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## CHAPTER 116

# FOREST, SOIL AND WATER CONSERVATION ACT

An Act to make provision for the conservation of the forest, soil, water and other natural resources of Grenada.

[Amended by Act No. 12 of 1967, Act No. 34 of 1984.]

[1st August, 1949.]

## PART I

### Preliminary

#### 1. Short title

This Act may be cited as the Forest, Soil and Water Conservation Act.

#### 2. Interpretation

In this Act—

“Crown land” includes—

(a)

the waste or vacant land of the Crown or the Government; and

(b)

all lands vested in Her Majesty or the Government whether by forfeiture, escheat, purchase or exchange;

“forest offence” means any offence punishable under this Act or rules made thereunder;

“forest officer” includes a person appointed to discharge any function of a forest officer under this Act or rules made thereunder;

“forest produce” includes the following when found in, or brought from, Crown land or protected forests—

(a)

trees and all parts or produce of such trees; and

(b)

plants not being trees and all parts or produce of such plants, including charcoal;

“livestock” includes cattle, horses, mules, asses, goats, sheep, pigs and such other animals as the Minister by notice in the *Gazette* may declare to be livestock;

“Minister” means the Minister responsible for agriculture;

“private land” means land other than Crown land;

“prohibited area” means an area on to which entry is forbidden, except to forest officers and to police officers in the execution of their duties and to other persons having the written permission of the Chief Forestry Officer;

“property mark”, in section 33, means a mark placed on timber to denote that after all purchase money or royalties due to the Crown or the Government have been paid, the owner has or will have a right of property in the timber;

“timber” includes trees when they have fallen or been felled, and all wood whether cut up or fashioned for any purpose or not

“tree” includes palms, bamboos, stumps, brushwood and canes.

### 3. Forestry Department

(1) The Minister shall establish and maintain a Forestry Department within his or her Ministry and generally promote the interests of forestry.

(2) The Public Service Commission shall appoint a suitable person to be Chief Forestry Officer.

(3) The Forestry Department shall, for the purpose of implementing forest policy, plant, manage and use land vested in it or put at its disposal by the Minister.

(4) The aims of forest policy are—

(a)

to effect the permanent preservation of tree cover so as to prevent soil erosion and flooding and to protect water supplies;

(b)

to ensure a continuous supply of forest products by the setting aside of land as forest reserves;

(c)

to maintain the level of forest growing stock, to ensure sound silvicultural practices are employed, and to direct harvesting so that growing stock is not reduced;

(d)

to protect such areas as may be required for the provision of a natural and undisturbed habitat for indigenous flora and fauna;

(e)

to encourage and assist the owners and managers of forests, woodlands and plantations on private land and Crown land;

(f)

to create, where necessary, areas within the forest to satisfy urban man's needs for recreation within a peaceful natural environment;

(g)

to stimulate the fullest development of productive forests and the establishment of appropriate forest industries;

(h)

to protect consumers by ensuring that well manufactured forest products can be supplied in correlation with market demand;

(i)

to extend to forestry personnel educational and training opportunities at professional, technical and vocational levels;

(j)

to initiate and conduct where possible the forest research necessary to achieve the aims of forest policy.

#### 4. Appointment of forest officers

The Minister may appoint such and so many persons to be forest officers as may be necessary to carry out the provisions of this Act under the supervision of the Chief Forestry Officer, and may, by writing under his or her hand, confer upon any such officer power or authority, either generally or in a specific case, to do any act or grant any permission for which power or authority is required under the provisions of this Act.

#### 5. *Ex officio* forest officers

The Chief Technical Officer (Agriculture), all agricultural assistants, agricultural instructors, forest supervisors, forest rangers and forest guards shall be *ex officio* forest officers.

### PART II

#### Forest Reserves

#### 6. Proclamation of forest reserves

(1) The Governor-General shall have power to declare, by Proclamation published in the *Gazette*, any area of Crown land to be forest reserve.

(2) No land shall be granted, devised or sold within a forest reserve.

