

THE TOWNS AND COMMUNITIES ACT

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THE TOWNS AND COMMUNITIES ACT

[1843.]

Cap. 384.
Law
3 of 1961.
Acts
35 of 1963,
54 of 1964,
13 of 1985
S. 18,
31 of 1995
S. 4,
7 of 1997
S. 8.
Short title.

1. This Act may be cited as the Towns and Communities Act.

2. In this Act—

Interpre-
tion.

“carriage” shall be deemed and taken to mean any waggon wain, sledge, truck, cart, dray, carriage, chaise, or any other description of wheel carriage drawn by horses, cattle, or any kind of animals, or without animals;

“town” shall comprehend all cities and villages;

“public place” in section 11 shall mean and include and apply to every road, street, footpath, footway, court, square, lane, alley, or thoroughfare of a public nature opened to or used by the public as of right, and to every place of public resort so opened or used.

The words “public place” also include any—

public building, park, garden, reserve, or other place of public recreation or resort;

railway station, platform, or carriage;

public wharf, pier or jetty;

passenger ship, or boat plying for hire;

church, chapel, or other building where divine service is being publicly held;

public hall, theatre or room in which any entertainment is being held or performed;

market;

open bar in any premises licensed under the Statutes regulating the sale of spirits;

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auction room, or place, while a sale by auction is then proceeding;

race course, cricket ground, or other such place, to which the public have access free, or on payment of any entrance money.

What not to be done in thoroughfares or highways.

3. Every person who—

(a) shall, in any thoroughfare in any town, or on any highway, feed or fodder any horse or other animal, or show any caravan containing any animal, or any other show or public entertainment, or shoe, bleed, or farry any horse or animal (except in cases of accident), or exercise, train, or break any horse or animal, or clean, make, or repair any part of any cart or carriage, except in cases of accident where repair on the spot is necessary;

(b) shall, in any thoroughfare in any town, turn loose any horse or cattle, or suffer to be at large any unmuzzled ferocious dog, or shall, in any place, wilfully set on or urge any dog or other animal to attack, worry, or put in fear any person, horse, or other animal;

(c) shall, by negligence or ill-usage in driving cattle or any other animal, cause any mischief to be done by such cattle or other animal to any person or property; or who shall, in the driving, care, or management of such cattle or other animal, wantonly or unnecessarily impede or obstruct the free passage of any person along any thoroughfare or highway; and also every person, not being hired or employed to drive such cattle or other animal, who shall wantonly and unlawfully pelt, drive, or hunt, or injure or hurt any such cattle or other animal;

(d) having the care of any cart or carriage, shall ride on any part thereof, or on the shaft thereof, or on

any horse or other animal drawing the same, without having and holding the reins, or who shall be at such a distance from such cart or carriage as not to have the complete control over every horse or other animal drawing the same;

- (e) shall, in any thoroughfare in any town, ride or drive furiously, or on any thoroughfare or highway ride or drive so as to endanger the life or limb of any person, or to the common danger of the passengers therein;
- (f) shall, in any thoroughfare cause any carriage, with or without horses or other animals, to stand longer than may be necessary for loading or unloading, or for taking up or setting down passengers, excepting carriages standing for hire in any place allowed by competent authority; or who, by means of any carriage, or any horse or other animal, shall wilfully interrupt any public crossing or wilfully cause any obstruction in any thoroughfare or highway;
- (g) shall lead or ride any horse or other animal, or draw or drive any carriage upon any footway, or fasten any horse or other animal so that it may stand across, or upon, or impede any footway; and every person who shall, along any thoroughfare or highway, in, or on any carriage, carry or convey any timber, lumber, iron, or thing made of any material whatsoever in such manner as that the same or any part thereof shall extend across the carriage two feet beyond the wheels;
- (h) shall roll or carry any cask, tub, hoop, or wheel or any ladder, plank, pole, or placard upon any footway, except for the purpose of loading or unloading any cart or carriage, or of crossing the footway, or for the performance of any immediate

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or indispensable work, or for the repair of any building otherwise than under the regulations hereinafter mentioned;

