

National Conservation and Environmental Management Bill,
2009

SAINT CHRISTOPHER AND NEVIS

Bill No. – of 2009

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SAINT CHRISTOPHER AND NEVIS

Bill No. – of 2009

An Act to provide for the conservation of the natural and cultural heritage of Saint Christopher and Nevis, the prevention of pollution and the management of the environment, for the purpose of ensuring that the development of the country is sustainable, and for other connected 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**

Short title and commencement

1. (1) This Act may be cited as the National Conservation and Environmental Management Act, 2009.

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

Interpretation

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

“antiquities” includes

- (a) any ancient monument which dates or may reasonably be believed to date from a period prior to 1900;
- (b) any statues; engravings, carvings, inscriptions, paintings, writings, metallurgic art, coins, gems, seals, jewels, arms, tools, ornaments and all other objects of art which date or may reasonably be believed to date from a period prior to 1900;

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- (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 police officer, conservation officer, or any other person appointed for the purposes of this Act;

“beach” means the sloping area of sand, stones, shingle, coral fragments, boulders, or other unconsolidated material, that extends landward from the mean low water mark to the vegetation line, or the point where there is a marked change in material or natural physiographic form, and includes the foreshore;

"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;

“Board” means the Board of Trustees of the Fund, established under section 62;

“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;

“Commission” means the National Conservation Commission appointed under section 4(1);

“competent authority” means the competent authority referred to in section 13(1);

"cultural heritage" includes:

- (a) monuments: architectural works, works of monumental sculpture and painting, elements or structures of an archaeological nature,

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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 of Environment established at section 5(1);

“Director of Environment” means the Director of Environment established at section 5(2);

"domesticated or cultivated species" means species in which the evolutionary process has been influenced by humans to meet their needs;

“endangered species” means the state of any indigenous species or population in imminent danger of extinction in all or parts of its geographic range;

"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, inorganic and biological natural resources, natural heritage and the works of man;

"ecosystem" means a dynamic complex of plant, animal

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and micro-organism communities and their non-living environment interacting as a functional unit;

"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;

"foreshore" means land on the seashore lying between the mean low water mark and the mean high water mark;

"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;

"former Act" means the National Conservation and Environment Protection Act, 1987;

"Fund" means the Environmental Trust Fund established by section 63;

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

"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];

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“Minister” means the Minister for the time being charged with the subject of 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;

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

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

“pollutant” means any substance, thing or man-made phenomenon designated as a pollutant pursuant to 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 or to cause harm to human health or affect the quality of the environment;

"protected area" means a geographically defined area which is designated pursuant to section 8 to achieve specific conservation objectives;

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“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;

"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;

“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:

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

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 are actually subject to decline and possible endangerment or extinction;

“vehicle” means an automobile, cart, vessel, mobile unit, motorcycle, bicycle, horse, carriage or other thing used as a mode of transportation;

“waste” includes any solid, semi-solid, liquid or gaseous refuse, residue or scrap material or unwanted surplus matter produced on any premises and not intended to be put to any further use on those premises;

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

“watershed” means a geographical feature of the landscape based on waterflows 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 flowing, fresh, brackish or salt, including areas of marine water the depth of which at low tide does not exceed six metres; and

“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.

Objects and purposes

- 3.** 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

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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 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 multilateral environmental agreements mentioned in Schedule 1;
- (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
- (h) any other matter related or ancillary to the foregoing purposes .

PART II
ADMINISTRATION

**Duties of the
Minister**

4. (1) It is the duty of the Minister of the Government of Saint Christopher and Nevis to:

- (a) coordinate with other Ministers of the Government and with the Nevis Island Administration to secure consistency and continuity in the implementation of this Act;
- (b) protect and promote the interests of Saint Christopher and Nevis in the negotiation of environmental treaties and ensure that Saint Christopher and Nevis meets it the

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international obligations with respect to the environment;

- (d) develop and promote national environmental policy so as to ensure the integration of environmental concerns into governmental decision-making at all levels;
- (e) oversee the execution of environmental policy and the administration of this Act in Saint Christopher by the Department of Environment to which responsibility for the administration of this Act is assigned by section 5; and
- (f) encourage and facilitate the participation of civil society organisations in Saint Christopher in environmental conservation and management.

(2) It is the duty of the Minister of the Nevis Island Administration to:

- (a) cooperate with the Minister of the Government to whom responsibility for the environment is assigned to ensure that there is consistency and continuity in the implementation of this Act;
- (b) ensure the integration of environmental concerns into governmental decision-making by the Nevis Island Administration;
- (c) develop and promote environmental policy for Nevis and oversee the execution of that policy by the Department of the Nevis Island Administration to which responsibility for the administration of this Act within Nevis is assigned by section 6; and
- (d) encourage and facilitate the participation of civil society organisations in Nevis in environmental conservation and management.

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(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 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 member 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.

National Conservation
Commission

4. (1) There is hereby established an advisory body to be known as the National Conservation Commission, which shall be governed by an advisory Board consisting of the persons appointed in accordance with this section.

(2) The Commission shall make recommendations on matters within the scope of this Act and provide guidance and support to the Director of Environment on programmes and operations, as needed, to ensure fulfilment of the Department’s functions and the purposes of this Act.

Schedule 9

(3) Without prejudice to the generality of subsection (2) the Commission shall, in respect of protected areas, give advice and make recommendations to the Department on –

- (a) the selection of protected areas;
- (b) the conservation of the natural beauty, topographic features,

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- historic buildings, sites and other monuments of Saint Christopher and Nevis;
- (c) the removal from any beach, national park, botanic garden or nature reserve, of any derelict object;
 - (d) the control, maintenance and development of the national parks, botanical gardens and beaches of Saint Christopher and Nevis;
 - (e) the observance of sanitary and clean conditions and practices at and in respect of the national parks, beaches and sea of Saint Christopher and Nevis and such other sites and monuments of national interest as the Minister may designate;
 - (f) the construction and maintenance of ancillary recreational facilities;
 - (g) the control of construction in any national park or on any beach of any huts, booths, tents, sheds, stands, stalls, bath-houses or shops;
 - (h) the maintenance of public access to all beaches in Saint Christopher and Nevis; and
 - (i) any other functions as may be conferred upon it by the Minister for the purposes of this Act or by any other enactment.

(4) Schedule 9 has effect with respect to membership of the Commission, its procedures and other related matters.

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(4) The Minister may by Order vary Schedule 9 from time to time.

Department of
Environment

5. (1) The Department of Environment established by section 2A of the former Act 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 and it shall arrange and carry out the following functions:

- (a) administer this Act within Saint Christopher;
- (b) monitor the state of the environment and provide environmental data and information, including such periodic or other reports that the Government is required to produce under any treaty to which Saint Christopher and Nevis is a party;
- (c) advise the Minister with respect to the formulation of environmental policy and undertake programmes and projects to implement the environmental and natural resources policy of the Government;
- (d) coordinate and facilitate the integration of the work of other governmental and non-governmental entities to achieve the objects and purposes of this Act;
- (e) consult and collaborate with the Nevis Island Administration to further the objects and purposes of this Act; and
- (f) perform any other functions consistent with its functions under this Act that the Minister may direct.

Administration of
the Act in Nevis

6. (1) The Nevis Island Administration has exclusive responsibility for the administration of this Act within the island of Nevis.

