



## ST. CHRISTOPHER AND NEVIS

### CHAPTER 11.03

# NATIONAL CONSERVATION AND ENVIRONMENT PROTECTION ACT and Subsidiary Legislation

#### Revised Edition

showing the law as at 31 December 2009

This is a revised edition of the law, prepared by the Law Revision Commissioner under the authority of the Law Revision Act, Cap. 1.03.

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**NATIONAL CONSERVATION AND ENVIRONMENT PROTECTION  
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**CHAPTER 11.03**  
**NATIONAL CONSERVATION AND ENVIRONMENT PROTECTION**  
**ACT**

AN ACT TO PROVIDE FOR THE BETTER MANAGEMENT AND DEVELOPMENT OF THE NATURAL AND HISTORIC RESOURCES OF SAINT CHRISTOPHER AND NEVIS FOR PURPOSES OF CONSERVATION; THE ESTABLISHMENT OF NATIONAL PARKS, HISTORIC AND ARCHAEOLOGICAL SITES AND OTHER PROTECTED AREAS OF NATURAL OR CULTURAL IMPORTANCE INCLUDING THE BRIMSTONE HILL FORTRESS NATIONAL PARK; THE ESTABLISHMENT OF A CONSERVATION COMMISSION; AND TO PROVIDE FOR RELATED OR INCIDENTAL MATTERS.

**PART I**  
**PRELIMINARY**

**Short title.**

1. This Act may be cited as the National Conservation and Environment Protection Act.

**Interpretation.**

2. In this Act, unless the context otherwise requires—

“area of special concern” means a place or site needing special protection and controlled use in order to stabilise or restore important ecological features or functions;

“authorised officer” means any police officer, forest officer or any other person appointed for the purposes of this Act;

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

“botanic garden” means a garden established for preservation display and propagation of the National botanical resources;

“coast conservation” means the protection and preservation of the coast from sea erosion or encroachment by the sea, and includes the planning and management of developmental activity within a coastal zone;

“coastal waters” include the sea, and those waters adjacent to the landward line of the adjoining land or connected permanently or intermittently with the sea which contain a measurable quantity of seawater, sounds, bays, lagoons, ponds and estuaries, and the land below and along the banks of the waters;

*(Inserted by Act 21 of 2001)*

“coastal zone” means any area having an elevation less than 15 metres above mean sea level within a limit of one hundred metres of the mean high water mark and a limit of two kilometres seawards of the mean low water mark and shall include the foreshore and the floor of the sea;

“environment” means the physical factors of the surroundings of human beings including the land, soil, water, atmosphere, climate, sound, odours, tastes, and the biological factors of animals and plants of every description;

“fish” means fish of any kind and lobster, crawfish, crab, shrimp, oyster, mussel, cockles and any other kind of shellfish;

*(Inserted by Act 21 of 2001)*

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

“historic site” means a place or site which is historic by reason of an association with the past and is 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;

“land” includes the floor of the sea and anything resting on or within the foreshore or floor of the sea;

*(Inserted by Act 21 of 2001)*

“marine reserve” means an area as provided in section 23 of the Fisheries Act, Cap. 14.07;

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

“national park” means 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;

“nature reserve” means 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;

“owner” includes, as the case may be, an occupier or a lessee;

“pollution” means any direct or indirect alteration of the physical, thermal, chemical, biological or radioactive properties of any part of the environment by the discharge, emission, or the deposit of wastes so as to affect any beneficial use adversely or to cause a condition which is hazardous to public health, safety or welfare, or to animals, birds, wildlife, marine life or to plants of every description;

“protected area” means a national park, nature reserve, botanic garden, historic site, scenic site or any other area of special concern or interest designated under section 6(1) of this 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;

*(Inserted by Act 21 of 2001)*



“scenic site” means an area containing a scenic feature of national or local importance;

“sea” means the Caribbean Sea, the Atlantic Ocean, and all areas subject to tidal action through any connection with the Caribbean Sea or the Atlantic Ocean;  
*(Inserted by Act 21 of 2001)*

“territorial sea” means twelve nautical miles measured from the baseline, subject to the 1982 Convention on the Law of the sea.

## PART II

### ESTABLISHMENT OF THE DEPARTMENT OF ENVIRONMENT

#### **Establishment of the Department of Environment.**

3. (1) It is hereby established a Department of Environment for purposes of conservation and environment protection in Saint Christopher and Nevis.

(2) The Department of Environment shall be subject to general and special directions of the Minister who may make regulations from time to time in relation to any matter pertaining to environmental protection and conservation.

*(Inserted by Act 12 of 1996)*

#### **Functions and powers of the Department of Environment.**

4. The functions and powers of the Department shall be—

- (a) to initiate, oversee, co-ordinate, integrate, regulate, facilitate and monitor environmental protection and conservation strategies and measures in Saint Christopher and Nevis;
- (b) to initiate and implement environmental policies, programmes and projects in order to achieve sustainable development in Saint Christopher and Nevis;
- (c) to oversee environmental policies, programmes and projects undertaken by other departments and ministries of the Government of Saint Christopher and Nevis;
- (d) to negotiate environmental treaties initiated by regional and international inter-governmental organisations;
- (e) to provide information, data, statistics, and reports to several inter-governmental organisations and non-governmental organisations; and
- (f) to work in close collaboration with non-governmental organisations with a view to ensuring their support for conservation and environmental protection in Saint Christopher and Nevis.

*(Inserted by Act 12 of 1996)*

#### **Exercise of functions and powers.**

5. (1) In the exercise of its functions and powers, the Department of Environment shall comply with national legislation relating to environment and the policy of the Government of Saint Christopher and Nevis.

(2) The Department of Environment shall consult with other departments and ministries of Saint Christopher and Nevis in regard to environmental projects, programmes and policies undertaken by such departments and ministries and shall provide advice, co-operation and assistance to ensure proper environmental standards.

*(Inserted by Act 12 of 1996)*

### PART III

#### ESTABLISHMENT OF PROTECTED AREAS

##### **Notice for designation of protected areas.**

6. (1) Subject to section 9 of this Act, the Minister, in consultation with the Conservation Commission, by Notice published in the *Gazette*, may designate any land or marine area, to be classified as a national park, nature reserve, botanic garden, marine reserve, historic site, scenic site or an area of special concern where such area meets one or more of the purposes and objectives as provided by section 7 of this Act.

(2) The Notice published under sub-section (1) of this section shall include wherever possible and using the best means available the legal description of the area with metes and boundaries, intended classification, and the activities proposed for regulation or prohibition in the area so designated.

(3) A Notice published under this section shall be laid before the National Assembly.

##### **Purposes and objectives of protected areas.**

7. Any protected area designated under this Act shall have one or more of the following broad purposes and objectives—

- (a) to preserve biological diversity of wild flora and fauna species that may be endemic, threatened, or of special concern and the land and marine habitats upon which the survival of these species depend;
- (b) to protect selected examples of representative or unique biological communities, both on land and in marine areas, and their physical environments;
- (c) to sustain natural areas important for protection and maintenance of life-support systems (air, water) and basic ecological processes including water recharge and soil re-generation;
- (d) to protect selected natural sites of scenic beauty or of special scientific, ecological, historic or educational value, including sites that are already degraded and need protection for restoration or sites that may become degraded if not protected;
- (e) to maintain or restore historic sites of cultural, archaeological, scientific or educational value or interest; or
- (f) to create a recreational area or a national park.

*(Inserted by Act 21 of 2001)*

**Power to charge fees and sell services.**

8. The Minister may, by Order, prescribe fees for—
- (a) entry to or use of any property under the control of or maintained by the Department of Environment; and
  - (b) services it may offer to private individuals or organisations.
- (Inserted by Act 21 of 2001)*

**Notice of intention to establish a protected area.**

9. Before any area of land or sea is established as a protected area, the Minister, in consultation with the Conservation Commission, shall publish a Notice in the *Gazette*—
- (a) specifying the situation and limits of the area of land or sea which is to be established as a protected area;
  - (b) inviting all persons who lawfully enjoy any rights within such area of land or sea specified in the Notice to submit their claims and objections to the Minister;
  - (c) appointing a date and a place for the hearing of any claims and objections relating to such area of land or sea specified in the Notice.

**Acquisition and management of private land as a protected area.**

10. (1) Where the Minister determines that any private land or interest in such land shall be acquired for a protected area under this Act, acquisition procedures under the Land Acquisition Act, Cap. 10.08 shall apply and the acquisition shall be deemed to be for a public purpose.

(2) The Minister may, without acquiring private land, enter into written agreements with owners of that land for the right of access to and the right to control such land as a protected area under this Act.

## PART IV

## ADMINISTRATION OF PROTECTED AREAS

**Minister to be generally responsible but may delegate powers and functions.**

11. (1) The selection, management and administration of any protected area established under this Act shall be carried out by the Minister, in consultation with the Conservation Commission established under section 12 of this Act.

(2) Without prejudice to the generality of the foregoing subsection (1), the Minister may delegate management, administration, restoration and conservation powers and functions in terms of section 19 of this Act to the Brimstone Hill Fortress National Park Society, the Nevis Historical and Conservation Society or to any other society or organisation, as appropriate.

