

CHAPTER 6.01

NATIONAL CONSERVATION AUTHORITY ACT

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• Act • Subsidiary Legislation •

ACT

(Act 16 of 1999)

Act 16 of 1999 .. in force 30 April 1999

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CHAPTER 6.01 NATIONAL CONSERVATION AUTHORITY ACT

AN ACT to provide for the establishment of a National Conservation Authority in Saint Lucia and other related matters.

Commencement [30 April 1999]

PART 1 PRELIMINARY

1. Short title

This Act may be cited as the National Conservation Authority Act.

2. Interpretation

In this Act—

“**Authority**” means the National Conservation Authority established under section 4;

“**beach**” includes the land adjoining the foreshore of Saint Lucia and extending not more than 33 meters beyond the landward limit of the foreshore;

“**chairperson**” means the chairperson of the National Conservation Authority appointed under paragraph 1 of the Schedule;

“**deputy chairperson**” means the deputy chairperson of the National Conservation Authority appointed under paragraph 1 of the Schedule;

“**funds**” means the funds of the Authority specified under section 10;

“**licence**” means licence to operate a business in a protected area applied for or granted under section 15;

“**Minister**” means the Minister to whom responsibility for the Authority is assigned by the Prime Minister;

"Parks and Beaches Commission" means that Parks and Beaches Commission established under the Parks and Beaches Commission Act, 1983;

"protected area" includes any area of land or water declared as a protected area under section 3;

"staff" includes rangers and wardens;

3. Declaration of protected areas

(1) The Minister may, by order, declare an area of land or water in Saint Lucia to be a protected area for the purpose of—

- (a) preserving or enhancing the natural beauty of the area, its fauna or flora;
- (b) creating a recreational area or national park;
- (c) creating a marine park.

(2) Land declared as a protected area under subsection (1) is vested in the Government and dedicated to the people of Saint Lucia for their benefit, education and enjoyment.

PART 2 ESTABLISHMENT

4. Establishment of Authority

(1) There is established a body corporate to be known as the National Conservation Authority to which, subject to this Act, section 19 of the Interpretation Act is applicable.

(2) The Schedule has effect with respect to the constitution of the Board of the Authority.

5. Appointment of General Manager

(1) The Board of the Authority (in this Act referred to as "the Board") shall, with the approval of the Minister appoint a General Manager at a salary and upon terms or conditions as it may determine.

(2) The General Manager shall be the Chief Executive Officer of the Authority.

(3) The General Manager shall exercise the functions entrusted to him or her by this Act and shall be present at all meetings of the Board unless the General Manager—

- (a) is instructed by the chairperson to withdraw from a meeting;
- (b) has obtained leave of absence from the chairperson; or
- (c) is incapacitated by illness or other cause from attending a meeting.

(4) In the event of absence of the General Manager, the Board may, by instrument in writing and with the approval of the Minister, appoint a person to act as General Manager during the period of absence, upon such terms or conditions as the Board may determine.

6. Appointment of staff

(1) The Board may, with the approval of the Minister, appoint staff at remuneration and upon terms or conditions as it thinks necessary for the proper carrying out of the functions of the Authority under this Act.

(2) Staff appointed under subsection (1) shall perform duties as may be assigned by the General Manager.

PART 3 FUNCTIONS

7. Functions

(1) The functions of the Authority are—

- (a) to conserve the natural beauty and topographic features of Saint Lucia;
- (b) to remove derelict objects from a beach or a protected area;
- (c) to control, maintain or develop a beach or protected area or a public access to a beach or protected area;
- (d) to provide, as it thinks fit, a lifeguard service on a beach in Saint Lucia;
- (e) to secure sanitary conditions on a beach or protected area;
- (f) to maintain or assist in maintaining beach facilities;
- (g) to advise the Minister on—
 - (i) the construction of beach and ancillary recreational facilities,
 - (ii) the control of the construction in any protected area or on any beach, of huts, booths, tents, sheds, stands, stalls, bath houses, shops or other structures (whether movable or immovable),
 - (iii) the removal of anything from the ocean bed which is likely to cause encroachment of the sea, and
 - (iv) the protection of the coastline of Saint Lucia from erosion or encroachment by the sea;
- (h) to beautify a public place and a protected area with fauna and flora;
- (i) to advise the Minister on an area to be declared as a protected area under section 3;
- (j) to enter into written agreement with owners or occupiers of land for the right of access to a protected area.

