

OBJECTS AND REASONS

This Bill would provide for

- (a)* the management of storm water;
- (b)* the planning and execution of works necessary to prevent and control flooding and inundations caused by excessive rains and high tides;
- (c)* the prevention and mitigation of injury to persons and damage to property from the effects of the movement of water, particularly storm water; and
- (d)* related matters.

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Fixed Penalty Notice

BARBADOS

A Bill entitled

An Act to provide for the management of storm water, the planning and execution of works necessary to prevent flooding and inundations caused by excessive rains and high tides and the prevention and mitigation of injury to persons and damage to property from the effects of the movement of water, particularly storm water.

ENACTED by the Parliament of Barbados as follows:

PART I

PRELIMINARY

Short title

1. This Act may be cited as the *Storm Water Management Act, 2025*.

Interpretation

2. In this Act,

“authorised person” means the Chief Technical Officer or a person authorised by the Chief Technical Officer to discharge a function under this Act;

“Chief Technical Officer” means the Chief Technical Officer in the Ministry responsible for Public Works;

“Director of Planning and Development” means the officer referred to in section 8(1)(a) of the *Planning and Development Act, 2019* (Act 2019-5);

“dwelling house” has the meaning assigned to it by section 2(1) of the *Planning and Development Act, 2019* (Act 2019-5);

“flood” means the inundation of lands from water originating from runoff from a rainfall event and or a sea wave surge which exceeds ground infiltration capacity;

“flood works” means any works necessary to mitigate the risk of flooding and inundations and to protect persons and property from injury or damage from the effects of the movement of water, particularly storm water, and includes

- (a) the entire or partial construction, alteration, repair, improvement, cleaning, raising, lowering or grading of any bank, channel or watercourse or any land adjacent to such bank, channel or watercourse;
- (b) the digging or clearing of wells and other drainage infrastructure; and

- (c) the removal of any building or other structure, plants, trees, growing crops or any other thing that prevents or impedes the free drainage of water;

“flood works plan” means a plan prepared under section 6(1);

“flood zone” means an area declared under section 5 to be an area in which there is a significant risk of flooding;

“highway” has the meaning assigned to it by section 2 of the *Highways Act*, Cap. 289;

“land” includes messuages, buildings, erections, tenements and hereditaments of any tenure, and rights and easements in, over, under or in respect of the same;

“land developer” means a person responsible for the development of land within the meaning of section 20(1) of the *Planning and Development Act, 2019* (Act 2019-5);

“Minister” means the Minister responsible for the management of storm water;

“owner”, in relation to land, means the person for the time being receiving the rack rent of the land, whether on his own account or as agent or trustee for another person, or who would receive the rack rent if the land were let at a rack rent;

“premises” includes lands and streets, whether public or private;

“storm water” means surface water or runoff generated from rainfall;

“watershed” means an area of land that drains streams and rainfall to a common outlet such as the outflow of a reservoir or mouth of a bay or a point along a stream channel.

Act binds the State

3. This Act binds the State.

Administration of Act

4.(1) The Chief Technical Officer shall be responsible for the administration of this Act.

(2) The Chief Technical Officer shall, in the exercise of his functions under this Act, have regard to the following:

- (a) the coastal zone management plan referred to in the *Coastal Zone Management Act*, Cap. 394;
- (b) the physical development plan referred to in the *Planning Development Act, 2019* (Act 2019-5); and
- (c) the *Marine Pollution Control Act*, Cap. 392A.

PART II

FLOOD ZONES AND FLOOD WORKS

Declaration of flood zone

5.(1) The Minister may, after consultation with the Chief Technical Officer, by order declare an area in which there is a significant risk of flooding to be a flood zone.

(2) The Minister shall, before making an order under subsection (1), lay before both Houses of Parliament, a map delineating the boundaries of the proposed flood zone.

Planning of flood works

6.(1) The Chief Technical Officer shall prepare, for the approval of the Minister, a plan for the execution of flood works in a flood zone.