**Composition of the Conservation Commission.**

**12.** (1) The National Conservation Commission (referred to in this Act as the Conservation Commission) shall consist of nine members appointed by the Minister as follows—

- (a) five representatives appointed by the Minister;
- (b) two representatives nominated by the Premier of the Nevis Island Administration;
- (c) the President or his or her representative of the Brimstone Hill Fortress National Park Society;
- (d) the President or his or her representative of the Nevis Historical and Conservation Society.

(2) The Minister shall appoint the Chairperson and Deputy Chairperson of the Conservation Commission from the representatives appointed under subsection (1).

(3) The Conservation Commission is an advisory commission which shall function as a body corporate with perpetual succession and common seal only in respect of property held in trust by the Conservation Commission under section 13 of this Act.

(4) The Conservation Commission may co-opt any person for any of its meetings but such person shall not have the right to vote.

(5) The Conservation Commission may establish Committees for specific purposes and regulate its functions except as otherwise constituted in the First Schedule to this Act.

**Certain property to be held in trust by the Conservation Commission.**

**13.** After the commencement of this Act, any protected area, historic building or monument shall become vested in the Conservation Commission as determined by the Minister by Order and thereafter the Conservation Commission shall hold such protected area, historic building or monument in trust for the benefit of the people of Saint Christopher and Nevis or under prescribed conditions for the benefit of any owner of such protected area, historic building or monument.

**Functions of the Conservation Commission.**

**14.** The functions of the Conservation Commission are to advise the Minister as to—

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

**Non - advisory functions of the Conservation Commission.**

15. (1) Where the Conservation Commission becomes the trustee of any protected area, historic building or monument, the Conservation Commission shall do such acts and things as may be necessary for the maintenance thereof and for the exercise of proper control or management thereto in order to prevent destruction, damage or, injudicious treatment of such protected area, historic building or monument.

(2) The Conservation Commission shall promote conservation as part of long term national economic development.

**The funds and expenditure of the Conservation Commission.**

16. (1) The National Assembly or a funding agency may provide funds to the Conservation Commission for discharging the obligations and performing any functions of the Conservation Commission under this Act.

(2) The plans of the Conservation Commission in relation to its expenditure shall be approved by the Minister.

(3) The Conservation Commission shall, in respect of its functions under this Act, keep proper accounts and adequate financial and other records in relation thereto to the satisfaction of and in accordance with the directions of the Director of Audit.

(4) The Conservation Commission shall, within three months from the end of each financial year, submit its accounts for audit to the Director of Audit.

**Requirement for management plans.**

17. (1) A management plan shall be prepared for each protected area by the Conservation Commission on the basis of the best available scientific and other information and such plan shall be designed to further the specific purposes and objectives of the area and guide any activities that may be prohibited and permitted in the area.

(2) Each management plan shall be approved by the Minister and shall be reviewed at least every five years for possible revision to reflect new information and changing circumstances.

**Content of management plan.**

18. The following information shall be included in a management plan, to the extent feasible—

- (a) the long-term goals of the protected area and the associated conservation, restoration, research, education and recreational objectives of the area required 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.

#### **Designation of competent authority.**

19. (1) The Minister may designate, by Order published in the *Gazette*, a competent authority to be responsible for the management and administration of any protected area established pursuant to this Act, and such Order shall specify the particular protected area to be under the jurisdiction of the competent authority and the extent of the powers and functions of such competent authority.

(2) The powers and duties delegated to a competent authority designated pursuant to subsection (1) of this section to manage and administer a particular protected area may include the powers and duties to—

- (a) make and enforce Regulations for the management and control of activities within the protected area under its jurisdiction and these Regulations shall be approved by the Minister under this Act;
- (b) review and implement the management plan in accordance with section 17 of this Act;
- (c) make recommendations to the Minister on kinds of expertise and institutional resources needed to properly manage and administer the protected area;
- (d) give advice on amending boundaries or the classification of the protected area in order to better meet its purposes and objectives;
- (e) undertake any other powers and duties that may be assigned to it, from time to time, by the Minister.

#### **Use of other officers etc.**

20. To carry out his or her responsibilities under this Act, the Minister or the Governor-General, as the case may be, may—

- (a) appoint special wildlife and parks officers;
- (b) use consultants, experts and advisors from national, regional or international organisations;
- (c) use personnel from other Ministries; and
- (d) use individuals, voluntary organisations and community groups from the business and non-governmental sectors.

## PART V

### ESTABLISHMENT OF BRIMSTONE HILL FORTRESS NATIONAL PARK

#### **Establishment of Brimstone Hill Fortress National Park.**

21. In recognising its national and international significance as an outstanding cultural and historical resource, the area commonly known as Brimstone Hill Fortress as described in the Second Schedule to this Act, is hereby declared to be the

Brimstone Hill Fortress National Park with effect from the 23rd day of October, 1985.

**Delegation of authority to Brimstone Hill Society.**

22. The Brimstone Hill Fortress National Park shall be under the management and administration of the existing Society titled the Brimstone Hill Fortress National Park Society (hereinafter referred to as the Brimstone Hill Society) which is a company incorporated under the Companies Act, Cap. 21.03.

**Use of expertise and personnel.**

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

**Brimstone Hill Society to make Regulations.**

24. The Brimstone Hill Society shall have the power to make and enforce Regulations for the management and administration of the Brimstone Hill Fortress National Park and the Brimstone Hill Regulations, 1983 shall be deemed to have been made under this Act until new Regulations are made by the Brimstone Hill Society under this section.

**Admission fees to be used for management and restoration.**

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

**Accounts of the Brimstone Hill Society.**

26. The Brimstone Hill Society shall maintain proper accounts of all sums of money received and expended in relation to the management and administration of Brimstone Hill Fortress National Park, and such accounts shall be open at all reasonable times for inspection by the Government and shall be audited annually.

PART VI

RECOGNITION OF BATH HOTEL AS AN HISTORICAL SITE

**Recognition of Bath Hotel as an historical site.**

27. (1) In recognition of the natural significance as an outstanding historic resource the area described in the Fourth Schedule and commonly known as the Bath Hotel in the Island of Nevis is hereby declared to be an historic site with effect from the first day of January, 1987.

(2) This Part shall not come into operation until such time as the Minister may designate by Notice published in the *Gazette*.

(3) In determining the date under subsection (2), the Minister shall consult the Nevis Island Administration and shall act in accordance with such advice.

## PART VII

## COAST CONSERVATION AND BEACH PROTECTION

**Beach vested in the Crown with public access.**

**28.** (1) It is hereby declared that all rights in and over the beach are vested in the Crown and the public shall have the right of access and the right to use or enjoy the beach for recreational activities and purposes.

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

*(Inserted by Act 21 of 2001)*

(3) Where there is no public access, traditional public use of a private landward access through an existing private development shall be sufficient grounds for establishing a public right of way over that access solely for the purpose of access to the beach by the public.

*(Inserted by Act 21 of 2001)*

(4) Where the only landward access to a beach is through an existing private development where traditional public use pursuant to subsection (2) has not been established, the Government may acquire the right to public use of that beach access, by gift, negotiation, contract, purchase, lease or compulsory acquisition, in exchange for other property, interest or financial exemption or by such other means as the Minister may recommend.

*(Inserted by Act 21 of 2001)*

(5) Where land is acquired by way of compulsory acquisition for a beach access, the Land Acquisition Act, Cap. 10.08 shall apply in respect of that acquisition.

*(Inserted by Act 21 of 2001)*

(6) Where a proposed development is likely to adversely affect the public's right of reasonable access to a beach from the landward side, any development permit issued pursuant to the Development Control and Planning Act, Cap. 20.07 or under any other Act, for that development, shall include as a condition of development, a landward public access through the development, at all reasonable times, free of charge.

*(Inserted by Act 21 of 2001)*

**Duties and functions of the Conservation Commission in respect of coast conservation.**

**29.** The Minister, in consultation with the Conservation Commission, shall be responsible for—

- (a) the preparation and implementation of a coastal zone management plan to regulate developmental activities in a coastal zone and to make necessary Regulations;
- (b) the formulation and execution of schemes of work for coast conservation within the coastal zone;
- (c) the conduct of research and for undertaking environmental impact assessment of any development activity in collaboration with other departments, agencies and institutions for the purpose of coast conservation.



**Preservation of beach.**

**30.** No person shall—

- (a) remove or assist in the removal of any natural barrier against the sea;
  - (b) engage in sand mining from any land that is part of the foreshore, or from any land within the coastal zone (whether vested in that person or otherwise); or
  - (c) remove or assist in removing any vegetation from a beach;
- except under the authority of a permit granted by the Minister in writing, in such form as the Minister approves.

*(Substituted by Act 21 of 2001)*

**Application for permission to dig and take sand.**

**31.** (1) A Permit to dig and take away sand, stone, gravel or shingle is obtainable by making an application therefor in writing to the Minister in such form as he or she approves and the application must contain—

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

(2) The Minister shall consider all applications made to him or her under subsection (1) and may grant the permit applied for upon such terms (including as to the quantity of sand, stone, gravel or shingle to be taken) as he or she thinks fit or he or she may refuse the application.

**Time for conveying of sand etc.**

**32.** No sand, stone, gravel or shingle shall be dug, taken or transported between the hour of 7 o'clock in the evening of any day and the hour of 5 o'clock in the morning of the following day.