#### 7. Protected forest on private land

(1) It shall be lawful for the Governor-General by Order from time to time, to declare any land other than Crown land to be a protected forest whenever in his or her opinion this appears to be necessary for any of the following purposes—

(a)

for protection against storms, winds, rolling stones, floods and landslides;

(b)

for the prevention of soil erosion and landslip, of the formation of ravines and torrents, and of the deposit of mud, stones and sand upon agricultural land;

(c)

for the prevention of wastage of resources of timber and for securing the proper management of lands whereon trees are growing and which are not under permanent agricultural cultivation;

(d)

for the maintenance of water supplies in springs, rivers, canals and reservoirs;

(e)

for the protection of roads, bridges, airstrips, and other lines of communication; and

(f)

for the preservation of health.

(2) An Order made under this section shall have no effect until approved by the House of Representatives.

#### 8. Power to make rules concerning protected forest

(1) The Minister may make rules to regulate or prohibit within a protected forest—

(a)

the felling, cutting, lopping and burning of or injury to any tree or timber;

(b)

the breaking up or clearing of lands for cultivation;

(c)

the pasturing or trespass of livestock;

(d)

the setting of fire; and

(e)

any other acts which appear to be prejudicial to the purposes set out in the preceding section.

(2) Rules made under this section shall have no effect until approved by the House of Representatives.

#### 9. Power to enter and carry out works

(1) It shall be lawful for a forest officer or a person authorised by the Minister in writing for the purposes set out in section 7 to enter any protected forest at any time without notice to inspect the area and to carry out such surveys or works as the Minister may direct.

(2) Upon the declaration of any private land as a protected forest the Chief Forestry Officer shall cause the area to be marked out and kept defined and shall have right of access for this purpose as hereinbefore provided

## 10. Remission of taxation

If and for so long as the owner of a protected forest complies with the rules made by the Minister he or she shall be entitled to a remission of any land tax for the time being in force in respect of the area declared to be protected forest.

## 11. Compensation when lands declared protected forest

(1) When the owner of land declared to be a protected forest claims that he or she ought to be pecuniarily compensated by reason of the land having been declared to be a protected forest, he or she shall within three months of the declaration lodge with the Ministry of Agriculture a statement of his or her claim with full particulars of his or her estimated loss.

(2) On such claim being lodged as aforesaid the Minister shall appoint an Assessment Board consisting of—

(a)

a magistrate, or, if the claim for compensation exceeds two hundred and fifty dollars, a Judge of the High Court;

(b)

such person as the claimant may nominate; and

(c)

such other person as the Minister may appoint.

The Judge or magistrate, as the case may be, shall be the chairperson of the Board.

(3) The Board shall inquire into the claim and shall hear the claimant and other persons in relation thereto, and make recommendations thereon to the Minister. If the Board is not satisfied that the claimant can be adequately compensated by the granting of special permits or by the making of special regulations with regard to the land declared to be a protected forest, they shall recommend a sum of money to be paid as compensation and it shall be lawful for the Minister to instruct the Accountant-General to pay such sum of money from the Consolidated Fund as compensation to the owner of the land.

(4) The decision of the majority of the members of the Board shall be deemed to be the decision of the Board. If all the members differ with respect to the amount of compensation to be paid, the mean between the amount decided upon by the chairperson and the one of the amounts decided upon by the two other members of the Board which approximates most nearly to the amount decided upon by the chairperson, shall be deemed to be the compensation awarded by the Board.

(5) No appeal shall lie against the decision of the Board.

## 12. Voluntary protection

(1) The owner of land may, with a view to the formation or conservation of forest thereon or the conservation of natural resources, represent in writing to the Chief Forestry Officer his or her desire—

(a)

that such land be supervised or managed on his or her behalf by the Chief Forestry Officer in such manner as may be agreed upon; and

(b)

that any or all of the provisions of this Act or rules made thereunder be applied to such land.

(2) In such case the Minister may by Order apply to such land such provisions of this Act or rules made thereunder as he or she may consider suitable to the circumstances and as may be desired and agreed upon by the applicant.

