

CAYMAN ISLANDS



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**A BILL FOR A LAW TO PROVIDE FOR BETTER REGULATION OF
THE USE OF PUBLIC LAND; TO ESTABLISH A PUBLIC LANDS
COMMISSION; AND FOR INCIDENTAL AND CONNECTED MATTERS**

THE PUBLIC LANDS BILL, 2017

MEMORANDUM OF OBJECTS AND REASONS

The Bill seeks to improve the regulation of public lands owned and managed by the Cayman Islands Government, statutory authorities, government companies and associated entities. These lands include Crown lands, land vested in statutory authorities or government companies and public spaces such as public parks, public beaches, beach accesses, launching ramps and jetties, cemeteries, craft market sites, sports facilities and the grounds of public buildings.

The Bill would create a Public Lands Commission that would be responsible for making regulations governing public conduct and use of public land and its protection. The Commission would also issue permits and licences for commercial activities and organized events on public land and have the power to exempt from the application of the Regulations, public lands adequately regulated by government companies, statutory authorities or other entities. Alternatively, the Commission could enter into agreements with any of these entities to regulate public lands in collaboration with them.

The Bill provides for the appointment of a secretary to the Commission to assist it in administering the Law as well as a Chief Inspector, inspectors and deputy inspectors to enforce the Law. The Bill gives the Commission wide regulatory powers governing the use of, and activities on public land and enables inspectors and deputy inspectors to issue tickets for contraventions of the Regulations. The Bill would give persons who receive tickets the option of paying the fixed penalty on the ticket or entering a “not guilty plea” and requesting a trial in the Summary Court.

Clause 1 provides for the short title and commencement of the legislation.

Clause 2 provides the definitions for terms used in the legislation.

Clause 3 gives the Minister responsible for Crown land responsibility for policy governing public land and provides that the Minister may delegate any of the Minister’s powers to the Commission, to a government-owned statutory authority or to a government-owned company. The clause also provides that the Minister may give general policy directions to the Commission, which the Commission must follow.

Clause 4 provides for the establishment of the Commission.

Clause 5 sets out the mandate of the Commission.

Clause 6 provides for the membership of the Commission.

Clause 7 governs meetings of the Commission and the procedure to be followed at meetings. The clause also requires a member who has a conflict of interest in respect to a matter considered by the Commission to declare it and recuse him or herself from the Commission's consideration of the matter if the Chairman so orders.

Clause 8 sets out the powers of the Commission and enables it to charge fees for the issuance of permits and licences.

Clause 9 provides for the posting of signs, notices and advertisements by the Commission and enables the Commission to distribute information to promote public knowledge of, and compliance with, the Law.

Clause 10 enables the Legislative Assembly to allocate moneys for the budget of the Commission.

Clause 11 provides for the appointment of a Chief Inspector, additional inspectors and a secretary to the Commission, and for the supervision of the secretary and inspectors by the Chief Inspector. The clause empowers inspectors to enforce the Law and Regulations and requires them to present identification on request, when doing so.

Clause 12 provides for the designation of deputy inspectors by the Chief Officer of the Minister.

Clause 13 provides for inspectors and deputy inspectors to be given certificates of appointment, which must be produced on request, when carrying out their duties.

Clause 14 enshrines the public right of access to and use of public land without discrimination and requires the Commission to protect that right.

Clause 15 provides that a person who wishes to carry on a trade or business on public land must apply to the Commission for a vendor's licence.

Clause 16 provides for the review of applications for vendor's licences by and for the issuance of vendor's licences by the Commission.

Clause 17 provides for the renewal of vendor's licences.

Clause 18 enables the Commission to accept a late application for renewal of a vendor's licence and to impose a penalty for each day that the application is late.

Clause 19 provides for the continuation of existing vendor's licences pending the decision of the Commission on renewal.

Clause 20 requires vendors to publicly display certificates at their places of business confirming that they hold vendor's licences.

Clause 21 provides that the Commission may suspend, cancel or refuse to renew a vendor's licence on certain grounds.

Clause 22 sets out the powers and immunities of inspectors in performing their duties under the Law.

Clause 23 provides for the search of premises by inspectors or deputy inspectors, and the procedure for application for search warrants. The clause also provides that searches of persons must be carried out by enforcement officers of the same gender as the person.

Clause 24 provides for the court to order the disposal of an item seized by an inspector or deputy inspector or its return to the person entitled to it. The clause sets out other circumstances where the item may be returned to the person from whom it is seized and enables the inspector or deputy inspector to sell it in certain circumstances and pay the proceeds of sale to the revenue of the Islands.

