

National Conservation and Environmental Management Bill, 2017

SAINT CHRISTOPHER AND NEVIS

Bill No. of 2017

Arrangement of Clauses

**Part I
Preliminary**

1. Short title and commencement
2. Interpretation
3. Objects and purposes

**Part II
Administration**

4. Powers and duties of the Minister
5. Establishment of National Environmental Council
6. Appointment to and removal from the Council
7. Functions of the Council
8. Resignation of Council members
9. Vacancy in membership of Council
10. Proceedings in meetings
11. Disclosure of interest
12. Standing committees of the Council
13. Functions of standing committees
14. Department of Environment
15. Administration of the Act in Nevis
16. Authority and delegation of Director
17. Jurisdiction in marine areas
18. Authorised officers and conservation officers

**Part III
Environmental Management**

19. National Environmental Management Strategy
20. National Environmental Information System
21. Annual report

**Part IV
Establishment and Management of Protected Areas**

22. Establishment of protected areas
23. Preparation of Protected Areas System Plan

National Conservation and Environmental Management Bill, 2017

24. Designation Notice
25. Notice of intention to establish protected areas
26. Demarcation of boundaries
27. Temporary protected areas
28. Acquisition of private land in protected areas
29. Protected area in private land
30. Agreement to manage private land as protected areas
31. Protected area on Crown land
32. Restrictions on development in protected areas
33. Operations by Government entities in protected areas
34. Responsibility for management of protected areas
35. Vesting of management of protected areas
36. Activities in buffer zones
37. Requirement for management plan
38. Contents of management plan
39. Removal of resources from protected areas

Part V

Brimstone Hill Fortress National Park

40. Continuation of Brimstone Hill Fortress National Park
41. Management of Brimstone Hill Fortress National Park
42. Use of expertise and personnel
43. Brimstone Hill to make Regulations
44. Use of admission fees
45. Accounts of Brimstone Hill Society

Part VI

Conservation of Biological Diversity

46. National conservation strategy, plans and programs
47. Identification and monitoring
48. Protection of wildlife
49. Threatened and Endangered species
50. Provisions for scientific research
51. Conservation of ecosystems and habitats
52. Regulation of hunting
53. Regulation of fishing
54. Eradication of pests
55. Forest management
56. Fire prevention in forested and protected areas

PART VII

NATURAL RESOURCE MANAGEMENT- WATERSHEDS AND WETLANDS

57. Declaration of watersheds

National Conservation and Environmental Management Bill, 2017

- 58. Protection of watersheds and wetlands
- 59. Watersheds and wetlands on private land
- 60. Conversion of watershed

**PART VII
ECOSYSTEM MANAGEMENT**

- 61. Foreshore vested in the Crown
- 62. Public access to beaches
- 63. Coastal Zone management plan
- 64. Restrictions on construction on the seashore
- 65. Control of sand mining
- 66. Saving of existing rights

**Part IX
SOIL CONSERVATION**

- 67. Duty of landowner
- 68. Directions to take remedial action
- 69. Remedial measures
- 70. Regulation for soil conservation

**Part X
PROTECTION OF GHAUTS**

- 71. Protection of ghauts
- 72. Department may take remedial action

**Part XI
POLLUTION CONTROL**

- 73. Designation of pollutants
- 74. Registration and pollution permits
- 75. Discharge control permits
- 76. Time to be allowed for compliance
- 77. Liability for pollution prior to commencement of Act
- 78. Power to set technology standards
- 79. Hazardous substances
- 80. Spill or accidental release of pollutants
- 81. Environmental Auditing

**Part XII
ANTIQUITIES AND CULTURAL HERITAGE**

- 82. Licence to search for antiquities
- 83. Treatment of antiquities

National Conservation and Environmental Management Bill, 2017

- 84. Accidental discovery of antiquities
- 85. Export and return of antiquities
- 86. Contravention of this Part
- 87. Listing of historic buildings, monuments and sites
- 88. Effect of listing
- 89. Incentives to maintain and restore historic buildings, monuments and sites
- 90. Preservation of sites and buildings of interest on Nevis

Part XIII
NATIONAL ENVIRONMENTAL FOUNDATION

- 91. Establishment and purposes of the Fund

PART XIV
INTERNATIONAL CONVENTIONS

- 92. Conventions to have force of law
- 93. Regulations and other matters relating to implementation
- 94. Minister may amend Second Schedule

Part XV
MISCELLANEOUS

- 95. Powers of entry and search
- 96. Service of documents
- 97. Offences
- 98. Regulations
- 99. Application to areas regulated by special laws
- 100. Limitation of personal liability
- 101. Reservation of civil remedies
- 102. Amendments, repeals and savings
- 103. Act binds the Crown

Schedules

- Schedule 1
- Schedule 2

National Conservation and Environmental Management Bill, 2017

SAINT CHRISTOPHER AND NEVIS

Bill No. – of 2017

An Act to provide for the administration and allocation of administrative responsibilities for environment management, conservation and sustainable use and development of biological diversity, natural resources and the natural and cultural heritage of St. Kitts and Nevis; the designation and management of terrestrial and marine protected areas; pollution prevention and control; the incorporation of international obligations with respect to environmental matters into national law and for related or incidental matters.

BE IT ENACTED by the Queen’s Most Excellent Majesty, by and with the advice and consent of the National Assembly of Saint Christopher and Nevis and by the authority of the same, as follows:

**PART I
PRELIMINARY**

1. Short title and commencement

This Act may be cited as the National Conservation and Environmental Management Act, 2017.

This Act comes into force on the day appointed by the Minister by notice published in the *Gazette*.

2. Interpretation

(1) In this Act, unless the context otherwise requires:

“activity” means an event that has or may have an adverse effect on human health or the environment and includes a process, project, construction, operation, dismantling, abandonment of physical works or any other event in the natural surroundings or landscape including those involving the extraction of natural resources.

“antiquities” include

- (a) any ancient monument which has existed or may reasonably be believed to have existed for at least 50 years;
- (b) any statues, engravings, carvings, inscriptions, paintings, writings, metallurgic art, coins, gems, seals, jewels, arms, tools, ornaments and all other objects of art which may reasonably be believed to have existed for the last 50 years;

National Conservation and Environmental Management Bill, 2017

(c) any abandoned wreck and all objects of archaeological association which have remained unclaimed for fifty years in the territorial waters of Saint Christopher and Nevis.

“authorized officer” means any environmental officer, conservation officer, ranger or any other person designated as an authorised officer by the Minister;

“beach” means the sloping area of unconsolidated material typically sand, that extends landward from the mean high water mark to the area where there is a marked change in material or natural physiographic form or when there is no such marked change in the material or natural physiographic form, the beach shall be deemed to extend to a distance of twenty metres landward from the mean high water mark or such lesser area as may be determined by the Minister in consultation with the Conservation Commission and in all cases shall include the primary sand dune;

"biological diversity" means the variability among living organisms from all sources including, *inter alia*, terrestrial, marine and other aquatic ecosystems and the ecological complexes of which they are part; and includes diversity within species, between species and of ecosystems;

“body corporate” includes a firm, business, company, enterprise, trust, unincorporated association, joint venture or partnership;

“buffer zone” means an intermediate area which performs the function of mitigating the direct impacts of an activity on a protected area or the impact of an activity on the surrounding environment;

“coastal zone” includes any area of land having an elevation of less than 15 metres above mean sea level within a limit of one kilometre landward of the mean high water mark, the foreshore and the seabed with a limit of two kilometres seawards of the mean low water mark;

“conservation area” means a protected area managed mainly for conservation and includes an area of Crown or private land or water or both land and water subject to active intervention by the Department or competent authority for management purposes so as to ensure the maintenance of habitats and to meet the requirements of specific species.

“conservation officer” means an individual authorized by the Department to carry out the role and duties of protecting wildlife and the environment;

“Council” means the National Environmental Council appointed under section 5(1);

“Crown lands” means all lands vested in the Government of St. Kitts and Nevis whether

National Conservation and Environmental Management Bill, 2017

by way of forfeiture, escheat, purchase or exchange and all unclaimed land;

"cultural heritage" includes:

- (a) monuments: architectural works, works of monumental sculpture and painting, elements or structures of an archaeological nature, inscriptions, cave dwellings and combinations of features, which are of outstanding national or universal value from the point of view of history, art or science;
- (b) groups of buildings: groups of separate or connected buildings which, because of their architecture, their homogeneity or their place in the landscape, are of outstanding national or universal value from the point of view of history, art or science;
- (c) sites: works of man or the combined works of nature and of man, and areas including archaeological sites which are of outstanding national or universal value from the historical, aesthetic, ethnological or anthropological points of view;

“Department” means the Department within St. Kitts and within Nevis charged with responsibility for environment;

“Director” means the public officer appointed under section 14 with responsibility for carrying out the functions of the Department;

"domesticated or cultivated species" means species in which the evolutionary process has been influenced by humans to meet their needs and includes species that have been genetically modified or bioengineered;

“ecosystem” means a dynamic complex of plant, animal and micro-organism communities interacting as a functional unit within their physical (natural and non-natural) environment;

"endangered species" means species or subspecies of fauna and flora, or their populations, that are in danger of extinction throughout all or part of their range and whose survival is unlikely if the factors jeopardizing them continue to operate;

"endemic species" are species or subspecies of fauna and flora, or their populations, whose distribution is restricted to Saint Christopher and Nevis;

“environment” means the external or extrinsic conditions affecting the growth and development of human beings and other life forms, including the land, water and air, all organic and inorganic matter and living organisms and biological natural resources, natural heritage and the works of man;

“environmental impact assessment” means a process of evaluating the likely environmental impacts of a proposed project or development, taking into account inter-related socio-economic, cultural and human health impacts, both beneficial and

National Conservation and Environmental Management Bill, 2017

adverse.

“environmental officer” means an individual charged with carrying out the duties of the Department charged with responsibility for environment and includes:

- (a) a conservation officer;
- (b) a marine conservation officer;
- (c) and any other persons qualified and knowledgeable with respect to environmental matters.

“fauna” means a species included in the animal kingdom whether native or naturalised but does not include man;

“flora” means all plant life, especially the naturally occurring or indigenous plant life

“foreshore” means that portion of the coastal zone which lies between the low water mark of the sea and landward to the vegetation line found thereon or in the absence of vegetation, the high water mark.

“former Act” means the National Conservation and Environment Protection Act, 1987 as amended;

“forest” means land at least 10 per cent stocked by trees of a size or formerly having such tree cover and not currently built up or developed for agricultural use;

"forest produce" includes -

- (a) timber, firewood, charcoal, heart-of-palm, bark and extracts of bark;
- (b) latex, gums, resins, flowers, fruit, seeds, nuts, leaves, fibres, turpentine, spices, tan-stuffs, dye-stuffs, moulds, fungi, drugs, fodder and thatching material derived from wild-growing trees or plants; and
- (c) wild-growing trees and plants (dead or alive) and all parts and produce of such trees and plants, bamboo and other grasses;
- (d) water from run-off and springs

“Government” means the Federal Government of Saint Christopher and Nevis;

"habitat" means the place or type of site where an organism or population naturally occurs;

“hazardous substance” means a substance which by reason of its chemical or physical properties, and based on technical, scientific and medical evidence, is determined to cause, or likely to cause harm to human health or the environment;

“heritage site” means a protected area managed mainly for the conservation of specific natural or cultural features and includes an area of Crown land or private land or water

National Conservation and Environmental Management Bill, 2017

or both land and water containing one or more specific natural or cultural heritage or both features which is of outstanding or unique value because of its inherent rarity, representative or aesthetic or cultural significance;

“hunt” means to kill, wound, pursue, capture, take, trap, injure, shoot at, wilfully disturb or molest an animal, and any attempt to do, or the giving of assistance in doing any of these things;

“internal waters” includes the rivers, ponds and other land covered by static or flowing, fresh, brackish or salt water on Saint Christopher and Nevis and the sea between the mean low water mark and the baseline from which the territorial sea is measured in accordance with [the 1982 Convention on Law of the Sea];

“Minister” means the Minister charged with responsibility for the environment;

"natural heritage" includes:

