



**MINISTRY OF  
PUBLIC WORKS**

**MINISTERIAL BRIEFING**

**BERMUDA NATIONAL PARK      AMENDMENT ACT 2017**

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**PART I THE LEGISLATION**  
**BERMUDA NATIONAL PARK AMENDMENT BILL 2017**

**PART II THE MINISTERIAL BRIEF**

**A. General Overview**

**Mr. Speaker,** I rise today to introduce the Bill titled the “Bermuda National Park Amendment Act 2017”

**B. Introduction and Purpose**

**Mr. Speaker,** the Bermuda National Parks Act 1986 is the enabling legislation for the National Parks System as the Act sets the general legislative framework and the Bermuda National Parks Regulations 1988 sets the parameters for the management of the island’s public park system.

This legislation is over 30 years old and does not best reflect the issues of the day. In 2009 the Bermuda National Parks Amendment Act 2009 was approved but not brought into force. However, the enactment of this Bill the Bermuda National Park Amendment Bill 2017 will effectively bring both, the amendments in the Bermuda National Parks Amendment Act 2009 and the proposed amendments in this Bill into force. The combination will provide a much improved structure to manage the park system with better enforcement powers to protect our most sensitive areas and it will provide services to benefit the island.

The salient points for the Bermuda National Parks Amendment Act 2017 are:

**Amendments to Section 25- Prescribing Fees**

**Mr. Speaker,** the Department of Parks currently offers a variety of goods and services that have been provided to the public for a nominal fee since the inception of the Bermuda National Parks Act 1986. These include the provision of venues for social events and weddings, the rental of buildings and admission into attractions.

After a review of the Act, with the exception of the fourteen (\$14) dollars per day camping fee prescribed in the Government Fee Regulations Head 7 titled “Bermuda National Park Act 1986”, it was discovered that the collection of all other fees over the years had not been authorized, as under the parent act there is no provision for the numerous fees for services and related goods. This discrepancy was detected in November 2016 and as a result, all fees were suspended until they could be formalized.

**Mr. Speaker,** after reviewing the Department's activities it was found that many of the services were not heavily subscribed to and new products and relevant services were identified that would also require the introduction of new fees. Also, the existing fee structure can be perceived as convoluted and would benefit from realignment, as currently different sites within the park system, purposed for similar functions are being rented at different rates. An example of this is the difference in renting an area at Fort Scaur as opposed to an area at the Botanical Gardens. As such, one fee structure that is reflective of the site and size of the event will simplify the process.

During the review it was also determined that the current schedule of rates was low and it could be argued that the fees were not representative of the true value of the services provided.

**Mr. Speaker,** I want to emphasize, the goal of the Government is not to gain a profit but to provide and ensure high quality services, in keeping with the tenants of the legislation. To remedy this it is proposed to amend the Act to provide powers to charge fees for services and related goods provided by the Department of Parks; this will ensure appropriate powers are provided within the Act and new regulations will be enacted to appropriately charge for current and future services and related goods. As the public has been consistently charged for most of the services offered by the Department of Parks over the years, they already have an expectation of and are accustomed to paying a fee for the various services and usage within the park system.

**Mr. Speaker,** the objectives of these amendments are to update and streamline the existing fees; introduce new fees; and ensure fees for all goods and services provided by the Department of Parks can be legally collected. These changes will place the Department in good standing in accordance with legislation and allow for the collection of revenue for the Government of Bermuda.

**Repeal and Replace the First Schedule**

**Mr. Speaker,** The National Parks System contains **protected areas of different types**, which are classified based on the primary management goal of the property. Areas representing the most important sites for the conservation of nature, including key habitats and populations of rare plants and animals are designated as **Nature Reserves**. Open spaces and beaches managed for the recreational enjoyment of the public are designated as **Amenity Parks** under the Act. Parklands set aside as sports fields or camp grounds or for other public uses are designated as **Recreational Parks**.

Subsequent to the amendments to the Act in 2009, a comprehensive Geographic Information Systems (GIS) mapping review of protected areas conducted by the former Department of Conservation Services identified a number of changes to be made to the list of protected areas. These changes form the basis of the amendments to Schedule 1 of the Act and it was recommended that several parks be reclassified as nature reserves to reflect their importance as wildlife refuges. Government-owned areas currently managed for public use, but not protected under the Act needed to be added to the schedule. This includes new parks and nature reserves on land acquired or re-purposed since 1986. In addition to physical changes to the list of protected areas, higher resolution aerial photographs taken in 2012 provided more accurate coastline and updated representation of the roads and buildings. As a result the National Parks dataset has been adjusted to follow the new coastline and roads, which in most cases resulted in minor changes to area calculations. The mapping review identified specific areas where the boundaries needed to be accurately delineated. Also, some areas were identified that should be removed from the schedule as private ownership has been established, or managing them as part of the National Parks System has become impractical.

**Mr. Speaker,** with these amendments the total number of proposed areas protected under the National Park System will be increased from ninety eight (98) protected areas to one hundred and twelve (112) protected areas. The amended total area of the Parks System is one thousand, one hundred and twenty nine acres (1,129 acres) or four hundred and fifty seven hectares (457 hectares). This is an increase to the system of ninety acres (90 acres) or thirty six hectares (36 hectares).

