development and Planning Act 1974 [*title 20 item 1*], nor shall permission granted under that Act

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dispense with the need to obtain permission for the same development under these Regulations nor authorise development prohibited by these Regulations.

Application for any permission under these Regulations

8 Application to the Permanent Secretary for any permission required to be given by him under these Regulations shall be made through the Secretary of the Development Applications Board and, where practicable, at the same time as planning approval is sought under the Development and Planning Act 1974.

Certificate

9 Where any person makes application for planning approval to the Development Applications Board under the Development and Planning Act 1974 [*title 20 item 1*], in respect of development in the adjacent lands the Permanent Secretary shall, at the request of that person, or of the Board, certify to the Board in writing whether or not any permission has been granted under these Regulations for any specified development and the nature of such permission where such permission has been granted.

Liability of owner and occupier

10 Where any development takes place in contravention of these Regulations or of any condition imposed in accordance herewith the owner and occupier of the land on which the contravention takes place shall be deemed to be responsible therefor and shall be liable to be prosecuted accordingly in accordance with section 10 of the Pembroke Marsh Canal Act 1969 [*title 19 item 14*].

Removal of unauthorized development

11 Where any development has taken place in contravention of these Regulations or of any condition imposed in accordance therewith the Director of Planning may serve notice upon the owner and occupier of the land concerned to restore the land to its previous condition within such reasonable period as the Permanent Secretary may allow, and if the owner or occupier fails so to do within that period or such further period as the Permanent Secretary may allow the Permanent Secretary may enter upon the land and take such steps as he may consider necessary to restore the land; and the Permanent Secretary may further recover as a simple contract debt in any court of competent jurisdiction from the person who is then the owner of the land any expenses reasonably incurred by the Permanent Secretary in that behalf.

Commencement

12 [*omitted*]

[Amended by

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1988 : 19]