### 13. Prohibited areas

It shall be lawful for the Governor-General by Order from time to time, to declare any Crown land to be a prohibited area whenever in his or her opinion this appears to be necessary for any of the purposes set out in section 7.

## PART III

### Squatting on Crown Land

### 14. Proceedings against person in wrongful possession of Crown land

(1) It shall be lawful for a magistrate, on information that any person is in possession, without any probable claim or pretence of title, of any Crown land, to issue a summons calling on such person to appear and answer to such information, and if such person, after being duly summoned, shall not appear or appearing shall fail to satisfy the magistrate that he or she or those under whom he or she claims has or had some probable claim or pretence of title to such land, the magistrate shall make an order for putting the person in possession of such land out of possession of the same, and for the delivering of the possession thereof to the Governor-General within a period of not more than nine months from the date of the order.

(2) If on the hearing of such information the person against whom the same has been laid fails to satisfy the magistrate that he or she was in possession of such land prior to the first day of August, 1949, the magistrate may make a further order that the person so informed against shall be imprisoned for six months.

(3) If the person against whom an order for delivery of possession of such land has been made under subsection (1) fails to quit and deliver up possession of the same within the time prescribed in the order, the magistrate may make a further order that such person be imprisoned for any term not exceeding six months in addition to the term of imprisonment imposed under subsection (2).



## 15. Mode of serving summons on information

Every summons issuing upon any information under this Act shall specify the time and place at which the person informed against is to appear, and every such summons shall be served at least eight days next before the day appointed for such appearance, by delivering the same to the person summoned in person, or by leaving the same at his or her usual place of abode, or if such abode is not known, then by affixing the same to some building upon, or in some open and conspicuous part of, the land mentioned in the information.

## 16. Evidence of petition and proceeding thereon

On the hearing of an information under this Act a copy of any petition to the Minister and of any proceeding on such petition, which is certified under the hand of the Chief Forestry Officer to be a true copy, shall be admissible in evidence of the fact of such petition having been filed and of the proceeding had thereon, without any further proof of the same.

## 17. Forms

The Forms contained in the First Schedule may be used with such modifications as circumstances may require in the cases to which they apply.

## PART IV

### Offences and Procedure

## 18. Forest offences

If a person shall do any of the following acts on Crown land, namely—

(a)

fell, cut, girdle, mark, lop, tap or bleed a tree or injure by fire or otherwise any tree or timber;

(b)

cause damage by negligence in felling a tree or cutting or dragging timber;

(c)

subject to any manufacturing process or convey or remove any forest produce;

(d)

kindle, keep or carry any fire;

(e)

pasture livestock or permit livestock to trespass;

(f)

clear, cultivate or break up land for cultivation or for any other purpose;

(g)

enter a prohibited area,

he or she shall be guilty of an offence and liable, on summary conviction, to a fine of three thousand dollars and to imprisonment for six months:

Provided that nothing in this section shall subject any person to any penalty thereunder for any act done in accordance with rules made by the Minister or with permission in writing given by a forest officer authorised to grant such permission or under any tenancy agreement made with the Chief Forestry Officer.

#### 19. Felling of certain trees on private land unlawful without permit

(1) Unless with the authority of a permit issued by the Chief Forestry Officer a person on private land shall not fell a mahogany tree of any size nor any of the trees listed in the Second Schedule having a diameter, measured over the bark at a point 5 feet above ground level, of more than 6 inches.

(2) A person who contravenes subsection (1) shall be guilty, in respect of each tree that he or she fells, of an offence.

(3) The Chief Forestry Officer may, on application by a person to fell a tree to which subsection (1) applies, issue a permit to that person.

(4) A person found guilty of an offence under subsection (2) shall, on summary conviction, be liable to a fine of one thousand dollars and to imprisonment for six months.

(5) Notwithstanding section 27(2) proceedings for an offence under subsection (2) shall not be instituted more than six months after the discovery of the offence, and no such proceedings shall be instituted more than two years after the date of the offence.