Clause 25 gives inspectors additional powers to prevent damage where a thing causes or may cause damage to public land or facilities.

Clause 26 makes it a summary conviction offence for a person to carry on a trade or business on public land without a vendor's licence. The clause also makes it an offence to make a false representation in an application for such a licence.

Clause 27 makes it a summary conviction offence to contravene the Regulations.

Clause 28 makes it an offence to obstruct an inspector or deputy inspector in the performance of their duties.

Clause 29 provides for the issuance of tickets for contraventions of the Regulations and sets out the contents of the ticket.

Clause 30 sets out the options of a person who receives a ticket.

Clause 31 provides for payment of the fixed penalty set out in a ticket.

Clause 32 provides for persons who receive a ticket to plead “not guilty”.

Clause 33 provides for persons who plead “not guilty” to attend at the Summary Court.

Clause 34 sets out the duties of the Clerk of Court in respect to a “not guilty” plea.

Clause 35 provides for the Commission to file tickets with the Clerk of Court and for the commencement of criminal proceedings for unpaid tickets. The clause also stipulates the penalty to which persons convicted of offences in such proceedings are liable.

Clause 36 provides for the delivery of, and evidence respecting, notices or documents required in relation to tickets or offences under the Law.

Clause 37 provides for evidentiary rules respecting payment of a fixed penalty set by a ticket and respecting the facts set out in a ticket.

Clause 38 sets out the Commission’s powers to make regulations respecting the use of, and activities on, public land and to amend the form of tickets.

Clause 39 empowers the Commission to exempt public lands regulated by a Ministry, statutory authority, government company or other entity from the Regulations. Alternatively, the Commission would be empowered to enter into an agreement with the entity to jointly regulate the use of such public lands and the enforcement of the Regulations thereon.

Clause 40 requires the Commission to submit an annual report to the Minister and for the Minister to table the report before the Legislative Assembly.

Clause 41 protects the Commission from liability for negligence in respect of accidents, deaths or injuries to persons on public land except in certain circumstances. It also protects the Commission, and the members and staff of the Commission, from liability for anything done in the course of their duty unless it was done negligently or in bad faith.

THE PUBLIC LANDS BILL, 2017

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CAYMAN ISLANDS

**A BILL FOR A LAW TO PROVIDE FOR BETTER REGULATION OF
THE USE OF PUBLIC LAND; TO ESTABLISH A PUBLIC LANDS
COMMISSION; AND FOR INCIDENTAL AND CONNECTED MATTERS**

ENACTED by the Legislature of the Cayman Islands.

PART 1 - PRELIMINARY

1. (1) This Law may be cited as the Public Lands Law, 2017.

Short title and
commencement

(2) This Law shall come into force on such date as may be appointed by Order made by the Cabinet.

2. In this Law -

Interpretation

“Commission” means the Public Lands Commission established by section 4;

“Crown land” means land in the Islands belonging to or held in trust for Her Majesty or acquired for the use of the Government;

“facility” means any structure on public land, including walls, fences, public buildings, washrooms and toilets;

“government company” has the meaning assigned to it in section 2 of the Public Management and Finance Law (2013 Revision);

(2013 Revision)

“inspector” means an inspector appointed under section 11;

“Minister” means the Minister responsible for Crown land;

“public land” means the following lands, whether or not the public has access to them -

- (a) Crown land and facilities on Crown land;
- (b) land vested in statutory authorities or government companies and facilities on such land;
- (c) wharfs, jetties, ramps and docks owned by the Crown, including the adjoining seabed,

but does not include the seabed (other than as described in paragraph (c)), or areas of Crown land designated as protected areas under section 7 of the National Conservation Law, 2013 for so long as the designation is in force;

(Law 24 of 2013)

“Regulations” means regulations made by the Commission under section 38;

“seabed” means the portion of land that underlies the water in an ocean;

“statutory authority” has the meaning assigned to it in section 2 of the Public Management and Finance Law (2013 Revision);

(2013 Revision)

“ticketable offence” means a contravention of the Regulations in respect of which an inspector initiates proceedings by issuing a ticket under section 29;

“trade or business” includes -

- (a) any profession, calling, vocation, occupation, trade or manufacture;
- (b) a commercial enterprise;
- (c) any mercantile, wholesale or retail operation; or
- (d) an undertaking of any kind whatever,

whether carried on year-round, seasonally or occasionally; and

“vendor’s licence” means a licence issued under section 16 to permit a person to carry on a trade or business on public land.