**Exemption.**

**33.** Sections 30, 31, and 32 do not apply if the quantity of sand, stone, gravel or shingle being taken is of such a small quantity that it can be conveyed without the use of any motor vehicle or wheelbarrow.

**Fouling or polluting the coastal zone.**

**34.** (1) No person shall pollute any part of the coastal zone by depositing sewage, solid waste, garage oil, or other waste in any place in the coastal zone.

(2) In this section, “pollute” includes to cause such contamination, or other alteration of the physical, chemical or biological properties of any part of the coastal zone as will or is likely to create a nuisance or render the area harmful, detrimental or injurious to public health, safety or welfare, or to domestic, recreational, or other beneficial uses or to livestock, wild animals, plants or marine life.

(3) In any proceedings for an offence alleged to have been committed under this section a certificate from the Director of the Department Environment Protection, in writing, stating that an incident of pollution took place within the coastal zone shall be prima facie evidence of that statement.

*(Substituted by Act 21 of 2001)*

#### **Power to declare protected beaches.**

**35.** (1) The Minister may, in consultation with the Conservation Commission, by Order published in the *Gazette*, declare—

- (a) certain areas of the coastal zone to be protected beaches for purposes of this Act; and
- (b) such activities as may be specified in the Order to be prohibited activities in the area defined in the Order, being any or all of the following activities—
  - (i) fishing by any means specified in the Order;
  - (ii) the use or anchoring of boats, except for authorised purposes, and the docking or anchoring of cruise ships;
  - (iii) the disposal of any waste matter;
  - (iv) water skiing;
  - (v) sand mining or dredging in the coastal zone;
  - (vi) the removal of any treasure or artifact from the floor of the sea.

#### **Offences related to beach protection.**

**36.** Any person who—

- (a) removes any natural barrier against the sea;
- (b) digs and takes away or assists in digging and taking sand, stone, gravel or shingle in contravention of section 30;
- (c) contravenes section 32; or
- (d) contravenes section 34,

commits an offence and is liable, on summary conviction, to a fine not exceeding ten thousand dollars or to imprisonment for a term not exceeding one year or both; and in addition, any vehicle, vessel, craft or boat together with any equipment or machinery used in connection with the commission of an offence under paragraph (a) or (b) is liable to forfeiture.

*(Substituted by Act 21 of 2001)*

#### **Savings.**

**37.** Nothing in this Part shall be deemed to affect—

- (a) any land used for agriculture; or
- (b) any vested rights enjoyed by fishermen engaged in fishing as a trade in or over any beach.

## PART VIII

## FORESTRY, SOIL AND WATER CONSERVATION

**Timber not to be cut or felled without permit.**

**38.** (1) No person shall cut or fell any timber within Saint Christopher and Nevis unless such person shall have obtained from the Director of Environment a permit in writing:

Provided that the provisions of this section shall not apply to timber cut or felled for the purposes of the domestic use of the owner.

*(Amended by Act 21 of 2001)*

(2) In this section, “timber” means any kind of growing tree except brushwood.

**Forest management schemes and Regulations.**

**39.** The Minister, in consultation with the Conservation Commission, shall establish forest management schemes and make Regulations for—

- (a) the establishment of forest reserves and make prohibitions in regard to the grazing of livestock in such reserves;
- (b) the national exploitation of forest resources;
- (c) the conservation of threatened species of flora, and to encourage citizen participation therewith to keep the Nation’s forest resources at maximum productivity at all times;
- (d) the promotion of reforestation, timber stand improvement, forest protection, forest management, multiple use forest and forest research;
- (e) the regulation of charcoal burning and the export from Saint Christopher and Nevis of any timber or charcoal; and
- (f) the procedures and exemptions in regard to felling or cutting timber.

**Soil Conservation.**

**40.** The Minister, in consultation with the Conservation Commission, and with the assistance of any expert or consultant, shall provide Regulations for soil conservation including the identification and protection of critical watershed areas and natural drainage systems and the encouragement of scientific farming techniques by means of physical and biological soil conservation and research in regard to effective soil conservation designed to reduce or prevent soil erosion.

**Ghats declared to be a special area of concern.**

**41.** (1) All ghats in Saint Christopher and Nevis are hereby declared to be an area of special concern to be managed in the public interest in stable and productive natural drainages.

(2) The Minister may, in consultation with the Conservation Commission, require by way of Regulations special land use, rehabilitation, management and conservation measures, including complete protection, in any ghat in order to ensure that it is maintained as a stabilised and productive natural drainage.

(3) A person who—

- (a) cultivates, cuts, burns or clears the land or vegetation;
- (b) grazes livestock;
- (c) constructs any structure;
- (d) removes sand without permission;
- (e) undertakes any other activity that may be prohibited from time to time;

in an area of special concern, without the written permission of the Minister commits an offence and is liable, on conviction summarily, to a fine not exceeding eight thousand dollars and to a further fine of two hundred dollars, for each day during which the offence continues after such conviction.

*(Substituted by Act 21 of 2001)*

(4) A person who pollutes or litters a ghaut commits an offence and is liable, on conviction summarily, to a fine not exceeding eight thousand dollars, and to a further fine of five hundred dollars for each day during which the litter or pollution continues or is not remedied after conviction.

*(Substituted by Act 21 of 2001)*

(5) A person convicted under subsection (4) shall be responsible for the clean up of the litter deposited or pollution caused, by the best means available.

*(Inserted by Act 21 of 2001)*

#### **Authority for Director of Environment to take measures in regard to ghauts.**

**42.** (1) In any case where any owner of any ghaut fails to comply with any measures specified in the Regulations made under this Act, it shall be lawful for the Director of Environment 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 by an officer authorised in writing by the Director of Environment, it shall be lawful for any officer so authorised to enter the land and to carry out thereon all such work as may be necessary for the purpose of taking the required measures in respect of ghauts.

*(Amended by Act 21 of 2001)*

(2) The cost of carrying out any work with respect to ghauts in pursuance of the powers conferred by sub-section (1) shall be payable by the owner as prescribed, and the amount if unpaid, shall be recoverable by civil action as a debt due to the Crown.

#### **Watershed Conservation.**

**43.** The Minister, in consultation with the Conservation Commission and the Water Board established under the Watercourse and Waterworks Act, Cap. 11.06 or any other Act, shall make Regulations to conserve and develop the Nation's water resources to prevent or reduce soil erosion and thereby meet the present and future water needs for domestic, agricultural, commercial, industrial and other beneficial uses.

## PART IX

## PROTECTION OF WILD ANIMALS AND BIRDS

**Interpretation.**

44. In this Part—

“wild animal” or “wild bird” means any animal or bird specified in the Third Schedule.

**Enumeration of offences for protection of wild animals and birds as specified in the Third Schedule.**

45. Any person who—

- (a) wilfully kills, wounds or takes any wild animal or wild bird specified in the Third Schedule;
- (b) takes, removes, injures or destroys any nest or egg of a wild bird specified in the Third Schedule;
- (c) exposes for sale, or knowingly has in possession, any wild animal or wild bird specified in the Third Schedule, or any part of such animal or bird, taken, wounded or killed in Saint Christopher and Nevis after the commencement of this Act;
- (d) exports or attempts to export the skin or plumage of any wild animal or wild bird taken, wounded or killed, or the nest or eggs of any such animal or bird taken from Saint Christopher and Nevis after the commencement of this Act in relation to wild animals or wild birds specified in the Third Schedule;

commits an offence under this Act.

**Penalty for offences under section 45.**

46. A person convicted summarily of an offence under section 45 is liable to a fine not exceeding five thousand dollars or to a period of imprisonment not exceeding three months or both, and any article or firearm by which the offence was committed is liable to forfeiture.

*(Substituted by Act 21 of 2001)*

**Onus of proof on person found in possession.**

47. Where any person is legally proceeded against for exposing or offering for sale, or having in his or her possession, or exporting or attempting to export any wild animal or wild bird or any part of such animal, bird or the nest or egg, the proof that such animal or bird was not taken, wounded, or killed in Saint Christopher and Nevis shall be on such person.

**Complaint to be made to the Magistrate’s Court.**

48. Any complaint in regard to an offence under this Part shall be brought before the Magistrate’s Court.

**Authority for scientific and other purposes.**

49. Notwithstanding any provision in this Part, the Minister may, in writing, authorise any person for such time and subject to such conditions as he or she thinks necessary for scientific or other purposes to kill, wound or take any wild animal or wild bird or to take or remove the nest or eggs of any wild bird.

**Minister may amend the Third Schedule.**

50. The Minister may, from time to time, add or remove the name of any wild animal or wild bird in the Third Schedule by way of Notice published in the *Gazette*.

## PART X

## ANTIQUITIES AND HISTORIC BUILDINGS

**Interpretation.**

51. In this part—

“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;
- (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.

**Search for antiquities only with licence.**

52. (1) Any person who digs or otherwise searches for antiquities whether on his or her land or elsewhere except with a licence obtained upon application made to the Minister, commits an offence and upon summary conviction shall be liable to a fine not exceeding one thousand dollars.