(2) Despite subsection (1), the Authority may, upon request being made to it in writing, clean, maintain or develop land—

- (a) in the possession of any person; or
- (b) comprising a cemetery or other burial place of a church.

(3) Where work is done by the Authority on land referred to in subsection (2), the Authority may, subject to regulations made under section 37, charge a fee for the work done.

(4) Where an application is made under subsection (2) to the Authority, the Authority may, with the approval of the Minister, waive all or part of a fee payable to it under subsection (3).

8. Delegation of functions

The Authority may—

- (a) appoint a committee for a purpose which, in the opinion of the Authority, would be better regulated or managed by a committee; or
- (b) delegate a function provided for under section 7 to a committee or to a member of staff of the Authority as it thinks fit.

PART 4 FINANCE

9. Power to charge fees and sell services

The Minister may by order prescribe fees for—

- (a) entry to or for use of any property under the control of or maintained by the Authority;
- (b) services it may offer to private individuals or organisations.

10. Finances of Authority

The funds and resources of the Authority consist of—

- (a) monies paid to its accounts out of monies voted by Parliament;
- (b) monies accruing from the operations of the Authority;
- (c) monies borrowed by the Authority for the purpose of its functions; or
- (d) other monies available to the Authority from sources approved by the Minister.

11. Borrowing powers

(1) Subject to subsection (2), the Authority may borrow money required by it for meeting its obligations or performing its functions.

(2) The power conferred on the Authority by subsection (1) is exercisable on approval by the Minister of Finance and there must be a stipulation as to—

- (a) the amount and source of the loan; and
- (b) the terms on which the loan may be effected;

and the approval may be general or limited to a particular borrowing.

12. Application of funds

(1) The Authority shall apply its funds towards discharging its obligations or performing its functions under this Act.

(2) The Authority shall not execute a plan in relation to its fund unless prior approval is given by Cabinet.

13. Accounts and audit

(1) The Authority shall—

- (a) in respect of its functions, keep proper accounts and adequate financial records to the satisfaction of, or in accordance with the direction of the Director of Audit or an auditor appointed under subsection (2) for the purpose of auditing the accounts; and
- (b) prepare a statement of accounts in respect of each financial year.

(2) The Authority shall within 3 months of the end of each financial year, submit its accounts for audit to the Director of Audit or to an auditor the Minister may appoint.

(3) The General Manager or a person concerned with the keeping of its accounts shall—

- (a) grant to the person auditing the accounts under subsection (2), access to all books, documents or cash relating to those accounts; and

- (b) provide at the request of the auditor, all information within his or her knowledge in relation to the operation of the Authority.

14. Report

(1) The Authority shall within 6 months of the end of each financial year, submit to the Minister a report containing—

- (a) an account of the activities and transactions of the Authority throughout that financial year in such detail as the Minister may direct; and
- (b) a statement of accounts of the Authority for that financial year audited in accordance with section 13.

(2) A copy of the report under subsection (1), together with a copy of the auditor's report shall be printed, laid before Parliament, and published in the Gazette not later than 3 months from the date of the receipt of the report under subsection (1) by the Minister.

PART 5 LICENCE

15. Application for licence

(1) A person may apply to the Authority for a licence to operate a business in a protected area.

(2) An application made under subsection (1)—

- (a) must be in writing addressed to, and in a form approved by, the Authority; and
- (b) must be accompanied by a police certificate of character and 2 testimonials made not more than one month prior to the application.

(3) This section does not apply to a person carrying on a hotel, restaurant or other business in respect of which there is in existence a valid licence granted under the Liquor Licence Act.

(4) The Authority shall consider an application made under subsection (1) and in so doing may—

- (a) require an applicant to appear before it to be interviewed; or
- (b) request other information in writing from the applicant as it considers necessary.

(5) Where a person applies under subsection (1), the Authority may—

- (a) grant a licence to the applicant, on payment by him or her of the prescribed fee; or
- (b) refuse to grant a licence if it is satisfied that the number of licensed vendors in a protected area exceeds a limit determined by the Authority and approved by the Minister.

16. Conditions of licence

A licence—

- (a) must be in a form as the Authority determines;
- (b) is not transferable;
- (c) is, subject to section 20, valid for the period specified in the licence but shall not exceed one year at any one time; and

- (d) is subject to the conditions specified in the licence.

17. Register of licence

(1) The Authority shall keep a register in which there is recorded—

- (a) the name and address of each person to whom a licence is granted;
- (b) the type of business in respect of which the licence is granted;
- (c) the number of the licence; and
- (d) the address at which the business is conducted.