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(2) The functions of the Department of the Nevis Island Administration to which responsibility for the environment is assigned, under this Act, are to:

- (a) administer this Act within Nevis;
- (b) monitor the state of the environment in and around the island of Nevis and provide environmental data and information with respect thereto;
- (c) advise the member of the Nevis Island Administration responsible for the environment with respect to the formulation of environmental policy and undertake programmes and projects to implement the environmental policy of the Nevis Island Administration;
- (d) coordinate and facilitate the integration of the work of other governmental and non-governmental entities in Nevis to achieve the objects and purposes of this Act;
- (e) consult and collaborate with the Department of Environment to further the objects and purposes of this Act; and
- (f) perform any other functions consistent with its functions under this Act that the member of the Nevis Island Administration responsible for the environment may direct.

(3) A reference in this Act to “the Department” has effect, with respect to the administration of the Act within to Nevis, as a reference to the department of the Nevis Island Administration to which responsibility for the environment is assigned.

Jurisdiction in marine areas

7. 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, that power or duty may be exercised by the Department of the Environment or the Nevis Island Administration, jointly or separately.

Implementation and enforcement of the

8. In order to implement and enforce this Act, the Minister may:

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Act

- (a) after consultation with the organisations which are affected, designate personnel from other governmental organisations as *ex officio* environmental officers, who may be co-opted by the Department from time to time, as is necessary or expedient;
- (b) employ consultants, experts and advisors from national, regional or international organisations; and
- (c) utilise the services of individuals, voluntary organisations, community groups from the business and non-governmental sector.

PART III
ESTABLISHMENT OF PROTECTED AREAS

Designation of protected areas

First Schedule

9. (1) Subject to section 10, the Minister may designate any land or marine area, or any combined land and marine area, as a protected area of one of the categories set out in the First Schedule, for any of the broad purposes set out therein, by notice published in the *Gazette* (hereinafter referred to as a “Designation Notice”).

(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.

(3) A Designation Notice shall be laid:

- (a) if the designated area is situated within Saint Christopher, in the National Assembly;
- (b) if the designated area is situated within Nevis, in the Nevis Island Assembly; or
- (c) if the designated area is situated in or includes an area within the waters of Saint Christopher and Nevis, in both the National Assembly and the Nevis Island Assembly.

*National Conservation and Environmental Management Bill, 2009***Notice of intention
to establish a
protected area**

10. (1) Before any area is designated as a protected area pursuant to section 9(1), the Minister shall publish a notice of intention to designate the protected area on two or more separate occasions in a newspaper in general circulation in Saint Christopher and Nevis, and give such other publicity to that notice as may be suitable to bring it to the attention of the public in general and persons whose rights or interests may be affected by the designation of the area in particular.

(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 situation and limits of the area which the Minister proposes to designate as a protected area;
- (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
- (c) prescribe a date and a place for hearing any claims of right and objections or representations relating to the designation of the specified area as a protected area and appoint a suitably qualified person to conduct the hearing on the Minister's behalf.

(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 and representations made at the hearing, together with the report and recommendations of the person who conducted the hearing.

**Acquisition of
private land in a
protected area**

11. (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:

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Cap.273
Ordinance No.? of
1997

(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 that enactment; 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) In any case where the Crown acquires private land by agreement or compulsorily pursuant to subsection (1)(a), the landowner may be compensated wholly or in part by mutual agreement by exchange of land with the Crown, in lieu of compensation in money.

(3) In any case where the Crown acquires a right of access to or control over private land pursuant to subsection (1)(b), the landowner may be compensated, wholly or in part, by a remission of any land tax for the time being in force, or such other financial exemption or means as the Minister may see fit, in lieu of compensation in money.

(4) For the avoidance of doubt it is declared that any landowner may donate, exchange, transfer or otherwise dedicate any land or interest in land to the Crown under this Act for any protected area.

**PART IV
MANAGEMENT OF PROTECTED AREAS**

Minister to consult
Commission

12. (1) The Minister is generally responsible for the management of protected areas established under this Act, in accordance with the provisions of this Part.

(2) With a view to properly carrying out the responsibility conferred by subsection (1), the Minister shall consult the Commission for advice on any matter related to the establishment and management of protected areas with respect to which the Minister may require advice.

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**Delegation of
responsibilities**

13. (1) The Minister may designate, by order published in the *Gazette*, a competent authority **which may include a non-governmental organisation** to be responsible for the management of any protected area established pursuant to this Act, specifying in the order the particular protected area to be under the jurisdiction of the competent authority and the extent of the powers and functions of the competent authority.

(2) Without prejudice to the generality of subsection (1), the Minister may delegate responsibility for the management of any protected area to the Saint Christopher National Trust, the Nevis National Trust, or any other duly constituted organisation with an interest in conservation and the competence to manage that protected area, as appropriate.

(3) The responsibilities delegated to the competent authority designated pursuant to subsection (1) may include the powers and duties to:

- (a) make and enforce Rules approved by the Minister for the management and control of activities within the protected area under its jurisdiction;
- (b) prepare and implement the management plan for the protected area, approved in accordance with section 15, and make recommendations from time to time with respect to the modification of the approved management plan, as appropriate;
- (c) make recommendations to the Minister with respect to the allocation of human, material and financial resources necessary for the proper management of the protected area;
- (d) advise the Minister with respect to any variation of the boundaries, or change in the categorisation of the protected area, that appears necessary or expedient to better meet the purposes for which the protected area was established; and

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(e) undertake any other functions as may be assigned to it, from time to time, by the Minister.

(3) Where a competent authority becomes the trustee of any protected area, historic building or monument, the authority shall do such acts and things as may be necessary for the maintenance hereof 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.

(4) The competent authority shall promote conservation as part of long term national economic development.

Vesting of protected areas in trustees

14. (1) The Governor General may vest any Crown land within a protected area in the competent authority to which responsibility for the management of that area is delegated pursuant to section 13, by order published in the *Gazette*.

(2) Any person in whom Crown land within a protected area is vested pursuant to subsection (1) holds that land in trust for the benefit of the people of Saint Christopher and Nevis and shall take such measures as are necessary for the proper control and management of that land to prevent any waste or damage or injury to that land.

Requirement for management plans

15. (1) 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 the best available scientific and other relevant information.

(2) The management plan shall be prepared by the Department in consultation with the competent authority to which responsibility for the management of the protected area is delegated pursuant to section 13.

(3) At least once in every ten years after the date on which a management plan is approved, it shall be reviewed and, if appropriate having regard to new information and changes in circumstances, the plan shall be revised accordingly.

(4) Every management plan for a protected area and every

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revision to that management plan made by a person other than the Department or the competent authority shall be approved by the Department.

**Contents of
management plans**

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

- (a) the long term goals of the protected area and the associated conservation, restoration, research, educational and recreational objectives of the area to meet these goals;
- (b) 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;
- (c) 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
- (d) a monitoring plan, including objective verifiable indicators for the determination of the effectiveness of management strategies.
- (e) 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.

**PART V
BRIMSTONE HILL FORTRESS NATIONAL PARK**

**Continuation of
Brimstone Hill
Fortress National
Park****Second Schedule**

17. The area described in the Second Schedule 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 1985, is preserved and continues in being for

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the purposes of this Act so that its identity is not affected by the repeal of the former Act.

**Management of
Brimstone Hill
Fortress National
Park**

Cap.335

18. 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.

**Powers and duties
of the Society**

19. (1) The Society is responsible for ensuring the preservation of the historical, architectural and structural integrity of Brimstone Hill Fortress as a World Heritage Site, in accordance with the United Nations Educational, Scientific and Cultural Organisation’s Convention on the Protection of the World Cultural and Natural Heritage, to which Saint Christopher and Nevis is a party.