#### 20. Livestock straying

(1) Any forest officer, rural constable, police officer or person authorised by any of them may seize livestock found trespassing on Crown land.

(2) All such livestock shall be forfeited unless the owner thereof or some person authorised by him or her shall, within seven days of seizing such livestock, claim the same.

(3) Any person claiming livestock so seized may be charged with a forest offence under section 18(e).

#### 21. Offences with intent to cause damage or wrongful gain

Whosoever—

(a)

knowingly counterfeits upon any tree or timber, or has in his or her possession any implement for counterfeiting, a mark used by forest officers to indicate that such tree or timber is the property of the Government, or of some person, or that it may lawfully be felled or removed by some person; or

(b)

unlawfully or fraudulently affixes to any tree or timber a mark used by forest officers; or

(c)

alters, defaces, or obliterates any such mark placed on any tree or timber by or under the authority of a forest officer,

shall be liable to a fine of three thousand dollars and to imprisonment for three months.

## 22. Power to arrest

(1) A forest officer, rural constable, or police officer may, without a warrant, arrest any person reasonably suspected of having been concerned in a forest offence if such person refuses to give his or her name or residence or gives a name or residence which there is reason to believe to be false, or if there is reason to believe that he or she will abscond.

(2) Every person making an arrest under this section shall, without unnecessary delay, take or send the person arrested before a magistrate or Justice of the Peace or the officer or non-commissioned officer in charge of the nearest police station to be dealt with according to law.

## 23. Power to seize tools and forest produce, and to condemn

(1) When there is reason to believe that a forest offence has been committed in respect of any forest produce, such produce, together with all tools, rope, chains, boats, craft, carriages, carts and livestock used in the commission of the offence, may be seized by a forest officer or person authorised by him, or by a rural constable or police officer.

(2) Every person seizing any property under this section shall, as soon as may be, make a report of such seizure to a magistrate:

Provided that when the forest produce with respect to which such offence is believed to have been committed is the property of the Government, and the offender is unknown, it shall be sufficient if the officer makes, as soon as may be, a report of the circumstances to his or her official superior.

(3) All such property shall be forfeited and shall be taken to be condemned and may be sold by the forest officer of the district in which the seizure took place, unless the person from whom the same shall have been seized or the owner thereof or some person authorised by him or her shall, within fourteen days of the seizure, claim it and shall, within the said term of fourteen days, or such further

term as a magistrate may allow, prove to the satisfaction of such magistrate that it was not obtained from Crown land, or that such person had some sufficient licence or authority in that behalf.

(4) In lieu of the forfeiture of any of the things other than forest produce mentioned in this section, the magistrate may order the owner thereof to pay such penalty, not exceeding one hundred dollars, as the magistrate may think fit, and on payment of the penalty those things shall be returned to the owner.

(5) Whoever seizes any forest produce or any property under this section shall place on such forest produce or property, or the receptacle (if any) in which it is contained, a mark indicating that the same has been seized.

(6) Notwithstanding anything in this section contained, a forest officer may direct at any time the immediate release of any property seized under the provisions of this section which is not the property of the Crown or the Government, and the withdrawal of any charge made in respect of such property.

#### 24. Compensation in addition to penalty

(1) When a person is convicted of felling, cutting, removing, girdling, marking, lopping, tapping, or bleeding trees or timber, or of injuring them by fire or otherwise, in contravention of this Act, the convicting magistrate may, in addition to any other punishment which he or she may award, order that person to pay to the Government such compensation, not exceeding five dollars for each tree or log of timber with respect to which the offence was committed, as he or she deems just.

(2) If the person convicted of the offence committed is the agent or employee of another person, the convicting magistrate may, unless, after hearing that other person, he or she is satisfied that the commission of the offence was not a consequence of such other person's instigation or of any neglect or default on his or her part, order such other person, instead of the person who committed the offence, to pay the compensation referred to in this section.