- (2) A flood works plan shall show
 - (a) the limits of the flood zone;
 - (b) the flood level; and
 - (c) the type of flood works which, in the opinion of the Chief Technical Officer, are necessary for protecting persons and property from floods and inundations.
- (3) Where a flood works plan is approved by the Minister, the Chief Technical Officer shall within 28 days of the approval
 - (a) submit a copy of the plan to the Director of Planning and Development and to the Registrar of Titles; and
 - (b) give notice of the plan to any person whose premises, plants, trees or growing crops may be affected by the flood works specified in the plan.
- (4) Any person may apply to the Registrar of Titles to inspect a flood works plan free of charge.

Power to execute planned flood works

- 7.(1) The Chief Technical Officer or another authorised person may execute in a flood zone any flood works specified in a flood works plan approved for the zone under section 6.
- (2) Where the Chief Technical Officer or another authorised person intends to execute flood works specified in an approved flood works plan, the Chief Technical Officer shall give notice to the owner or occupier of any premises intended to be affected by the flood works, no less than 14 days before the commencement of the works.

Power to enter premises regarding planned flood works

- 8.(1)** The Chief Technical Officer or another authorised person may
- (a) enter any premises for the purpose of
 - (i) undertaking any work necessary for
 - (A) the preparation of flood works plans;
 - (B) the estimation and preparation of the flood works to be executed; and
 - (C) the evaluation of any compensation to be paid to the owner of the premises in respect of the works; and
 - (ii) executing any flood works specified in a flood works plan approved under section 6; and
 - (b) carry the flood works through, along, across or under the premises or any sidewalk or cellar.
- (2) Where the Chief Technical Officer or another authorised person intends to enter premises pursuant to subsection (1), the Chief Technical Officer shall give notice to the owner or occupier of the premises no less than 48 hours before entry upon the premises.

Power to execute flood works in emergency

9. Notwithstanding sections 5, 6, 7 and 8, where flooding occurs or there is imminent danger of flooding in

- (a) an area that is not in a flood zone; or
- (b) a flood zone in respect of which plans have not been prepared or approved in accordance with section 6,

the Chief Technical Officer may, without prior notice, enter upon any premises in the area or zone and execute such flood works as are necessary to prevent flooding, mitigate the risk of flooding or facilitate the drainage of water.

Planned maintenance of drainage infrastructure

10. Where the Chief Technical Officer schedules planned maintenance of drainage infrastructure, he shall give notice to the owners and occupiers of land in the area in which the drainage infrastructure to be maintained is located, no less than 14 days before the commencement of the work.

Building in flood zone without permission prohibited

11.(1) No person shall erect or cause to be erected in a flood zone, any building or other structure without the written permission of the Director of Planning and Development.

(2) The Director of Planning and Development may, after consultation with the Chief Technical Officer, grant permission pursuant to subsection (1) upon such terms and conditions as the Director of Planning and Development considers appropriate.

(3) A person who contravenes subsection (1) is guilty of an offence and is liable on summary conviction to a fine of \$20 000.

PART III

DUTIES OF OWNERS AND OCCUPIERS

Restriction on planting trees, crops etc. in flood zone

12.(1) An owner whose land is in a flood zone shall not plant, grow or cultivate or allow to be planted, grown or cultivated on his land, any tree, shrub, crop or other plant in a manner that is likely to prevent or impede the free movement of storm water.

(2) A person who contravenes subsection (1) is guilty of an offence and is liable on summary conviction to a fine of \$20 000.

Installation of storm water disposal system

13.(1) An owner whose land is used for

- (a) residential purposes other than for a single dwelling and duplex; or
- (b) commercial or industrial purposes,

shall install and maintain a system for the disposal of storm water on his land.

(2) A person who fails to comply with subsection (1) or (2) is guilty of an offence and is liable on summary conviction to a fine of \$20 000.