- (i) after being made acquainted with the regulations or directions made by competent authority for regulating the route of horses, carriages and persons during the time of divine service, or at any other time, through any of the towns of this Island, shall wilfully disregard or not conform himself thereunto;
- (j) shall, without the consent of the owner or occupier affix any bill or other paper against or upon any building, wall, fence, or pale, or write upon, soil, deface, or mark any such building, wall, fence, or pale in any other way whatsoever;
- (k) shall, in any thoroughfare or public place, indecently expose his or her person;
- (l) shall sell or distribute, or offer for sale or distribution, or shall mark on any fence, wall or any building, any obscene figure, drawing, painting, or representation, or sing any profane, indecent or obscene song or ballad, or write or draw any indecent or obscene word, figure, or representation, or use any profane, indecent or obscene language;
- (m) shall use any threatening, or abusive and calumnious language to any other person publicly, as shall tend to provoke a breach of the peace; or shall use such language, accompanied by such behaviour to any person publicly, as shall tend to a breach of the peace;
- (n) shall, in the streets, lanes, or squares of any town or in any thoroughfare or highway, wantonly discharge any firearms, or make any bonfire or throw or set fire to any firework; or who, to the danger and annoyance of any passenger or

inhabitant, shall throw or discharge any stone or other missile, or who shall fly any kite, or play any game;

(o) shall wilfully and wantonly disturb any inhabitant by pulling or ringing any door-bell, or knocking at any door, without lawful excuse, or who shall wilfully and unlawfully extinguish the light of any lamp, or shall unlawfully enter into any dwelling-house, building, or premises to the annoyance of any person therein;

(p) in any thoroughfare in any town, or in any highway, shall tyre any wheel, or burn, dress, or cleanse any hoop, or cleanse, fire, wash, or scald any cask or tub, or shall wilfully make any fire on or in any prohibited place;

(q) shall burn any wood, shavings, rubbish, or sweepings in any street, lane or road;

(r) shall loiter in any public place and solicit any person for the purpose of prostitution, shall be guilty of an offence and shall be liable to a penalty not exceeding one thousand dollars.

31/1995
S. 4.

4. It shall be lawful for any constable to take into custody, without warrant, any person who shall commit any of the offences hereinbefore mentioned within view of any such constable; and in like manner, when the offender is unknown, without warrant to take into custody any such offender who shall be charged by any other credible person with recently committing any of the said offences, though not committed within view of such constable, but within view of the person making such charge.

Constable
may apprehend
parties
offending
on view,
etc.

Exposing
goods for
sale in
thorough-
fares, etc.

5. Every person who—

(a) in any highway or thoroughfare in any town, shall to the annoyance of the inhabitants or passengers, expose for sale or show, except in a market or place lawfully appointed for that purpose, any goods, wares, and merchandise, or any animal; or clean or dress any animal; or hew, saw, bore or cut any timber or stone; or slack, sift, or screen any lime; or make or dress up or paint any article or material; or wash or cleanse any utensil whatsoever; or wash, or hang up, or spread any clothes or linen; provided a complaint be made by any inhabitant residing near the place where the offence shall be committed;

Laying tim-
ber, etc., in
thorough-
fares.

(b) shall throw or lay in any thoroughfare any coals, stones, slates, shells, lime, bricks, timber, iron, or other materials (except building materials, or rubbish thereby occasioned, which shall be placed or enclosed so as to prevent any mischief happening to passengers);

Beating
mats in
thorough-
fares.

(c) in any thoroughfare, shall beat or shake any carpet, rug, or mat (except door mats, before the hour of eight in the morning), or cause any offensive matter to run from any manufactory, slaughter-house, butcher's yard, or dunghill, into any thoroughfare, or any uncovered place, whether or not surrounded by a wall or fence; but it shall not be deemed an offence to lay sand, litter, or other materials in any thoroughfare in case of sickness to prevent noise, if the party laying any such things shall cause them to be removed as soon as the occasion for them shall cease;

Emptying
privies at
improper
hours, etc.