(2) As the entity on which responsibility for the management of Brimstone Hill Fortress National Park is conferred by law, the Society is deemed to have all the powers conferred and duties imposed by this Act on a competent authority to which responsibility has been delegated pursuant to section 13.

(3) In addition to its existing right to retain the admission fees it collects for entrance to Brimstone Hill Fortress National Park, the Society may enter into contracts with concessionaires for the use and occupation of land or structures within the protected area, for the purposes of the provision of services at and the efficient management of the National Park, and may retain all revenue that it collects in connection with the management of the protected area and apply it to defray the costs of the restoration and management of Brimstone Hill Fortress National Park and any related purpose.

(4) For the avoidance of doubt it is declared that the Society shall maintain proper accounts of all sums of money received and expended in relation to the management and administration of Brimstone Hill Fortress National Park, and such accounts shall be open at all reasonable times for inspection by the Government and audited annually.

**Saving of 1983
Regulations**

20. The Brimstone Hill Regulations, 1983, deemed to have been made under the former Act and in force immediately before

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the coming into force of this Act, apply as if made under this Act until repealed and replaced by Rules made under section 13(3)(a).

**PART VI
BATH ESTATE NATIONAL PARK**

**Establishment of
Bath Estate
National Park**

Third Schedule

21. In recognition of its significance as an outstanding natural and cultural heritage site, the area described in Part I of the Third Schedule and declared by the former Act to be the Bath Hotel Historic Site, with effect from the 1st day of January 1987, together with the area described in Part II of the Third Schedule known as Bath Bogs, is declared to be the Bath Estate National Park with effect from the coming into force of this Act.

**Management of
Bath Estate
National Park**

22. As soon as may be practicable after the commencement of this Act, the Minister shall designate a competent authority to manage Bath Estate National Park in accordance with the provisions of section 13.

**Use and acquisition
of land in Bath
Estate National
Park**

23. (1) The undertaking of any engineering works for the clearance, drainage or reclamation of any area of wetland within Bath Bogs, other than any works to be undertaken by the competent authority for the purposes of implementing the management plan for the Bath Estate National Park, is prohibited.

(2) If the Minister determines that it is necessary or desirable that the Crown should compulsorily acquire any area of wetland within Bath Bogs that is privately owned, pursuant to section 11, the compensation payable with respect to that land shall be assessed, in the absence of agreement, by assuming that the commercial use and development value of the land is negligible.

**PART VII
BOOBY ISLAND NATURE RESERVE**

**Establishment of
Booby Island
Nature Reserve**

24. The island known as Booby Island, situated in the passage known as the Narrows between Saint Christopher and Nevis, is declared a Nature Reserve.

**Management of
Booby Island
Nature Reserve**

25. (1) As soon as may be practicable after the commencement of this Act, the Governor General, after consultation with the Government and the Nevis Island Administration, shall appoint a competent authority to manage Booby Island Natural Monument.

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(2) The provisions of section 13 apply *mutatis mutandis* to the appointment of a competent authority by the Governor General pursuant to subsection (1) as they apply to the appointment of a competent authority by the Minister.

PART VIII
CONSERVATION OF BIOLOGICAL DIVERSITY

**National
conservation
strategy, plans &
programmes**

26. (1) The Department shall develop a national strategy, plans and programmes for the conservation of biological diversity.

(2) For the avoidance of doubt it is declared that, if it develops a National Environmental Management Strategy that makes adequate provision *inter alia* for the conservation of biological diversity, the Department is deemed to have complied with subsection (1) in so far as it relates to the development of a national conservation strategy.

**Identification and
monitoring**

27. (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

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

**Protection of
wildlife**

28. (1) Every animal or plant found in Saint Christopher and Nevis, of a species other than individuals of a domesticated or cultivated species or a species specified in the Fifth or Sixth Schedule, is protected.

(2) The species of animals and plants specified in the Fourth Schedule are designated as protected species.

(3) Any 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

(c) 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

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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;

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 further offence.

(4) 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.

Threatened and endangered species**Fourth Schedule**

29. (1) The species of animals and plants specified in the Fourth Schedule are designated as threatened or endangered species.

(2) Any person who-

- (a) wilfully kills, wounds, pursues, or captures or molests 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;

is liable on conviction on indictment to a fine of twenty-five thousand

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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 further 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.

Permission for scientific research

30. (1) Notwithstanding the provisions of section 28 and section 29, 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 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) Without prejudice to the generality of subsection (4), for the avoidance of doubt it is declared that the Department may attach to permission granted under this section for bio-prospecting operations such terms, conditions and limitations concerning the ownership of

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intellectual property and sharing of financial returns from the commercialisation of products derived from endemic species as it considers appropriate in the public interest.

Conservation of ecosystems and habitats

31. 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:

Act No.4 of 1984

- (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 Part III of the Fisheries Act;
- (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.

Regulation of hunting**Fifth Schedule**

32. (1) The species of animals specified in the Fifth Schedule are designated as game animals which, subject to the provisions of the regulations made under subsection (2), may be hunted and killed.

(2) The Minister may make regulations with respect to the hunting of game animals and any such regulations 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

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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.

Regulation of fishing

Act No.4 of 1984

33. For the avoidance of doubt 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 Act and Regulations.

Eradication of pests

Sixth Schedule

34. (1) The species of animals and plants specified in the Sixth Schedule are designated as pests.

(2) The owner or occupier of any land, or any other person at their request or direction, may, without licence of any kind, at any time destroy pests on that land.

Forest management

35. (1) In recognition of the value of forestry to the economy and well-being of St. Kitts 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;

forest research;

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the regulation of charcoal burning; and

the export from Saint Christopher and Nevis of any forest produce.

(2) 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 Department.

(3) Without prejudice to the powers of the Nevis Island Legislature to make its own regulations for the purposes of implementing this Act, the Department shall establish an annual quota for the collection of non-timber produce to provide guidance to the Legislature in the granting of permits mentioned in subsection (2).

(3) The provisions of subsection (2) 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.

**PART IX
COASTAL ZONE MANAGEMENT**

Foreshore vested in the Crown

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

Public access to beaches

37. (1) There shall be at least one public landward access way to every beach in Saint Christopher and Nevis.

(2) Where there is no alternative public access way, traditional public use of a roadway, driveway, footpath or other of a private landward access adjoining the foreshore shall be sufficient grounds for establishing a public right of way over that access way for the purpose of access to the beach by the public.

(3) In recognition of the right of the public to a landward access way to every beach established in subsection (2) and where the only landward access way to a beach is over private land adjoining the foreshore and traditional public use pursuant to subsection (2) has not been established, if the Minister determines that it is necessary or desirable that the Crown should acquire a public right of way over that private land, the Crown may acquire a

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**Cap.273
Ordinance No.2 of
1997**

public right of way over that land 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 that Act.

Act No.14 of 2000

**Ordinance No.? of
2004**

(4) Where a proposed land development is likely to adversely affect the public’s right of reasonable access to a beach from the landward side, it is an implied condition of any permission for that development granted pursuant to the Development Control and Planning Act, 2000, or the Nevis Physical Planning and Development Control Ordinance, [2004], as the case may be, or under any other written law, that the developer shall provide a public right of way through the land being developed, at all reasonable times free of charge in perpetuity.