- (a) natural features consisting of physical and biological formations or groups of such formations, which are of outstanding universal value from the aesthetic or scientific point of view;
- (b) geological and physiological formations and precisely delineated areas which constitute the habitat of threatened species of animals and plants of outstanding universal value from the point of view of science or conservation;
- (c) natural sites or precisely delineated natural areas of outstanding universal value from the point of view of science, conservation or natural beauty;

“multilateral environmental agreement” means an agreement between three or more States governing the management of aspects of natural resources or the environment;

“national park” means a protected area managed mainly for ecosystem protection and recreation and includes an area of Crown or private land or water or both land and water designated to:

- (a) protect the ecological integrity of one or more ecosystems for present and future generations;
- (b) exclude exploitation or occupation inimical to the purposes of designation of the area; and
- (c) provide a foundation for spiritual, scientific, educational and recreational opportunities, all of which must be environmentally and culturally compatible;

“NEMS” means the National Environmental Management Strategy prepared under section 19;

National Conservation and Environmental Management Bill, 2017

“NEIS” means the National Environment Information System created under section 20;

“Nevis Historical and Conservation Society” means the non-governmental organization incorporated as a private company and registered as No. 20 of 2004 under the Nevis Companies Ordinance Cap. 7.06

“non-timber forest produce” means all goods derived from forests of both plant and animal origin other than timber and firewood’;

“open season” means a period during which the capturing, hunting, wounding, killing or destroying of a partially protected species of fauna is permitted;

“PAS Plan” means the Protected Areas System Plan prepared under section 23;

“pollutant” means a substance, thing or man-made phenomenon (including energy, noise, light, vibration, electro-magnetic or ionizing radiation, odour or temperature variation) designated as a pollutant under this Act (under section 52(1)

“pollution” includes the release or deposit of any pollutant or waste onto land or into the air or water, including the sea, so as to cause any direct or indirect alteration of the physical, thermal, chemical, biological or radioactive properties of any part of the environment and which based on technical, scientific or medical evidence is likely to cause harm to human health whether physical or psychological or to affect the quality of the environment;

“premises” means a location within the environment, and a facility, development, vehicle, vessel, including marine vessel or natural or man-made structure at such location from or on which pollutants may be released into the environment or where wastes or hazardous substances may be handled;

“prescribed” means stipulated by regulations made under this Act;

"protected area" means a geographically defined area which is designated pursuant to section 22 to achieve specific conservation objectives;

“PAA” means the Protected Areas Agency established under section 34;

“Saint Christopher National Trust” means the statutory corporation established by the Saint Christopher National Trust Act;

“sand mining” means to dig, take away, or assist in digging and taking away any deposit of sand, stone, gravel or shingle by whatever means;

National Conservation and Environmental Management Bill, 2017

"sustainable use" means the use of natural resources in a way and at a rate that does not lead to the long term decline of biological diversity or degradation of the natural heritage, thereby maintaining its potential to meet the needs of present and future generations;

“temporary protected area” means the designation of a protected area for the immediate protection of species of fauna and flora or a geographically defined area and includes an area of Crown or private land or water or both land and water designated in the national interest;

“territorial sea” means twelve nautical miles measured from the baseline delimited in accordance with the United Nations Convention on Law of the Sea Convention; 1982;

“timber” means trees or wooded land considered as a source of wood;

"threatened species" means species or subspecies of fauna and flora, or their populations:

- (a) that are likely to become endangered within the foreseeable future throughout all or part of their range if the factors causing numerical decline or habitat degradation continue to operate; or
- (b) that are rare because they are usually localized within restricted geographical areas or habitats or are thinly scattered over a more extensive range and which are potentially or actually subject to decline and possible endangerment or extinction;

“waste” includes hazardous or non-hazardous material discarded or intended to be discarded whether or not capable of further use and which constitutes rubbish, effluent, sewage, garbage, refuse, scrap, discarded articles, bottles, cans or any other waste products of any kind and includes any substances whether gaseous, liquid or solid that:

- (a) is foreign to or in excess of the natural constituents of the environment; or
- (b) affects the natural, physical, chemical or biological quality of the environment

“waters of Saint Christopher and Nevis” includes the internal waters and the territorial seas;

“watershed” means a geographical feature of the landscape based on water flows and topography;

"wetlands" means areas of herbaceous or mangrove swamp and land covered by water, whether natural or artificial, permanent or temporary, with water that is static or

National Conservation and Environmental Management Bill, 2017

flowing, fresh, brackish or salt, including areas of marine water the depth of which at low tide does not exceed six metres;

“zone of coastal dynamics” includes the area of land and the seabed extending above and below the mean low water mark that is actively subject to normal coastal processes, including but not limited to coastal erosion and accretion;

“zone of risk” includes the area of land above the mean high water mark that is at risk of damage or destruction by the storm surge associated with an event predicted to occur at least once in every twenty-five years.

3. Objects and purposes

The objects and purposes of this Act are to provide for:

- (a) the conservation and sustainable use of the natural heritage of Saint Christopher and Nevis, including the conservation of biological diversity, the protection of threatened and endangered species and their habitats, soil conservation and watershed management, the conservation of significant terrestrial and marine ecosystems, including wetlands, and the management of the coastal zone;
- (b) the designation and management of National Parks and other protected areas, including the continuation in being of the existing Brimstone Hill Fortress National Park and the arrangements for its management;
- (c) the prevention and mitigation of pollution of the environment, including the control of hazardous substances, the management of wastes and response to environmental accidents, for the purposes of protecting human health and maintaining the quality of the environment;
- (d) the allocation and coordination of administrative responsibilities for environmental management within the Federation, including specific arrangements with respect to the administration of this Act in Saint Christopher and Nevis respectively;
- (e) the implementation of obligations to which Saint Christopher and Nevis is subject under multilateral environmental agreements by facilitating their incorporation into national law;
- (f) the regulation of the trade in indigenous biological resources;
- (g) the provision of stable, adequate, secure and sustainable funding to finance the conservation and management of the environment in Saint Christopher and Nevis; and

National Conservation and Environmental Management Bill, 2017

(h) any other matter related or ancillary to the foregoing purposes .

**PART II
ADMINISTRATION**

4. Powers and duties of Minister

(1) It is the duty of the Minister under this Act to:

- (a) coordinate with other Ministers of the Government and with the Nevis Island Administration to secure consistency, enforcement and continuity in the implementation of this Act and any other enactment related to the conservation and management of the environment, natural resources and sustainable development ;
 - (b) protect and promote the interests of Saint Christopher and Nevis with respect to the negotiation and application of multilateral environmental agreements and ensure that Saint Christopher and Nevis meets its international obligations with respect to the environment;
 - (c) establish and coordinate institutional linkages nationally, regionally and internationally;
 - (d) facilitate, develop and promote a National Environmental Management Strategy and policy so as to ensure the integration of all aspects of environmental management into national decision-making at all levels;
 - (e) encourage and facilitate the participation of private persons, communities, civil society organisations, professional organisations and other key stakeholders in environmental management matters relating to Saint Christopher and Nevis;
 - (f) have overall responsibility for parks and protected areas within the Federation
 - (g) have power to enter into agreements with persons and other agencies and entities relating to the management and administration of protected areas.
- (2) The Minister, in exercising his powers and performing his duties under subsection (1) shall be guided by the recommendations, guidance and support of the Department of Environment.
- (3) Subject to subsection (4), a reference in this Act to “the Minister” has effect, with respect to the administration of the Act within Nevis, as a reference to the member of the Nevis Island Administration to whom responsibility for the environment is

National Conservation and Environmental Management Bill, 2017

assigned.

- (4) Where this Act provides that the Minister may make Regulations and any such Regulations concern any matter specified in Schedule 5 to the Constitution, with respect to which the Nevis Island Legislature has exclusive powers to make laws having effect in Nevis, such Regulations may be made:
- (a) by the Minister of the Nevis Island Administration to whom responsibility for the environment is assigned; or
 - (b) if it is expressly declared in the Regulations that the Nevis Island Administration has requested and consented to their enactment with respect to the island of Nevis, by the Minister of Government to whom responsibility for the environment is assigned.

5. Establishment of the National Environmental Council

- (1) There is hereby established a Council called the National Environmental Council.
- (2) The Council established under subsection (1) shall consist of the following 14 persons:
- (a) the following public officers
 - (i) the Director of Environment in the Ministry of Environment who is the Chairperson;
 - (ii) a representative from the Department of Agriculture on St. Kitts;
 - (iii) a representative from the Disaster Management Agency;
 - (iv) a representative of the Department of Physical Planning on St. Kitts;
 - (v) a representative from the Ministry of Tourism on St. Kitts;
 - (vi) a representative from the Ministry of Tourism on Nevis;
 - (vii) a representative from the Ministry of Agriculture on Nevis;
 - (viii) a representative from the Physical Planning Department on Nevis;
 - (ix) a representative from Department of Marine Resources;
 - (x) a representative from Department of Fisheries in Nevis
 - (b) a representative from the St. Christopher National Trust;
 - (c) a representative from the Nevis Historical and Conservation Society
 - (d) two persons from civil society, one from St. Kitts and one from Nevis who have knowledge or experience with respect to matter relevant to the functions of the Council;

National Conservation and Environmental Management Bill, 2017

- (3) All members of the Council may be paid an allowance for their services in an amount to be decided by the Minister.
- (4) The Council may create Committees of a general or special nature consisting of not less than five of its members to carry out any of its functions which in the opinion of the Council would be better managed by means of Committees.
- (5) The Council or a Committee of the Council may co-opt a person or persons to assist it in dealing with a matter if it is satisfied that the person's qualifications or experience may assist the Council in the performance of its functions.
- (6) A person co-opted under subsection (5) is entitled to take part in deliberations of the Council regarding the matter for which he was co-opted, but may not vote and must not take part in any other proceedings of the Council.
- (7) A member shall not be personally subjected to any action, liability, claim or demand in respect of any matter, or thing done or omitted to be done by the Council if the matter or thing was done or omitted to be done in good faith.

6. Appointment to and removal from the Council

- (1) The Minister shall appoint members of the Council by instrument in writing for a period not exceeding three years.
- (2) Notwithstanding subsection (1), a member of the Council shall be eligible for re-appointment.
- (3) The Department of Environment shall function as the Secretariat for the Council.
- (4) The Minister, in making appointments of members to the Council, shall be satisfied that the persons appointed can provide sound advice, leadership and direction to the Council in fulfilling the purposes of this Act.

7. Functions of the Council

- (1) The Council shall perform the functions and duties imposed on it by this Act and any other duty consistent with those functions as the Minister may direct.
- (2) Without prejudice to the generality of subsection (1), the functions of the Council are to:
 - (a) act as an advisory and information sharing body to the Department of Environment;

National Conservation and Environmental Management Bill, 2017

- (b) advise, assist and provide recommendations and offer guidance and support to the Department of Environment on programmes and operations as needed to ensure the fulfilment of the Department's functions;

8. Resignation of members

- (1) A member, other than the Chairman of the Council, may at any time resign his office by giving one month's notice in writing addressed to the Minister and transmitted through the Chairman.
- (2) The Chairman of the Council may at any time resign his office by giving three months' notice in writing addressed to the Minister.

9. Vacancy in membership of Council

- (1) A vacancy in the membership of the Council shall occur:
 - (a) on the absence of a member from three consecutive meetings of the Council, unless that absence is approved by the Chairman in writing;
 - (b) at the expiration of three years from the date of appointment of a member;
 - (c) on the death, resignation or revocation of appointment of a member;
 - (d) if a member becomes mentally incapacitated;
 - (e) if a member is nominated as a candidate for election as a representative in the National Assembly or Nevis Island Assembly or is appointed a Senator in the National Assembly or Nevis Island Assembly.
- (2) Where the office of a member of the Council becomes vacant, the Minister shall appoint a person to that office within ninety days of the date when the vacancy arose.
- (3) The performance of the functions of members and the validity of proceedings of the Council shall not be affected by a vacancy in its membership or by a defect in the appointment of any of its members
- (4) The Minister may at any time remove a member from office:
 - (a) if the Minister is satisfied that the member is no longer suitable to serve as a member of the Council; or
 - (b) at the request of the Council; or

National Conservation and Environmental Management Bill, 2017

- (c) if a member has been absent from fifty per cent or more of regular meetings of the Council of which the member has had notice, without leave of the Council and without being excused by the Chairperson.