(2) A licence to excavate or undertake salvage operations for antiquities shall be granted only to such persons who in the opinion of the Minister in consultation with the Conservation Commission—

- (a) guarantee sufficient funds for expenditure on the proposed excavation or salvage so as to do a satisfactory job;
- (b) whose scientific competence for the excavation or salvage operations is reasonably assured by any learned society or institution to the satisfaction of the Minister.

(3) The Minister may attach any conditions and fees to the Licence as he or she determines appropriate in the public interest, in order to protect antiquities and shall also require such person—

- (a) to furnish plans of the proposed excavation of salvage and list all the antiquities discovered by the holder of the licence;

(b) to deliver to the Minister for inspection and division in terms of this section all antiquities discovered at the close of excavation or salvage or whenever the Minister may direct.

(4) In case of the breach of any conditions of the licence issued pursuant to this section, the Minister may suspend or cancel the licence.

#### **Division of antiquities.**

**53.** (1) All antiquities discovered during any excavation or salvage licensed pursuant to this Part shall be subject to inspection and division by the Minister.

(2) In making the division of antiquities referred to in subsection (1) of this section, the Minister may acquire on behalf of Saint Christopher and Nevis all such antiquities which in his or her opinion, after consultation with the Conservation Commission, are important as cultural property or are required for educational, scientific, archaeological or historic purposes of the Nation.

(3) The Minister, in consultation with the Conservation Commission, shall divide the remaining antiquities as far as possible giving the holder of the licence a fair share of the results of the excavation or salvage which shall not be less than one-third of the full amount.

#### **Discovery of antiquities by accident.**

**54.** Any person who accidentally discovers antiquities without a licence issued under this Part shall forthwith report the fact to the Minister and the provisions of section 53 shall *mutatis mutandis* apply.

#### **Export of antiquities.**

**55.** No person shall export from Saint Christopher and Nevis any antiquity except in accordance with a licence to export such antiquity as prescribed under the Regulations made under this Act.

#### **List of special buildings to be compiled and maintained.**

**56.** (1) The Minister, upon recommendation of the Conservation Commission, shall prepare and maintain a list of special buildings that shall be preserved for purposes of historic and cultural value and which shall contain—

- (a) a description of the building; and
- (b) the reasons why the building should be preserved on the list.

(2) The owner of any building proposed for inclusion in the list under this section shall be given notice of the listing and his or her right under subsection (3) hereof.

(3) Within three months of the notice, the owner may appeal to the High Court against the inclusion of his or her building in the list and in the event of no such appeal, the building shall by Notice published in the *Gazette* be declared to be a listed building.

#### **Effect of listing.**

**57.** (1) Except as provided in subsection (3), where any building is officially declared to be listed as a historic building it shall be an offence for any person to carry out development on such historic building except with the approval of the

Building Board established under the Development Control and Planning Act, Cap. 20.07 and in considering the application, the Building Board shall consult with the Conservation Commission giving special consideration to the public interest in preserving the features for which the building is listed, and shall endeavour to use all means reasonably available to preserve those features.

(2) A person who contravenes subsection (1) commits an offence and is liable, on conviction summarily, to a fine not exceeding six thousand dollars and to an additional fine of two hundred dollars for every day that the offence continues after such conviction.

*(Substituted by Act 21 of 2001)*

(3) It shall not be an offence for the owner of a historic building as listed under this Act to carry out repairs or maintenance in a manner that preserves the features for which it was listed or when such repairs or maintenance shall be necessary to prevent danger to any person.

#### **Incentives to restore historic buildings.**

**58.** (1) An owner of any historic building who repairs or restores such building may receive any or all of the following incentives—

- (a) exemption from payment of property tax;
- (b) exemption from custom duties and consumption tax for any materials imported for repairs and restoration;
- (c) professional advice from public officers without charge or a fee;
- (d) use of plant and equipment of the Public Works Department.

(2) An owner of a historic building who receives financial or technical assistance pursuant to this section for restoring or repairing such property shall make the property available for visits by the public at such times as are mutually agreed between the owner and the Minister after consultation with the Conservation Commission.

## PART XI

### INTERNATIONAL CONVENTIONS

#### **Conventions to have force of law.**

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

*(Inserted by Act 12 of 1996)*

#### **Regulations and other matters relating to implementation.**

**60.** (1) Without prejudice to the generality of powers, the Minister may make regulations including the creation of offences to give effect to the International Conventions specified in the Fifth Schedule and may designate persons to issue certificates or permits to implement the Conventions or to carry out any other matter required for the implementation of the Conventions.

(2) Regulations made under subsection (1) shall be published in the *Gazette* and be laid before the National Assembly.

*(Inserted by Act 12 of 1996)*



**Minister may amend the Fifth Schedule.**

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

*(Inserted by Act 12 of 1996)*

## PART XII

## MISCELLANEOUS

**Donation or exchange of land for any protected area.**

62. Any owner may donate, exchange, transfer or otherwise dedicate any land or interest in land to the Government of Saint Christopher and Nevis under this Act for any protected area.

**Regulations.**

63. (1) The Minister may, in consultation with the Conservation Commission, make the following Regulations under this Act—

- (a) prescribing the sanitary and clean conditions and practices to be observed at and in respect of protected areas, beaches and public places, and for prevention and punishment of environmental pollution;
- (b) with respect to activities to be regulated or prohibited in protected areas;
- (c) for forms, permits and application as required by this Act;
- (d) prescribing the fees and charges for entry to or for the use of any protected area and the terms and conditions on which such fees shall be paid;
- (e) for the preservation from danger, obstruction or annoyance of members of the public using any protected area or the beach;
- (f) for the preservation of order and good conduct among members of the public using any protected area, beach or forest reserves;
- (g) prescribing the manner in which any protected area is to be operated;
- (h) for the prevention of the deterioration of historic sites, buildings and monuments of national interest designated under this Act;
- (i) prescribing the terms and conditions of any salvage or other activity in respect of antiquities and abandoned wrecks; and
- (j) generally for the better carrying out of his or her functions under this Act.

(2) Any Regulations made shall be laid before the National Assembly of Saint Christopher and Nevis.

**Offences.**

**64.** (1) Any person who contravenes any provisions of this Act or any Regulations made thereunder commits an offence and is liable, on summary conviction, to a fine of two hundred dollars or to imprisonment for a term of three months or both.

(2) Any person who assaults, resists, obstructs or intimidates any member or any authorised officer commits an offence and is liable, on summary conviction, to a fine of one thousand dollars or to imprisonment for a term of twelve months or both.

(3) Any person who, without authority or excuse, wilfully damages any tree, shrub or grass planted or laid out, or deposits any waste paper, waste matter, rubbish or litter in any protected area, forest reserve or on a beach, commits an offence and is liable, on summary conviction, to a fine of five hundred dollars or to imprisonment for a term of six months or both, and, in addition, a court before which a person is convicted of an offence under this subsection in respect of wilfully damaging any tree, shrub or grass planted or laid out, may order that person to pay full compensation in satisfaction of the damage or to carry out such remedial work as may be necessary.

(4) A person who, without lawful authority—

- (a) breaks, cuts or samples any coral or marine invertebrate;
- (b) removes any flora or fauna from any protected area;
- (c) digs or removes artifacts from a protected area;
- (d) interferes with or pollutes any watercourse, watershed, sea, beach, or protected area;

commits an offence and is liable on summary conviction to a fine not exceeding six thousand dollars or to imprisonment for a term not exceeding three months or both.

*(Substituted by Act 21 of 2001)*

(5) A person who defaces, damages or destroys any historic building, site or monument so designated under this Act commits an offence and is liable—

- (a) in the case of defacement, on summary conviction, to a fine not exceeding six thousand dollars or to imprisonment for a term not exceeding twelve months or both;
- (b) in the case of damage, on summary conviction, to a fine not exceeding eight thousand dollars or to imprisonment for a term not exceeding twelve months or both; and
- (c) in the case of destruction, on summary conviction, to a fine not exceeding ten thousand dollars or to imprisonment for a term not exceeding two years.

*(Substituted by Act 21 of 2001)*

(6) Where a conviction under this Act is in respect of any offence which has caused significant deterioration, damage or destruction of trees, shrubs, grass planted or laid out, mangroves, coral reefs, beaches, bays or pollution of any part of the coastal zone, the court before which the person is convicted may, in addition to the penalty imposed, order the offender to pay such reasonable sum of money for restoration, rehabilitation or clean-up associated with the determination or destruction and shall in imposing this penalty have regard to the recommendations of the Director of the Department of Environment.

*(Inserted by Act 21 of 2001)*

**FIRST SCHEDULE***(Section 12(5))***CONSTITUTION OF THE CONSERVATION COMMISSION****Tenure of members of Commission.**

1. The members of the Conservation Commission shall hold office for a period of three years and shall be eligible for re-appointment.

**Resignation of members.**

2. A member other than the Chairperson may at any time resign his or her office by instrument in writing addressed to the Chairperson who shall forthwith cause the same to be forwarded to the Minister and upon the date of the receipt by the Chairperson of such instrument he or she ceases to be a member of the Conservation Commission unless some other date is mentioned in the instrument.

**Resignation of Chairperson.**

3. The Chairperson of the Conservation Commission may at any time resign his or her office by instrument in writing addressed to the Minister and upon the date of the receipt by the Minister of such instrument he or she ceases to be Chairperson and a member of the Conservation Commission unless some other date is mentioned in the instrument.