(d) shall empty, or begin to empty, any privy between the hours of four in the morning and ten at night, or remove along any thoroughfare any night soil

or other offensive matter between the hours of four in the morning and ten in the evening, or who shall wilfully or carelessly slop or spill any such offensive matter in the removal thereof, or who shall not carefully sweep and clean every place in which any such offensive matter shall have been placed, slopped, or spilled; or discharge, or allow to run from their premises any putrid or noxious water, or other offensive matter or thing whatsoever, into any street, lane, or thoroughfare, or into any other place or premises in the occupation of any other person;

- (e) shall keep any pigsty to the front of any thoroughfare within any town, not being shut out from such thoroughfare by a sufficient wall or fence, or who shall keep any swine in or near any street, or in any dwelling, so as to be a common nuisance; Pigsties.
- (f) shall expose anything for sale in any private piazza or public place, unless with the consent of the owner or other person authorized to give such consent, or upon, or so as to hang over, any carriageway or footway, or on the outside of any house or shop, or who shall set up, or continue any pole, blind, awning, line, or any other projection from any window, parapet, or other part of any house, shop, or other building, so as to cause any annoyance or obstruction to the inhabitants or passengers in any thoroughfare, except in case of sickness to prevent noise, or accident in repairing any building, provided the same be removed as soon as the occasion shall cease; Exposing goods for sale on piazzas without owner's consent, etc.
- (g) shall, by the negligent use or management of fire in improper places, damage any property, or injure any person; Negligent use of fire.

Disturbing
public
worship.

(h) shall wilfully disturb any meeting or assembly, or any congregation assembled for religious worship, or for any religious service or rite in any burial ground, or disturb or molest any person thereat,

Penalty.

shall be guilty of an offence and shall be liable to a penalty not exceeding four dollars.

Riotous
behaviour
in public
place while
drunk.

6. Every person who, in any thoroughfare, while drunk, shall be guilty of any riotous or indecent behaviour in any public place, shall be liable on summary conviction to a penalty not exceeding six dollars for every such offence, or to imprisonment for a term not exceeding ten days.

Drunk and
disorderly
persons may
be appre-
hended.

7. It shall be lawful for any constable to take into custody, without a warrant, all drunken, loose, and disorderly persons whom he shall find disturbing the public peace, or disturbing any inhabitant or passenger, and all persons whom he shall find between the hours of nine at night and six in the morning lying or loitering in any highway, piazza, or other open place, and not giving a satisfactory account of themselves. All such persons shall be guilty of an offence against this Act.

Persons
found
drunk in
streets.

8. Every person who, in any town, shall be found drunk lying about the streets or other public places therein, or in any piazza, open or enclosed, shall be deemed to have committed an offence, and shall on conviction, be liable to a fine not exceeding four dollars; and, in default of payment, to imprisonment for not more than ten days.

Offences
which upon
second con-
viction may
be visited
with
increase of
punish-
ment.
31/1995
S. 4.

9. Every person who shall commit any of the following offences shall be liable upon a second or any subsequent summary conviction to a penalty not exceeding one thousand five hundred dollars; or to imprisonment with or without hard labour, for a period not exceeding thirty days—

- (a) every person who shall, in any thoroughfare, or in any town, ride or drive furiously, or, in any thoroughfare or highway, ride or drive so as to endanger the life or limb of any person, or to the common danger of the passengers therein;
- (b) every person who shall, in any thoroughfare or public place, indecently expose his or her person;
- (c) every person who shall make on any fence, wall or other building, any obscene figure, drawing, painting, or representation, or sing any profane, indecent, or obscene song or ballad, or write or draw any indecent or obscene word, figure, or representation, or use any profane, indecent or obscene language publicly;
- (d) every person who, in any thoroughfare, while drunk, shall be guilty of any riotous or indecent behaviour in any public place;
- (e) every person who, in any town, shall be found drunk, lying about the streets or other public places therein, or in any piazza, open or enclosed.

10. Every Justice, before whom any person shall be convicted of the offences enumerated in section 9 shall sign the record of such conviction which shall be kept by the proper officer among the records of the court; and, upon any information against any person for a subsequent offence, committed as hereinbefore mentioned, such conviction, or an examined copy thereof, certified by the Clerk of the Court, shall be sufficient evidence to prove a conviction for the former offence; and the conviction shall be presumed to have been unappealed against, until the contrary be shown.