(5) For the purposes of this section,

- (a) “traditional public use” means peaceable, open and uninterrupted enjoyment for a period of ten years or more; and
- (b) public landward access shall be motorable unless the Minister otherwise determines.

**Coastal Zone
Management Plan**

38. (1) The Department is responsible for preparing or causing to be prepared a coastal zone management plan, indicating the strategy which the Department proposes to adopt for the 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 preparation, approval, review and 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 such degree

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of particularity as may be appropriate, and may:

Act No.4 of 1984

- (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 III of this Act or declared as a marine reserve in accordance with the provisions of Part III of the Fisheries 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) Any land or marine area, or any combined land and marine area, within the coastal zone that is allocated pursuant to subsection 3(a) for designation as a protected area or declaration as a marine reserve shall, as the case may be:

Act No.4 of 1984

- (a) be designated as a protected area under Part III of this Act; or
- (b) be declared as a marine reserve under Part III of the Fisheries Act.

(5) For the avoidance of doubt 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

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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 or fishing boats and other vessels, except for authorised purposes, including the anchoring or docking of cruise ships;
- (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;
- (i) the disposal of any waste matter, whether from land based sources or from boats and other vessels.

Act No.14 of 2000

Ordinance No. ?

(6) 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 Development Control and Planning Board established under the Development Control and Planning Act, 2000, or the Development Advisory Committee established under the Nevis Physical Planning and Development Control Ordinance, [200-], as the case may be, and with such other persons and bodies as the Department thinks fit.

(7) Before any coastal zone management plan or any amendment to an approved plan is submitted to the Minister for approval, the Department shall publish a notice at least once in a daily newspaper in general circulation in Saint Christopher and Nevis that the Department has prepared a draft plan or a draft amendment to an approved plan, and give such publicity to the draft plan or amendment as may be

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suitable to bring it to the attention of persons whose rights or interests may be affected by the proposals, inviting those persons to make objections or representations with respect to the proposals to the Minister 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) Before deciding whether to approve a coastal zone management plan or any amendment to such a plan, with or without modifications, the Minister shall take into consideration any objections and representations made by persons whose rights or interests may be affected by the proposals.

(10) At least once in every ten years after the date on which a coastal zone management plan is approved, it shall be reviewed and, if appropriate having regard to new information and changes in circumstances, the plan shall be revised accordingly.

**Restrictions on
construction on the
seashore**

39. (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
- (b) the Department after consultation with the Physical Planning Department and granted 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:

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-
- (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) If any other form of statutory consent is required from another agency of the Government or the Nevis Island Administration prior to the undertaking of the proposed works, no such consent shall be granted until the Department has granted its consent in writing pursuant to subsection (1) or (2), as the case may be, for the works to be undertaken.

(4) In the exercise of its powers under this section, the Department shall not refuse to grant its consent to development on the seashore if:

- (a) the sole reason for refusing such consent is that the proposed building, structure or other work may be at risk of damage or destruction by natural disaster; and
- (b) the person proposing to carry out the development can show that the risk to the proposed development is insurable.

Control of sand mining

40. (1) No person shall engage in sand mining from any land on the foreshore or other Crown land within the coastal zone without a sand mining licence issued under this Act.

(2) For the avoidance of doubt it is declared that the licence required under this section is in addition to and not in substitution for any statutory consent which may be required for the carrying out of mining operations under any other written law.

(3) An application for a sand mining licence shall be made to the Department in writing, in such form as the Department may specify, and shall contain:

- (a) the name and address of the applicant;
- (b) the location of the place from which the sand, stone,

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gravel or shingle is to be dug and taken;

- (c) the purpose for which sand, stone, gravel or shingle is to be used; and
- (d) the quantity of sand, stone, gravel or shingle required to be dug and taken.

(4) The Department may grant a sand mining licence in such form and subject to such general conditions as may be prescribed by regulations, including a requirement that royalties be paid based on the volume of material excavated, and to such special conditions as the Department may deem necessary in the particular case.

Saving of existing rights

41. Nothing in this Part affects any land in seasonal or perennial agricultural use, nor any 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 X
SOIL AND WATER CONSERVATION**

Watershed conservation

Cap.185

42. (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

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underwood growing 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.

Cap.185

(3) In this section, the terms “watercourse” and “waterworks” have the meaning assigned to them by the Watercourses and Waterworks Act.

Protection of ghauts

43. (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;
- (e) constructs any structure; or
- (f) mines any sand;

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

(4) Any person who pollutes a ghaut or deposits litter in a

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ghaut is liable on summary conviction to a fine not exceeding eight 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 the clean up of pollution caused or the litter deposited, by the best available means, to the satisfaction of the Department.

**Department may
take remedial
action**

44. (1) In any case where any owner of any ghaut fails to comply with any measures specified in an order of the Minister made pursuant to section 43(2), or in any regulations made under this Act, the Department, after giving to the owner notice of such duration as may be necessary to cause such measures with respect to the ghaut to be taken, may enter the land and carry out or cause to be carried out all such work as may be necessary for the purpose of taking the required measures.

(2) 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.

Soil Conservation

45. The Minister may, after consultation with the agency responsible for agriculture, make regulations for soil conservation, including the control of development, prohibition or control of the grazing of livestock and the encouragement of scientific farming techniques designed to reduce or prevent soil erosion.

PART XI ANTIQUITIES

**Licence to search
for antiquities**

46. (1) No person may excavate, remove, salvage 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:

- (a) the Saint Christopher National Trust, where the site is situated within Saint Christopher;
- (b) the Nevis National Trust, where the site is situated

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within Nevis; or

- (c) both the Saint Christopher National Trust and the Nevis National Trust, where the site is situated within the waters of Saint Christopher and Nevis.

(2) 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.

(3) 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.

(3) The Department may attach such terms, conditions and limitations to a licence granted under this section, including the payment of fees, as it considers appropriate in the public interest, in order to protect antiquities.

(4) 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 terms of section 47 all the antiquities discovered.

(5) 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.

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licensed pursuant to section 46 are subject to inspection and division by the Department.

(2) In making the division of antiquities referred to in subsection (1), the Government may acquire on behalf of Saint Christopher and Nevis any antiquities which, in the opinion of the Department, are important as cultural property or are required for educational, scientific, archaeological or historic purposes of the nation.

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

(4) The Department shall divide the remaining antiquities as far as possible giving the holder of the license a fair share of the results of the excavation or salvage, not being less than one-third of the full amount.

Accidental discovery of antiquities

48. Any person who, not being the holder of a licence granted under section 47, accidentally discovers antiquities, shall forthwith report the fact to the Department and the provisions of section 47 apply *mutatis mutandis* to the division of such antiquities.

Export of antiquities

49. No person shall export any antiquity from Saint Christopher and Nevis, except under a license to export that antiquity, granted in accordance with Regulations made under this Act.

Contravention of this Part

50. Any 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 thirty thousand dollars and to imprisonment for six months.

PART XII

*National Conservation and Environmental Management Bill, 2009***POLLUTION CONTROL****Designation of pollutants**

51. 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; and
- (b) prescribe for matters required or permitted to be prescribed under this Part and make such other provision as is necessary or convenient for giving effect to this Part.

Register of sources of pollution

52. (1) A person shall give notice to the Department who:

- (a) on the coming into force of Regulations made under section 51, is engaged in carrying on an existing activity or process that, on a continuous or intermittent basis, causes or results in the production of a pollutant; or
- (b) after the coming into force of Regulations made under section 51, commences or carries on any activity or process that, on a continuous or intermittent basis, causes or results in the production of a pollutant.