**Existence of Vacancy.**

4. A vacancy shall be deemed to arise in the membership of the Conservation Commission in case of—

- (a) the death or resignation of a member;
- (b) the revocation by the Minister of the appointment of a member;
- (c) the failure of a member to attend three consecutive meetings of the Conservation Commission, unless such failure to attend was approved by the Conservation Commission.

**Remuneration of members.**

5. Members are eligible for such remuneration whether by way of fees or travelling allowance or other allowances, as the Minister may determine in consultation with the Conservation Commission.

**Publication of names of members in the *Gazette*.**

6. The names of all members of the Conservation Commission as at first constituted and every change in the membership thereof shall be published in the *Gazette*.

**Seal of Commission.**

7. (1) The seal of the Conservation Commission shall be kept in the custody of the chairperson or Deputy Chairperson or such officer of such Commission as the Conservation Commission may approve and may be affixed to documents or instruments pursuant to a resolution of the Commission and in the presence of the

Chairperson or Deputy Chairperson and the Secretary to the Conservation Commission.

(2) The seal of the Conservation Commission shall be authenticated by the signature of the Chairperson or the Deputy Chairperson and the Secretary to the Conservation Commission.

(3) All documents or instruments, other than those required by law to be under seal, made by, and all decisions of, the Conservation Commission may be signified under the hand of the Chairperson or Deputy Chairperson.

#### **Meetings of the Commission.**

8. (1) The Conservation Commission shall meet at such times as may be necessary or expedient for the transaction of its business and each meeting shall be held on such days and at such times and places as the Conservation Commission determines.

(2) The Chairperson or, if he or she is for any reason whatsoever unable to act, the Deputy Chairperson, may at any time call a special meeting of the Conservation Commission and shall call a special meeting within seven days of the receipt by him or her of a requisition for that purpose addressed to him or her in writing by any three members.

#### **Presiding at meetings of the Commission.**

9. The Chairperson or, in his or her absence, the Deputy Chairperson, shall preside at all meetings of the Conservation Commission, and in the case of the absence of both the Chairperson and the Deputy Chairperson, the members present and constituting a quorum may elect a temporary Chairperson from among their number who shall preside at that meeting.

#### **Quorum.**

10. Five members of the Conservation Commission present at any meeting constitute quorum.

#### **Decisions of the Commission.**

11. The decisions of the Conservation Commission at any meeting shall be by a majority of votes and in the event of an equality of votes the Chairperson or the Deputy Chairperson presiding at the meeting has a casting vote.

#### **Revocation of Appointment.**

12. (1) The Minister may at any time revoke the appointment of any member if he or she thinks it expedient so to do.

(2) In the case of any member appointed by the Minister in accordance with section 12(b), (c) or (d), any revocation shall be made upon the recommendation of such person or body upon whose recommendation the appointment was made.

**SECOND SCHEDULE***(Section 21)*

## LEGAL DESCRIPTION OF BRIMSTONE HILL FORTRESS NATIONAL PARK

All the lands, messuages, tenements, estate and hereditaments known as Brimstone Hill, including the fortifications and buildings thereon, situate in the Parish of Saint Thomas, Middle Island, in the Island of Saint Christopher, bounded on the North by Chalk Farm Estate, on the South by New Guinea Estate, on the East by Walk Estate, and on the West by Romney Ground Estate now part of Bourkes Estate, or howsoever otherwise the same may be abutted, bounded, known or described, together with all hedges, ditches, fences, ways, paths, passages, waters, drains, watercourses, woods, underwoods, rights, lights, liberties, easements and appurtenances whatsoever to the said hereditaments and premises or any part thereof belonging or with the same now or heretofore held, used, occupied, or enjoyed, or reputed, or known as part and parcel thereof, or appurtenant thereto.

**THIRD SCHEDULE***(Section 44)*

## WILD ANIMALS AND WILD BIRDS

## Wild Animals

## Deer

## Wild Birds

- |                         |   |
|-------------------------|---|
| 1. Humming birds        | 16. Crane   |
| 2. Yellow breast        | 17. Kingfisher  |
| 3. West Indian Canary   | 18. Soursop bird  |
| 4. Banana Bird          | 19. Black witch   |
| 5. Pea whistler         | 20. Pheasants (all varieties but not including pheasant raised and kept in custody and which have not been released or abandoned) |
| 6. Blacksmith           | 21. Wood dove   |
| 7. West Indian Robin    | 22. Ground dove   |
| 8. Chitty birds         | 23. Quail   |
| 9. Gaudings             | 24. Coots (red and white seal)  |
| 10. Barbados black bird | 25. Mountain dove   |
| 11. Loggerhead          | 26. Hawk  |
| 12. Partridge           | 27. Pelican   |
| 13. Wild duck           |   |
| 14. Coo-coo             |   |
| 15. Tern                |   |

**FOURTH SCHEDULE***(Section 27(1))*

## 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.

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**FIFTH SCHEDULE***(Section 59)*

## INTERNATIONAL CONVENTIONS AND AGREEMENTS

1. Convention on International Trade in Endangered Species of Wild Fauna and Flora 1973.
  2. United Nations Convention on Climate Change 1992.
  3. United Nations Convention on Biological Diversity 1992.
  4. Vienna Convention for the Protection of the Ozone Layer, 1985 and Montreal Protocol on Substances that deplete the Ozone Layer 1987.
  5. Basel Convention on the control of transboundary movement of Hazardous Waste 1989.
  6. Civil Liability Convention 1969.
  7. International Oil Pollution Compensation Fund Convention 1971.  
*(Inserted by Act 12 of 1996)*
-

**SIXTH SCHEDULE**

*(Section 24)*

**BRIMSTONE HILL FORTRESS NATIONAL PARK REGULATIONS**

**Citation.**

1. These Regulations may be cited as the Brimstone Hill Fortress National Park Regulations.

**Interpretation.**

2. In these Regulations—

“child” means a person over the age of four years and under the age of sixteen years;

“citizen” means a person who is a citizen or who may become a citizen under the provisions of the Saint Christopher and Nevis Constitution (West Indies Act, Cap. 1.01 – Including the Constitution and the Courts Order) or the Citizenship Act, Cap. 1.05;

“the Hill” means the Brimstone Hill Fortress National Park;

“the Minister” means the Minister charged for the time being with responsibility for Lands;

“resident” means a person who has habitually resided in Saint Christopher and Nevis for a period of at least one year immediately preceding the date of his or her intended visit to the Hill;

“the Society” means the Brimstone Hill Fortress National Park Society.

**Control of Brimstone Hill.**

3. The lands, buildings and erections known as Brimstone Hill (in these Regulations referred to as “the Hill”) shall be under the charge and control of the Society in accordance with the terms of any Lease thereof to the Society and in accordance with the provisions of the National Conservation and Environment Protection Act, Cap. 11.03. and any regulations made thereunder.

**Admission Fees.**

4. Save as hereinafter provided, no person shall be admitted or shall be on the Hill unless the following admission fees shall first have been paid—

- |  |                         |
|--|-------------------------|
| (a) For an adult who is either a citizen or a resident and is not a member of an organised party of twenty or more persons ..... | \$2.00                  |
| (b) For an adult non-national or non-resident.....   | \$13.00<br>(U.S.\$5.00) |
| (c) For a child, one-half of the fees payable under (a) or (b) as appropriate.   |                         |
| (d) For an organised group of Nationals (minimum of 12 persons).....   | \$0.50<br>per person    |

- (e) For an organised group of Caricom Nationals hosted by a local organisation (minimum 12 persons)..... \$1.50 per person
- (f) School children accompanied by a teacher No charge

**Deposit against Damage.**

5. No party of twelve or more persons shall be admitted to or be on the Hill unless a deposit in a sum not less than twenty dollars and not exceeding one hundred dollars is paid by or on their behalf to the Treasurer of the Society by way of guarantee that it would leave the Hill and everything in connection with the lands, buildings or erections on the Hill in the same satisfactory condition as they were when it was admitted and the deposit shall be accompanied by a statement in the following form:

“The Treasurer,

Brimstone Hill National Park Society.

I (We) herewith deposit the sum of \$..... as required by the Brimstone Hill Regulations, as guarantee against damage and I (We) agree to abide by all the provisions of those Regulations.

Signature

Address”.

**Liability for proper use.**

6. All the members of a party on whose behalf a deposit is made shall be jointly and severally responsible for the proper use of all things on the Hill and of the sanitary arrangements provided for the convenience of the public and may at the end of the visit be required, before repayment of the guarantee deposit, to produce a certificate from the caretaker that everything in connection with the lands, buildings and erections is in the same satisfactory conditions as it was when they were admitted.

**Cleaning and Damage.**

7. (1) If the lands, buildings and erections are not left by a party by or on whose behalf a deposit has been made in a clean and proper condition at the end of its visit or if any damage has been done to any part of the lands, buildings and erections or to any furniture or fittings, the Society shall cause any necessary cleaning to be done, and shall do any repairs necessary, and make good any loss or damage to the furniture or fittings, before repayment of the guarantee deposit; and the cost of the same shall be deducted from the guarantee deposit; and if the deposit is insufficient to cover such damage or loss, the party by or on whose behalf the deposit was made shall forthwith on demand pay such further sum as may be necessary.