PART 2 -THE PUBLIC LANDS COMMISSION

3. (1) Subject to any other Law, the Minister shall have responsibility for Government policy respecting public land.

Minister's responsibility
in relation to public lands

(2) The Minister may delegate any of the Minister's responsibilities under this section to the Commission, a statutory authority or a government company.

(3) The Minister may, after consultation with the Commission, give such general directions as to the policy to be followed by the Commission in the performance of its functions under this Law as appear to the Minister to be necessary in the public interest, and the Commission shall give effect to such directions.

4. There is hereby established a Commission, to be called the Public Lands Commission, which has the powers and duties conferred or imposed on it by this Law.

Establishment of
Commission

5. The mandate of the Commission is to regulate the use of public land in the public interest, and in particular -

Commission's mandate

- (a) to regulate the use and enjoyment of public land by members of the public;
- (b) to protect the right of access to and use of public land by members of the public, including the enforcement of public rights of way over private land;
- (c) to respond to complaints regarding the use or misuse of public land;
- (d) to issue permits and licences for the use of, and activities on public land;
- (e) to advise the Chief Officer of the Ministry presided over by the Minister on general policies respecting the enforcement of this Law and particular enforcement matters;
- (f) to exercise the powers and carry out the functions delegated to it by the Minister under section 3.

6. (1) The Commission shall consist of-

Membership of the
Commission

- (a) the Director of Lands and Survey or his or her designate, who shall serve as the Chairman;
- (b) the Director of Commerce and Investment or his or her designate;
- (c) the Chief Officer of Tourism or his or her designate;
- (d) two other members appointed by Cabinet on the recommendation of the Minister, at least one of whom shall be a member of the

public and one of whom shall have a background and knowledge of the Island's heritage and culture.

(2) The members of the Commission appointed by Cabinet shall hold office for a term of two years, and are eligible on the expiry of their term for appointment for an additional two-year term.

(3) The Commission is deemed to be properly constituted, notwithstanding that there is a vacancy in the office of Chairman or of one of the members of the Commission.

Meetings

7. (1) The Commission shall meet at least six times annually.

(2) A simple majority of the members present at a meeting of the Commission constitutes a quorum.

(3) The Chairman shall preside over the meetings of the Commission and, in the absence of the Chairman, such member of the Commission as the members present elect to act as chairman at that meeting shall preside.

(4) If a member of the Commission has a pecuniary interest, direct or indirect, in any matter before the Commission in which his or her private capacity conflicts with the member's duties, the member shall -

- (a) as soon as practicable after becoming aware of the interest in the matter, disclose it to the Chairman; and
- (b) if so directed by the Chairman, recuse him or herself from participating in the Commission's consideration of the matter.

(5) Every question or matter to be determined by the Commission at a meeting shall be decided by a majority of the votes of the members present and voting, except the Chairman or acting chairman.

(6) In the event of an equal division of votes on a question or matter to be determined by the Commission, the Chairman or acting chairman shall have and exercise a casting vote.

(7) Subject to this Law, the Commission shall regulate its own procedure.

(8) Fees shall be paid to members of the Commission who are not public servants for their attendance at meetings of the Commission, as approved by Cabinet.

8. (1) In implementing its mandate, the Commission may take legal measures to enforce public rights of way over private land, including making an application to the Grand Court under section 9 of the Prescription Law (1997 Revision) to settle any dispute respecting public user of any beach, land, road, track or pathway, if designated to do so by Cabinet under that section.

Powers of the
Commission
(1997 Revision)

(2) The Commission may require the Chief Officer of the Ministry presided over by the Minister to provide any information to it respecting the enforcement of the Regulations that it may require to prepare its annual report or otherwise carry out its mandate.

(3) The Commission shall charge the prescribed fees for issuance of permits or licences in accordance with the Regulations and shall pay such fees into the revenue of the Islands.

9. The Commission may post such signs, notices and advertisements, and distribute such other information to the public, as it considers necessary in order to promote public knowledge of and compliance with this Law and to support the administration of the Law.

Posting signs and
advertisements

10. All expenses incurred by the Commission in connection with its functions under this Law shall be defrayed out of moneys voted for the purpose by the Legislative Assembly.

Commission's budget

11. (1) The Chief Officer of the Ministry presided over by the Minister shall appoint, in accordance with the Public Service Management Law (2013 Revision)-

Appointment of
inspectors and secretary
to the Commission
(2013 Revision)

- (a) a Chief Inspector;
- (b) such additional inspectors as are necessary for the proper enforcement of this Law, and
- (c) a secretary to the Commission,

as if the positions to which they are appointed were within the Chief Officer's Ministry.