Conviction
to be kept
among
records of
court.

Noisy and disorderly conduct in public places.

31/1995
S. 4.

11. Every person who shall, in any town, or in any public place, conduct himself in a noisy and disorderly manner, to the disturbance of peace and good order, or to the annoyance, discomfort, or obstruction of members of the public, shall be deemed violators of the public peace, and on conviction shall be liable to a penalty not exceeding one thousand dollars, or to imprisonment for a period not exceeding thirty days, or in default of payment of any pecuniary penalty to imprisonment with or without hard labour for a period not exceeding thirty days.

12. *[Repealed by Act 7 of 1997, section 8.]*

Discharging cannon in town.

13. Every person other than a person acting in obedience to lawful authority who shall discharge any cannon, or other firearm of greater calibre than a common fowling-piece, within five hundred yards of any dwelling-house within any town, to the annoyance of any inhabitant thereof, and every person who, after being warned of the annoyance by any inhabitant, shall discharge any such firearms, shall be liable to a penalty not exceeding ten dollars.

Street musicians, etc.

14. It shall be lawful for any householder, personally, or by his servant, or by any police constable to require any street-musician, juggler, dancer, actor, or showman, to depart from the neighbourhood of the house of such householder; and every person who shall sound or play upon any musical instrument, or make any other noise or disturbance in any thoroughfare near any house, after being so required to depart, shall be liable to a penalty not exceeding four dollars.

Mad dogs.

15. It shall be lawful for any constable to destroy any dog or other animal reasonably suspected to be in a rabid state, or which has been bitten by any dog or animal reasonably suspected to be in a rabid state; and the owner

of any such dog or animal who shall permit the same to go at large after having information or reasonable ground for believing it to be in a rabid state, or to have been bitten by any dog or other animal in a rabid state, shall be liable to a penalty not exceeding ten dollars.

16.—(1) Subject to the provisions of subsections (2), (3), (4), (5) and (6) no person shall open any place of business on Sunday, Good Friday or Christmas Day.

Restrictions
on the open-
ing of places
of business
on certain
days.

(2) Any shop registered as a pharmacy under the provisions of the Pharmacy Act may be open—

35/1963
S. 2.

(a) between the hours of eight o'clock in the morning and twelve o'clock midnight on Sunday for the sale of any article;

(b) between the hours of eight o'clock in the morning and twelve o'clock midnight on Good Friday and Christmas Day for the sale of any drug as defined in the Pharmacy Act :

Provided that no person other than a pharmacist registered under that Act shall be employed in such shop on Good Friday and Christmas Day.

(3) Any shop within the terminal buildings of the Norman Manley International and Sangster International Airports may be open on Sunday.

(4) Lodging-houses designed for the accommodation of travellers and lodgers and establishments for the sale of motor fuel or oils may be open on Sunday, Good Friday and Christmas Day.

(5) Public wharves may be open—

(a) on Sunday for the purpose of landing or shipping goods, for the embarkation or disembarkation of passengers, and for the landing and delivery of

their baggage, or for permitting the delivery of perishable commodities and urgently needed drugs or medical supplies;

- (b) on Good Friday and Christmas Day for the disembarkation of passengers and the landing and delivery of baggage carried by passengers in their cabins.

(6) The following classes of establishments may be open before ten o'clock in the morning and after five o'clock in the afternoon on the days specified in respect of each class, that is to say—

- (a) establishments for the sale of bread or ice, on Sunday, Good Friday and Christmas Day;
 (b) public markets, on Sunday;
 (c) establishments for the printing or publishing of newspapers, on Sunday and Christmas Day.

(7) Every person who contravenes the provisions of this section shall be guilty of an offence and shall be liable on summary conviction before a Resident Magistrate to a fine not exceeding twenty dollars and in default of payment to imprisonment for a term not exceeding thirty days.

Special
power of
opening
wharves.
35/1963
S. 2.

17. Notwithstanding the provisions of section 16, where it appears to the Minister that special circumstances exist rendering it necessary or expedient that any public wharf should be opened on Sunday, Good Friday or Christmas Day for the purpose of securing the maintenance of supplies or services essential to the life of the community he may in writing give authority accordingly.