(2) The register shall at all reasonable times be available for inspection at the principal office of the Authority.

18. Change of address

A person to whom a licence is granted shall, within 14 days of a change of that person's address or of the address at which the business is being conducted, notify the change to the Authority, which shall effect the change in the register.

19. Duplicate licence

Where a licence has been lost, destroyed or defaced, the Authority may, on application made to it and on payment of a prescribed fee, issue a duplicate licence for the unexpired portion of the term for which the original licence was issued.

20. Renewal and surrender of licence

(1) Where a licence has expired a person may apply to the Authority for a renewal of that licence.

(2) The Authority may, on application made to it under subsection (1) and on payment of a prescribed fee, renew the licence for a period not exceeding one year.

(3) Despite anything contained in this Act, a person to whom a licence is granted may, at any time, surrender that licence, and from the date of the surrender that person shall not operate or allow the operation of a business in respect of which that licence was granted.

21. Displaying of licence

A person operating a business in respect of which a licence is granted, shall display the licence in a conspicuous place at the place of business.

22. Production of licence

Despite sections 21 and 27(1)(c), a customer, member of staff of the Authority, or police officer may request a person referred to in section 21 to produce that person's licence for inspection—

- (a) at the time of the request; or
- (b) within 48 hours from the time of the request—
 - (i) at the nearest police station, in the case of a request by a police officer; or
 - (ii) at the principal office of the Authority, in any other case.

23. Suspension or revocation of licence

Despite anything contained in this Act, the Authority may suspend or cancel a licence where the holder of the licence—

- (a) has been convicted in Saint Lucia or elsewhere of a criminal offence;
- (b) is deceased, bankrupt or incapable of carrying on the business in respect of which the licence is issued;
- (c) has contravened a provision of the licence; or
- (d) conducts himself or herself on a beach or in a protected area in a manner in which the Authority reasonably believes to be immoral or contrary to public decency.

24. Appeals

A person aggrieved by a decision of the Authority may, within 14 days of the date of that decision, appeal against that decision to a judge in chambers, and a decision of the judge is final.

PART 6 OFFENCES AND PENALTIES

25. Powers of arrest

(1) A person employed by the Authority as a ranger or warden, may arrest without a warrant a person who commits an offence specified in section 27(1)(e) or 28(1)(a) or 28(1)(b).

(2) A person arrested under subsection (1) shall, for the purpose of all proceedings related to the arrest, be treated as if he or she were arrested by a police officer.

26. Power to seek assistance

A ranger or warden referred to in section 25 may, if necessary, request the assistance of a police officer in effecting an arrest under that section, and that police officer may render assistance as may be reasonable.

27. Prohibition on selling

(1) A person shall not—

- (a) sell or offer for sale goods or services on a beach or in a protected area without obtaining a licence under this Act;
- (b) contravene a condition contained in a licence issued under this Act;
- (c) fail to display a licence in accordance with section 21;
- (d) fail, without reasonable excuse, to comply with a request made under section 22; or
- (e) for the purpose of selling goods or services or any unlawful purpose, solicit in a protected area.

(2) Where a licence is suspended or cancelled under section 23, the person to whom it was granted shall not, pending the determination of an appeal against suspension or cancellation, carry on the business in respect of which the licence was granted.

(3) A person who contravenes subsection (1) or (2) commits an offence and upon summary conviction is liable to a fine of \$1,000 or to imprisonment for a term of 3 months, or to both.

28. Prohibition on resisting arrest

(1) A person shall not—

- (a) assault, resist, obstruct or intimidate another person in the performance of that other person's functions under this Act; or
- (b) use indecent, abusive or insulting language to another person in the performance of that other person's functions under this Act.

(2) A person who contravenes subsection (1) commits an offence and upon summary conviction is liable to a fine of \$1,000 or to imprisonment for a term of one year or to both.

29. Prohibition on damage in general

(1) A person shall not, without lawful authority—

- (a) do anything likely to cause damage to a beach or protected area; or
- (b) litter in a beach or protected area.

(2) A person who contravenes subsection (1) commits an offence and upon summary conviction is liable to a fine of \$500 or to imprisonment for 3 months or both and, in addition, a court before which a person is convicted under subsection (1) may order that person to pay compensation in satisfaction of the damage.

30. General penalty

A person who contravenes a provision of this Act for which no penalty is specifically provided commits an offence and upon summary conviction is liable to a fine of \$1,000.