10. Proceedings and Meetings

- (1) The Council shall meet at least once every quarter and shall govern its own procedures for the conduct of business at its meetings.
- (2) A quorum for a meeting of the Council shall be seven members of whom one shall be the Chairman or the Vice Chairman when acting in the capacity of the Chairman.
- (3) The Chairperson shall preside at meetings of the Council and in the absence of the Chairperson at a particular meeting, members present may designate another member to act as Chairperson for that meeting.
- (4) Each member of the Council shall have one vote and the Chairperson shall have a casting vote in the event of an equality of votes.
- (5) A decision supported by a majority of the votes cast at a meeting of the Council at which a quorum is present is a decision of the Council.
- (6) The Secretary to the Council shall inform all members in advance of meetings by way of a written notice.
- (7) The Chairperson or any three members of the Council may call a special meeting of the Council.
- (8) Where a special meeting is proposed, the Secretary to the Council shall give notice to the members stating the particulars of the meeting and no other business shall be transacted at that meeting other than the business of which notice was given.
- (9) The Secretary shall submit a draft of the minutes of meetings of the Council within seven days of the date of the meeting.

11. Disclosure of interest

- (1) A member of the Council who has an interest whether financial or otherwise in a matter being considered by the Council shall, as soon as possible after the relevant matter has come to his knowledge, disclose the nature of the interest.
- (2) A disclosure made by a member under subsection (1) shall be recorded in the minutes of the meeting and the member making the disclosure shall not, unless the

National Conservation and Environmental Management Bill, 2017

Council otherwise determines:

- (a) be present during any deliberations by the Council on that matter; or
- (b) take part in any decision of the Council relating to the matter

12. Standing Committees of the Council

- (1) Without limiting the generality of section 5(4), the Council shall appoint committees of the Council as required.
- (2) A committee of the Council shall meet as necessary to perform its functions and shall regulate its own proceedings.

13. Functions of the Committees

The functions of a committee shall be defined in terms of reference issued at the time when the committee is established.

14. Department of Environment

- (1) The Department of Environment established by section 3(1) of the former Act for the purposes of conservation and environment protection is preserved and continues in being for the purposes of this Act so that its identity and its rights and obligations are not affected by the repeal of that Act, but has the functions and powers conferred or assigned by this Act.
- (2) The Department mentioned in subsection (1) shall be under the control and direction of the Director of Environment who is a public officer and it shall arrange and carry out the following functions:
 - (a) coordinate and facilitate the integration of the work of other governmental and non-governmental entities to achieve the objects and purposes of this Act;
 - (b) consult and collaborate with the Nevis Island Administration to further the objects and purposes of this Act; and
 - (c) execute the responsibilities arising from or in connection with the administration and implementation of this Act within Saint Christopher and Nevis;
 - (d) investigate and monitor the state of the environment and provide

National Conservation and Environmental Management Bill, 2017

environmental data and information, including such periodic or other reports that the Government is required to produce under any multilateral environmental agreement to which Saint Christopher and Nevis is a party;

- (e) compile, analyze and disseminate environmental data and information;
 - (f) undertake programmes and projects to implement the environmental and natural resources policy of the Government;
 - (g) promote the sustainable use of biological diversity, forests and conservation of soil and watersheds;
 - (h) manage and regulate the environmental effect of activities in collaboration with the Physical Planning Department and any other government agency as it sees fit;
 - (i) collaborate with the Protected Areas Agency to ensure the effective administration and management of any area that is designated as a protected area;
 - (j) advise on, review and assist in the formulation and development of policies, strategies, guidelines, standards, objectives and regulations for the protection and management of the environment;
 - (k) implement measures to prevent and control environmental pollution;
 - (l) plan and facilitate training courses for persons involved in environmental management and conduct public education campaigns to create a better understanding of the need for public cooperation in the maintenance of sound environmental quality;
 - (m) make reasonable and timely efforts to ensure that environmental laws and regulations comply with relevant international treaties and conventions;
 - (n) undertake enforcement procedures for breaches of environmental requirements and institute proceedings against persons for the contravention of this Act;
 - (o) undertake any other act or responsibility that is incidental or conducive to the performance of any of the foregoing functions.
- (3) The Department of Environment shall be the ultimate authority in relation to environmental matters in St. Kitts and Nevis.

15. Administration of the Act in Nevis

National Conservation and Environmental Management Bill, 2017

- (1) The Department within the Nevis Island Administration with responsibility for environment shall be responsible for the administration of this Act in Nevis.
- (2) The Department under subsection (1) shall carry out the following functions under this Act with respect to the island of Nevis:
 - (a) execute the responsibilities arising from or in connection with the administration and implementation of this Act within Nevis;
 - (b) investigate and monitor the state of the environment and provide environmental data and information which may be included as part of any periodic or other reports that the Government is required to produce under any multilateral environmental agreement to which Saint Christopher and Nevis is a party;
 - (c) compile, analyze and disseminate environmental data and information;
 - (d) undertake programmes and projects to implement the environmental and natural resources policy of the Nevis Island Administration;
 - (e) coordinate and facilitate the integration of the work of other governmental and non-governmental entities to achieve the objects and purposes of this Act;
 - (f) consult and collaborate with the Nevis Island Administration to further the objects and purposes of this Act; and
 - (g) promote the sustainable use of biological diversity;
 - (h) manage and regulate the environmental effect of activities in collaboration with the Nevis Physical Planning Department and any other government agency as it sees fit;
 - (i) co-ordinate the management of protected areas on Nevis;
 - (j) promote the sustainable use of forests and conservation of soil and watersheds;
 - (k) implement measures to prevent and control environmental pollution;
 - (l) undertake enforcement procedures for breaches of environmental requirements and institute proceedings against persons for the contravention of this Act;

National Conservation and Environmental Management Bill, 2017

(m) undertake any other act or responsibility that is incidental or conducive to the performance of any of the foregoing functions.

16. Authority and delegation of Director

- (1) The Director has the authority to sign all documentation required in the performance of the Director's functions under this Act on behalf of the Department with responsibility for environment in St. Kitts and the Department with responsibility for environment in Nevis.
- (2) The Director may, by instrument in writing and subject to conditions, directions, reservations or restrictions as he thinks fit, delegate to any other public officer a power or duty conferred or imposed by this Act on the Director, other than this power of delegation.

17. Jurisdiction in marine areas

Where this Act makes provision for the performance of a duty or the exercise of a power within or with respect to any part of the waters of Saint Christopher and Nevis with respect to environmental matters, that power or duty may be exercised by the Department of the Environment on St. Kitts and the Department in Nevis that has responsibility for environment, jointly or separately.

18. Authorised Officers and Conservation Officers

- (1) The Minister may appoint authorized officers and conservation officers to implement and enforce this Act.
- (2) The Minister, in addition to the authorised officers and conservation officers appointed under subsection (1), may designate the following persons to assist with the implementation and enforcement of this Act:
 - (a) personnel from other governmental organisations as ex officio conservation officers who may be co-opted by the Department from time to time as is necessary or expedient;
 - (b) consultants, experts and advisors from national, regional or international organisations; or
 - (c) individuals, voluntary organisations or community groups from the business and non-governmental sector.

**PART III
ENVIRONMENTAL MANAGEMENT**

National Conservation and Environmental Management Bill, 2017

19. National Environmental Management Strategy

(1) The Director shall cause to be prepared a National Environmental Management Strategy for Saint Christopher and Nevis.

(2) A NEMS prepared pursuant to subsection (1) shall include:

- (a) a description of the environment of Saint Christopher and Nevis;
- (b) an analysis of environmental issues of national significance; and
- (c) the environmental management strategies to be prescribed to address the issues set out in paragraph (b).

(3) In preparing a NEMS, the Director shall seek and consider the comments and suggestions from stakeholders including governmental entities, civil society, non-governmental organisations and members of the public.

(4) The Director shall submit the draft NEMS to the Council for review and the Council may recommend revision of the draft and submit the revisions to the Director.

(5) The Director shall, on completion of the review of the draft NEMS, submit it to the Minister who shall submit it to Cabinet for approval and return the draft NEMS to the Director after approval by Cabinet.

(6) The Director shall publish the NEMS in the Gazette after its approval by Cabinet.

(7) The Director shall review and revise the NEMS at least every five years.

(8) Notwithstanding subsection (7), the Minister may instruct the Director to conduct a review of the NEMS at any time as he considers necessary.

20. National Environmental Information System

(1) The Director shall establish and maintain a National Environmental Information System for Saint Christopher and Nevis.

(2) The information to be contained in the NEIS shall include the following :

- (a) annual reports prepared under section 21;
- (b) monitoring data acquired under this Act;
- (c) permits and registration certificates issued under this Act;

National Conservation and Environmental Management Bill, 2017

- (d) policies, plans, guidelines, strategies and reports made under this Act;
 - (e) registers of information made under the Act;
 - (f) multilateral environmental agreements, conventions, international treaties in the field of environment; and
 - (g) notice of violations, administrative orders and other enforcement proceedings undertaken by the Director under this Act; and
 - (h) any other relevant information.
- (3) The information in the NEIS may be kept in documentary form or in an electronic data and retrieval system or partly in documentary form and partly in an electronic data and retrieval system as the Director thinks fit.
- (4) The Director may make any information contained in the NEIS available to a person on payment of a fee to be prescribed by the Minister.
- (5) The fees collected under subsection (4) shall be paid into the National Environmental Fund established under section 91.
- (6) A person having a direct and private interest in a document listed in subsection (2) may make an application in the form to be prescribed by the Minister that the information contained in the document is confidential business information or a trade secret and should be excluded from the NEIS.
- (7) The Director may reject the claim under subsection (6) by notice in writing for the reason that:
- (a) the person has not disclosed the basis for the claim;
 - (b) the basis for the claim which is disclosed is invalid; or
 - (c) the public interest in disclosing the information clearly outweighs any prejudice to the person having the direct and private interest.
- (8) Where a claim for confidentiality is rejected by the Director under subsection (7), the applicant may appeal to the High Court.
- (9) A document made available in the NEIS shall not be subject to a claim of copyright except where a prior claim of copyright had been vested in that document.

21. Annual report

National Conservation and Environmental Management Bill, 2017

- (1) The Director shall prepare and submit to the Minister annually a report which shall include a description of the environmental management activities undertaken by the Department during the period under review;
- (2) The Minister shall cause a copy of the report to be laid in the Federal Parliament.
- (3) The Director may request information from another governmental entity for the purpose of preparing the report.

PART IV

ESTABLISHMENT AND MANAGEMENT OF PROTECTED AREAS

22. Establishment of Protected Areas

- (1) Subject to section 24, the Minister may by Order, after approval of the PAS Plan and in order to conserve biodiversity and the natural and cultural heritage of Saint Christopher and Nevis and to encourage ecologically sound and sustainable use, understanding and enjoyment of these areas, designate any terrestrial or marine area or any combined terrestrial or marine area as a protected area.
- (2) The Minister shall designate a protected area under subsection (1) by way of notice published in the Gazette hereinafter referred to as a Designation Notice.
- (3) A protected area is to be managed in accordance with the management principles set out in the management plan created for such area.
- (4) Without limiting the generality of subsection (1), protected areas shall be established in order to conserve, maintain and restore in particular:
 - (a) representative types of ecosystems of adequate size to ensure their long term viability and to maintain biological and genetic diversity;
 - (b) habitats and ecosystems critical to the survival of endemic, endangered or threatened, protected, partially protected or rare species of fauna and flora;
 - (c) the productivity of ecosystems and natural resources that provide economic or social benefits and on which the welfare of local inhabitants is dependent;
 - (d) areas of special scientific, educational, cultural, historic, archaeological, recreational, aesthetic or economic value; and
 - (e) representative types of ecosystems and individuals of fauna and flora which

National Conservation and Environmental Management Bill, 2017

are part of the natural and cultural heritage of Saint Christopher and Nevis and scientific, educational, historic, archaeological, recreational, aesthetic or economic value.