(2) Under the direction of the Chief Officer and the Chief Inspector, the secretary shall record the proceedings of the meetings of the Commission and assist the Commission and Chief Inspector in the administration and enforcement of this Law.

(3) Under the direction of the Chief Officer, the Chief Inspector and inspectors shall enforce this Law and exercise the powers conferred on them under this Law.

Designation of deputy inspectors	12. (1) The Chief Inspector may designate any of the following officers as deputy inspectors to assist in the enforcement of this Law, in such areas, or for such purposes, as are indicated in the designation - (a) a trade officer appointed under the Trade and Business Licensing Law, 2014; (b) a conservation officer appointed under section 25 of the National Conservation Law, 2013; (c) an employee of a statutory authority or government company; or (d) the District Commissioner of Cayman Brac, or his or her designate.
(Law 21 of 2014)	
(Law 24 of 2013)	
	(2) The designation of a deputy inspector shall be made by instrument in writing signed by the Chief Inspector and - (a) where a public officer is appointed, the Chief Officer of the Ministry in which the public officer is employed; or (b) where an employee of a statutory authority, government company or other entity is appointed, the head of the authority, company or entity in which the deputy is employed.
Certificates of appointment or designation	13. (1) Inspectors and deputy inspectors shall be provided with certificates of appointment or designation, as the case may be, and such certificates shall – (a) be signed by the Chief Officer of the Ministry presided over by the Minister, or in the case of a deputy inspector by the Chief Inspector; and (b) bear a photograph of the inspector or deputy inspector so appointed or designated.
	(2) An inspector or deputy inspector shall, if requested to do so, produce his or her certificate for inspection by any persons in relation to whom the inspector or deputy inspector is about to exercise, is exercising or has exercised a power under this Law.
	(3) A certificate appearing to have been provided under this section is, without proof of the signature of the person who signed it or that person's authority to sign it, evidence of the appointment to which the certificate relates.

PART 3 - USE OF PUBLIC LAND

Right of public to use public land	14. Public areas of public land are open for use by all members of the public without discrimination on the basis of race, gender, age, colour, language, religion, political or other opinion, national or social origin, association with a
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national minority, sexual orientation or physical or mental impairment, property, birth or other status.

15. A vendor who wishes to carry on a trade or business on public land must submit an application or a tender document to the Commission for a vendor's licence in respect to each location where the trade or business will take place, in the form, and including the information, required by the Regulations.

Carrying on a trade or business on public land

16. (1) The Commission shall review, within the prescribed period, an application or tender document submitted under section 15 and may either -

Granting a vendor's licence

- (a) subject to subsections (2) and (3), grant a vendor's licence to the applicant for such term, not exceeding two years, as the Commission considers advisable; or
- (b) refuse to grant a vendor's licence.

(2) The Commission may only grant a vendor's licence to an applicant if satisfied that the applicant holds, or will obtain -

- (a) a licence under section 21 of the Trade and Business Licensing Law, 2014 to sell the goods or services described in the application at the locations set out therein; and
- (b) in respect of an application involving the sale of alcohol on public land, a licence under the Liquor Licensing Law (2000 Revision).

(Law 21 of 2014)

(2000 Revision)

(3) On payment of the licence fee and any penalties owed by the applicant under this Law, the Commission shall issue the vendor's licence, subject to any terms and conditions that it deems necessary in order to minimize public disturbance or to protect public land.

17. (1) A vendor who wishes to renew his or her vendor's licence shall apply to the Commission for renewal at least three months before the date of expiry of the licence.

Renewal of vendor's licence

(2) The Commission shall review an application for renewal submitted under subsection (1) and may, before the expiry of the vendor's licence -

- (a) renew the licence on such terms and conditions as the Commission sees fit; or
- (b) refuse to renew the licence.

(3) The Commission shall notify the applicant in writing of the renewal or refusal to renew and give reasons in writing where the renewal is refused.

Late application for renewal	18. (1) The Commission may accept an application for renewal of a vendor's licence submitted after the deadline referred to in section 17(1), provided that it is submitted before the date of expiry of the licence. (2) Where the Commission receives an application submitted after the deadline referred to in section 17(1) - (a) the Commission shall send a notice to the applicant indicating whether or not it accepts the application for consideration; and (b) the Commission may impose, in addition to the licence fee, a prescribed penalty for each day after the deadline referred to in section 17(1) that passes before the application is submitted.
Deemed extension of vendor's licence	19. If the Commission does not provide an applicant for renewal with the notice required under section 17(3) or 18(2)(a) before the day on which the applicant's licence expires, his or her vendor's licence is deemed to continue to be valid until such day as the applicant receives notice from the Commission the application is granted or refused.
Public display of licence	20. A vendor's licence granted or renewed under this Law shall be evidenced by a certificate in the prescribed form, which must be publicly displayed by the vendor on the premises to which the licence relates.
Cancellation or suspension of vendor's licence	21. The Commission may suspend, cancel or refuse to renew a vendor's licence if it determines that the vendor has contravened this Law, the Regulations or the terms and conditions of his or her vendor's licence.