PART 7 MISCELLANEOUS

31. Establishment and maintenance of pension scheme

(1) Subject to the National Insurance Act, the Authority may, with the approval of and subject to terms and conditions as may be imposed by the Minister, provide for the establishment and maintenance of a pension scheme for the benefit of its staff.

(2) Without prejudice to the generality of subsection (1), the pension scheme may be used by the Authority to—

- (a) grant gratuities and pensions to its staff or superannuation allowances to dependants of its staff;
- (b) establish contributing or superannuation pension schemes or contribute to superannuation funds for the benefit of its staff; or
- (c) enter into agreements with an insurance company for securing gratuitous pensions or allowances authorised to be granted to its staff under this section.

32. Land Acquisition

Despite anything contained in this Act, land required for use by the Authority in connection with the development of a protected area, shall be acquired in accordance with the Land Acquisition Act.

33. Requirement of approval for payment or disposal

Despite the powers conferred on the Authority by section 7, the Authority shall not, without prior approval of the Minister—

- (a) make a provision for the payment of pensions, gratuities or like benefits of the Authority to a person by references to that person's services to the Authority; or
- (b) dispose of or charge property held by the Authority for the purposes of functions under this Act.

34. Direction by Minister

The Minister may give directions to the Board or a committee appointed by the Authority under section 8 as to the exercise and performance of the Authority's functions and the Authority or the committee shall give effect to those directions.

35. Protection for Authority

- (1) A person shall not bring an action against the Authority, the Board or a member of the Board in respect of an act done in good faith under this Act.
- (2) An act done under this Act shall not be questioned on the ground—
 - (a) of the contravention by a member of the Board of paragraph 14 of the Schedule; or
 - (b) of an omission, defect or irregularity not affecting the merits of the case.

36. Transition

- (1) As from the date of establishment of the Authority under section 4—
 - (a) a person who was employed on the staff of the Parks and Beaches Commission immediately before that date and is employed by the Parks and Beaches Commission on that date shall be deemed to be transferred from the service of the Parks and Beaches Commission to the service of the National Conservation Authority;
 - (b) a person transferred under subparagraph (1)—
 - (i) shall be treated as if that person's employment in the service of the Parks and Beaches Commission was employment in the service of the National Conservation Authority, and
 - (ii) shall, upon that person's transfer to the service of the National Conservation Authority, be employed under terms and conditions no less favourable than when they were employed in the service of the Parks and Beaches Commission.

(2) For the purposes of subsection (1)(a) and (1)(b), service of the person referred to in those paragraphs shall be aggregated with that person's service with the Authority for the purpose of computing a pension or other retiring allowance to which they may be entitled.

(3) A person who was employed on the staff of the Parks and Beaches Commission for a period of not less than 5 years, and who resigned or retired from the Commission before the date of establishment of the Authority shall, for the purpose of pension and other retiring allowances, be treated as if that person's service was service with the Authority.

37. Limit to powers of Authority

(1) The functions and powers of the Authority under this Act shall not extend to any building or land which, at the commencement of this Act, is vested in the Saint Lucia National Trust ("the Trust") or which is under the management or control of the Trust or any other recognised organisation.

(2) For the purpose of this Act a “**recognised organisation**” is an organisation concerned with the protection and preservation of the natural environment, and recognised as such by the Ministry responsible for the environment.

38. Regulations

The Authority may, subject to the approval of the Minister, make regulations—

- (a) prescribing the sanitary conditions and practices to be observed at and in respect of protected areas;
- (b) with respect to the duties of its staff members;
- (c) prescribing the fees chargeable by the Authority for its services to the public or for entry to or for the use of any property under the control of or maintained by the Authority and the terms and conditions on which such fees shall be paid;
- (d) for the prevention from danger, obstruction or annoyance of members of the public using the protected areas;
- (e) for the preservation of order and good conduct among members of the public using protected areas;
- (f) for the prevention of any deterioration or destruction of protected areas;
- (g) for the proper keeping and control of monies paid to the Authority;
- (h) generally for the carrying out of its functions under this Act.

Schedule

(Section 4(2))

1. The Authority consists of a chairperson, a deputy chairperson and not less than 7 or more than 9 other members, all of whom shall be appointed by the Minister by instrument in writing.

2. Subject to paragraph 4,5 and 6, a member of the Board holds office for a period not exceeding 3 years as the Minister may direct in the instrument appointing the member, but is eligible for re-appointment.

3. The Minister may appoint, in accordance with paragraph 2, a person to act temporarily in the place of a member of the Board in case of the absence from Saint Lucia or the inability to act of that member.