23. Preparation of Protected Areas System Plan

- (1) The Director shall cause to be prepared a Protected Areas Systems Plan for the establishment of a system of protected areas which:
 - (a) is consistent with the NEMS; and
 - (b) takes into consideration the National Physical Development Plan prepared in accordance with the Development and Planning Control Act.
- (2) Without limiting the generality of subsection (1), the PAS Plan shall include:
 - (a) a statement of national policy with respect to the establishment of national parks and other protected areas;
 - (b) an assessment of the status of biological diversity and the natural and cultural resources for protected areas in Saint Christopher and Nevis including:
 - (i) ecosystems, including forests, wetlands and marine areas;
 - (ii) fauna and flora, particularly endemic, endangered, threatened and rare species;
 - (iii) soil and water resources;
 - (iv) watersheds;
 - (v) archaeological and historical sites
 - (c) proposals for a system of protected areas to ensure the protection, conservation, development and management of the natural and cultural heritage of Saint Christopher and Nevis; and
 - (d) maps and descriptive matter as may be necessary to illustrate the proposals made in it with a degree of detail as is appropriate.
- (3) In preparing the PAS Plan the Director shall seek and consider comments from persons including persons having an interest in a matter for which proposals may

National Conservation and Environmental Management Bill, 2017

be made in the PAS Plan.

- (4) The Director shall submit the draft PAS Plan to the Council for review.
- (5) The Council may amend the draft plan as it considers appropriate, after which the Council shall submit the draft PAS Plan to the Director
- (6) The Minister shall submit the draft PAS Plan to Cabinet for approval.
- (7) The PAS Plan made under this section shall be published in the Gazette and shall come into force on the date of publication.
- (8) The Director may at any time carry out a review of the approved PAS Plan and
 - (a) submit to the Council for review; or
 - (b) submit a report to the Minister on that review including proposals for its amendment.
- (9) The designation, conservation, development, management and use of a protected area shall, as far as is reasonable, be consistent with the PAS Plan.

24. Designation Notice

- (1) Pursuant to section 22(2) a Designation Notice shall include a legal description of the area to be protected giving particulars of the size and boundaries of the area, as shown wherever practicable on an accurate map or survey plan, and shall state the categorisation of the protected area so designated.
- (2) A Designation Notice shall be laid in both the National Assembly and the Nevis Island Assembly:

25. Notice of intention to establish protected area

- (1) The Director shall publish a notice of intention to designate the protected area on two separate occasions in a newspaper in general circulation in Saint Christopher and Nevis and in the Gazette before that area is designated as a protected area pursuant to section 22(1).
- (2) A notice of intention published pursuant to subsection (1) shall be published at least three months before the related Designation Notice and shall:
 - (a) specify the location and limits of the area which the Minister proposes to designate as a protected area;

National Conservation and Environmental Management Bill, 2017

(b) invite any person who lawfully enjoys any right within the specified area, or who has any direct or indirect interest in the designation of the specified area, to submit their claim of right, or make objections or representations with respect to the proposal, to the Minister in writing; and

(3) Before deciding whether the specified area should be designated as a protected area, with or without modifications, the Minister shall take into consideration any claims of right and objections.

26. Demarcation of boundaries

(1) The Director shall, within two years of the designation of a protected area, have the protected area surveyed and a map of the protected area deposited with the chief technical officer.

(2) The chief technical officer shall make a map of the protected area deposited with him under subsection (1) available to the public for inspection.

(3) The Director shall have the boundaries of each protected area marked and defined making them clearly visible at all times.

27. Temporary protected area

(1) Notwithstanding section 25, where it appears to the Director expedient in the national interest to protect a species of fauna or flora or the habitat of a species of fauna or flora or a geographically defined area, the Director, after consultation with the Council, shall advise the Minister to designate an area to be a temporary protected area.

(2) An Order for the designation of a temporary protected area is valid for a period of 180 days from the date of its publication.

(3) An extension of the period under subsection (2) may be granted by the Minister and that extension is not to exceed a maximum of 180 days from the date the extension was granted.

28. Acquisition of private land in a protected area

(1) If the Minister determines that, having regard to the categorisation of the protected area and the purposes for which it has been designated as a protected area, it is necessary or desirable that the Crown should acquire any private land within the protected area, or any rights over or interest in such private land, the Crown may:

National Conservation and Environmental Management Bill, 2017

- (a) acquire the land or any right over or interest in the land, either by agreement with the owner of the land or compulsorily in accordance with the provisions of the Land Acquisition Act, or the Nevis Land Acquisition Ordinance 1997, as the case may be, as being land needed for a public purpose within the meaning of those enactments; or
 - (b) enter into a written agreement with the owner of that land for the right of access to and the control of that land for the purposes of its management as a protected area under this Act.
- (2) A landowner may donate, exchange, transfer or otherwise dedicate any land or interest in land to the Crown under this Act to be designated as a protected area.

29. Protected areas on private lands

- (1) Where the owner of private land or a non-governmental organization recommends to the Department that an area may be suitable for designation as a protected area, the Department may enter into consultations with such owner or non-governmental organization with a view to securing the establishment of such an area as a protected area.
- (2) Where the Department identifies private land that may be suitable for designation as a protected area, the Department may enter into consultations with the owner of that land with a view to securing the establishment of such an area as a protected area.
- (3) For the purpose of consultation, the Department shall:
- (a) convene meetings with the landowner, persons resident in adjoining lands, other interested stakeholders, community groups, Government departments and statutory bodies to determine the level of interest in securing the establishment of a protected area;
 - (b) identify the issues of concern relating to the establishment of the proposed protected area;
 - (c) determine precise boundaries, land ownership and tenure in the proposed protected area;
 - (d) obtain written confirmation from the landowner to preserve the area in the interest of biodiversity, resource conservation or ecotourism;
 - (e) undertake environment surveys to determine requirements for an appropriate protected area management plan; and

National Conservation and Environmental Management Bill, 2017

- (f) negotiate and attempt to conclude a written covenant, easement or other agreement from the landowner concerning the management plan to be established in the proposed protected area.
- (4) The Department shall report to the Minister after considering any submissions made and make recommendations as to whether the protected area should be designated.
- (5) If the Minister is of the view that the area should be designated as a protected area, the Minister shall comply with sections 22, 24 and 28 of this Act.
- (6) A written covenant, easement or other agreement concluded with the landowner binds the landowner and his or her successors in title as well as the Government and may contain terms:
 - (a) requiring the Government to:
 - (i) acquire the land under the Land Acquisition Act ;
 - (ii) provide financial and other assistance for the development and management of the protected area;
 - (iii) provide technical advice; or
 - (iv) carry out specific activities
 - (b) where the land is not acquired compulsorily, allowing the landowner to carry out specific activities;
 - (c) prohibiting or restricting a specific use or management of resources in the area;
 - (d) requiring the land owner to refrain from, or not to permit specified activities.
- (7) A written covenant, easement or other agreement concluded with the landowner expires if:
 - (a) the area no longer supports the basis for which it was declared a protected area; or
 - (b) the protection objectives for the area can no longer be achieved.
- (8) The owner of private land within a protected area is not liable, except where the

National Conservation and Environmental Management Bill, 2017

owner has been negligent, for:

- (a) personal injury;
- (b) loss of life; or
- (c) loss of property,

sustained by a person using a public road, right of way, footpath over that land or by a user of the protected area entering on the private land with the permission of or under a licence granted by the Department whether the permission or licence is granted gratuitously or on payment of a fee.

30. Agreement to manage private land as a protected area

- (1) The Director may, in consultation with the Council and with the approval of the Minister, enter into a co-management agreement with the owner of private land within a protected area for the management and control of that land as a protected area.
- (2) Land which is the subject of a co-management agreement under subsection (1) shall be placed under the control of the Department for the purposes of managing and maintaining the specific purpose for which the protected areas was established.
- (3) A co-management agreement made under subsection (1) shall be in writing and signed by the owner of the land or a person having authority to sign on behalf of the owner and by the Director on behalf of the Government and shall contain:
 - (a) a description of the land including a description of its boundaries;
 - (b) the reason for designation of the land as a protected area; and
 - (c) a requirement that a management plan be prepared for the area.
- (4) A co-management agreement may be terminated by either party to the agreement by giving six month's written notice along with an explanation of the reasons for termination.

31. Protected area on Crown lands

- (1) The Minister may designate an area of Crown land as a protected area in accordance with sections 24 and 25 of this Act.

National Conservation and Environmental Management Bill, 2017

- (2) Except where the Governor General acting on the advice of the Cabinet considers it expedient in the national interest or to further the purposes for which the protected area was designated, no Crown lands in a protected area may be granted, sold or otherwise disposed of and no person may be permitted to occupy Crown land in a protected area.
- (3) Despite anything to the contrary in any other enactment, no right, title, interest to or over Crown land in a protected area may be acquired by a person by prescription.

32. Restrictions on development in protected areas

The Development Control and Planning Board on St. Kitts and the Department of Physical Planning in Nevis shall not approve or grant permission for the development of Crown or private land within a protected area without the approval of the Department.

33. Operations by governmental entities in protected areas

- (1) A governmental entity may continue to operate, manage and maintain any existing work or undertaking in a protected area which has been authorised by an enactment before the commencement of this Act.
- (2) A governmental entity may continue to exercise its statutory duties, powers and functions in a protected area but in the exercise of those duties, powers or functions, it shall comply with any directions given by the Department or the Director for the purposes of conserving and managing the protected area.

34. Responsibility for management of protected areas

- (1) There is hereby established a Protected Areas Agency as a division of the Department of Environment and that Agency shall be responsible for the management of protected areas established under this Act.
- (2) Notwithstanding subsection (1), the Department is generally responsible for overseeing the administration, management and monitoring of protected areas established under this Act.
- (3) The Agency established under subsection (1) shall employ public officers to carry out the functions of that Agency.
- (4) The Agency shall manage all terrestrial and marine protected areas in Saint Christopher and Nevis with the exception of Brimstone Hill Fortress National Park.

National Conservation and Environmental Management Bill, 2017

- (5) The Agency shall be superseded by a statutory body to be established for the management of protected areas in the Federation and the Agency shall cease to exist on the effective date of the legislation establishing the management authority for protected areas.

35. Vesting of management of protected areas

- (1) The Governor General may, by Order published in the Gazette, vest any Crown land within a protected area in the Agency to which responsibility for the management of that area is delegated.
- (2) Where the Agency becomes the trustee of a protected area, historic building or monument, the Agency shall do such acts and things as may be necessary for the maintenance thereof and for the exercise of proper control or management thereto in order to prevent destruction, damage or, injudicious treatment of such protected area, historic building or monument.

36. Activities in buffer zones

- (1) The Agency may establish a buffer zone adjacent to a protected area.
- (2) Where a buffer zone is established under subsection (1), the Agency, under the direction of the Director, shall prepare a buffer zone management plan for the management of activities in the buffer zone.
- (3) The draft buffer zone management plan prepared under subsection (2) shall before it is finalized, be submitted for public comment from persons including occupiers and private land owners within the buffer zone, non-governmental organisations and government entities.
- (4) The Agency shall collaborate with the Chief Physical Planner, the Director of Agriculture and other government entities to ensure that the activities permitted or carried out in a buffer zone are compatible with achieving the purposes of the protected area.

37. Requirement for management plans

- (1) The Director or any person authorised by the Director, shall prepare a management plan for each protected area in accordance with this Act or Regulations.
- (2) A management plan, designed to further the specific purposes for which the area is established and guide any activities that may be prohibited or permitted in the area, shall be prepared for each protected area established under this Act, on the basis of

National Conservation and Environmental Management Bill, 2017

the best available scientific and other relevant information.

- (3) The Director shall submit the management plan for public comment from persons including but not limited to:
 - (a) occupiers and private land owners within a protected area;
 - (b) local communities affected by or having an interest in the protected area;
 - (c) non-governmental organisations with experience in or engaging in similar biodiversity conservation initiatives; and
 - (d) government entities.
- (4) The Director shall review the management plan at least once every five years.
- (5) A management plan prepared for a protected area shall be in accordance with sustainable principles, guidelines and practices and consistent with the PAS Plan and the NEMS and any other relevant document.
- (6) Every management plan for a protected area and every revision to that management plan made by a person other than the Director or the Agency shall be approved by the Department.

38. Contents of management plans

To the extent feasible, every management plan for a protected area shall contain the following information:

- (a) the category of protected area into which the area falls;
- (b) the long term goals of the protected area and the associated conservation, restoration, research, historical, educational and recreational objectives of the area to meet these goals;
- (c) a description of the manner and time frame within which various management measures will be undertaken, including the kinds of activities that will be regulated or prohibited;
- (d) a statement of the projected capital and recurrent costs of implementing the management plan and an analysis of funding strategies for defraying these expenses; and
- (e) a monitoring plan, including objective verifiable indicators for the

National Conservation and Environmental Management Bill, 2017

determination of the effectiveness of management strategies.