Keeping access to outfalls and drainage reserves clear

14.(1) An owner or occupier of land

- (a) shall keep access to outfalls on his land free and clear from all obstruction; and
- (b) shall not encroach on access to outfalls or drainage reserves adjoining his land.

(2) A person who fails to comply with subsection (1) is guilty of an offence and is liable on summary conviction to a fine of \$20 000.

Inspection and cleaning of storm water drainage wells and other infrastructure

15.(1) An owner or occupier of land on which there is a storm water drainage well or other drainage infrastructure shall

- (a) at least once every 2 years for wells less than 8 metres in depth; or
- (b) at least once every 5 years for wells deeper than 8 metres

inspect and, where necessary, clear and clean the well or other structure to mitigate the risk of flooding.

(2) A person who fails to comply with subsection (1) is guilty of an offence and is liable on summary conviction to a fine of \$20 000.

Owner or occupier to pay for flood works rendered necessary by his action

16.(1) Where an owner or occupier of land damages, obstructs or alters a highway thereby adversely interfering with the drainage of the highway he shall pay to the State the actual costs of any flood works executed by the Chief Technical Officer or another authorised person to rectify the damage, obstruction or alteration.

(2) Where an owner or occupier of land builds or constructs any structure, including any enclosure, that obstructs, blocks or prevents the proper inspection or maintenance of critical storm water infrastructure, the Chief Technical Officer or another authorised person shall remove the structure or enclosure at the expense of the owner or occupier.

(3) Any salvageable material removed under subsection (2) shall be stored at a depot for no more than 28 days after the removal pending collection by the owner or occupier.

(4) Where the owner or occupier fails to remove the material described in subsection (3) within the period referred to in that subsection, the material shall be disposed of and the owner or occupier shall not be entitled to any compensation relating to the material.

PART IV

DUTIES OF LAND DEVELOPERS

Submission of storm water drainage plan

17.(1) A land developer shall prepare for the approval of the Chief Technical Officer and the Director of Planning and Development, where the latter so requests, a storm water drainage plan for the proposed development area.

- (2) The plan shall contain the following:
 - (a) the name and location of the proposed development;
 - (b) a map or plan outlining the watershed in respect of the proposed development and indicating the estimated amount of water expected as runoff in the proposed development;
 - (c) the location of the storm water drainage systems;
 - (d) the number of systems to be installed;
 - (e) an estimate of the amount of storm water likely to be generated from a one-in-50-years-return storm measured using rainfall intensity-duration-frequency curves produced by the Caribbean Institute for Meteorology Hydrology or such other institution as the Director of Planning and Development may specify; and
 - (f) any other relevant information that the Chief Technical Officer or the Director of Planning and Development may require.
- (3) The plan shall be submitted to the Director of Planning and Development, who shall forward it to the Chief Technical Officer for consideration.

Construction of drainage systems

- 18.(1)** A land developer shall, if required to do so by Chief Technical Officer or the Director of Planning and Development, construct adequate drainage systems to mitigate the risk of flooding within the development.
- (2) A person who fails to comply with subsection (1) is guilty of an offence and is liable on summary conviction to a fine of \$20 000.

PART V

GENERAL PROHIBITIONS

Disposal in public storm water drainage infrastructure

19.(1) No person shall, without the written permission of the Chief Technical Officer, dispose of any water on or in any public infrastructure associated with the drainage of storm water.

(2) The Chief Technical Officer may grant permission pursuant to subsection (1) upon such terms and conditions as he thinks fit.

(3) A person who contravenes subsection (1) is guilty of an offence and is liable on summary conviction to a fine of \$20 000.

Disposal of garbage, debris, etc.

20. A person who disposes of garbage, debris, bulk waste or any other waste or thing so as to block, cause to be blocked or threaten the free movement of water in or around drainage infrastructure or watercourses is guilty of an offence and is liable on summary conviction to a fine of \$20 000.

Erection of fences, walls etc.