PART 4 – ENFORCEMENT AND OFFENCES

Enforcement

Powers of inspectors	22. (1) For the purpose of performing their duties under this Law, inspectors and deputy inspectors have all the rights, powers, privileges and immunities of constables acting generally in the ordinary course of their duty, but shall not carry a firearm. (2) If an inspector or deputy inspector suspects on reasonable grounds that a person has committed or is committing an offence under this Law, the inspector or deputy inspector may, using such force as may be necessary for the purpose - (a) enter on any public land to conduct an inspection, investigation or survey;
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- (b) enter on and inspect any public land on which the inspector on reasonable grounds believes an offence under this Law has been, is being or is about to be committed;
- (c) require the production of and take copies of any permit or licence that is required under this Law;
- (d) stop, enter and inspect any conveyance that the inspector on reasonable grounds believes is being operated in contravention of this Law or the Regulations, or is being used in the commission of an offence under this Law;
- (e) stop and search any person on public land or in any public place; or
- (f) with a warrant, enter and search any premises that the inspector or deputy inspector reasonably suspects may contain evidence of the commission of an offence under this Law.

(3) If an inspector or deputy inspector is satisfied after exercising any of the powers of search under this section that there is reasonable evidence of an offence under this Law, the inspector or deputy inspector may do any of the following -

- (a) issue a ticket under section 26 to the person suspected of the offence;
- (b) detain the person suspected of the offence until a constable arrives; or
- (c) seize any vessel, vehicle, article or thing used in the commission of the offence.

(4) Where a person is arrested or detained under subsection (3), the provisions of the Police Law (2014 Revision) which relate to arrests and detentions shall apply accordingly. (2014 Revision)

23. (1) Where a warrant to search any premises is required, the inspector or deputy inspector shall apply to the court or to a justice of the peace and the provisions of the Criminal Procedure Code (2014 Revision) which relate to search warrants shall apply accordingly. Search of premises or persons (2014 Revision)

(2) Where access to premises is denied, an inspector or deputy inspector may break and enter those premises to gain access for the purpose of an arrest.

(3) The search of a person under section 22 shall be carried out by an inspector or deputy inspector of the same gender as that person or by a constable of the same gender as that person in the presence of the inspector or deputy inspector.

Seizure of items by
inspector or deputy
inspector

24. (1) Where, pursuant to this Law an inspector or deputy inspector seizes a vessel, vehicle, article or thing reasonably suspected to have been used in the commission of an offence, the court may order either at the hearing or on application, that the item be returned to the person appearing to the court to be entitled to it or that it be disposed of otherwise in such manner as the court thinks appropriate.

(2) An inspector or deputy inspector may, unless an order has been made under subsection (1), at any time return the item to the person from whom it is seized or may apply to the court for an order as to its disposal and a court may make any order that it might have made under subsection (1).

(3) If no proceedings are taken in respect of an offence relating to the item seized within six months after the seizure under this Law or, if proceedings are taken but no order for forfeiture is made, the item shall be returned to the person from whom it is seized.

(4) If no proceedings are taken in respect of an offence relating to the item seized within six months after the seizure under this Law or, if proceedings are taken but no order for forfeiture is made and the person from whom the item was seized cannot be located within a reasonable period of time, the inspector or deputy inspector shall dispose of the item by way of sale or in such manner as the inspector or deputy inspector considers appropriate.

(5) If an item is sold in accordance with subsection (4), the proceeds of the sale shall be paid into revenue of the Islands.

Prevention of damage to
public land or facilities

25. Where a thing causes or may cause loss or damage to public land or facilities on public land in the opinion of an inspector or deputy inspector, he or she may do one or more of the following -

- (a) require the person having charge, management or control of the thing to detain it at the place where it is found;
- (b) require the person having charge, management or control of the thing to remove it;
- (c) cause the thing to be removed from the place where it is found and give a receipt for it.

Summary conviction offences

Carrying on a trade or
business on public land
without a licence

26. (1) No person shall carry on a trade or business on public land except in accordance with the terms and conditions of a valid vendor's licence issued under this Law.