(f) compliance requirements, commitments, or expected responsibilities under multilateral international and regional conventions, agreements, or programmes, including those related to designation of specially protected areas and wildlife on land or in the sea, conservation of migratory species, protection of wetlands for endangered waterfowl, conservation of biological diversity, protection of wildlife controlled in international trade, and preservation of world heritage sites.

(g) the zoning of a protected area with a description of the activities that may be carried out in different parts or sections of the area;

(h) the risks associated with the protected area;

(i) activities that are prohibited within a protected area or specific zones of the area, including the identification of any development (industrial, commercial or otherwise) that might directly or indirectly affect the protected area;

(j) identification of the species or habitat that needs special attention measures and controls within the area;

39. Removal of resources from protected areas

(1) The Director may, as part of a management plan for a protected area, issue a permit to fell, extract or remove timber or to remove other forest produce, flora, fauna, historical and cultural artefacts from a protected area, subject to terms and conditions.

(2) A permit granted by the Director under subsection (1) is valid for the period stated therein and is not transferable except with the written permission of the Director.

(3) The power of the Director under subsection (1) to issue permits includes the following powers:

(a) to refuse the application for a permit;

(b) to vary, suspend or cancel the permit;

(c) to impose, vary, cancel or suspends conditions of the permit

(4) A person who fells, extracts or removes timber or other forest produce, flora, fauna, historical and cultural artefacts from a protected area without a permit is in breach of an environmental requirement.

National Conservation and Environmental Management Bill, 2017

- (5) An applicant for a permit to fell, extract or remove timber or other forest produce, flora, fauna, historical and cultural artefacts from a protected area may appeal the decision of the Director to refuse to issue a permit or to issue a permit with conditions to the High Court.

PART V
BRIMSTONE HILL FORTRESS NATIONAL PARK

40. Continuation of Brimstone Hill Fortress National Park

The area described in Schedule 1 and declared by the former Act, in recognition of its national and international significance as an outstanding cultural and historical resource to be the Brimstone Hill Fortress National Park with effect from the 23rd day of October, 1987 is preserved and continues in being for the purposes of this Act so that its identity is not affected by the repeal of the former Act.

41. Management of Brimstone Hill Fortress National Park

The Brimstone Hill Fortress National Park continues under the management of the Brimstone Hill Fortress National Park Society, a company incorporated under the Companies Act, (hereinafter referred to in this Part as “the Society”) and the powers conferred and duties imposed on the Society by the former Act are not affected by the repeal of that Act.

42. Use of expertise and personnel

In order to fulfil its responsibilities the Brimstone Hill Society may, with the approval of the Minister, use or employ such expertise or personnel from governmental, non-governmental and international organizations as it deems necessary and appropriate.

43. Brimstone Hill Society to make Regulations.

The Brimstone Hill Society shall have the power to make and enforce Regulations for the management and administration of the Brimstone Hill Fortress National Park under this section.

44. Use of admission fees

The admission fees collected for the Brimstone Hill Fortress National Park by the Brimstone Hill Society shall be retained by the Brimstone Hill Society for the management and restoration of the Brimstone Hill Fortress National Park.

45. Accounts of the Brimstone Hill Society.

The Brimstone Hill Society shall maintain proper accounts of all sums of money received and expended in relation to the management and administration of Brimstone Hill

National Conservation and Environmental Management Bill, 2017

Fortress National Park, and such accounts shall be open at all reasonable times for inspection by the Government and shall be audited annually.

**PART VI
CONSERVATION OF BIOLOGICAL DIVERSITY**

46. National conservation strategy, plans & programmes

- (1) The Department shall develop a national biodiversity strategy and action plan, plans and programmes for the conservation of biological diversity.
- (2) The development and approval of the NEMS does not absolve the Department of its obligation to prepare and approve policies, strategies and programs specific to biodiversity

47. Identification and monitoring

- (1) The Department shall identify the components of biological diversity important for its conservation and sustainable use, including:
 - (a) ecosystems and habitats containing high diversity, or large numbers of endemic, endangered or threatened species, or which are required by migratory species, or which are of social, economic, cultural or scientific importance, or which are representative, unique or associated with key evolutionary or other biological processes;
 - (b) species or communities which are endangered or threatened, or wild relatives of domesticated or cultivate species, or are of medicinal, agricultural or other economic value, or of social, scientific or cultural importance, or of importance for research into the conservation and sustainable use of biological diversity, such as indicator species; and
 - (c) described genomes and genes of social, scientific or economic importance.
- (2) The Department shall monitor, through sampling and other techniques, the components of biological diversity identified pursuant to subsection (1), paying particular attention to those requiring urgent conservation measures and those which offer the greatest potential for sustainable use.
- (3) The Department shall identify processes and categories of activities that have or are likely to have significant adverse impacts on the conservation and sustainable use of biological diversity and monitor their effects.
- (4) The Department shall maintain and organise, by any mechanism, data derived from

National Conservation and Environmental Management Bill, 2017

the identification and monitoring activities carried out pursuant to this section.

48. Protection of wildlife

(1) The Minister may, by regulations, prescribe a list of species found in St. Christopher and Nevis and declare those species to be protected for the purposes of this Act.

(2) No person shall commit any act of cruelty against any animal within St. Christopher and Nevis.

(3) A person who-

(a) wilfully kills, wounds, pursues, molests, captures or takes any protected animal or wilfully picks, collects, cuts, or takes any protected plant, by any method, or attempts to do any such thing or has possession of any protected animal or plant;

(b) disturbs any protected animal during the period of breeding, incubation, estivation or migration or takes, removes, damages, destroys or has possession of any nest or egg of a protected animal;

(c) exposes for sale, or knowingly has in possession, any protected animal or plant or any part of such animal or plant, alive or dead, taken or killed in Saint Christopher and Nevis after the commencement of this Act; or

(d) exports or attempts to export any protected animal or the shell, skin or plumage of any protected animal, taken or killed in, or the nest or eggs of any such animal, or any protected plant or the flower, fruit or seed or other part of any protected plant, alive or dead, taken or killed in Saint Christopher and Nevis after the commencement of this Act;

commits an offence and is liable on summary conviction to a fine of five thousand dollars or imprisonment for three months for a first offence or to a fine of ten thousand dollars or imprisonment for six months for a second or subsequent offence.

(4) The burden of proof in relation to an offence under this section lies with the defendant.

49. Threatened and endangered species

(1) The Minister may, by regulations, prescribe a list of species found in St. Christopher and Nevis and designate those species of plants and animals as threatened or endangered species for the purposes of this Act.

National Conservation and Environmental Management Bill, 2017

(2) A person who-

(a) wilfully kills, wounds, pursues, or captures any threatened or endangered animal or wilfully picks, collects, cuts, or takes any threatened or endangered plant, by any method, or attempts to do any such thing, or has possession of any threatened or endangered animal or plant;

(b) disturbs any threatened or endangered animal during the period of breeding, incubation, estivation or migration or takes, removes, damages, destroys or has possession of any nest or egg of a threatened or endangered animal;

(c) exposes for sale, or knowingly has in possession, any threatened or endangered animal or plant or any part of such animal or plant, taken or killed in Saint Christopher and Nevis after the commencement of this Act; or

(d) exports or attempts to export the shell, skin or plumage of any threatened or endangered animal, wounded or killed in, or the nest or eggs of any such animal or any threatened or endangered plant taken from Saint Christopher and Nevis after the commencement of this Act;

commits an offence and is liable on conviction on indictment to a fine of twenty-five thousand dollars or imprisonment for twelve months for a first offence or to a fine of fifty thousand dollars or imprisonment for three years for a second or subsequent offence.

(3) In any case where proceedings are brought under subsection (2)(c) or (2)(d), it is presumed that the protected animal or plant or thing to which the charge relates was killed or taken in Saint Christopher and Nevis after the commencement of this Act, until the contrary is proved, the onus of proving which lies on the defendant.

50. Permission for scientific research

(1) Notwithstanding the provisions of sections 48 and section 49, the Department may grant permission in writing to any person to engage in any scientific or research operation with respect to any protected, threatened or endangered animal or plant which involves the taking of any such animal or plant, or any part of any such animal or plant, dead or alive.

(2) A person applying for permission to carry out a scientific or research operation of this type shall furnish the Department with a plan for the proposed operation and such other information as the Department may reasonably require in order to make a decision.

(3) Permission to undertake scientific or research operations may be granted only to a

National Conservation and Environmental Management Bill, 2017

person who can satisfy the Department that he or she:

- (a) has access to or a guarantee of sufficient funds to undertake the operations in a satisfactory manner; and
 - (b) has the scientific competence to undertake the operations, as assured by any recognised learned society or institution of higher learning.
- (4) The Department may attach such terms, conditions and limitations to permission granted under this section, including a requirement that the data and results of the scientific or other research operations are shared with the Department, as it considers appropriate in the public interest.
- (5) Where any bioprospecting operation is conducted pursuant to subsection (4), the Department may impose such terms, conditions and limitations concerning the:
- (a) ownership of intellectual property; and
 - (b) sharing of financial returns from the sale of any products derived from the bioprospecting operations.

51. Conservation of ecosystems and habitats

In order to protect the ecosystems and natural habitats necessary to maintain the viability of populations of protected, threatened and endangered species in their natural surroundings, the Department shall:

- (a) identify land or marine areas, or combined land and marine areas, to be designated as protected areas in accordance with the provisions of Part III of this Act or declared as marine reserves in accordance with the provisions of the Fisheries Aquaculture and Marine Resources Act 2016;
- (b) in collaboration with the authority responsible for physical planning and development control, develop strategies to promote environmentally sound and sustainable development in areas adjacent to protected areas, with a view to furthering the protection of the critical ecosystems and habitats; and
- (c) develop programmes for the rehabilitation or restoration of degraded ecosystems.

52. Regulation of hunting

- (1) The Minister may make Regulations designating a list of animals as game animals which may be hunted and killed.

National Conservation and Environmental Management Bill, 2017

(2) The Regulations made by the Minister under subsection (1) may prescribe for:

- (a) the issue of hunting licences;
- (b) the terms and conditions to which such licences are subject, including the numbers, age and sex of any game animal which may be hunted;
- (c) the declaration of a closed season during which the hunting of game animals is prohibited;
- (d) the areas within Saint Kitts and Nevis within which hunting is permitted;
- (e) the methods by which game animals may be hunted, captured or killed;
- (f) the times of day or night during which game animals may be hunted;
- (g) the sale or purchase of the meat of game animals;
- (h) the information that shall be recorded by a licenced hunter and returned to the Department; and
- (i) offences and penalties.

53. Regulation of fishing

It is declared that the provisions of this Part do not apply to the catching or harvesting of species of marine flora or fauna which is authorised or regulated by or under the Fisheries Aquaculture and Marine Resources Act 2016.

54. Eradication of pests

The Minister may make regulations designating a list of animals, insects, organisms (both marine and terrestrial) and plants as pests and provide for how those pests can be eradicated or controlled.

55. Forest management

- (1) The Department shall manage forests on unallocated Crown lands outside of protected areas as a permanent forest estate in accordance with sustainable tropical forestry principles, guidelines and practices.
- (2) The Minister, on the advice of the Cabinet, may grant incentives to the owners of forested private lands outside of protected areas for the purpose of ensuring that those

National Conservation and Environmental Management Bill, 2017

lands are managed in accordance with sustainable tropical forestry principles, guidelines and practices.

- (3) In recognition of the value of forestry to the economy and well-being of Saint Christopher and Nevis, the Minister may make Regulations for:
- (a) the establishment of forest reserves;
 - (b) the management of land in forest reserves;
 - (c) the sustainable use of forest produce, including the procedures with regard to felling or cutting timber and the harvesting or collection of non-timber forest produce;
 - (d) the promotion of reforestation and timber stand improvement;
 - (e) forest research;
 - (f) the regulation of charcoal burning; and
- (a) the export from Saint Christopher and Nevis of any forest produce.
- (4) No person shall cut or fell any timber or harvest or collect any non-timber forest produce on Crown or private land in Saint Christopher and Nevis except as authorised by a permit in writing issued by the Director.
- (5) The provisions of subsection (4) do not apply to timber felled or cut or non-timber forest produce harvested or collected on private land for the domestic use of the landowner.