#### 25. Produce, tools, etc., liable to forfeiture

(1) When a person is convicted of a forest offence, all forest produce in respect of which such offence has been committed, and all tools, ropes, chains, boats, craft, carriages, carts and livestock used in the commission of such offence, shall be liable, by order of the convicting magistrate, to be forfeited or to be otherwise dealt with as to the magistrate, in the particular circumstances of the case, seems just. Such forfeiture may be in addition to any other penalty or compensation prescribed for such offence.

(2) Anything or any livestock mentioned in this section shall if forfeited be taken possession of by a forest officer empowered in this behalf, and in any other case may be disposed of in such manner as the magistrate may order.

#### 26. Sale of perishable goods

The magistrate may, notwithstanding any other provision of this Act, direct the sale of property seized under this Act that is subject to speedy or natural decay, and may deal with the proceeds as he or she might have dealt with such property if it had not been sold.

27. Recovery of penalties, and right of forest officer to conduct case

- (1) Any offence under this Act may be prosecuted and any penalty incurred may be imposed or recovered summarily on the complaint of a forest officer or police officer.
- (2) All such complaints may be made at any time within one year from the time when such matter of complaint arose.
- (3) Where a forest officer makes a complaint against a person, any other forest officer may appear before the magistrate who is trying or inquiring into the matter of the complaint, and shall have the same privileges as to addressing the said magistrate and as to examining the witnesses adduced in the matter as the forest officer who made the complaint would have had.

28. Prevention of offences and penalty for assaulting or obstructing a forest officer

- (1) Every forest officer, rural constable and police officer is hereby authorised to prevent the commission of a forest offence.
- (2) Every person who assaults, molests, obstructs or resists a forest officer or any person authorised by him or her in the execution of his or her duty, or aids or incites any other person so to assault, molest, obstruct or resist a forest officer or any person authorised by him, or any person aiding or assisting such forest officer or any person authorised by him or her in the execution of his or her duty, shall be liable to a fine of one thousand five hundred dollars and to imprisonment for six months.

29. Protection of persons acting *bona fide* in exercise of powers

In an action brought against a person for anything done or *bona fide* intended to be done in the exercise or supposed exercise of the powers given by this Act or by rules made thereunder, it shall be expressly alleged that the defendant acted maliciously and without reasonable and probable cause, and if at the trial the plaintiff fails to prove such allegation judgement shall be given for the defendant.

30. Presumption as to ownership of produce

When, in any proceedings taken under this Act or in consequence of anything done under this Act, a question arises as to whether any forest produce is the property of the Government, or whether any land is Crown land, such produce shall be presumed to be the property of the Government, and such land shall be deemed to be Crown land until the contrary is proved.

31. Minister may authorise forest officer to accept compensation

- (1) The Minister may, by writing under his or her hand, empower a forest officer—

(a)

to accept from any person against whom a reasonable suspicion exists that he or she has committed any forest offence, other than an offence specified in section 21, a sum of money not exceeding fifty dollars by way of compensation for the offence which such person is suspected to have committed; and

(b)

when any property has been seized as liable to confiscation, to release the same on payment of the value thereof as estimated by such officer.

(2) On payment of such sum of money or such value, or both, as the case may be, to such officer, the suspected person, if in custody, shall be discharged; the property, if any, seized shall be released, and no further proceedings shall be taken against such person or property in respect of such suspected offence.

(3) All monies received by the forest officer under this section shall be paid into the Treasury by him or her as soon as possible, and in any event within seven days, after receipt thereof.

### 32. Rewards

The Minister may order such rewards as he or she thinks fit to be paid in respect of any seizure made under this Act to the person making such seizure or through whose information or means such seizure was made.

### 33. Rules

The Minister may make rules—

(a)

prescribing the form of permits and providing for their issue, production and return;

(b)

regulating the issue of property marks and classification marks for timber and the registration of such marks, and declaring the circumstances in which the registration of any property mark or classification mark may be refused or cancelled; prescribing the time for which such registration shall hold good; limiting the number of such marks that may be registered by any one person, and providing for the levy of fees for such registration;

(c)

prescribing the duties of forest officers; and

(d)

generally for carrying into effect the provisions of this Act.