(2) 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.

Allowable standards of pollution

53. (1) The Minister may by Regulations 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.

(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.

*National Conservation and Environmental Management Bill, 2009***Discharge control permits**

54. (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.

(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.

Time to be allowed for compliance

55. (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 may treat small and medium sized enterprises more favourably than large enterprises.

Liability for pollution prior to commencement of the Act

56. (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.

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(3) If any 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).

Power to set technology standards

57. (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.

Hazardous substances

58. (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.

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(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.

Waste management

59. (1) The Minister may by Regulation establish appropriate standards and procedures for the handling of wastes (including the collection, transportation, temporary storage and transfer of wastes), the re-use and re-cycling of wastes, the treatment of wastes and the disposal of wastes into the environment, including separate provisions with respect to any wastes designated in the Regulations as “hazardous wastes”.

(2) Regulations made under subsection (1) may provide for:

(a) the grant by the Department of:

- (i) permits authorising any person to carry on activities relating to the handling of wastes, subject to such terms and conditions as the Department thinks fit;
- (ii) licences authorising the operation of any facility for the recycling or treatment of wastes or the disposal of wastes into the environment, including landfill or incineration operations, subject to such terms and conditions as the Department thinks fit;

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(b) the clean-up of existing waste disposal sites, the monitoring of waste disposal operations and the aftercare of closed landfill sites; and

(c) the regulation or prohibition of:

- (i) the import or export of wastes;
- (ii) the disposal into the environment of any wastes suitable for reuse or recycling;
- (iii) any specific method of waste disposal;. or
- (iv) the development of contaminated land.

(3) The Minister may by order provided for the operation of compulsory deposit-refund schemes to promote the reuse or recycling of wastes.

Spills or accidental releases of pollutants

60. (1) The Department may require any person who owns or controls any premises, vehicle or vessel on which any pollutant or hazardous substance is stored, used or transported, to prepare a contingency plan to deal with any spill or accidental release of that pollutant or hazardous substance.

(2) Any contingency plan prepared pursuant to subsection (1) shall set out the counter-measures to be adopted in the event of a spill or accidental release of the pollutant or hazardous substance and the steps to be taken to clean-up the environment afterwards and shall be submitted to the Department for its approval, with or without amendments.

(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 notify the Department of the incident, implement the approved contingency plan, if any, and take and 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

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undertake such emergency response measures as it thinks necessary or expedient to protect human health and the environment, either directly or by coordinating the activities of the competent governmental and non-governmental organisations or by employing contractors, and may recover the costs of so doing from the person who owns or controls the premises, vehicle or vessel concerned, as a civil debt in the court of competent jurisdiction.

Environmental Auditing

61. The Minister may by Regulations establish or adopt appropriate standards and procedures for the carrying out of environmental audits and set out the circumstances in or under which such audits shall be carried out on any premises, the qualifications of persons by whom such audits may be carried out, and the measures that the Department may take with respect to the findings of such audits.

**PART XIII
ENVIRONMENTAL TRUST FUND**

Establishment and purpose of Fund

62. (1) There is hereby established a fund to be called the Environmental Trust Fund which is vested in the Board.

(2) The purpose of the Fund is to provide stable, adequate, secure and sustainable funding to finance the conservation and management of the environment in Saint Christopher and Nevis and guide the financial affairs of the Department.

Board of Trustees of the Fund

63. (1) The Governor General shall appoint a Board of Trustees for the Fund, consisting of seven members, as follows:

- (a) a Chairperson, appointed by the Governor General acting in his or her own deliberate judgement from amongst outstanding persons with qualifications and experience in financial management, having an interest in the environment;
- (b) two persons representative of environmental non-governmental organisations incorporated in Saint Christopher and Nevis, appointed by the Governor General after consultation with such persons or bodies as he or she thinks fit, of whom:
 - (c) one is a representative of environmental non-governmental organisations active in Saint

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Christopher; and

(d) the other is a representative of environmental non-governmental organisations active in Nevis;

(e) two other persons, appointed by the Governor General after consultation with the Governor of the Eastern Caribbean Central Bank, who are representative of:

- (i) regional or international environmental non-governmental organisations which are active in Saint Christopher and Nevis; or
- (ii) regional or international donor or lending organisations which provide resources to the Fund;
- (iii) a representative of the Government, nominated by the Prime Minister; and
- (iv) a representative of the Nevis Island Administration, nominated by the Premier.

(2) The Chairperson and other members of the Board hold office for such period, not exceeding three years in the first instance, under such terms and conditions of service as the Governor General may fix in the instrument of appointment, but are eligible for reappointment.

(3) A member of the Board may at any time resign from office by giving notice in writing to the Governor General, but a member who is absent without leave for three consecutive meetings of the Board is deemed to have resigned from office.

(4) A member of the Board may be removed from office at any time for disability, neglect of duty or misconduct, proved to the satisfaction of the Governor General.

(5) The appointment of any member of the Board and the termination of office of any member, whether by death, resignation, removal, lapse of time or otherwise, shall be published in the *Gazette* and at least one newspaper in general circulation in Saint

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	Christopher and Nevis.
Status, functions and powers of the Board	<p>64. (1) The Board is a body corporate, with perpetual succession and a common seal, and is capable of acquiring, holding and disposing of real and personal property, and of suing and being sued, and of doing and suffering all things that bodies corporate may lawfully do and suffer.</p> <p>(2) The functions of the Board are to -</p> <p>(a) collect all revenue payable into the Fund or ensure that such revenue is collected promptly and efficiently and paid over into the Fund;</p> <p>(b) allocate monies amongst beneficiaries of the Fund for purposes which are eligible for funding in accordance with the provisions of the Seventh Schedule;</p> <p>(c) ensure that monies disbursed to beneficiaries of the Fund are utilised properly and efficiently for the purposes for which they have been allocated;</p> <p>(d) generally to manage the Fund in accordance with the provisions of this Act and any other laws in force; and</p> <p>(e) perform any other function consistent with its functions under this Act that the Governor General may direct.</p> <p>(3) The Board has all the powers that are reasonably necessary or expedient to enable it to carry out its functions under this Act.</p>
Seventh Schedule	
Meetings of the Board	<p>65. (1) The Board shall meet at least once in each quarter of the calendar year, at such times and in such places as the Board considers necessary or expedient for the efficient performance of its functions.</p> <p>(2) The Chairperson may at any time call a special meeting of the Board and shall call such a meeting within seven days of the receipt of a request for a special meeting addressed to the Chairperson and signed by any three members of the Board.</p> <p>(3) A quorum for an ordinary or special meeting of the Board consists of any four members, but if a member is</p>

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disqualified from taking part in the deliberations and decision of the Board in respect of any matter pursuant to subsection (6), the attendance of that member shall be disregarded for the purposes of constituting a quorum for deliberation on and deciding that matter.

(4) If for any reason the Chairperson is unable to preside at a meeting of the Board, the members present may elect another member to preside over that meeting.

(5) Decisions of the Board shall be adopted by a majority of the votes of the members present, but in the case of an equality of votes on any matter, the person presiding at the meeting has a second or casting vote in respect of that matter.

(6) A member of the Board shall at the commencement of a meeting inform the Chairperson of any matter on the agenda for the meeting in which he or she has, directly or indirectly, personally or by his or her spouse or domestic partner, parent, child, brother or sister, business associate, company or organisation, any pecuniary or business interest, and that member shall vacate the meeting room upon the relevant matter coming up for discussion and decision, and the fact that the member who has such an interest has left the room shall be noted in the minutes of the meeting.

