



Legislative Assembly of the Cayman Islands

PRIVATE MEMBER'S MOTION NO. No 8 of 2019/2020

Public Rights of Way

WHEREAS there continues to be concern from the public that established public rights of way including access to the beach and/or the sea are being encroached upon, blocked, or otherwise made inaccessible by landowners, developers and other individuals;

AND WHEREAS the Prescription Law (2018) Revision grants absolute and indefeasible rights to the public to use easements, light, air, waterways, beaches, roads, tracks or pathways which have been used for a period of twenty years without interruption;

AND WHEREAS it is a matter of public knowledge that the public has acquired such rights under the said Law in respect of most of the beaches and other coastal areas in the islands, all of which can be identified based on readily available information and public knowledge;

AND WHEREAS the RCIPS has consistently advised persons reporting any obstruction of such prescriptive rights of way that the only recourse to settle disputes over rights of ways is by way of a private civil action in the Grand Court;

AND WHEREAS it is not an offence under the Cayman Island's Penal Code to obstruct the use of an established public rights of way;

AND WHEREAS it is a Common Law Criminal "nuisance" offence to obstruct a right of way;

AND WHEREAS existing statute requires citizens to bring private lawsuits at their own expense to the Grand Court of the Cayman Islands, to settle any dispute over a public right of way;

AND WHEREAS it would be unfair and unjust to expect any member or group of members of the public to bring a civil action on behalf of the public, to enforce a right enjoyed by the public in gross.

BE IT THEREFORE RESOLVED THAT the Government considers amending the Penal Code and the Prescription Law to create a criminal offence for the act of obstructing a public right of way over any access to and use of any beach which may be prescribed as a public beach thereunder;

Moved by:

Mr. Anthony Eden, MLA, JP (Ret)
Elected Member for Savannah

Seconded by:

Mr. Alva Suckoo, MLA
Elected Member for Newlands

Received in the Office of the Clerk this 19th day of June 2020.

Passed/Rejected by the Cayman Islands Legislative Assembly this _____ day of _____, 2020.

Clerk of the Legislative Assembly