21.(1) No person shall

(a) erect, construct or develop, or cause to be erected, constructed or developed, any fence, wall or hedge; or

(b) construct or cause to be constructed, any encumbrance,

on, in or over drainage infrastructure.

(2) A person who contravenes subsection (1) is guilty of an offence and is liable on summary conviction to a fine of \$20 000.

Other obstructions of drainage infrastructure

22.(1) No person shall place any object or cause any object to be placed on, in or over any drainage infrastructure in a manner that restricts access to the infrastructure.

(2) A person who contravenes subsection (1) is guilty of an offence and is liable on summary conviction to a fine of \$20 000.

PART VI

ENFORCEMENT

Power of entry and inspection

23.(1) The Chief Technical Officer or another authorised person may enter any premises for the purpose of monitoring and enforcing compliance with this Act and, in particular, for inspecting drainage infrastructure and ensuring that the infrastructure is adequately maintained.

(2) Where the Chief Technical Officer or another authorised person enters premises pursuant to subsection (1) and finds that the drainage infrastructure on the premises is in need of maintenance he shall give notice to the owner or occupier of the premises specifying

(a) the nature of the maintenance required; and

(b) the period within which the maintenance must be completed.

(3) An owner or occupier who fails to comply with a notice given under subsection (2) is guilty of an offence and is liable on summary conviction to a fine of \$20 000.

Power to remove obstruction in emergency

24.(1) Where, in an emergency, access to an area is required for the purpose of executing flood works, the Chief Technical Officer or another authorised person may move any vehicle or other thing that restricts access to the area where the emergency exists.

(2) The owner of anything removed under subsection (1) shall be liable for all costs associated with its removal.

Discharge of liability for contravention of Act

25.(1) Notwithstanding any other provision of this Act, where a person contravenes a provision of this Act, the contravention of which constitutes an offence, the Chief Technical Officer or another authorised person shall

- (a) ask the person to give his name and address;
- (b) serve personally upon the person, a fixed penalty notice in the form in the *Schedule*;
- (c) inform the person that if he does not wish to be prosecuted for the alleged offence in court, he may pay to the clerk of the Magistrate's Court in the district in which the offence was committed, the fixed penalty of \$5 000 specified in the fixed penalty notice, within the time specified in the notice; and
- (d) send a duplicate of the notice to the clerk of the Magistrate's Court referred to in subparagraph (c).

(2) The fixed penalty notice shall be signed by the Chief Technical Officer or other authorised person and shall state the following:

- (a) the date, time and place of service of the notice;
- (b) the provision of this Act creating the offence alleged, and the particulars of the contravention;
- (c) the amount of the fixed penalty;

- (d) the time within which the fixed penalty may be paid in accordance with section 26(3); and
 - (e) the clerk of the Magistrate's Court to whom, and the address at or to which, the fixed penalty may be paid or remitted.
- (3) A person who refuses to answer or who gives a false name or a false address in answer to a question referred to in subsection (1)(a) is guilty of an offence and is liable, on summary conviction, to a fine of \$10 000 and to imprisonment for 12 months or to both.
- (4) This section and sections 26 and 27 do not apply to an offence described in subsection (3) or section 28.

Payment of fixed penalty

- 26.(1)** A person upon whom a fixed penalty notice is served may pay the fixed penalty in accordance with the notice.
- (2) Payment of the fixed penalty shall be
- (a) made to the clerk of the Magistrate's Court as stated in the notice; and
 - (b) accompanied by the notice, which shall be completed by the person in the manner prescribed.
- (3) A fixed penalty is payable within 14 days of the date of the fixed penalty notice.
- (4) Where a person upon whom a fixed penalty notice is served fails to pay the fixed penalty within the time specified in the notice, the duplicate sent to the Magistrate's Court pursuant to section 25(1)(d) shall constitute a charge brought against the person named therein; and the person shall be dealt with according to law and shall be liable to any other penalty specified in this Act for the offence.
- (5) Where the fixed penalty is paid in accordance with the fixed penalty notice, no person shall be liable to be prosecuted for the offence for which the notice was served; and any information laid before the Magistrate shall be null and void.