(7) The validity of any proceedings of the Board is not affected by any vacancy in its membership or by any defect in the appointment of any of its members.

(8) The Board may co-opt any person to assist it in dealing with any matter, if it is satisfied that the person has qualifications and experience that are likely to help the Board, and any person so co-opted is entitled to take part in the proceedings of the Board regarding that matter, but may not vote and shall take no part in any other proceedings of the Board.

(9) Minutes in proper form of every meeting of the Board shall be kept by the Corporate Secretary, confirmed by the members at the next subsequent meeting of the Board and signed by the Chairperson and Corporate Secretary once confirmed.

(10) Subject to subsection (11), a decision of the Board is valid even though a meeting of the Board was not convened, if -

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proper notice of the proposed decision was given to all the members of the Board; and

the decision is assented to by letter, telegram, facsimile, electronic mail transmission or similar means, by a majority of the members of the Board.

(11) If any member has assented to a decision of the Board made under subsection (10) by telegram, facsimile, electronic mail transmission or similar means, the member's assent shall be subsequently authenticated by his or her signature, as soon as may be practicable.

(12) Subject to the foregoing, the Board may regulate its own procedure.

Staff of the Board

66. (1) The Board may employ at such remuneration and on such other terms and conditions as it thinks fit, including the payment of pensions, gratuities or other like benefits by reference to their service, such officers and employees as the Board considers necessary for the purposes of carrying out its functions.

(2) The Board shall employ a suitably qualified person to perform the duties of Corporate Secretary to the Board.

Resources of the Fund

67. (1) The resources of the Fund consist of:

- (a) such amounts as may be appropriated annually or for special purposes by Parliament for the use and operations of the Fund;
- (b) such sums as may be collected pursuant to any written law which provides for the imposition and collection of a tax, charge or fee payable into the Fund;
- (c) such amounts as may be provided to the Fund by foreign states, or regional or international organisations or lending agencies, to further the objects and purposes of this Act;
- (d) such monies earned or accruing from any investment made pursuant to section 69; and

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	(e) any other sums or amounts to which the Fund may make a lawful claim.
Use of Fund monies	68. (1) Subject to subsection (2), the Trustees are authorised to utilise monies standing to the credit of the Fund to defray:
Seventh Schedule	(a) all the expenditure incurred by the Board with respect to grants to beneficiaries for the purposes set out in the Seventh Schedule;
	(b) all the expenses incurred by the Board in carrying out its functions under this Act, including the remuneration of members and staff of the Board; and
	(c) all other liabilities properly incurred by the Board.
	(2) Contributions to the Fund 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.
Investment of Funds	69. All monies comprised in the Fund not required immediately to defray the expenses and liabilities provided for by section 68 may be invested by the Board from time to time in securities approved generally by the Governor of the Eastern Caribbean Central Bank.
Exemption from taxes	70. The Fund and the Board are exempt from the payment of any stamp duty, customs duty, value added tax, motor vehicle tax, fee, charge assessment, levy, impost or other tax whatsoever, on any income, expenditure or asset of the Fund or the Board.
Rules for operating the Fund	71. For the purpose of regulating and controlling the operation of the Fund, the Board may make Rules with respect to:
	(a) the bank into which revenues of the Fund are to be paid and the designation of any such bank account;
	(b) the method to be adopted in making payments out of the Fund; and
	(c) generally as to matters necessary for the proper keeping and control of the Fund.

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Accounts and Audit

72. (1) The Board shall keep proper accounts and records in respect of the Fund, in accordance with generally accepted accounting practices, of all monies received and expended and record the matters in respect of which such sums were received and expended.

(2) The accounts of the Fund shall be audited annually by independent auditors appointed by the Board, with the approval of the Governor General.

(3) The members and staff of the Board shall grant to any auditor appointed to audit the accounts of the Fund access to all books, documents, cash and securities of the Fund and shall give to the auditor on request all such information as may be within their knowledge in relation to the operations of the Fund.

(4) An auditor appointed under this section has the power to summon and examine all persons whom the auditor thinks fit to examine for the purposes of obtaining information in connection with the examination and audit of the accounts of the Fund and respecting all other matters and things whatever necessary for the due performance of the functions vested in the auditor.

(5) Any person summoned pursuant to subsection (4) who, without reasonable excuse, does not obey the summons is liable on summary conviction to a fine of [.....] dollars, or, in default of payment, to imprisonment for one month.

Annual report

73. (1) The financial year of the Fund is 1st January to 31st December in each year.

(2) Not later than three months after the end of each financial year, the Board shall submit to the Governor General a report containing:

- (a) a written statement on the activities of the Board throughout the preceding financial year; and
- (b) the auditor's report on the accounts of the Fund audited in accordance with section 72.

(2) The Governor General shall cause a copy of every such annual report of the Board to be laid in the National Assembly and the Nevis Island Assembly.

National Conservation and Environmental Management Bill, 2004

**PART XIV
MISCELLANEOUS**

**Powers of entry and
search**

74. (1) Any 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, and is not entitled to admission as of right to any premises which is occupied, unless twenty-four hours notice of intended entry is given to the occupier.

(3) If the Department has reason to believe that a contravention of the provisions of the Act has occurred or is about to occur, and the circumstances are such that giving notice of the intended entry would defeat the purpose for which entry is sought, any authorised officer may enter any premises under a warrant issued by a Justice of the Peace.

(3) 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.

(4) When a sample is taken pursuant to subsection (3), 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) divide the quantity into three parts, causing each part to be marked and sealed in such manner as the nature of the sample permits;
- (c) deliver one of the parts to the person in charge of the premises, vehicle or vessel from which the sample was obtained;

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(d) retain one of the parts for future comparison or verification; and

(e) submit the third part for analysis or examination as soon as may be practicable.

(3) Any person who obstructs a person acting in the exercise of his or her power under this section is liable on conviction on indictment to a fine of [.....] dollars and [.....] months imprisonment.

Service of documents

75. (1) Subject to the provisions of this section, any notice or other document required or 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) (iii) by such means of substituted service as are recognised or authorised by the Rules of [the Eastern Caribbean Supreme] Court; and

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(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

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(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.

Offences

76. (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) is guilty of an offence against this Act and is liable on summary conviction to:

(a) a fine of [...] dollars or imprisonment for [...] months imprisonment for a first offence; or

(b) to a fine of [...] dollars or imprisonment for [...] months for a second or further offence; and

(c) in the case of a continuing offence, to a further penalty of [...] 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:

(a) remedy any environmental condition or damage to the

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environment arising out of the offence and specify a date by or before which such remedial activities shall be completed; and

- (b) pay compensation to the Crown for any economic benefit gained or any amount of money saved by them as a result of contravention of this Act.

(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.

(6) Nothing contained in this Act takes away or interferes with the right of the Crown or anyone else to sue for and recover, at common law or otherwise, damages or compensation for or in respect of damage or injury caused by an offence under this Act.

Regulations

77. (1) The Minister may make regulations, subject to negative resolution, 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;
- (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;

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(d) the implementation of the Conventions to which St. Kitts and Nevis including the creation of offences specified in the Fifth Schedule; and

(e) prescribing any thing required by this Act to be prescribed.