(2) No person shall, in an application for a vendor's licence or for renewal of a vendors licence, make a representation or statement that the person knows is false or misleading in a material particular.

(3) A person who contravenes subsection (1) or (2) commits an offence and is liable on summary conviction -

- (a) in the case of a first offence to a fine of five thousand dollars or to imprisonment for a term of six months, or to both; or
- (b) in the case of a second or subsequent offence to a fine of ten thousand dollars or to imprisonment for a term of one year, or to both.

27. Any person who contravenes the Regulations commits an offence and is liable on summary conviction to the fine set out in the Regulations. Contravention of Regulations

28. Any person who, without lawful excuse, obstructs an inspector or deputy inspector in the performance of their duties under this Law commits an offence and is liable on summary conviction to a fine of one thousand dollars. Obstruction

Ticketable offences

29. (1) An inspector may serve a ticket on any person whom the inspector has reason to believe has committed a ticketable offence by - Issuance of ticket by inspector

- (a) delivering a copy of the ticket to the person;
- (b) leaving the ticket at the person's last known place of business or abode; or
- (c) sending the ticket by registered mail to the last known place of business or abode of the person.

(2) An inspector who serves a ticket shall complete and sign a certificate of service stating that the ticket was, on the date set out in the certificate, served on the person whom the inspector had reason to believe committed the offence and the certificate shall be evidence that it was on that date served on such person.

(3) A ticket shall be in the form set out in the Schedule and shall -

- (a) contain a statement signed by an inspector or deputy inspector certifying that the inspector or deputy inspector has reason to believe that a ticketable offence has been committed contrary to the Regulations;
- (b) include a summary of the facts of the offence and the specific provision of the Regulations that has been contravened;

- (c) indicate with reasonable precision, having regard to all the circumstances, the time and place at which the offence was committed;
- (d) set out the fixed penalty for the offence established by the Regulations;
- (e) set out the options that the person served with the ticket has in responding to it and the time within which that person shall respond;
- (f) state that criminal proceedings may not be commenced for the offence until twenty-eight days after service of the ticket;
- (g) require the person, in the event that the fixed penalty is not paid nor a plea entered within the period specified in the notice, to attend before the Summary Court to enter a plea on such date as may be specified on the ticket, the date being not earlier than ten days after the expiration of the period specified in paragraph (f); and
- (h) state that the ticket may be used as the evidence of the Commission.

Options of person
receiving a ticket

30. A person who receives a ticket issued under section 29 may -

- (a) pay the fixed penalty set out in the ticket;
- (b) enter a “not guilty” plea in accordance with section 32; or
- (c) attend the Summary Court on the date set out in the ticket and enter a plea.

Payment of fixed penalty

31. (1) A person who pays the fixed penalty set out in the ticket within twenty-eight days after being served is not liable to conviction for the offence specified in the ticket.

(2) Payment of a fixed penalty shall be made to the Commission and shall form part of the general revenue of the Islands.

Plea of “not guilty”

32. (1) A person who wishes to enter a “not guilty” plea may request a trial by signing the request for trial on the ticket and delivering it to the Clerk of Court within twenty-eight days of being served.

(2) On receiving the request for trial, the Clerk shall enter the plea of “not guilty”.

Summary Court
appearance

33. (1) A person who does not pay the fixed penalty or enter a plea of “not guilty” within twenty-eight days of being served with a ticket shall attend at the Summary Court on the date specified on the ticket, which shall be no earlier than thirty-eight days after the date on which the ticket was served.

(2) The notice of the court date on the ticket shall be notice to the defendant and the prosecution of the same.

34. As soon as practicable after a person requests a trial under section 32, the Clerk of the Court shall -

Procedure in case of “not guilty” plea

- (a) notify the Commission of the request;
- (b) request the duplicate ticket;
- (c) fix the time and place of the trial; and
- (d) notify the defendant and the prosecution of the time and place of the trial.

35. (1) The Commission shall file with the Clerk of Court every ticket that remains unpaid on the expiry of the period of twenty-eight days after the ticket was served, within two days of the expiry of that period.

Filing of tickets with Clerk of Court

(2) If the fixed penalty remains unpaid on expiry of the period referred to in subsection (1), or if the person served requests a trial under section 32 -

- (a) criminal proceedings in respect of an offence specified on the ticket may commence in accordance with the procedure set out for Category C offences under the Criminal Procedure Code (2014 Revision);
- (b) the ticket, for the purposes of the proceedings, is deemed to be a complaint within the meaning of section 14 of the Criminal Procedure Code (2014 Revision); and
- (c) the ticket is deemed to be a summons issued in accordance with section 15 of the Criminal Procedure Code (2014 Revision).