4. A member of the Board, other than the chairperson, may at any time resign that member's office by instrument in writing addressed to the chairperson who shall cause the same to be forwarded to the Minister and upon the date of the receipt by the chairperson of such instrument the member ceases to be a member of the Board unless some other date is mentioned in the instrument.

5. The chairperson may, at any time, resign his or her office by instrument in writing addressed to the Minister, and upon the date of the receipt by the Minister of the instrument he or she ceases to be chairperson and a member of the Board unless another date is mentioned in the instrument.

6. A vacancy shall be deemed to arise in the membership of the Board in case of—

- (a) the death of a member;
- (b) resignation of a member;
- (c) the revocation by the Minister of the appointment of a member;
- (d) the absence from Saint Lucia of a member without leave of the Minister;

- (e) the failure of a member to attend 3 consecutive meetings of the Board, unless that failure to attend was approved by the Minister.

7. A member of the Board is eligible for remuneration by way of fees or travelling or other allowances, as the Minister may determine.

8. The names of all members of the Board as at first constituted or a change in the membership of the Board shall be published in the Gazette.

9.

- (1) The seal of the Authority shall be kept in the custody of the chairperson or deputy chairperson or another member of the Board as the Board may approve and may be affixed to documents or instruments pursuant to a Resolution of the Board and in the presence of the chairperson or deputy chairperson and the Secretary to the Authority.
- (2) The seal of the Authority shall be authenticated by the signature of—
 - (a) the chairperson or deputy chairperson; and
 - (b) the Secretary to the Authority.
- (3) A document or instrument, other than that required by law to be under seal, or a decision made by the Authority may be signified under the hand of the chairperson or deputy chairperson.

10.

- (1) The Board shall meet at such times as may be necessary or expedient for the transaction of its business and a meeting shall be held on a day and at a time and place as the Authority determines.
- (2) The chairperson, or, if the chairperson is for any reason unable to act, the deputy chairperson may at any time call a special meeting of the Authority.
- (3) The chairperson or the deputy chairperson shall call a special meeting within 7 days of the receipt of a requisition for that purpose addressed to the chairperson in writing by not less than 3 members of the Board.

11. Four members of the Board present at a meeting constitute a quorum.

12. The chairperson, or, in his or her absence, the deputy chairperson, shall preside at all meetings of the Board, and in the case of the absence of both the chairperson and the deputy chairperson, the members present and constituting a quorum may elect a temporary chairperson from among their number, who shall preside at the meeting.

13. The decisions of the Board at a meeting shall be by a majority of votes and in the event of an equality of votes the chairperson or deputy chairperson presiding at the meeting shall have a casting vote.

14.

- (1) Subject to this paragraph, a member who is interested in a contract or a proposed contract with the Authority shall declare the nature of that interest at a meeting of the Authority.
- (2) In the case of a proposed contract, the declaration required by subparagraph (1) shall be made—
 - (a) at the meeting of the Board at which the contract is first taken into consideration; or
 - (b) if the member was not, at the date of the meeting, interested in the proposed contract, at the next meeting of the Board held after that member becomes so interested.

- (3) Where the member becomes interested in a contract with the Authority, after it is made, the declaration shall be made at the first meeting of the Board held after the member acquires that interest or becomes so interested.
- (4) For the purpose of this paragraph, a notice given to other members of the Board by a member to the effect that the member is also a member of a specified company or firm and is to be regarded as interested in any contract which may, after the date of the notice, be made with that company or firm shall be deemed to be sufficient declaration or interest in relation to any contract so made.
- (5) A notice, as is mentioned in subparagraph (4), has no effect unless it is given at a meeting of the Board or the member concerned takes reasonable steps to secure that it is brought up and read at the next meeting of the Board after it is given.
- (6) A member of the Authority shall at the commencement of a meeting inform the chairperson of that meeting of any matter on the agenda for the meeting in which the member has either directly, or indirectly by himself or herself, his or her spouse, partner, business associate or company any pecuniary or business interest and that member shall vacate the meeting room upon the relevant matter coming up for discussion and the vacation of the meeting room by the member shall be noted in the minutes of the meeting of the Board.
- (7) A member who contravenes any of the provisions of this paragraph commits an offence and is liable on summary conviction to a fine of \$500.

CHAPTER 6.01
NATIONAL CONSERVATION AUTHORITY ACT

SUBSIDIARY LEGISLATION

No Subsidiary Legislation