(3) Any regulations made under this Act may prescribe specific offences and provide that any person who commits such an offence is liable:

(a) on summary conviction to a fine of not more than [...] and, if the offence is a continuing offence, to a further fine of [...] for each day during which the offence continues, and to imprisonment for [...] months; or

(b) on conviction on indictment to a fine of not more than [...] and, if the offence is a continuing offence, to a further fine of [...] for each day during which the offence continues, and to imprisonment for [...] months.

(4) Any Regulations made under this Act shall be published in the *Gazette* and come into force on the date of publication.

Application to areas regulated by special laws

78. For the avoidance of doubt 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, notwithstanding that provision is made by any written law in force at the passing of this Act for authorising or regulating development in particular areas.

Limitation of personal liability

79. 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.

Amendments, repeals and savings

80. (1) The National Conservation and Environmental Protection Act, 1987, is hereby repealed.

Act No.14 of 1987

National Conservation and Environmental Management Bill, 2005

(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.

Eighth Schedule

(5) The enactments referred to in the Eighth Schedule are amended in the manner or repealed to the extent set out in that Schedule.

Act binds the Crown

80. This Act binds the Crown.

Section 8

FIRST SCHEDULE

Categories of Protected Areas

Category I

National Park: An area consisting of a relatively large land or marine area or some combination of land or sea, containing natural and cultural features or scenery of national or international significance and managed in a manner to protect such resources and sustain scientific, recreational and educational activities on a controlled basis.

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- Category II** **Historic Site:** A place or site which is historic by reason of an association with the past and its part of the cultural or historical heritage of Saint Christopher and Nevis, and such a classification may include archaeological sites, historic landmarks, and areas of special historic or cultural interest.

- Category III** **Nature Reserve:** An area containing outstanding or fragile natural features or life forms of national importance that need protection in an undisturbed state where the only permitted activities are management measures, controlled scientific research and educational study.

- Category IV** **Marine Reserve:** An area as provided in Section 23 of the Fisheries Act, 1984.

- Category V** **Area of Special Concern:** A place or site needing special protection and controlled use in order to stabilize or restore important ecological features or functions.

- Category VI** **Scenic Site:** An area containing a scenic feature of national or local importance.

- Category VII** **Botanic Garden:** A garden established for the preservation display and propagation of the national botanical resources.

Section 17

SECOND SCHEDULE

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 other wise 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, liberties, easements and appurtenances whatsoever to the said hereditaments and premises or any part thereof

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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.

Section 21

THIRD SCHEDULE

Description of Bath Estate National Park

Part I:
Description of Bath Hotel

All that property known as Bath Hotel situated in Charlestown in the parish of Saint John bounded on the north by Stoney Grove Estate on the east by Bellevue Estate on the south by Bath Estate and on the West by a public road.

Part II:
Description of Bath Bogs

[*To be inserted*]

Section 28

FOURTH SCHEDULE
Threatened or Endangered Species

[*To be inserted*]

Section 31

FIFTH SCHEDULE
Game Animals

[*To be inserted*]

Section 32

SIXTH SCHEDULE
Pests

[*To be inserted*]

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Section 69

SEVENTH SCHEDULE

Purpose For Which Trust Funds May Be Used

1. The Board may from the Fund issue grants to agencies of the Government of Saint Christopher and Nevis or the Nevis Island Administration or to non-governmental organisations, including but not limited to non-profit organisations, for the purposes of:

(a) Training, including:

(i) on or off the job training for professional, technical and other permanent or temporary staff of agencies of the Government of Saint Christopher and Nevis and the Nevis Island Administration engaged in conservation and environmental management activities;

(iii) training for members or employees of non-governmental organisations and community groups engaged in conservation and environmental management activities;.

(iv) formal post-secondary training and education of nationals of Saint Christopher and Nevis in areas related to the objects and purposes of this Act at institutions of higher learning outside of Saint Christopher and Nevis; and

(iv) the development of in-country professional and technical training capability at institutions of higher learning within Saint Christopher and Nevis.

(b) Environmental Education and Awareness Activities, including:

(i) environmental education and awareness projects and programmes carried out directly in schools and communities within Saint Christopher and Nevis; and

(ii) environmental education and awareness campaigns

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carried out indirectly by means of television and radio programmes, posters and leaflets, newspapers, the internet and other media.

(c) Policy Studies, Consultations and Workshops related to the objects and purposes of this Act.

(d) Research, including:

(i) resource inventories and assessments;

(ii) environmental monitoring programmes;

(iii) other scientific investigations;

(iv) socio-economic studies; and

(v) ecotourism market research.

(e) Natural and Heritage Conservation Planning, including:

(i) the preparation of protected area management plans;

(ii) the preparation of coastal zone management plans; and

(iii) the preparation of other environmental management and conservation programmes and projects.

(f) Institutional Support, including:

(i) infrastructure, capital equipment and other non-recurrent expenses of agencies of the Government of Saint Christopher and Nevis and the Nevis Island Administration;

(ii) infrastructure, capital equipment and non-recurrent expenses of non-governmental organisations;

(iii) recurrent expenses of non-governmental organisations, other than salaries and wages of permanent staff.

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- (g). Evaluation of Environmental Management Activities, including the evaluation of projects funded by the Trust.
- (h). Technical Assistance in relation to all the foregoing purposes.

Purposes for which Trust Funds Must Not Be Used

- 2. Fund monies may not be used to finance:
 - (a) Salaries and wages for established staff of agencies of the Government of Saint Christopher and Nevis and the Nevis Island Administration.
 - (b) Other recurrent expenses of agencies of the Government of Saint Christopher and Nevis and the Nevis Island Administration.
 - (c) Salaries and wages of permanent staff of non-governmental organisations.

Section 80

Repeal of section 10(1)(h) and 10(3) of Cap.185

Repeal of section 18 of Cap.185

Repeal of Regulation 14 of SRO No.33 of 1973

EIGHTH SCHEDULE

Amendments and Repeals

- 3.** The Watercourses and Waterworks Act is amended by repealing subsection (1)(h) and subsection (3) of section 10.
- 4.** The Watercourses and Waterworks Act is amended by repealing section 18.
- 5.** The Watercourses and Waterworks Regulations are amended by repealing regulation 14.

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NINTH SCHEDULE

NATIONAL CONSERVATION COMMISSION MEMBERSHIP AND
PROCEDURES

Interpretation.

1. In this Schedule:

“Chairman” means Chairman of the Commission;

“member” means any member of the Commission.

Membership

Membership.

2. (1) The Minister shall appoint members of the Commission for a period specified in the instrument of appointment, which shall not exceed three years.

(2) Notwithstanding subparagraph (1) a member of the Commission shall be eligible for reappointment.

(3) The Commission shall consist of fifteen members appointed by the Minister, of whom

(a) the following persons shall be *ex-officio* members:

(i) the Director of Physical Planning;

(ii) the Director of Environment;

(b) one representative shall be from one of the non-governmental organisations operating in St. Kitts and one from Nevis;

(c) one representative shall be from the Water Department;

three representatives shall be from the business community with interests in recreational or tourism activity in connection with the country’s parks and protected areas, including but not limited to the marine, hotel, restaurant, taxi, travel, fishing, and dive

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_____ industries;

- (d) four persons who shall be knowledgeable or experienced in one or more of the fields of environmental management, ecology, environmental health, engineering, natural resources economics, and law.

(4) The Minister shall appoint

- (a) a Chairman of the Commission from persons appointed under subparagraph (3); and
- (b) a suitable person to serve as Secretary to the Commission on such terms and conditions as the Minister may determine.