Goods not
to be
exposed for
sale on
Sunday,
etc.
35/1963
S. 3 (a).

18. Any person who shall, on Sunday, Good Friday, or Christmas Day, offer or expose for sale any goods, wares or merchandise shall be liable to a penalty not exceeding four dollars for each offence of selling:

Provided that nothing in this section shall prevent the sale—

35/1963
S. 3 (b).

- (a) on Sunday, of articles—
 - (i) in pharmacies;
 - (ii) in shops within the terminal buildings of the Norman Manley International and Sangster International Airports;
 - (iii) in public markets;
- (b) on Sunday, Good Friday and Christmas Day of any drug as defined in the Pharmacy Act, milk, bread, ice, vegetables, grass or motor fuel or oils;
- (c) on Sunday and Christmas Day of newspapers.

19. It shall be lawful for any Justice on complaint of any constable or other person, that any house, room, shop, or place in any parish of this Island is a place of common resort for idle and disorderly persons, to order such house, room, shop, or place to be entered by any constable; and it shall be lawful for such constable to take into custody any person or persons gambling in such house, room, or place, and carry him or them before any Justice, who shall hold such person or persons to bail to appear and answer any charge touching such offence that may be brought against him or them; and in default of security, shall commit such person or persons to the common gaol, there to remain until he can be brought before the Justices in Petty Sessions for trial.

Power to
Justice to
order
disorderly
house to be
entered.

20. It shall be lawful for any constable to take into custody any idle and disorderly persons who may, at any time, be found assembled in any thoroughfare, street, lane, or public place, or in front, or about, or in the neighbourhood of any house, wharf, tavern, or other premises, or in any street or other public place in any city or town in this Island, who, upon being desired by such constable to retire

Idle and
disorderly
persons
assembled
in public
places.

or disperse, and leave the place in which they shall have so assembled, shall refuse or neglect immediately to do so, and carry such persons, or any of them, before any Justice, who shall hold them, or any of them, to bail, to appear and answer any charge touching such offence that may be brought against them; and in default of security, he shall remand such persons in custody until they can be brought before the Justices in Petty Sessions for trial.

Power to
two Justices
to hear and
determine
charge.

21. It shall be lawful for any two Justices of the parish in which the offence was committed in Petty Session assembled, to hear and determine complaints against parties who have been held to bail or remanded as aforesaid; and upon its being proved to their satisfaction that the parties apprehended as aforesaid are known to be loose and idle, or disorderly persons, and without any visible means of subsistence, either to call upon such persons to find sureties for their good behaviour for three calendar months, in such sum or sums as they may deem sufficient, or to order that such persons be imprisoned with or without hard labour for a period not exceeding thirty days.

Power to
two Justices
to hear and
determine
charge.

22. It shall be lawful for any two Justices of the parish in which the offence was committed, in Petty Session assembled, to hear and determine any complaints against the persons offending as aforesaid against the provisions of sections 19 and 20 and upon proof to their satisfaction, that such persons, or any of them, were engaged in gambling, or were assembled for the purpose of gambling, to commit such persons, and to sentence them to imprisonment with hard labour, for a period not exceeding sixty days:

Provided, that it shall not be necessary to prove, in order to convict such persons or any of them, that they, or any of them, were playing for any money, wager, or stake.

23. It shall be lawful for any constable, and for all persons whom he shall call to his assistance, to take into custody without a warrant any person who, within view of any such constable, shall offend in any manner against this Act, and whose name and residence shall be unknown to such constable, and cannot by enquiry be ascertained by such constable, but not otherwise, except as to the offences mentioned in section 3.

Constables may apprehend on view.

24. Every person taken into custody in the day time for offences under the provisions of this Act without warrant shall be forthwith taken before some Justice, or, if after the hour of six o'clock in the evening, shall be delivered into the custody of the sergeant or constable in charge of the nearest constabulary station, in order that such person may be secured until he can be brought before a Justice to be dealt with according to law or, shall give bail for his appearance before a Justice.