### 34. General penalty

Any person who commits an offence against this Act or against rules made thereunder, for which no specific penalty is provided, shall be liable on summary conviction to a fine of two thousand dollars and to imprisonment for six months.

## First Schedule

### *Forms*

#### FORM 1

#### FOREST, SOIL AND WATER CONSERVATION ACT

#### *Information against Person in Wrongful Possession of Crown Land*

#### *District*

[Sections 14(1) and 17.]

Be it remembered that on this

(*date*)  
(*name of*

*forest officer*), Forest Officer (*or as the case may be*), came before me, the undersigned  
Magistrate, and informed me that one

of

is, without any probable claim or pretence of title, in possession of certain lands  
belonging to Her Majesty the Queen situate in

(*describe situation*) and comprising

(*extent of lands*).

*Forest Officer*

Taken before me, the undersigned Magistrate this

(*date*)

*Magistrate*

*District*

#### FORM 2

#### FOREST, SOIL AND WATER CONSERVATION ACT

#### *Summons to Person in Wrongful Possession of Crown Land*

[Section 15.]

In the

District

To

of

Whereas Information has been laid before me, the undersigned Magistrate by

(*name of forest officer*) Forest Officer (*or as the case may be*) that you, the said  
are without any probable claim or pretence of title, in possession of certain lands  
belonging to Her Majesty the Queen

(*describe situation and extent of lands, according to the Information*): Now I the said  
Magistrate do hereby summon you to attend before me at the Magistrate's Court at

at  
o'clock in the  
noon

on the

(*date*)

then and there to answer touching the  
matter of the said Information; and in default of your so appearing, or if you shall fail to  
show to my satisfaction that you have some probable claim or pretence of title to such  
lands, then I, the said Magistrate, will forthwith make an order for putting you out of the  
possession of the said lands.

Dated: etc.

*Magistrate*  
*District*

FORM 3

FOREST, SOIL AND WATER CONSERVATION ACT

*Order for Delivery of Possession of Lands*

[Section 14(1).]

*District*

To

Police Officer, and to all other Police Officers

Whereas an Information was, on the

(*date*) laid before me,

the undersigned Magistrate, by

(*name of forest officer*), Forest Officer

(*or as the case may be*) that

is in possession of certain lands

belonging to Her Majesty the Queen situate in

(*describe situation and extent of the lands, according to the Information*), and I, the said  
Magistrate, thereupon issued my summons to the said

to appear before me at

on the  
(*date*)

and answer touching the matter of the said Information;

And whereas the said summons was on the

(*date*) duly served

on the said

by delivering the same to him or her personally

(*or, by leaving the same at*



being his or her usual place of abode, *or*, by affixing  
a copy of such summons on

being an open and conspicuous  
part of the lands mentioned in the said Information);

And whereas the said

failed to appear before me on the  
(*date*) (*or*, did appear before me, but failed to satisfy me that he or she had any  
probable claim or pretence of title to such lands):

Now I, the said Magistrate, do hereby order and require you taking such force as may be  
required for the purpose to enter upon the said lands situate in

and comprising  
being the lands mentioned in the said Information, or any part thereof in  
the name of the whole, and then and there to put the said

out of  
possession of the said lands, and to deliver possession of the said lands, together with all  
buildings, if any, thereon, and all crops growing thereon, to the said Forest Officer on  
behalf of Her Majesty.

Dated: etc.

*Magistrate*  
*District*

## Second Schedule

### FOREST, SOIL AND WATER CONSERVATION ACT

#### *Felling Permits*

[Section 19.]

Bois Gris	Mahoe (all species)
Bois Lait	Maruba
Bullet	Pine (all species)
Cedar (Red)	Saman
Cedar (White) (Tabebuia)	Silk Cotton
Eucalyptus (all species)	Tapana
Galba	Teak
Gommier	Zabricot
Laurier (all species)	