56. Fire prevention in forested and protected areas

- (1) The Director, in collaboration with the Chief Fire Officer, may implement measures to prevent and suppress the occurrences of fires in all forested areas or protected areas.
- (2) No person shall engage in the production of charcoal in a forested or protected area except in accordance with a permit issued by the Chief Fire Officer.
- (3) No person shall start a fire in a forested or protected area except in accordance with a permit issued by the Chief Fire Officer.
- (4) A person who starts a fire in a forested or protected area without a permit issued in accordance with subsections (2) or (3) shall be liable to a fine to be prescribed in

National Conservation and Environmental Management Bill, 2017

Regulations made by the Minister.

PART VII

NATURAL RESOURCES MANAGEMENT – WATERSHEDS AND WETLANDS

57. Declaration of watershed

(1) The Minister, after consultation with the Water Department may:

(a) declare any area from which the drainage of water flows or is conveyed into a watercourse or waterworks, or any part of that area, to be a watershed; and

(b) make regulations to conserve and develop the water resources of Saint Christopher and Nevis to meet the present and future need for water for domestic, agricultural, commercial, industrial and other beneficial uses.

(2) Any regulations made pursuant to subsection (1)(b) may make provision for the protection of watercourses and for the maintenance and rehabilitation of watercourses, including the prohibition or control of:

(a) the felling, cutting or burning of any tree or underwood growth within thirty metres from any watercourse; and

(b) the cultivation of any land or the grazing of any livestock on any land within thirty metres from any watercourse.

58. Protection of watersheds and wetlands

(1) The Department may recommend that any watershed or wetland be protected and require management for any of the following purposes:

(a) protection against storms, winds, rolling stones, floods and landslides;

(b) prevention from soil erosion and landslip, formulation of ravines and torrents and deposit of mud, stones and sand upon agricultural land;

(c) maintenance of water supplies in springs, rivers, canals and reservoirs;

(d) protection of topography and vegetative cover;

(e) protection from free roaming livestock and invasive alien species;

National Conservation and Environmental Management Bill, 2017

- (f) floodwater storage;
 - (g) erosion control and improved water quality of critical fresh or salt water catchments;
 - (h) habitats for fish and wildlife; and
 - (i) food chain support
- (2) A proposal formulated under subsection (1) shall include:
- (a) a description of the watershed or wetland including size, vegetative cover and boundaries and details of land ownership;
 - (b) a statement of the reasons for considering that watershed or wetland to require particular protection.
- (3) The Director shall solicit comments regarding any proposal under this section before a final decision is made.

59. Watershed and wetlands on private land

- (1) Where a watershed or wetland is located on land that is privately owned, the Minister may:
- (a) enter into agreement with the owner of the land providing for the inclusion of such land within the protected watershed or wetland management and set out the respective obligations of the Minister, the Department and the land owner; or
 - (b) acquire the land in accordance with the provisions of the Land Acquisition Act or the Nevis Land Acquisition Ordinance.

60. Conversion of watershed

- (1) No person shall alter or backfill any wetland for any purpose without the written permission of the Director.
- (2) Director shall not grant permission to any person to backfill any wetland without first consulting and receiving the advice and or recommendation of the Council
- (3) A person who contravenes subsection (1) commits an offence and is liable on summary conviction to a fine not exceeding one hundred thousand dollars or to

National Conservation and Environmental Management Bill, 2017

imprisonment for one year.

**PART VIII
ECOSYSTEM MANAGEMENT**

61. Foreshore vested in the Crown

All rights in and over the foreshore are vested in the Crown.

62. Public access to beaches

- (1) All beaches in Saint Christopher and Nevis are hereby declared to be public beaches.
- (2) There shall be public landward access every beach in Saint Christopher and Nevis.
- (3) A person who fails to maintain a public access to beaches commits an offence and is liable to a fine to be prescribed in Regulations made by the Minister.

63. Coastal Zone Management Plan

- (1) The Department shall prepare or cause to be prepared a coastal zone management plan, indicating the strategy which the Department proposes to adopt for the environmental management of land and marine areas within the coastal zone, on the basis of the best available scientific and other relevant information.
- (2) At any time before a coastal zone management plan with respect to the whole of the coastal zone has been prepared, the Department may prepare a coastal zone management plan for any part of the coastal zone, and the provisions of this section apply *mutatis mutandis* to the:
 - (a) preparation;
 - (b) approval;
 - (c) review; and
 - (d) amendment

of any such plan as they apply in relation to a plan for the whole of the coastal zone.

- (3) A coastal zone management plan shall include such maps and other descriptive matter as may be necessary to describe the natural and cultural features of the coastal zone and illustrate the proposed coastal zone management strategy, with

National Conservation and Environmental Management Bill, 2017

such degree of particularity as may be appropriate, and may:

- (a) allocate any land or marine area, or any combined land and marine area, within the coastal zone as an area to be designated as a protected area in accordance with the provisions of Part IV of this Act or declared as a marine reserve in accordance with the provisions of the Fisheries Aquaculture and Marine Resources Act;
 - (b) designate any land or marine area, or any combined land and marine area, within the coastal zone as a restricted area in which specified activities are prohibited or regulated in the manner prescribed by the plan;
 - (c) define the sites of proposed coastal conservation works and other coastal conservation projects to be carried out by or on behalf of agencies of the Government or the Nevis Island Administration, as the case may be; and
 - (d) specify as land subject to compulsory acquisition by the Crown any land which, in the opinion of the Department, ought to be acquired by the Crown for the purposes of securing its use in the manner proposed in the plan.
- (4) It is declared that the activities that may be prohibited or regulated pursuant to subsection (3)(b) include, but are not limited to:
- (a) the capture, killing, harvesting or taking by any means of terrestrial or marine plants or animals, including fish;
 - (b) the drainage, reclamation or alteration of any wetland;
 - (c) the removal of any vegetation from a beach;
 - (d) the disturbance or removal, from a beach or the backshore area within the zone of risk, of any natural barrier against the sea, including the primary sand dune;
 - (e) sand mining on Crown or private land above the high water mark or on the foreshore or the dredging of the seabed;
 - (f) the use or anchoring of pleasure boats, fishing boats, cruise ships or other vessels;
 - (g) water skiing or the operation of jet skis, whether for hire or otherwise;
 - (h) the driving or parking of all-terrain vehicles on the beach or on any land, other than a paved road or car park, within the coastal zone;

National Conservation and Environmental Management Bill, 2017

- (i) the disposal of any waste matter, whether from land based sources or from boats and other vessels.
- (5) In the course of preparing a coastal zone management plan, or of proposals for any amendment to an approved plan, the Department shall consult with the relevant government agencies and such other persons and bodies as the Department thinks fit.
- (6) The Department shall publish a notice at least once in a newspaper of general circulation in Saint Christopher and Nevis and in the Gazette inviting comments or objections from those persons whose rights or interest may be affected by the proposal.
- (7) A person who has comments or objections to the proposal after seeing the notice published in accordance with subsection (6) shall submit his comments or objections to the Department in writing.
- (8) Every coastal zone management plan, and every amendment to an approved plan, shall be approved by the Minister, with or without modifications.
- (9) Pursuant to subsection (8), before a coastal zone management plan is approved in deciding whether to approve a coastal zone management plan or any amendment to such a plan, with or without modifications, the Department shall take into consideration any objections and representations made by persons whose rights or interests may be affected by the proposals.
- (10) The Department shall review the coastal zone management plan at least once every five years after the date on which it was approved and where appropriate, make changes to the plan.
- (11) The Department shall publish any reviews and amendments to the coastal zone management plan in the Gazette.

64. Restrictions on construction on the seashore

- (1) No person shall undertake or permit or cause to be undertaken operations for the construction or erection of any temporary or permanent building or other structure or works on the beach or other land within thirty metres landward from the high-water mark, whether or not any other statutory consent is required for carrying out such works, unless:
- (a) notice of the proposed works is given to the Department at least two months before the works are commenced; and

National Conservation and Environmental Management Bill, 2017

(b) the Department, after consultation with the Physical Planning Department, grants its consent in writing, unconditionally or subject to such conditions as it sees fit, for the execution of the proposed works.

(2) No person shall undertake or permit or cause to be undertaken operations for the construction or erection of any hard structure, including but not limited to any groyne, jetty, pier, or sea defence work, within the zone of coastal dynamics, whether or not any other statutory consent is required for carrying out such works, unless:

(a) notice of the proposed works is given to the Department at least two months before the works are commenced; and

(b) the Department has granted its consent in writing, unconditionally or subject to such conditions as it sees fit, for the execution of the proposed works.

(3) A person who intends to undertake any proposed works on the seashore shall first obtain permission to do so from the Development and Planning Control Board or the Department of Physical Planning in Nevis.

65. Control of sand mining

(1) No person shall engage in sand mining from any land on the foreshore or other Crown land within the coastal zone.

(2) The Minister may make regulations to regulate sand mining operations on any land on the foreshore or other Crown land within the coastal zone.

(3) A person, including:

(a) an individual who engages in sand mining;

(b) an individual who transport sand that was obtained by way of sand mining;

(c) an individual or company who receives sand obtained from sand mining;

(d) the owner of land upon sand obtained from sand mining is obtained,

commits an offence and is liable on summary conviction to a fine of one hundred thousand dollars or to imprisonment for one year.

66. Saving of existing rights

Nothing in this Part affects any land in seasonal or perennial agricultural use, nor any

National Conservation and Environmental Management Bill, 2017

vested rights enjoyed in or over any beach by persons engaged in artisanal fishing as a trade, on the coming into force of this Act.

**PART IX
SOIL CONSERVATION**

67. Duty of landowner

A landowner shall in respect to his land, take appropriate measures:

- (a) to prevent soil loss or deterioration from taking place;
- (b) if soil loss or deterioration is taking place to stop the loss or deterioration from continuing

68. Directions to take remedial action

(1) If the Department is satisfied that, with respect to land, appropriate measures are not being taken:

- (a) to prevent soil loss or deterioration from taking place;
- (b) in the case where soil loss or deterioration is taking place to stop the loss or deterioration from continuing

the Department shall serve on the landowner a notice directing the landowner to take the remedial measures set out in the notice within the time specified in the notice.

(2) If the landholder is not the owner of the land in respect of which the notice was given, the Department shall serve a copy of the notice on the owner.

69. Remedial measures

(1) Where the landowner does not comply with the notice within the period of time specified, the Department or a person authorised by the Department may enter unto the land and carry out the remedial measures specified in the notice.

(2) Where expenses are incurred by the Department in the carrying out of remedial work under subsection (1), the Department shall notify the landowner of those expenses and demand payment of the expenses within thirty days of the date of the notification.

(3) Where payment of the expenses demanded under subsection (2) is not made within the thirty day period, the Department may:

National Conservation and Environmental Management Bill, 2017

- (a) add the unpaid expenses to the tax roll of the landowner as an additional tax against the land in respect of which the expenses were incurred;
- (b) recover the unpaid expenses as a debt due to the Government by action against the landowner.

70. Regulations for soil conservation

The Minister may, after consultation with the Council, make regulations for soil conservation, including but not limited to:

- (a) the control of development for residential and commercial purposes and road construction;
- (b) prohibition or control of the grazing of livestock; and
- (c) the encouragement of scientific farming techniques designed to reduce or prevent soil erosion.

**PART X
PROTECTION OF GHAUTS**

71. Protection of ghauts

- (1) All ghauts in Saint Christopher and Nevis are declared to be areas of special concern to be managed in the public interest as stable and productive natural drainage channels.
- (2) The Minister may by order published in the *Gazette* require special land use, rehabilitation, management and conservation measures, including complete protection, in any ghaut in order to ensure that it is maintained as a stabilised and productive natural drainage channel.
- (3) A person who, on any land within a ghaut or within ten metres of the banks of a ghaut:
 - (a) undertakes any activity that may from time to time be prohibited by order of the Minister made pursuant to subsection (2); or
 - (b) without the permission in writing of the Department:
 - (c) cultivates, cuts, burns or clears the land or vegetation;
 - (d) grazes any livestock;

National Conservation and Environmental Management Bill, 2017

(e) constructs any structure; or

(f) mines any sand;

commits an offence and is liable on summary conviction to a fine not exceeding twenty five thousand dollars and to a further fine of five hundred dollars for each day during which the offence continues after conviction.