Parties apprehended must be taken before Justice, etc.

25. Whenever any person having charge of any carriage or horse, or any other animal, or goods or chattels, shall be taken into the custody of any constable under the provisions of this Act, it shall be lawful for any constable to take charge of such carriage or horse, or such other animal, or goods or chattels and to deposit the same in some place of safe custody until application be made for the same by the owners thereof, or their authorized agents, or until the offender shall be discharged from custody on bail or otherwise; to be delivered to the party entitled to the same, on payment of all expenses incurred by the keep of such carriage or horse, or other animal.

Horse or carriage in charge of person apprehended to be taken care of.

26. Every person who by committing any offence herein forbidden, shall have caused any hurt or damage to any person or property, who shall not upon demand make amends for such hurt or damage to the satisfaction of the

Person causing hurt or damage while committing offence.

person aggrieved, shall, upon conviction for the offence, pay such a sum not exceeding twenty dollars as shall appear to the Justices before whom he shall be convicted to be reasonable amends to the person aggrieved, besides any penalty to which he may be liable for the offence; and the evidence of the person aggrieved shall be admitted in proof of the offence :

Provided always, that, if the person aggrieved shall have been the only witness examined in proof of the offence, the sum ordered as amends shall be paid and applied in the same manner as the penalty.

Offence
where no
special
penalty
provided.

31/1995
S. 4.

27. For every misdemeanour, or other offence against this Act, for which no special penalty is hereinbefore appointed, the offender shall, at the discretion of the Justices before whom the conviction shall take place, either be liable to a penalty not exceeding two thousand dollars, or be imprisoned for a period not exceeding one calendar month:

Provided always, that nothing herein contained shall be construed to prevent any person from being indicted for any indictable offence made punishable on summary conviction by this Act or to prevent any person from being liable under any other enactment to any other penalty or punishment than is provided for such offence by this Act, so nevertheless that no person be punished twice for the same offence.

Summons to
party
charged.

28. On any information or complaint made before any Justice on the oath of any credible witness or informer, it shall be lawful for the Justice to summon the person charged to appear before any two Justices at a reasonable time and place, to be mentioned in the summons, to answer such charge; and if such person shall not appear, the Justices may either proceed to hear and determine the case *ex parte*, or

may issue their warrant for the apprehension of the offender; or the Justice may, in the first instance, in his discretion, issue a warrant without any previous summons.

29. In any case of adjudication of a pecuniary penalty or amends under this Act, and non-payment thereof, either forthwith or within such time as shall be allowed by the convicting Justices, not exceeding thirty days (and if the said Justices shall give time for such payment, they shall require the defendant to give security to the satisfaction of the said Justices to an amount double the amount of penalty or amends, and costs, for his appearance at the expiration of such time at the place where the Justices hold their Courts then and there to abide the further judgment of the law on non-payment of the amount; and such Justices are hereby empowered to take such security by way of recognizance, which said recognizance if forfeited, shall be estreated in like manner as any other estreated recognizance), it shall be lawful for the said Justices to commit the offender, by warrant under their hands and seals, to imprisonment with or without hard labour, for a term of not more than thirty days, the imprisonment in any case to cease on payment of the sum due; and the costs for the recovery thereof shall be paid to the party entitled to receive the same; the amount of amends shall be paid to the party aggrieved; or, where such amount cannot be so appropriated, the same shall, together with all penalties awarded under this Act, be paid into the Treasury.

Default in
payment of
penalty, etc.

30. The Justices hearing and determining any complaint under this Act may, in their discretion, allow costs, and enforce payment thereof in the same manner as penalties are by this Act directed to be recovered.

Costs.

Within
what time
prosecutions
to
commence.

31. The prosecution for every offence punishable on summary conviction by this Act shall be commenced within three calendar months after the commission of the offence, and not otherwise.

When
Justices may
abstain
from ad-
judicating.

32. In case the Justices shall find any misdemeanour complained of under this Act to have been accompanied by any felonious intent, or otherwise in their discretion shall consider the same ought to be prosecuted by indictment they shall abstain from any adjudication thereupon, and shall deal with the case in all respects in the same manner as if this Act had not been passed.