(2014 Revision)

(3) Proceedings in respect of an offence instituted by a ticket under this Law shall not be listed for hearing in Court unless -

- (a) the duplicate of the ticket is delivered to the Clerk with an endorsement by an inspector or the secretary to the Commission stating that the fixed penalty was not received before the expiry of the twenty-eight day period referred to in subsection (1); and
- (b) a period of ten days has elapsed from the last day on which the fixed penalty was payable.

(4) A person who is convicted of an offence in proceedings instituted by a ticket under this section is liable to a fine greater than the fixed penalty provided for that offence but not greater than the maximum fine provided for the offence under the Regulations.

Delivery of notices or documents	36. (1) Except as otherwise provided, a notice or document required or authorized to be given or delivered under this Part may be given or delivered personally or by registered mail. (2) Evidence that a notice or document required or authorized to be given or delivered to a person under this section was sent by registered mail to the person at the person's last known place of abode or business address appearing on a ticket, certificate of service or other document in the court is sufficient evidence that the notice or document was given or delivered to that person, unless the contrary is proved.
Evidentiary provisions	37. (1) In any proceedings, a certificate that payment of the fixed penalty was or was not made to the Commission by the date specified in the certificate shall, where the certificate is signed by an inspector or the secretary to the Commission, be sufficient evidence of the facts stated, unless the contrary is proved. (2) A ticket filed with the Clerk of Court is evidence of the facts alleged in the ticket without proof of the signature or official character of the person appearing to have completed the ticket or the person on whom the ticket was served.

PART 5 -MISCELLANEOUS

Regulations	38. (1) The Commission may, subject to approval by Cabinet, make regulations respecting the use of, and activities on, public land and the enforcement of public rights of way over private land, including regulations - (a) ensuring public access to public land and protecting public rights of way over private land; (b) specifying the days and hours during which public land is open for public use; (c) restricting public access to public land where necessary for the purposes of maintenance, construction projects or accommodating special events, including designating "no admittance", "closed to use" and "no trespassing" areas; (d) regulating traffic and parking and authorising the towing or removal of motor vehicles, trailers, boats or vessels that are abandoned or illegally parked on public land, at the owner's expense; (e) governing recreational activities; (f) governing public conduct and behavior on public land; (g) protecting public lands, including the prevention of littering, the removal of rubbish and clean up and maintenance;
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- (h) restricting or preventing the building of structures, roadways and other works on public land;
- (i) on the posting of advertisements, signs and notices;
- (j) on the movement and pasturing of livestock, horses, sheep, goats and other animals;
- (k) governing organized events held on public land;
- (l) for the issuance of permits to use or engage in any activity, including commercial activities, on public land and setting the terms and conditions of such permits;
- (m) specifying the information to be included in and the form of applications for vendor's licences;
- (n) setting fees for permits and vendor's licences;
- (o) prescribing anything required to be prescribed by this Law; and
- (p) prescribing penalties for contravention of the Regulations or of the terms and conditions of permits issued by the Commission, not exceeding one thousand dollars for a first offence, or two thousand dollars for a subsequent or continuing offence.

(2) The Commission may amend the form of the ticket set out in the Schedule.

39. (1) Where the Commission is of the opinion that its mandate to regulate the use of public land in the public interest can best be achieved by, or in cooperation with, another Ministry, statutory authority, government company or other entity that has charge and management of a particular area of public land, the Commission may, subject to approval by Cabinet -

Exemptions and
agreements

- (a) exempt that area from the application of all or any of the Regulations; or
- (b) enter into an agreement with the Ministry, statutory authority, government company or other entity to regulate that area and to enforce the Regulations in respect of that area in collaboration with the Ministry, statutory authority, government company or other entity.

(2) Any exemption granted by the Commission or agreement entered into under subsection (1) shall be published by Government Notice in the Gazette before the date of commencement of the exemption or agreement.

40. (1) The Commission shall, within three months from the beginning of each year, prepare and submit to the Minister a report containing a summary of its activities for the preceding year in such form and containing such information with respect to permits and tickets issued, prosecutions commenced and fee revenue and fines collected, as the Minister may direct.

Annual report

(2) The Minister shall, within one month of the receipt of the report, cause it to be laid before the Legislative Assembly.