In summary the physical changes to the National Park system (First Schedule) are as follows:

The creation of sixteen (16) new protected areas, including:

- 1) Cooper's Island Nature Reserve
- 2) Cooper's Island Park
- 3) Clearwater Park
- 4) Stocks Harbour Nature Reserve
- 5) One Rock Nature Reserve
- 6) Dunscombe Wood Nature Reserve
- 7) Ducking Stool Park
- 8) Government House Water Front Park
- 9) Southlands Park
- 10) Aquarium Park
- 11) Parson's Road Park
- 12) Pig's Field Park
- 13) Harrington Sound Park
- 14) Mangrove Lake Nature Reserve
- 15) Paynter's Hill Nature Reserve
- 16) White Crest Hill Nature Reserve

The addition of three (3) existing protected areas, omitted through clerical error in the Bermuda National Parks Amendment Act 2009:

- 1) Fort St. Catherine Park
- 2) Ducks Puddle Annex Park
- 3) Walsingham Marine Reserve

The reclassification of seven (7) existing amenity parks or portions of parks as Nature Reserves in order to better recognize their importance as wildlife refuges. These new nature reserves include:

- 1) Barnes Corner
- 2) Gilbert Nature Reserve
- 3) Nelly Island
- 4) Smith's Island
- 5) Spanish Point Islands
- 6) Warwick Ridge

7) Wilkinson Memorial

The removal of two (2) small nature reserves (Godet Island and Godet Rocks Nature Reserves) as private ownership was established in June 2009 by deed and confirmed by the Estates Section of the Ministry of Public Works. While not within the National Park system these areas are still zoned under the Bermuda Development Plan 2008 as Nature Reserve and there has been no net loss to Bermuda's sensitive habitats.

**Mr. Speaker**, the management of our protected beaches and coastlines cannot stop at the high water mark therefore marine buffer areas will be re-established. There is a need to control and manage human activity to ensure that persons do not knowingly cause damage to sensitive areas or species that may impact the terrestrial protected area. Further, it is also important that persons do not either hurt themselves or others through their actions. For example boats landing on crowded beaches, and ensuring persons do not enter the water in dangerous wave conditions or in the presence of Portuguese Man of War invasions. Each protected area that has a coastline or beach will have a "buffer area" extending, on average, ten (10) meters seaward from the high water mark.

In total there will be sixty six (66) areas. These 'buffer areas' are similar to the areas in the original Bermuda National Parks Act 1986 maps and will provide the same level of protection required under the Act, without impinging on other legislation, such as the Fisheries Act 1972. These areas are not included in the area totals of the Park System and are territorially part of the adjacent terrestrial park. These 'buffer areas' will replace thirteen (13) marine parks approved under the National Parks Amendment Act 2009; which were designed to have the same function as the marine "buffer" areas.

#### **Amendments to Third Schedule – Composition of the National Parks Commission**

The Third Schedule of the Bermuda National Parks Act 1986 outlines the constitution of the National Parks Commission. The Commission is responsible for advising the Minister on the best means to sustainably manage the National Parks System.

The Commission is well represented by the island's environmental bodies such as the Bermuda National Trust, Bermuda Audubon Society, the National Museum of Bermuda and the Bermuda Zoological Society. However, the current composition makes the Commission vulnerable to a narrow perspective and there is significant benefit in broadening the range of expertise represented in the Commission to better reflect the needs of all user groups who use the island's parks and nature reserves.

Therefore it is proposed to amend the composition of the Commission to (1), add a representative from the Bermuda Tourism Authority and (2) broaden the membership to those who may be considered by the Minister to have a sufficient interest or expertise in environmental protection, conservation of natural or historical resources; economic, commercial or entrepreneurial matters.

These changes will provide the ability to form a Commission that best meets the strategic vision and direction for the calendar year.

As a result the composition of the Commission will increase from twelve (12) to thirteen (13) members; with a requirement of eight (8) members for a quorum.

Thank You **Mr. Speaker**.

#### **PART IIICLAUSE BY CLAUSE**

##### **A. Purpose of Bill**

This Bill seeks to amend the Bermuda national Parks Act 1986 and the Government Fees Regulations 1976.

**Clause 1** - is the title of the Bill.

**Clause 2** - amends section 25(1) of the principal Act by adding after sub-paragraph (f), sub-paragraph (fa), thereby allowing regulations to be made under this Act for the purpose of prescribing fees, other than fees that are prescribed under the Government Fees Regulations 1976.

**Clause 3** – The clause in this Bill which provides for the insertion of 25A “Validation of Fees” after Section 25 will be repealed as this validation is provided for in the Bermuda National Parks No.2 Amendment Bill. This repeal will be addressed by a motion.

This will obviously change the numbering in the Clause by Clause of the Bill where the current Clause 4 will become Clause 3 and the other clauses will be numbered as 4, 5, and 6. In the Explanatory Memorandum, Clause 3 remains the same but the remaining clauses will be renumbered as 4, 5, and 6

**Clause 4** - repeals and replaces the First Schedule of the principal Act, adding new Nature Reserves to reflect areas of the same that are to be managed as part of the National Park System. Clause 3 also clarifies that maps of the Nature Reserves can be viewed at the Department of Parks or at the Ministry of Public Works (Department of Land Surveys and Registration).

**Clause 5** - amends the Third Schedule of the principal Act, in paragraph 1, by increasing the constitution of the commission from 12 members to 13 members (which includes the current Director and the Assistant Director as ex officio members). The additional members are as follows: (a) one (member from the Bermuda National Trust; (b) one member from the Bermuda Audubon Society; (c) one member from the National Museum of Bermuda; (d) one member from the Bermuda Zoological Society; (e) one member from the Bermuda Tourism Authority; (f) two members representative of users of the System; and (g) four members who may be considered by the Minister to have a sufficient interest or expertise in environmental protection, conservation of natural or historical resources; economic, commercial or entrepreneurial matters.

**Clause 6** - Repeals sections 26 and 27 of the Bermuda National Parks Amendment Act 2009, as they have been superseded by the amendments being made by way of the Bermuda National Parks Amendment Act 2017.

**Clause 7** - is the commencement provision.