Certificate to be sufficient evidence

27. In any proceedings for an offence under this Act to which sections 25 and 26 apply, a certificate that payment of the fixed penalty was or was not made to the clerk of the Magistrate's Court by the date specified in the fixed penalty notice shall, if the certificate purports to be signed by the clerk, be sufficient evidence of the facts stated, unless the contrary is proved.

Obstruction of authorised persons

28. A person who assaults, resists, obstructs, intimidates, interferes with or hinders the Chief Technical Officer or another authorised person in the execution of his functions under this Act is guilty of an offence and is liable on summary conviction to a fine of \$50 000 or to imprisonment for 12 months or to both.

PART VII**MISCELLANEOUS****Power of State to take lands**

29. Where, in the opinion of the Minister, it is necessary to take any premises or lands for the purpose of executing flood works in accordance with this Act, the State may take and use such premises or lands for the purpose and shall, in so doing, have and exercise all the powers conferred upon the State by the *Land Acquisition Act*, Cap. 228 in relation to the taking of lands for public purposes.

Compensation

30.(1) Any person may claim compensation for any damage caused by the execution of flood works or in respect of any lands or interest taken, used or injuriously affected.

(2) Where there is a dispute as to the amount of compensation payable, if any, under subsection (1), the dispute shall be determined by arbitration in accordance with section 32.

Matters disregarded in computing compensation

31.(1) No compensation shall be payable in respect of a provision in respect of a flood zone which

- (a) prohibits or restricts building operations on land on the ground that the erection of buildings on the land, by virtue of the location or nature of the land, would be likely to involve danger or injury to health or to the life and safety of the users of the buildings;
- (b) prohibits, otherwise than by prohibiting building operations, the use of land for a purpose likely to involve danger or injury to health or to the life and safety of persons using the land for the purpose; or
- (c) restricts the use of land, otherwise than by restricting building operations, so far as may be necessary to prevent such danger or injury.

(2) The fact that land was used or capable of being used for the erection of buildings prior to the date of commencement of this Act shall not be taken into account in the assessment of compensation; and no account shall be taken of the rental value of such land.

(3) Any enhancement of the value of other land shall be taken into account in the assessment of compensation.

(4) Where the Minister declares an area to be a flood zone in accordance with section 5 and it is proved to the satisfaction of the Minister that the owner or occupier of any land or building in the area was given notice prior to the declaration, whether before or after the commencement of this Act, to the effect that no building should be erected on the land, no compensation shall be payable in respect of any building in the flood zone, the erection of which was begun after notice was so given.

Arbitration

32.(1) A dispute which is required by this Act to be settled by arbitration shall be referred to the determination of

- (a) 2 arbitrators, one to be appointed by each party to the dispute; or
- (b) an umpire chosen by the 2 arbitrators before commencing the matters submitted to them, where the 2 arbitrators fail to agree.

(2) Notwithstanding subsection (1), a party to a dispute may require an arbitrator appointed by him to act on behalf of both parties, and the arbitrator may proceed to hear and determine the dispute, where

- (a) the party serves on the other party a request stating the matter to be determined and requiring the other party to appoint an arbitrator; and
- (b) the other party fails to appoint an arbitrator within 14 days of service of the request.

(3) An award or determination of a dispute under this section shall be final and binding on the parties.

(4) A submission to arbitration under this section shall be deemed to be an arbitration within the *Arbitration Act*, Cap. 110, and shall be subject to the provisions relating to arbitration in that Act.

Chief Technical Officer may execute works and recover costs

33.(1) Without prejudice to section 14(2) and 15(2), where it appears to the Chief Technical Officer or another authorised person that an owner or occupier of land has failed to comply with section 14(1) or 15(1), the Chief Technical Officer or other authorised person may serve notice on the owner or occupier requiring him to execute such works to remedy the failure as the Chief Technical Officer or other authorised person considers necessary.