(5) The Minister, in making appointments of members pursuant to subparagraph (3)(b) shall be satisfied that the person

- (c) is of a stature in the community to bring credit to the Commission; and
- (d) has capacity to do one or more of the following
 - (i) increase public knowledge, understanding, and appreciation of the importance of the environment as provided under this Act;
 - (ii) provide sound advice, leadership and direction to the Commission in fulfilling the purposes of this Act.

(6) Any member of the Commission, save the Chairman and an *ex-officio* member may, at any time resign his office by written notice to the Minister.

(7) The Commission may designate from time to time one of its members to serve as Vice-Chairman for such general or specific functions and lengths of time as the Commission may specify and the

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Commission may revoke any such appointment or the designated person may resign by notice to the Commission.

(8) All expenses incurred by the Commission in the discharge of its functions, unless otherwise provided for, are to be defrayed from the Consolidated Fund.

Appointment of members.

3. (1) Members of the Commission are to be appointed by the Minister by written instrument.

(2) Where the office of a member of the Commission becomes vacant the Minister shall appoint a person to that office in accordance this Act as soon as practicable after the office becomes vacant.

(3) The performance of the functions of the Commission is not affected only because there is a vacancy in the public membership of the Commission.

(4) Any member of the public invited to serve on the Commission, prior to their appointment, shall make public any interests that may present a conflict of interest to their performing fully and with integrity their functions as a member of the Commission.

Terms of office of public members.

4. To provide staggered terms, when a new Commission is to be appointed at one time, half of the members shall be appointed for a first term not to exceed one year and six months, but those members may be eligible (if otherwise qualified) for reappointment.

Deputies.

5. (1) A member may from time to time appoint a person to be a deputy of the member for a specific meeting or Commission event and may revoke any such appointment.

(2) A member's appointment of a deputy under subsection (1) shall be communicated by notice to the Chairman in advance of the meeting or event.

(3) In the absence of a member, the member's deputy may act in the place of the member.

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(4) Except as provided in subparagraph (6), while acting in the place of a member, a person who is a deputy has all the functions of the member and is taken to be a member.

(5) A member may be represented by a deputy for no more than 50 percent of the ordinary meetings per year.

(6) For purposes of this paragraph, a vacancy in the office of a member is taken to be an absence of the member.

(7) This section does not apply to a member when serving in the capacity of Chairman or other officer of the Commission.

**Vacancy in
office of
member.**

- 6. (1)** The office of a member becomes vacant if the member
- (a) dies, or
 - (b) completes a term of office and is not reappointed, or
 - (c) is absent from fifty percent of the regular meetings of the Commission in any one calendar year of which reasonable notice has been given to the member, except on leave granted by the Commission or unless the member is excused by the Commission for having been absent from those meetings, or
 - (d) resigns the office by instrument in writing to the Minister, or
 - (e) becomes mentally incapacitated, or
 - (f) is convicted of a criminal offence, or
 - (g) is removed from office by the Minister under subparagraph (2).

(2) The Minister may at any time remove a member from office if the Minister is satisfied that the member is no longer suitable to serve as member of the Commission or at the request of the Commission where a member has been absent from fifty percent or more of the regular meetings of the Commission of which the member has had notice, without leave of the Commission and without being excused by the Commission.

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(3) Where a member is removed from office under subparagraph (1) (f) or (g), he is not eligible for reappointment.

Remuneration. 7. Members of the Commission shall be paid a stipend, including travel and subsistence allowances, as the Commission may from time to time determine in respect of the members.

Personal liability. 8. A matter or thing done or omitted to be done by the Commission, a member of the Commission or a person acting under the direction of the Commission does not, if the matter or thing was done or omitted to be done in good faith, subject the member or person so acting personally to any action, liability, claim or demand.

Procedures

General procedure. 9. Subject to this Act, the Commission shall govern its own procedures for calling meetings and for the conduct of business at those meetings.

Quorum. 10. The quorum for a meeting of the Commission is seven members of whom one shall be the Chairman or the Vice Chairman when acting in the capacity of the Chairman.

Presiding member. 11. The Chairman is to preside at meetings of the Commission, and in the absence of the Chairman at a particular meeting, members present may designate, another member of the Commission as to act as Chairman for that meeting.

Voting. 12. (1) Each member has one vote and the Chairman shall have a casting vote in the event of an equality of votes.

(2) A decision supported by a majority of the votes cast at a meeting of the Commission at which a quorum is present is a decision of the Commission.

(3) Members may cast a vote by proxy.

Ordinary meeting. 13. (1) The Commission shall hold ordinary meetings of its members at such dates, times, and places as designated by the Commission and these meetings shall be scheduled approximately bi-monthly and at least quarterly.

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(2) Notice of an ordinary meeting shall be made to the Commission members in advance of the meeting using all reasonable means to notify all Commission members.

Special meetings.

14. (1) Special meetings may be called by the Chairman or by any three members of the Commission so long as one of those members is an officer of the Commission.

(2) Notice of any special meeting, stating the purpose and particulars of the meeting, shall be provided by all reasonable means to all Commission members, and no business shall be transacted at a special meeting other than the business of which notice has been given.

(3) A quorum, as specified under paragraph 10, is required to conduct business at any special meeting.

Transaction of business outside meetings.

15. (1) The Commission may, when there is an extraordinary situation, transact its business by the circulation of papers among all members for the time being, and a resolution in writing approved in writing by the majority of all members is taken to be a decision of the Commission.

(2) For purposes of approval of a resolution under subparagraph (1), the Chairman and each member have the same voting rights as they have at an ordinary meeting of the Commission.

(3) A resolution approved under subparagraph (1) is to be recorded in the minutes of the meetings of the Commission.

Minutes of meetings.

16. The Commission shall:

- (a) cause minutes to be kept of proceedings and decisions of each meeting of the Commission, whether ordinary or special, and any decision made pursuant to paragraph 15; and
- (b) give a copy of those minutes to the Minister as soon as practicable after each meeting.

Disclosure of interests.

17. (1) A Commission member who has an interest whether financial or material, in a matter being considered by the Commission shall, as soon as possible after the relevant facts have come to his knowledge, disclose the

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nature of the interest.

(2) A disclosure shall be recorded in the minutes of the meeting and the Commission member shall not, unless the Commission otherwise determines.

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

Committees.

18. (1) There shall be an Executive Committee of the Commission comprised of the Chairman, Secretary, and, the Vice-Chairman, which shall advise the Director on matters of policy and operations that may arise between meetings of the Commission, or on special issues assigned to it from time to time by decision of the Commission.

(2) A meeting of the Executive Committee may be convened by the Director or any of its members as needed.

(3) The Commission may create special Committees consisting of not less than three members of the Commission, one of whom shall be designated the Committee Chairman and such other persons as the Commission thinks fit, to deal with ad hoc events or ongoing issues including fund-raising and promotion, and the Chairmen of any such special Committees for the time being in place may be members of the Executive Committee.

(4) A special Committee may make recommendations to the Commission on any matter referred to it by the Commission.

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Section 77(d)

TENTH SCHEDULE

**MULTILATERAL ENVIRONMENTAL AGREEMENTS TO
WHICH ST. CHRISTOPHER AND NEVIS IS A PARTY**

1. Convention on International Trade in Endangered Species of Wild Fauna and Flora 1973.
2. United Nations Framework 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 Transboundary Movement of Hazardous Waste and its Disposal 1989.
6. Civil Liability Convention 1969.
7. International Oil Pollution Compensation Fund Convention 1971.