(2) In case of any dispute arising as to the extent of any such damage or loss, the decision of the Society shall be final and binding on all parties.



**Exemptions.**

8. The following persons shall be exempt from payment of admission fees—
- (a) public officers on duty; and
  - (b) such persons as the Minister may exempt from payment.

**SEVENTH SCHEDULE**  
**SUBSTANCES THAT DEplete THE OZONE LAYER**  
**(CONTROL) REGULATIONS**

PART 1

PRELIMINARY

**Citation.**

1. These Regulations may be cited as the Substances that Deplete the Ozone Layer (Control) Regulations.

**Interpretation.**

2. In these Regulations—

- “approved medical purposes” means the medical purposes approved by the Conference of Parties pursuant to the Protocol;
- “ASHRE number” means American Society of Heating and Refrigeration Engineers number;
- “authorised officer” means any customs officer, police officer or person authorized by the Minister responsible for the Environment;
- “CAS Registry number” means Chemical Abstract Services number;
- “Commissioner of Police” means the Commissioner of Police pursuant to the Police Act, Cap. 19.07;
- “Comptroller” means the Comptroller of Customs pursuant to the Customs (Control and Management) Act;
- “Licensed registered importer” means a registered importer who holds a valid ozone depleting substance licence pursuant to regulation 5;
- “Licensed retrofitter” means a person who is the holder of a valid retrofitter licence pursuant to Regulation 8;
- “Minister” means the Minister responsible for the Environment;
- “National Ozone Unit” means the Department of Environment within the Ministry of Health and Environment;
- “Ozone Fund” means the Ozone Fund established pursuant to regulation 14;
- “Ozone Depleting Substance” means a substance listed in the First Schedule;

“Ozone Depleting Substance Licence” means a licence issued pursuant to Regulation 5;

“Ozone Depleting Potential Units” means the relative ozone depleting potential of a substance as determined by the Conference of Parties to the Protocol;

“Protocol” means the Montreal Protocol on Substances that Deplete the Ozone Layer;

“registered importer” means a registered importer listed in the Second Schedule;

“Retrofitter Licence” means a Retrofitter licence issued pursuant to Regulation 8;

“UN Numbers” means numbers assigned by relevant United Nations organisations for the purpose of identifying items.

## PART II

### RESTRICTIONS ON OZONE DEPLETING SUBSTANCES

#### **Restrictions on import and export.**

3. (1) No person shall import an ozone depleting substance into Saint Christopher and Nevis unless that person is a registered importer who holds a valid ozone depleting substance licence.

(2) No person shall export an ozone depleting substance from the Federation.

(3) A person who contravenes this section commits an offence and is liable to a minimum fine of five thousand dollars (\$5,000.00) but which shall not exceed twenty-five thousand dollars or to imprisonment for six months.

#### **Registered importer.**

4. Any person may in the form prescribed in Form 1 of the Second Schedule apply to the National Ozone Unit to be registered as an importer and the National Ozone Unit may—

(a) register the person as an importer on payment by the person of the fee prescribed in the Third Schedule; and

(b) grant the person a Certificate of Registration in the form prescribed in Form 2 of the Second Schedule.

#### **Application and grant of licence.**

5. (1) Subject to sub-regulations (2) and (3), a registered importer may apply to the Minister for an ozone depleting substance licence.

(2) An application for an ozone depleting substance licence shall—

(a) be made prior to any order being placed with a supplier by the registered importer; and

(b) shall be in the form prescribed in Form 3 of the Second Schedule.

(3) The Minister may grant an ozone depleting substance licence to an applicant under sub-regulation (1) on the following grounds—

(a) that the registered importer shall not exceed the quota allocated to him or her as published in the *Gazette* pursuant to regulation 6;

- (b) payment by the registered importer of the fee prescribed in the Third Schedule.
- (4) An ozone depleting substance licence shall be—
  - (a) for a limited quantity of the ozone depleting substance as determined by the Minister in accordance with a quota issued by the National Ozone Unit pursuant to regulation 6;
  - (b) for specific ozone depleting substances;
  - (c) in the form prescribed in Form 4 of the Second Schedule.
- (5) A registered importer must make in the prescribed manner an annual report to the National Ozone Unit of all imports of ozone depleting substances made for the year immediately preceding the date of the report.
- (6) A registered importer who fails to make the report referred to in subsection (5) is liable on summary conviction to a fine of \$5000.00 or to imprisonment for six months.

**Quota.**

6. (1) Subject to subsections (2) and (3), the National Ozone Unit shall on or before 15th January of each year, publish in the *Gazette* a quota to be measured in ozone depleting potential units, representing the total amount of the ozone depleting substances that may be imported into St. Kitts.
- (2) In addition to the quota referred to in sub-regulation (1), there shall also be published—
- (a) the upper limit of the quantity of ozone depleting substances that each registered importer shall be allowed to import for that year; and
  - (b) an amount of the quota to be held by the National Ozone Unit for special use.
- (3) The quota referred to in subsection (1) shall be pro-rated on the basis of historical quantity imported by each registered importer and the total quantity allowed under the Protocol.
- (4) The National Ozone Unit shall submit to the Minister and to the Comptroller a copy of the quota together with the upper limit for each registered importer as published pursuant to subsection (1).
- (5) The Minister shall not issue a licence to a registered importer who has —
- (a) already been issued licences for the current year; and
  - (b) whose total quantity of imports has reached the upper limit of the importer's quota for that year.
- (6) Where a registered importer has been assigned a quota pursuant to these Regulations and is unable to use that quota within the time allotted the National Ozone Unit may, by notice published in the *Gazette*, re-assign the quota or the balance of the quota to another registered importer.
- (7) In this section, "special use" means use determined by the National Ozone Unit to be of such a nature as to justify an allowance in excess of the assigned quota of the importer.

## PART III

## EQUIPMENT CONTAINING OZONE DEPLETING SUBSTANCES

**Prohibition on importation.**

7. (1) No person shall on or after 1st May, 2004 import any equipment requiring a supply of ozone depleting substances listed in Annex A of the First Schedule for its continued operation except if the equipment is to be used for approved medical purposes.

(2) The Comptroller shall—

(a) impound equipment which is imported contrary to sub-regulation (1); and

(b) order, in the form prescribed in Form 5 of the Second Schedule, the importer of the equipment to have it retrofitted by a licensed retrofitter, at the expense of the importer.

(3) The importer shall comply with an order made pursuant to regulation 15 (a) within twenty-eight days of the making of the order by the Comptroller.

(4) Regulation 12 applies to equipment imported contrary to sub-regulation (1) where the person importing the equipment fails to comply with sub-regulations (2) and (3).

(5) The retrofitting of equipment pursuant to regulation 15(2) shall take place on premises approved by the Comptroller for that purpose.

(6) A licensed retrofitter who retrofits equipment pursuant to this section shall label the equipment in accordance with the standards set in regulation 9 and shall attach his or her licence number, name and signature to the label.

(7) A registered importer who acts in contravention of this section commits an offence and is liable upon conviction to a fine not exceeding \$10,000.00 or to imprisonment for six months.

## PART IV

## RETROFITTER LICENCE

**Retrofitter licence.**

8. A person may, subject to sub-regulation (2), apply to the National Ozone Unit for a retrofitter licence.

**Form of application.**

9. An application for a retrofitter licence shall be in the form prescribed in Form 6 of the Schedule 2.

**Grant of licence.**

10. (1) The National Ozone Unit may—

(a) subject to sub-regulation (4); and

- (b) subject to payment by the person of the fee prescribed in the Schedule 3;

grant the retrofitter licence applied for pursuant to sub-regulation (1) if the National Ozone Unit is satisfied that the person is a qualified retrofitter for the purposes of these Regulations.

(2) A retrofitter licence shall be in the form prescribed in Form 7 of the Schedule 2 and shall be valid for one (1) year after which a new application may be made pursuant to these Regulations.

**List of licensed retrofitters.**

11. The National Ozone Unit shall on or before the 15th of January in each year—

- (a) submit to the Comptroller; and
- (b) publish in the *Gazette*;

a list of all licensed retrofitters.

PART IV

LABELLING STANDARDS

**Standards for importation.**

12. (1) For the purposes of this part an ozone depleting substance includes any equipment containing an ozone depleting substance.

(2) Where an ozone depleting substance is imported in accordance with any other provision of these Regulations the importer shall ensure that the ozone depleting substance is labeled so as to identify the active chemical and the ozone depleting substance itself.

(3) The importer of an ozone depleting substance shall ensure that a label that is affixed pursuant to subsection (1), shall include the trade name, chemical name and one or more of the following—

- (a) ASHRE number,
- (b) CAS number; or
- (c) UN number assigned to an ozone depleting substance.

(4) A registered importer who acts in contravention of this section commits an offence and is liable on summary conviction to a fine not exceeding \$10,000.00 or twelve months in prison.

**Impounding of ozone depleting substance.**

13. Where an ozone depleting substance is imported into the Federation contrary to regulation 12 sub-regulations (2) and (3) the Comptroller shall—

- (a) impound the ozone depleting substance; and
- (b) request that the person who imported the ozone depleting substance, label it in accordance with regulation 12 sub-regulation (2) and (3) within twenty-eight days of the request being made.