(4) A person who pollutes a ghaut or deposits litter in a ghaut commits an offence and is liable on summary conviction to a fine not exceeding one hundred thousand dollars and to a further fine of five hundred dollars for each day during which the pollution continues or the litter is not cleaned up after conviction.

(5) A person convicted under subsection (4) is responsible for cleaning up of pollution caused or the litter deposited, by the best available means, to the satisfaction of the Department.

72. Department may take remedial action

(1) Where the owner of a ghaut fails to comply with any measures specified in an Order of the Minister made pursuant to section 71(2) or in regulations made under this Act, the Department, after giving notice to the owner to take the necessary measures to comply with this Part, may enter the land and carry out all such necessary work.

(2) The work to be carried out by the Department shall be done by the public works department under the general supervision of the Department.

(3) The owner of the land is liable for the costs of carry out any measures that are required and, if the Department enters on any land to carry out work pursuant to subsection (1), the Department may recover any expenses reasonably incurred for those purposes as a debt due to the Crown, in any court of competent jurisdiction.

**PART XI
POLLUTION CONTROL****73. Designation of pollutants**

(1) The Minister may by Regulations:

(a) designate as a pollutant any substance, thing or man-made phenomenon (including energy, noise, vibration, electro-magnetic or ionizing radiation, odour or temperature variation) which, in a specified quantity or concentration or condition, is likely to cause harm to human health or affect the quality of the environment;

National Conservation and Environmental Management Bill, 2017

- (b) prescribe allowable standards of pollution and in so doing may prescribe different standards for the deposit, release or escape of pollutants on or into land, water or the air or within different geographical areas.
 - (c) Prescribe for matters required or permitted to be prescribed under this Part and make such provision as is necessary or convenient for giving effect to this Part.
- (2) The unauthorised deposit, release or escape of pollutants into the environment in excess of the allowable standard of pollution applicable to the receiving environment is prohibited.

74. Registration and pollution permits

- (1) A person shall not be allowed to commence any activity that may generate a pollutant without prior written authorization from the Department.
- (2) A person who intends to discharge any pollutant, or carry out any activity that may result in pollution, shall apply to the Department for a permit.
- (3) The Director may issue a permit with or without conditions authorising the release of a pollutant from any premises.
- (4) A person who releases a pollutant from any premises without having a permit issued under subsection (2) shall be liable to a fine to be prescribed by Regulations made by the Minister.
- (5) The Department shall compile a register of sources of pollutants, which shall be open to inspection by the public at its office during ordinary business hours, on payment of the prescribed search fee, if any.

75. Discharge control permits

- (1) The Department may by permit authorise the deposit or release of a pollutant on or into land, water or the air in quantities or concentrations in excess of the allowable standard, subject to such conditions as it thinks fit, including the payment of such fees and charges as may be prescribed.
- (2) In deciding whether to grant a permit pursuant to subsection (1), the Department may adopt and take into account ambient environmental standards and the cumulative impact on those standards of the grant of any discharge permit.

National Conservation and Environmental Management Bill, 2017

- (3) The Department shall compile and maintain a register of discharge permits that is open to inspection by the public at its office during ordinary business hours, on payment of the prescribed search fee, if any, and shall provide members of the public with copies of entries in the register on payment of the cost of making copies.

76. Time to be allowed for compliance

- (1) If, on the coming into force of any Regulations made under this Part, any person is engaged in any existing activity or process that, on a continuous or intermittent basis, causes or results in the deposit or release of any pollutant into the environment in excess of the allowable standards, the Department shall allow that person a reasonable time to upgrade their plant or equipment to comply with the prescribed standards.
- (2) In determining the amount of time that it is reasonable to allow for the upgrading of plant and equipment pursuant to subsection (1), the Department shall address each situation on a case by case basis taking into account the age of machinery, nature of industrial activity or other process, access to appropriate technology or business processes, amongst other things.

77. Liability for pollution prior to commencement of the Act

- (1) If any part of the environment is found to have been polluted before the coming into force of this Act, the Department may, by notice served on that person, require any person who it finds to have been solely or partly responsible for causing or allowing that pollution to take place, to take such measures to clean up or rehabilitate the environment as the Department may specify.
- (2) When the Department finds that more than one person was responsible for such pollution, liability for undertaking the clean up or rehabilitation measures required pursuant to subsection (1) shall be shared between those persons on a *pro rata* basis.
- (3) If a person fails or refuses to comply with a requirement imposed by the Department pursuant to subsection (1), within the period of time allowed for compliance specified in the notice, the Department may undertake the necessary clean up or rehabilitation measures, either directly or by employing contractors, and may recover the costs of so doing, or a proportional contribution to those costs, from that person as a civil debt in a court of competent jurisdiction.
- (4) A person who the Department has found to be solely or partly responsible for pollution under this section may appeal against that finding to the High Court no later than 28 clear days after the date of service of the Notice given under subsection (1).

National Conservation and Environmental Management Bill, 2017

78. Power to set technology standards

- (1) The Minister may by Regulations prescribe performance standards with respect to the generation and release into the environment of pollutants from mobile or immobile machines and equipment, including but not limited to automobiles, construction plant and equipment and home and garden appliances.
- (2) In this section, the expression “home and garden appliances” includes but is not limited to electricity generators, water pumps, air-conditioning units, security alarms, brush-cutters and lawn-mowers.
- (3) In Regulations made under this section a reasonable period of time shall be allowed between the introduction of the standards and their enforcement to accommodate the upgrading or depreciation and replacement of existing machines and equipment.
- (4) Upon the coming into force of Regulations made under this section, the importation into Saint Christopher and Nevis of any machine or equipment that does not comply with the prescribed performance standards is prohibited.

79. Hazardous substances

- (1) The Minister may by Regulation:
 - (a) designate specific substances as hazardous substances; and
 - (b) prescribe procedures for the safe storage, handling, use and disposal of such substances.
- (2) Upon the coming into force of Regulations made under this section, any person who is engaged in carrying on an existing activity or process, or who proposes to commence and carry on an activity or process that involves the storage, handling, use or disposal of any hazardous substance shall apply to the Department for a permit to do so.
- (3) Any permit granted by the Department pursuant to subsection (2) may be granted subject to such terms and conditions as the Department thinks fit.
- (4) The Department shall compile and maintain a register of hazardous substance permits that is open to inspection by the public at its office during ordinary business hours, on payment of the prescribed search fee, if any, and shall provide members of the public with copies of entries in the register, on payment of the cost of making copies.

80. Spills or accidental releases of pollutants

National Conservation and Environmental Management Bill, 2017

- (1) The Department may require any person who owns or controls any premises, vehicle or vessel on which any pollutant or hazardous substance is handled, stored, used or transported, to prepare a contingency plan to deal with a spill or accidental release of that pollutant or hazardous substance.
- (2) A contingency plan prepared pursuant to subsection (1) shall be submitted to the Department for its approval, with or without amendments and shall set out:
 - (a) the counter-measures to be adopted in the event of a spill or accidental release of the pollutant or hazardous substance; and
 - (b) the steps to be taken to clean-up the environment afterwards
- (3) When any spill or accidental release of a pollutant or hazardous substance occurs, the person who owns or controls the premises, vehicle or vessel on which the incident takes place shall immediately:
 - (a) notify the Department of the incident;
 - (b) implement the approved contingency plan, if any; and
 - (c) take such other measures as are necessary or expedient to minimize any resulting threat to human health or the environment.
- (4) If, after investigating the incident, it appears to the Department that such action is necessary, the Department may undertake such emergency response measures as it thinks necessary or expedient to protect human health and the environment, either:
 - (a) directly; or
 - (b) by coordinating the activities of the competent governmental and non-governmental organisations; or
 - (c) by employing contractors.
- (5) The Department may recover the costs of carrying out emergency response measures under subsection (4) from the person who owns or controls the premises, vehicle or vessel concerned, as a civil debt in the court of competent jurisdiction.

81. Environmental Auditing

The Minister may by Regulations establish or adopt appropriate standards and procedures for the carrying out of environmental audits and set out:

National Conservation and Environmental Management Bill, 2017

- (a) the circumstances in or under which such audits shall be carried out on any premises;
- (b) the qualifications of persons by whom such audits may be carried out; and
- (c) the measures that the Department may take with respect to the findings of such audits.

PART XII
ANTIQUITIES AND CULTURAL HERITAGE

82. Licence to search for antiquities

- (1) No person may excavate or otherwise search for antiquities, whether on private land, on the seabed or elsewhere, except under a licence granted by the Department after consultation with the Saint Christopher National Trust, where the site is situated within Saint Christopher;
- (2) No person may excavate or otherwise search for antiquities, whether on private land, on the seabed or elsewhere, except under a licence granted by the Nevis Historical and Conservation Society after consultation with the responsible for Environment and the Ministry of Finance in the Nevis Island Administration.
- (3) No person may excavate or otherwise search for antiquities where the site is situated within the waters of Saint Christopher and Nevis without a licence granted by the Saint Christopher National Trust and the Nevis Historical and Conservation Society
- (4) An applicant for a licence to search for antiquities shall furnish the Department with a plan for the proposed excavation or salvage operations and such other information as the Department may reasonably require in order to determine the application.
- (5) A licence to undertake excavation or salvage or other operations to search for antiquities may be granted only to a person who can satisfy the Department that he or she:
 - (a) has access to or a guarantee of sufficient fund to undertake the operations in a satisfactory manner; and
 - (b) has the scientific competence to undertake the operations, as assured by any recognised learned society or institution of higher learning.
- (6) The Department may attach such terms, conditions and limitations to a licence

National Conservation and Environmental Management Bill, 2017

granted under this section, including the payment of fees, as it considers appropriate in the public interest, in order to protect antiquities.

(7) Without prejudice to the generality of subsection (3), it is a condition of every licence granted under this section that the holder of the licence shall, at the close of excavation or salvage or whenever the Department may direct:

(a) furnish the Department with a list of all the antiquities discovered; and

(b) deliver to the Department for inspection and division in accordance with section 83.

(8) If the holder of a licence issued pursuant to this section breaches any of the terms, conditions or limitations of the licence, the Department may suspend or cancel the licence.

(9) A holder of a licence who breaches any of the terms, conditions or limitations of the licence shall be liable on summary conviction to a fine not exceeding one hundred thousand dollars and imprisonment for one year.

83. Treatment of antiquities

(1) All antiquities discovered during any operations licensed pursuant to section 82 are subject to inspection and shall remain the property of the Federation of St. Christopher and Nevis.

(2) Before forming an opinion as to the importance of antiquities for the purposes of subsection (1), the Department shall consult the Saint Christopher National Trust or the Nevis Historical and Conservation Society or both the Saint Christopher National Trust and the Nevis Historical and Conservation Society as appropriate, and may consult such other persons or institutions as appear to have knowledge or information relevant to forming that opinion.

84. Accidental discovery of antiquities

A person who, not being the holder of a licence granted under section 82, accidentally discovers antiquities, shall forthwith report the fact to the Department as well as the Department with responsibility for environment in Nevis and the provisions of section 83 apply *mutatis mutandis*.

85. Export and return of antiquities

(1) No person shall export any antiquity from Saint Christopher and Nevis, except under a license to export that antiquity, granted in accordance with Regulations

National Conservation and Environmental Management Bill, 2017

made under this Act.

- (2) A person who is granted permission to remove and export antiquity from St. Christopher and Nevis shall return that antiquity to St. Christopher and Nevis within the timeframe outlined in the licence.

86. Contravention of this Part

A person who searches for antiquities whether on his land or by excavating or removing any antiquity from the seabed and elsewhere, or exports antiquities from Saint Christopher and Nevis, except under and in accordance with a licence obtained under this Part, commits an offence and is liable on summary conviction to a fine not exceeding one hundred thousand dollars or to imprisonment for one year.