(2) A notice referred to in subsection (1) shall specify

- (a) the nature of the works to be executed; and

(b) the period during which the works must be executed.

(3) Where an owner or occupier of land fails to comply with a notice served under subsection (1), the Chief Technical Officer or another authorised person may execute the works and shall, after so doing, demand from the owner or occupier payment of the actual costs incurred in executing the works.

(4) The costs of flood works executed by the Chief Technical Officer under this section or section 16 or 24 is a debt due to the State and is recoverable in civil proceedings before a magistrate for District “A” notwithstanding that the costs exceed the monetary limit on the jurisdiction of the Magistrate’s Court.

Notices

34. Any notice to be given or served under this Act

(a) shall be in writing; and

(b) may be served on an owner or occupier of premises by

(i) leaving it with the occupier of the premises or some other person in residence of his abode; or

(ii) placing it in a conspicuous part of the premises, where there is no occupier.

Repeal

35. The *Prevention of Floods Act*, Cap. 235 is repealed.

Commencement

36. This Act shall come into operation on a date to be fixed by proclamation.

SCHEDULE

(Section 25(1)(b))



Storm Water Management Act, 2025
(Act 2025-)

NOTICE OF FIXED PENALTY

Section A

Serial No.: _____

Take notice that, I, _____, (Chief Technical Officer/Authorised
(Name)

Person under the *Storm Water Management Act, 2025* (Act 2025-) have reason to believe that you have committed the offence herein. The fixed penalty for the offence is five thousand dollars (\$5 000).

If this amount is paid to the Clerk of the Magistrate's Court for District _____ within fourteen
(14) days from the date of this notice, that is to say, not later than _____
Date/Month/Year

no proceedings will be taken against you and any liability to conviction for the offence will be discharged. The offence carries a maximum fine of \$20 000.

In paying the fixed penalty, the following conditions shall be observed:

1. The payment of the fixed penalty shall be accompanied by this notice.
2. Where payment of the fixed penalty is made otherwise than in accordance with the *Storm Water Management Act, 2025* (Act 2025-) the Clerk shall as soon as practicable after payment return the amount paid to the sender, and thereafter proceedings in respect of the alleged offence shall commence.

Schedule - (Cont'd)

3. Payment of the fixed penalty shall be made or remitted to the Clerk of the Magistrate's Court for District_____.

This notice was given at _____

On _____ 20_____, at _____ a.m. / p.m.
(state date) (state time)

PARTICULARS OF OFFENCE

At _____ a.m./p.m. on the _____ day of _____, 20 _____,

 Signature of Chief Technical Officer/
 Authorised Person

Schedule - (Cont'd)

Instructions to Offender

If before the end of **FOURTEEN (14) DAYS** from the above date, the sum of \$5 000.00 (being the fixed penalty for the offence) is paid to the Clerk of the Magistrate's Court for District_____, no proceedings for the offence will be taken and any liability to conviction for the offence will be discharged.

Cash should be paid to the Clerk. Cheques, postal orders or money orders may be sent by post and made payable to the Clerk of the Magistrate's Court for District_____. A receipt for the payment will be given. Part payment will not be accepted by the Clerk.

The person paying the fixed penalty must forward with the remittance, Section B of this notice or identify this notice by quoting its serial number.

If the fixed penalty is not paid, further action may be taken.

Schedule - (Concl'd)

Section B

Serial No.(of notice) _____

To: Clerk of the Magistrate's Court for District_____.

I enclosed the sum of \$5 000.00 as payment of the fixed penalty for the offence mentioned in Section A of this notice.

Name:_____

Address:_____

(Signature)

(Date)

Read three times and passed the House of Assembly this
day of _____, 2025.

Speaker

Read three times and passed the Senate this _____ day of
_____, 2025.

President