**Equipment for local sale.**

14. (1) A person who sells or intends to sell equipment containing an ozone depleting substance, shall ensure that the equipment has a label that—

- (a) is conspicuously displayed on the exterior of the equipment; and
- (b) identifies the specific ozone depleting substance contained therein.

(2) A person who contravenes sub-regulation (1) commits an offence and is liable on conviction to a fine not exceeding ten thousand dollars or to imprisonment for twelve months.

(3) A Magistrate may issue to a police officer a warrant to enter and search premises and seize equipment containing an ozone depleting substance belonging to or in the possession or control of a person if the Magistrate is satisfied by evidence given on oath that there are reasonable grounds to believe that the person is committing, has committed or is about to commit an offence under this regulation in relation to the equipment to be seized.

(4) If a person is convicted of an offence pursuant to these Regulations, the equipment, pursuant to regulation 17, shall be forfeited to the Crown.

(5) The National Ozone Unit may in accordance with sub-regulation (1), label forfeited equipment which may then be sold and the proceeds paid into the Consolidated Fund for the benefit of the National Ozone Unit.

**PART V****SEIZURE, DETENTION AND FORFEITURE OF OZONE DEPLETING SUBSTANCES****Forfeiture of ozone depleting substance.**

15. (1) Where an ozone depleting substance is imported into Saint Christopher and Nevis contrary to regulation 3(1)—

- (a) the Comptroller shall seize the ozone depleting substance; and
- (b) the ozone depleting substance shall be forfeited to the Crown in accordance with the procedures for seizure and forfeiture of prohibited goods.

(2) Where an ozone depleting substance is seized and forfeited pursuant to sub-regulation (1), the Comptroller shall inform the Minister.

(3) An ozone depleting substance that is seized pursuant to sub-regulation (1), shall, subject to sub-regulation (4), be held in bond by the Comptroller who—

- (a) in accordance with the Customs Control and Management Act; and
- (b) after consultation with the National Ozone Unit,

may sell the ozone depleting substance to licensed registered importers in the same or subsequent years, in quantities consistent with the upper limit referred to in regulation 6 sub-regulation (3).

(4) Where an ozone depleting substance is seized and forfeited pursuant to sub-regulation (1), the ozone depleting substance shall be disposed of in accordance with the directions of the Minister after consultation with the National Ozone Unit.

**Forfeiture of equipment imported and not retrofitted contrary to regulation 7.**

**16.** (1) Where a person fails to comply with an order of the Comptroller pursuant to Regulation 7 (2), the equipment shall be seized and held in bond by the Comptroller and shall be forfeited to the Crown.

(2) The Comptroller may in accordance with the Customs (Control and Management) Act and after consultation with the National Ozone Unit, sell equipment that has been forfeited to the Crown pursuant to sub-regulation (1) but shall not do so unless the goods are retrofitted by a licenced retrofitter.

(3) The expense incurred in retrofitting equipment pursuant to sub-regulation (2) shall be a charge on the Ozone Fund.

(4) Where equipment seized and forfeited pursuant to sub-regulation (1) has expired or has remained in bond for more than two (2) years, the equipment shall be disposed of in accordance with directions of the Minister.

**Forfeiture of unlabelled substance of equipment.**

**17.** (1) Where an ozone depleting substance or equipment containing an ozone depleting substance is imported into St Kitts contrary to sub-regulation 12(2) and the person importing fails to comply with a request made pursuant to regulation 13 (b)—

- (a) the Comptroller shall seize the ozone depleting substance or the equipment containing an ozone depleting substance; and
- (b) any items so seized shall be forfeited to the Crown in accordance with the procedures for seizure and forfeiture of prohibited goods provided for in Schedule 4.

(2) Where an ozone depleting substance or equipment containing an ozone depleting substance is seized and forfeited pursuant to sub-regulation (1), then—

- (a) the Comptroller shall inform the Minister responsible for Commerce as well as the National Ozone Unit; and
- (b) the ozone depleting substance or the equipment shall be disposed of in accordance with the directions of the Minister.

**Detention seizure and condemnation of goods.**

**18.** (1) Anything that is liable to forfeiture under these Regulations may be seized or detained by an authorised officer.

(2) Where anything that is liable to forfeiture is seized or detained by an authorised officer other than a customs officer, that thing shall be delivered to the Comptroller within seven days unless —

- (a) such delivery is not practicable; or
- (b) that thing is or may be required for use in connection with proceedings to be brought otherwise under regulation 14.

(3) Where, by virtue of subsection (2), anything seized or detained by an authorised officer is not delivered up to the Comptroller within seven days, notice in writing of the seizure or detention, containing full details of the thing seized or detained, shall be given to the Comptroller, and any authorised customs officer shall be permitted to examine and take account of that thing at any time while it remains in the custody of the authorised officer.

(4) The Fourth Schedule shall have effect in relation to appeals against the seizure of anything seized as liable to forfeiture under any customs enactment, and for proceedings for the condemnation as forfeited of that thing.

**Forfeiture of vessels or other instruments of carriage used in connection with goods liable to forfeiture.**

19. (1) Where anything has become liable to forfeiture under these regulations—

- (a) any vessel, aircraft, vehicle, animal, container (including baggage,) or any other thing which has been used for the carriage, handling, deposit or concealment of the thing so liable to forfeiture, either at the time when it was so liable or for the purposes of the commission of the offence for which it later became so liable; and
- (b) any other thing mixed, packed or found with the thing so liable,

shall also be liable to forfeiture.

(2) Where—

- (a) any vessel is, or has been within the territorial sea; or
- (b) any aircraft is, or has been at any place whether on land or water in Saint Christopher and Nevis; or
- (c) any vehicle is or has been within the limits of any customs port, approved wharf, customs airport or other customs area,

while constructed, adapted, altered or fitted in any manner for the purpose of concealing goods, that vessel, aircraft or vehicle is liable to forfeiture.

(3) If, at any time while a vessel is within the territorial sea, any part of its cargo is thrown overboard or is stored or destroyed to prevent seizure, that vessel is liable to forfeiture.

(4) If any cargo, has been imported into Saint Christopher and Nevis upon any vessel or aircraft and any part of that cargo is afterwards found to be missing, then if the master of the vessel or the commander of the aircraft is unable to account for that missing cargo to the satisfaction of the Comptroller, that vessel or aircraft is liable to forfeiture.

(5) Where any vessel, aircraft, vehicle or animal has become liable to forfeiture, all tackle, apparel or furniture belonging to it shall also be liable to forfeiture.

(6) No claim shall lie against the Comptroller for damages in respect of the payment of any deposit or the detention of any vessel under this section.

(7) The exemption from forfeiture of any vessel under this section shall not affect the liability to forfeiture of any goods carried on board.

(8) For the purposes of this section—

- (a) “responsible officer” in relation to any vessel, means the master, mate or engineer of the vessel, and in the case of a vessel carrying a passenger certificate, the purser or chief steward, and, in the case of a vessel manned wholly or partly by Asiatic seamen, the serang or other leading Asiatic officer of the vessel; and
- (b) without prejudice to any other grounds upon which a responsible officer of any vessel may be held to be implicated by neglect, he may



be so liable if goods not owned by any member of the crew are discovered in any place under that officer's supervision in which they could not reasonably have been put if he had exercised proper care at the time of the loading of the vessel or subsequently.

**Protection of officers seizing or detaining goods.**

**20.** (1) Where, in any proceedings for the condemnation of anything seized as liable to forfeiture under these regulations judgment is given for the claimant, the court may, if it sees fit, certify that there were reasonable grounds for the seizure.

(2) Where any proceedings are brought against the Government or the Comptroller on account of the seizure or detention of anything as liable to forfeiture and judgment is given for the plaintiff or prosecutor, then if either—

- (a) a certificate relating to the seizure has been granted under sub-regulation (1); or
- (b) the court is satisfied that there were reasonable grounds for seizing or detaining that thing;

the plaintiff or prosecutor shall not be entitled to recover any damages or costs.

(3) Nothing in sub-regulation (2) shall affect the right of any person for the return of the thing seized or detained or to compensation in respect of any damage to the thing or in respect of the destruction of it.

(4) Any certificate under subsection (1) may be proven by the production of either the original certificate or a certified copy of it, purporting to be signed by an officer of the court by which it was granted.

**Ozone fund.**

**21.** (1) A fund to be known as the Ozone Fund shall be established under the administration and control of the Accountant General.

(2) The proceeds of sale from any—

- (a) ozone depleting substance; or
- (b) equipment containing an ozone depleting substance forfeited to the Crown pursuant to these Regulations

shall be deposited in the Ozone Fund and shall allocated to the National Ozone Unit to be used for the advancement of its work.

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**FIRST SCHEDULE***(Regulation 2)***LIST OF OZONE DEPLETING SUBSTANCES**

Annex A: Controlled Substances		
Group	Substance	Ozone-Depleting Potential*
<b>Group I</b>		
	CFC1 <sub>3</sub>	(CFC-11) 1.0
	CF <sub>2</sub> C1 <sub>2</sub>	(CFC-12) 1.0
	C <sub>2</sub> F <sub>3</sub> C1 <sub>3</sub>	(CFC-113) 0.8
	C <sub>2</sub> F <sub>4</sub> C1 <sub>2</sub>	(CFC-114) 1.0
	C <sub>2</sub> F <sub>5</sub> C1	(CFC-115) 0.6
<b>Group II</b>		
	CF <sub>2</sub> BrC1	(Halon-1211) 3.0
	CF <sub>3</sub> Br	(Halon-1301) 10.0
	C <sub>2</sub> F <sub>4</sub> Br <sub>2</sub>	(Halon-2402) 6.0

\*These ozone-depleting potentials are estimates based on existing knowledge and will be reviewed and revised periodically.