Immunity

41. (1) The Commission owes no duty of care to keep public land safe for entry or use by members of the public or to give any warning of hazardous conditions, uses, structures or activities on such land or premises to persons entering thereon and is not liable for accidents, deaths or injuries to such persons except -

- (a) for wilful or malicious failure to guard or warn against a hazardous condition, use, structure or activity;
- (b) for injury suffered in any case where permission to enter public land was granted for monetary consideration; or
- (c) to any person who is expressly invited, rather than merely permitted, to enter on the public land.

(2) The Commission, its members, and any inspector, deputy inspector or secretary appointed or designated under this Law shall not be liable in damages for anything done or omitted in the discharge or purported discharge of their respective functions under this Law, unless it is shown that the act or omission was negligent or in bad faith.

SCHEDULE

FORM OF TICKET (Section 29(3))

FRONT OF TICKET

TICKET NUMBER	NAME OF PERSON AND DATE OF BIRTH:
DATE & TIME:	TELEPHONE
LOCATION:	EMAIL

TO: _____ (Name of Person)

LIST OF TICKETABLE OFFENCES:

Item	Description of ticketable offence	Regulation	Fixed penalty	Tick relevant box
1.				
2.				
3.				

I, the undersigned inspector or deputy inspector for the Public Lands Commission have reason to believe that _____
(Name of Person)

has committed the following ticketable offence detailed in the second column with the fixed penalty in the fourth column - :

the facts being that _____

(Provide a summary of the facts of offence and the provision contravened)

Time and place where offence committed: _____

The person to whom this ticket is served -

(a) may pay the fixed penalty prior to the _____ day of _____, 20__

- (b) may enter a plea of “not guilty” up to twenty-eight days after being served and indicate now an intention to plead “not guilty” by ticking box ☐; or
- (c) where the ticket is not paid or there is no notification of an intention to plead “not guilty”, must attend the Summary Court in _____ Grand Cayman; or _____ Cayman Brac on the following date :_____.

I am the inspector or deputy inspector authorised by the Public Lands Commission and I certify that I served this ticket on the person named above on the date and time stated above.

(Name of inspector or deputy inspector)

(Signature)

PLEASE SEE BACK OF TICKET

Criminal proceedings shall not commence until thirty-eight days after being served with this ticket. If you fail to pay the fixed penalty or to attend Court, a warrant of arrest may be issued and you may be kept in custody until you can be brought before the Court

BACK OF TICKET

PLEASE READ CAREFULLY

1. PAYMENT

You may discharge liability to conviction by delivering a copy of this ticket and the total amount of the penalty set out in this ticket to the Public Lands Commission at the address indicated below prior to the _____ day of _____, 20____, being twenty-eight days after the service of this ticket.

Payments by cheque or money order are to be made payable to the general revenue of the Islands. *Please print the ticket number on the front of the cheque or money order.*

2. PLEA OF “NOT GUILTY”

If you wish to plead not guilty, notify the Summary Court in George Town or, where served on Cayman Brac or Little Cayman, the Summary Court at Cayman Brac WITHIN twenty-eight DAYS of being served with this ticket. You must attend court on the date given at (c) on the Front of the Ticket.

You may deliver the copy of the ticket to the clerk of Court -

- (a) where ticket is served in Grand Cayman -
by taking a copy of the ticket to the Criminal Registry at the Court, George Town on any working day between 9 am and 3 pm or by sending the copy of the ticket by email to the Public Lands Commission; or
- (b) where ticket is served in Cayman Brac or Little Cayman -
by sending the copy of the ticket by email to the Public Lands Commission or taking a copy of the ticket to the District Administration Office in Cayman Brac or Little Cayman.

3. FAILURE TO PAY

If you fail to pay the fixed penalty specified in paragraph 1 or to enter a plea under paragraph 2, you are summoned to appear in the Summary Court at George Town or, where served on Cayman Brac or Little Cayman, at Cayman Brac at 10:00 a.m. on the date set out at paragraph (c) on this ticket.

If you FAIL TO APPEAR, the magistrate may issue a warrant for your arrest to compel your attendance. The date of the hearing shall be no less than thirty-eight days after the service of this ticket.

NOTICE:

This ticket may be used as evidence by the Commission.

Submit or send payment to: The Public Lands Commission,
Government Administration Building, 133 Elgin Avenue, George Town; or
District Administration Office in Cayman Brac or Little Cayman.

Hours of operation :8:30 am - 4:00 pm (George Town and Cayman Brac):
9:00 am - 4:00 pm (Little Cayman):

Passed by the Legislative Assembly the day of , 2017.

Speaker.

Clerk of the Legislative Assembly.