87. Listing of historic buildings, monuments and sites

- (1) The Saint Christopher National Trust shall prepare and maintain a national register and listing of all historic buildings, monuments and sites in the Federation to be preserved for purposes of historic and cultural importance which shall contain, but not be limited to:
- (a) a description of the building, monument or site;
 - (b) the location of the building, monument or site;
 - (c) ownership of the building, monument or site;
 - (d) the historic function of the building, monument or site; and
 - (e) the current function of the building, monument or site.
- (2) The Saint Christopher National Trust shall give notice in writing to the owner of any building, monument or site that is proposed for inclusion on the list under this section and also notify the owner of his rights under subsection (3) hereof.
- (3) Within three months from the date of the notice issued under subsection (2), the owner may lodge a written objection to the inclusion of his property on the list.
- (4) Where the owner fails to lodge an objection to the inclusion of his property on the list within the timeframe under subsection (3), then the Saint Christopher National Trust shall, by notice published in the Gazette, declare that property to be a listed property.

88. Effect of Listing

- (1) Except as provided in subsection (3), where any building, monument or site is officially declared to be listed in the National Register as a historic property, no

National Conservation and Environmental Management Bill, 2017

person shall carry out any development on that property except with the approval of the Development and Planning Control Board after consultation with the Department.

- (2) A person who contravenes subsection (1) commits an offence and is liable on conviction to a fine not exceeding one hundred thousand dollars and to an additional fine of five hundred dollars for every day that the offence continues after conviction.
- (3) It shall not be an offence under this Act for the owner of a historic building, monument or site listed on the national register to carry out repairs or maintenance in a manner which preserves the features for which it was listed or when such repairs or maintenance is necessary to prevent danger to any person.

89. Incentives to maintain and restore historic buildings, monuments and sites

- (1) An owner of a historic building, monument or site who repairs or restores that building, monument or site may apply to the Minister for any or all of the following incentives:
 - (a) Exemption from payment of land and house tax for that building, monument or site;
 - (b) Exemption from customs duties and consumption tax for materials imported to carry out repairs and restoration on the building, monument or site;
 - (c) assistance from the Public Works department to carry out the repairs.
- (2) The owner of a historic building, monument or site who receives financial or technical assistance pursuant to this section for the purpose of restoring and repairing such property shall make the property available for visits by the public as such times as are mutually agreed between the owner and the Minister after consultation with the Saint Christopher National Trust.

90. Preservation of sites and buildings of interest on Nevis

The provisions of the Nevis Physical Planning and Development Control Ordinance Cap. 6.09 shall apply with respect to the preservation of sites and buildings on interest on the island of Nevis.

**PART XIII
NATIONAL ENVIRONMENT FOUNDATION**

91. Establishment and purpose of Foundation

- (1) There shall be established a foundation under the Foundations Act Cap 21.19 to be

National Conservation and Environmental Management Bill, 2017

called the National Environmental Foundation.

- (2) The purpose of the Foundation will be to provide a sustainable source of financing to support environmental management programmes and initiatives for the conservation and management of the environment in Saint Christopher and Nevis.
- (3) The Foundation shall be established within 12 months of the effective date of this Act.
- (4) The funds of the Foundation may consist of the following:
 - (a) moneys appropriated by Parliament for the purposes of the Foundation;
 - (b) all moneys given to the Foundation by way of gift, donation, endowments, bequests or other contribution from sources other than public funds;
 - (c) grants made by regional and international organisations;
 - (d) moneys generated from fines imposed under this Act;
 - (e) any interest accrued to the Foundation.
- (5) Contributions to the Foundation may be designated for specific purposes or made subject to specific conditions, in which case such contributions shall be preserved and utilised solely for the designated purpose.

**PART XIV
INTERNATION CONVENTIONS**

92. Conventions to have force of law.

The International Conventions specified in Schedule 2 shall have the force of law in Saint Christopher and Nevis.

93. Regulations and other matters relating to implementation.

- (1) Without prejudice to the generality of powers, the Minister may make Regulations including the creation of offences to give effect to the International Conventions specified in Schedule 2 and may designate persons to issue certificates or permits to implement the Conventions or to carry out any other matter required for the implementation of the Conventions.
- (2) Regulations made under subsection (1) shall be published in the *Gazette* and be laid before the National Assembly.

National Conservation and Environmental Management Bill, 2017

94. Minister may amend the Schedule 2.

The Minister may, from time to time, add or remove any convention in Schedule 2 by way of Notice which shall be published in the *Gazette* and be laid before the National Assembly.

**PART XV
MISCELLANEOUS**

95. Powers of entry and search

- (1) An authorised officer may at any reasonable time enter any premises or into any vehicle or on to any vessel for the purposes of carrying out any provision or requirement of this Act.
- (2) A person authorised under subsection (1) to enter any premises shall, if so required by the owner or occupier of the premises, produce evidence of his or her authority before entering the premises.
- (3) If the Department has reason to believe that a contravention of the provisions of this Act has occurred or is about to occur, an authorised officer may enter any premises under a warrant issued by a Justice of the Peace.
- (4) In the course of any entry under this section, the authorised officer may carry out any inspection or survey, review and copy any documents or other records, take photographs or other audio or visual recordings, and take samples of air, water, soil or other material found on or in the premises, vehicle or vessel.
- (5) When a sample is taken pursuant to subsection (4), the person taking the sample shall:
 - (a) notify the person in charge of the premises, vehicle or vessel from which the sample was obtained of his or her intention to submit the sample for analysis or examination;
 - (b) retain one of the parts for future comparison or verification; and
 - (c) submit the sample for analysis or examination as soon as may be practicable.
- (6) A person who obstructs a person acting in the exercise of his or her power under this section commits an offence and is liable on conviction on indictment to a fine of thirty thousand dollars and imprisonment for 12 months.

96. Service of documents

- (1) Subject to the provisions of this section, any notice or other document required or

National Conservation and Environmental Management Bill, 2017

authorised to be served under this Act, or under any regulation, order, direction or other instrument in writing made under this Act, may be served either:

(a) in the case of a natural person:

- (i) by delivering it directly to the person on whom it is to be served; or
- (ii) in a case where an address for service has been furnished by the person on whom it is to be served, by delivering it or sending it by registered mail to that person at that address; or
- (iii) by such means of substituted service as are recognised or authorised by the Rules of the Eastern Caribbean Supreme Court; and
- (iv) in the case of an incorporated company or body, by serving it in accordance with the process for effecting service on a body corporate under the Companies Act.

(2) Where the Notice or other document is:

- (a) required or authorised to be served on any person as having an interest in any building or land, and the name of that person cannot be ascertained after reasonable enquiry, or
- (b) required or authorised to be served on any person as an owner or occupier of premises;
- (c) the Notice or other document is deemed to be duly served if, being addressed to “the owner” or “the occupier” of the specified premises, it is:
 - (i) delivered or sent to the premises by registered mail and is not returned to the sender; or
 - (ii) is affixed conspicuously to some building or fixed object on those premises.

(3) Where a notice or other document to be served under this Act shall be served on more than one person, the fact that it was not duly served on any of those persons does not invalidate any action or other proceedings against any other of those persons.

National Conservation and Environmental Management Bill, 2017

97. Offences

- (1) No person shall contravene any provision of this Act or of any regulations or rules, or the terms and conditions of any permit or licence granted or agreement made, under this Act.
- (2) Unless a different or other penalty or punishment is specifically prescribed, a person who contravenes subsection (1) commits an offence against this Act and is liable on summary conviction to:
 - (a) a fine not exceeding fifty thousand dollars or imprisonment for three months imprisonment for a first offence; or
 - (b) to a fine not exceeding one hundred thousand dollars or imprisonment for one year for a second or further offence; and
 - (c) in the case of a continuing offence, to a further penalty of five hundred dollars for each day during which the offence continues.
- (3) In addition to any penalty which the court may impose pursuant to subsection (2), the court may also order a person convicted of an offence under this Act to remedy any environmental condition or damage to the environment arising out of the offence and specify a date by or before which such remedial activities shall be completed.
- (4) If an offence is committed by a body corporate and is proved to have been committed with the consent or connivance of any director, manager, secretary or similar officer of that body corporate, or who was purporting to act in that capacity, that person may be found personally liable for the offence, as well as the body corporate.
- (5) Nothing in this Act may be construed to prevent anyone being prosecuted under any other law for an act or omission which constitutes an offence under this Act, or from being liable under that other law to any higher punishment or penalty than is provided by this Act, provided that no one is punished twice for the same offence.

98. Regulations

- (1) The Minister may make regulations, for giving effect to the provisions of this Act.
- (2) Without prejudice to the generality of subsection (1), the Minister may make regulations for:
 - (a) the form of any application, notice or other document required to be made, issued or served under this Act;

National Conservation and Environmental Management Bill, 2017

- (b) the payment of fees or any other charges payable under this Act;
- (c) the amendment, variation or revocation of the Schedules to this Act;
- (d) the implementation of the Environmental Conventions to which St. Kitts and Nevis is a party;
- (e) the designation, management, protection and control of protected species of fauna and flora;
- (f) the regulation of trade in and transit, import, export and re-export of specimens of fauna and flora;
- (g) the issue, grant, administration and enforcement of permits to fell, extract or remove timber or other forest produce;
- (h) the designation of pollutants and criteria, procedures and protocols for measuring and monitoring pollutants;
- (i) the designation and registration of existing sources that release any substance, thing or manmade phenomenon;
- (j) the conduct and reporting of environmental audits;

(3) Regulations made under this Act may prescribe specific offences.

(4) Regulations made under this Act shall consider the objects and purposes set out in section 3 of this Act.

99. Application to areas regulated by laws

It is declared that this Act, and any restrictions imposed and powers conferred by it, apply and may be exercised in relation to any area in Saint Christopher and Nevis.

100. Limitation of personal liability

No person authorised by or under this Act to carry out any function or exercise any power or perform any duty shall be held personally liable in any court for or in respect of any act or matter done, or omitted to be done, in good faith in the exercise or discharge of that function or power or duty.

101. Reservation of civil remedies

Nothing in this Act takes away or interferes with the right of the Crown or any other

National Conservation and Environmental Management Bill, 2017

person to sue for and recover, at common law or otherwise, compensation for or in respect of damage or injury caused by an offence or breach under this Act.

102. Amendments, repeal and savings

- (1) The National Conservation and Environmental Protection Act, Cap. 11.03 is hereby repealed.
- (2) In so far as anything done under the former Act could have been done under a corresponding provision of this Act, it is not invalidated by the repeal but has effect as if done under that provision.
- (3) Where any written law or document refers expressly or by implication to the former Act, the reference shall be construed (except where the context otherwise requires) as a reference to the corresponding provision of this Act.
- (4) Every proceeding in respect of breaches of or offences committed against the former Act may be continued and completed:
 - (a) if the proceeding has been partly or wholly heard, as if the former Act were still in force; and
 - (b) in all other cases, as if the proceeding had been commenced under this Act.
- (5) The enactments referred to in the Eighth Schedule are amended in the manner or repealed to the extent set out in that Schedule.

103. Act binds the Crown

This Act binds the Crown.

SCHEDULE 1

(Section 40)

Description of Brimstone Hill Fortress National Park

All the lands, messuages, tenements, estates and hereditaments known as Brimstone Hill, including the fortifications and buildings thereon, situate in the Parish of Saint Thomas, Middle Island, in the Island of Saint Christopher, bounded on the North by Chalk Farm Estate, on the South by New Guinea Estate, on the East by Walk Estate, and on the West by Romney Ground Estate now part of Bourkes Estate, or howsoever otherwise the same may be abutted, bounded, known or described, together with all hedges, ditches, fences, ways, paths, passages, waters, drains, watercourses, woods, under woods, rights, lights,

National Conservation and Environmental Management Bill, 2017

liberties, easements and appurtenances whatsoever to the said hereditaments and premises or any part thereof belonging or with the same now or heretofore held, used, occupied, or enjoyed, or reputed, or known as part and parcel thereof, or appurtenant thereto.

SCHEDULE 2

(Section 92)

INTERNATIONAL CONVENTIONS AND AGREEMENTS

1. Convention on International Trade in Endangered Species of Wild Fauna and Flora 1973.
2. United Nations Convention on Climate Change 1992.
3. United Nations Convention on Biological Diversity 1992.
4. Vienna Convention for the Protection of the Ozone Layer, 1985 and Montreal Protocol on Substances that deplete the Ozone Layer 1987.
5. Basel Convention on the control of transboundary movement of Hazardous Waste 1989.
6. Civil Liability Convention 1969.
7. International Oil Pollution Compensation Fund Convention 1971.