Annex B: Controlled Substances		
Group	Substances	Ozone-Depleting Potential
<b>Group I</b>		
	CF <sub>3</sub> C1	(CFC-13) 1.0
	C <sub>2</sub> FC1 <sub>5</sub>	(CFC-111) 1.0
	C <sub>2</sub> F <sub>2</sub> C1 <sub>4</sub>	(CFC-112) 1.0
	C <sub>3</sub> FC1 <sub>7</sub>	(CFC-211) 1.0
	C <sub>3</sub> F <sub>2</sub> C1 <sub>6</sub>	(CFC-212) 1.0
	C <sub>3</sub> F <sub>3</sub> C1 <sub>5</sub>	(CFC-213) 1.0
	C <sub>3</sub> F <sub>4</sub> C1 <sub>4</sub>	(CFC-214) 1.0
	C <sub>3</sub> F <sub>5</sub> C1 <sub>3</sub>	(CFC-215) 1.0
	C <sub>3</sub> F <sub>6</sub> C1 <sub>2</sub>	(CFC-216) 1.0
	C <sub>3</sub> F <sub>7</sub> Cl	(CFC-217) 1.0
<b>Group II</b>		
	CC1 <sub>4</sub>	Carbon tetrachloride 1.1
<b>Group III</b>		
	C <sub>2</sub> H <sub>3</sub> C1 <sub>3</sub> *	1,1,1-trichloroethane* 1.1
	(Methyl chloroform)	

\*This formula does not refer to 1,1,2-trichloroethane.

Annex C: Controlled Substances

**Number of Ozone-Depleting Substances**

Group	Substance	Isomers	Potential*
<b>Group I</b>			
CHFC <sub>12</sub>	(HCFC-21)**	1	0.04
CHF <sub>2</sub> C <sub>12</sub>	(HCFC-22)**	1	0.055
CH <sub>2</sub> FC <sub>1</sub>	(HCFC-31)	1	0.02
C <sub>2</sub> HFC <sub>14</sub>	(HCFC-121)	2	0.1
			0.04
C <sub>2</sub> HF <sub>2</sub> C <sub>1</sub>	(HCFC-122)	3	0.02
			0.08
C <sub>2</sub> HF <sub>3</sub> C <sub>1</sub>	(HCFC-123)	3	0.02-
			0.06
CHC <sub>12</sub> CF	(HCFC-123)**	-	0.02
C <sub>2</sub> HF <sub>4</sub> C <sub>1</sub>	(HCFC-124)	2	0.02-
			0.04
CHFC <sub>1</sub> CF	(HCFC-124)**	-	0.022
C <sub>2</sub> HF <sub>2</sub> C <sub>1</sub>	(HCFC-131)	3	0.007-
			0.05
C <sub>2</sub> H <sub>2</sub> F <sub>2</sub> C <sub>12</sub>			0.02
C <sub>2</sub> HFC <sub>14</sub>	(HCFC-121)	2	0.01-
			0.04
C <sub>2</sub> HF <sub>2</sub> C <sub>1</sub>	(HCFC-122)	3	0.020.0
			8
C <sub>2</sub> HF <sub>3</sub> C <sub>1</sub>	(HC-123)	3	0.02-
			0yyyy6
CHC <sub>12</sub> CF	(HCFC123)**	-	0.02
C <sub>2</sub> HF <sub>4</sub> C <sub>1</sub>	(HCFC-124)	2	0.02-
			0.04
CHFC <sub>1</sub> CF	(HCFC-124)**		0.022
C <sub>2</sub> H <sub>2</sub> FC <sub>1</sub>	(HCFC-131)	3	0.007-
			0.05
C <sub>2</sub> H <sub>2</sub> F <sub>2</sub> C <sub>12</sub>	(HCFC132)	4	0.008-

			0.05	
C <sub>2</sub> H <sub>2</sub> F <sub>3</sub> C	(HCFC133)	3		0.02-
			0.06	
C <sub>2</sub> H <sub>3</sub> FC1	(HCFC-141)	3		0.005-
			0.07	
CH <sub>3</sub> CFC1	(HCFC-141b)**	-		0.11
C <sub>2</sub> H <sub>3</sub> F <sub>2</sub> C	(HCFC-142)	3		0.008-
			0.07	
CH <sub>3</sub> CF <sub>2</sub> C	(HCFC-142b)**	-		0.065
C <sub>2</sub> H <sub>4</sub> FC1	(HCFC-151)	2		0.003-
			0.005	
C <sub>3</sub> HFC1 <sub>6</sub>	(HCFC221)	5		0.015-
			0.07	
C <sub>3</sub> HF <sub>2</sub> C1	(HCFC-222)	9		0.01-
			0.09	
C <sub>3</sub> HF <sub>3</sub> C1	(HCFC-223)	12		0.01-
			0.08	
C <sub>3</sub> HF <sub>4</sub> C1	(HCFC-224)	12		0.01-
			0.09	
C <sub>3</sub> HF <sub>5</sub> C1 <sub>2</sub>	(HCFC-225)	9		0.020.0
			7	
CF <sub>3</sub> CF <sub>2</sub> CHC1 <sub>2</sub>	(HCFC-225ca)*			0.025
CF <sub>2</sub> C1CF <sub>2</sub> CHCIF	(HCFC-225cb)*			0.033
C <sub>3</sub> HF <sub>6</sub> C1	(HCFC-226)	5		0.02-
			0.10	
C <sub>3</sub> H <sub>2</sub> FC1	(HCFC-231)	9		0.050.0
			9	
C <sub>3</sub> H <sub>2</sub> F <sub>2</sub> C1 <sub>4</sub>	(HCFC-232)	16		0.008-
			0.10	
C <sub>3</sub> H <sub>2</sub> F <sub>3</sub> C1 <sub>3</sub>	(HCFC-233)	18		0.007-
			0.23	
C <sub>3</sub> H <sub>2</sub> F <sub>4</sub> C1 <sub>2</sub>	(HCFC-234)	16		0.01-
			0.28	
C <sub>3</sub> H <sub>2</sub> F <sub>5</sub> C1	(HCFC-235)	9		0.03-
			0.52	

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C <sub>3</sub> H <sub>3</sub> FC <sub>14</sub>	(HCFC-241)	12		0.004-
			0.09	
C <sub>3</sub> H <sub>3</sub> F <sub>2</sub> C <sub>12</sub>	(HCFC-242)	18		0.005-
			0.13	
C <sub>3</sub> H <sub>3</sub> F <sub>3</sub> C <sub>12</sub>	(HCFC-243)	18		0.007-
			0.12	
C <sub>3</sub> H <sub>3</sub> F <sub>4</sub> C <sub>1</sub>	(HCFC-244)	12		0.009-
			0.14	
C <sub>3</sub> H <sub>4</sub> FC <sub>13</sub>	(HCFC-251)	12		0.001-
			0.01	
C <sub>3</sub> H <sub>4</sub> F <sub>2</sub> C <sub>12</sub>	(HCFC-252)	16		0.005-
			0.04	
C <sub>3</sub> H <sub>4</sub> F <sub>3</sub> C <sub>1</sub>	(HCFC-253)	12		0.003-
			0.03	
C <sub>3</sub> H <sub>5</sub> FC <sub>12</sub>	(HCFC-261)	9		0.002-
			0.02	
C <sub>3</sub> H <sub>5</sub> F <sub>2</sub> C <sub>1</sub>	(HCFC-262)	9		0.002-
			0.02	
C <sub>3</sub> H <sub>6</sub> FC <sub>1</sub>	(HCFC-271)	5		0.001-
			0.03	

**Group II**

CHBr <sub>2</sub>		1		1.00
CHF <sub>2</sub> Br	(HBFC-22B)	1	1	0.74
CH <sub>2</sub> FBr		1		0.73
C <sub>2</sub> HFBBr <sub>4</sub>		2		0.3-0.8
C <sub>2</sub> HF <sub>2</sub> Br <sub>3</sub>		3		0.5-1.8
C <sub>2</sub> HF <sub>3</sub> Br <sub>2</sub>		3		0.4-1.6
C <sub>2</sub> HF <sub>4</sub> Br	2			0.7-1.2
C <sub>2</sub> H <sub>2</sub> FBr <sub>3</sub>			3	0.1-1.1
C <sub>2</sub> HF <sub>2</sub> Br <sub>2</sub>			4	0.2-1.5
C <sub>2</sub> H <sub>2</sub> F <sub>3</sub> Br			3	0.7-1.6
C <sub>2</sub> H <sub>3</sub> FBr <sub>2</sub>			3	0.1-1.7
C <sub>2</sub> H <sub>3</sub> F <sub>2</sub> Br			3	0.2-1.1
C <sub>2</sub> H <sub>4</sub> FBr <sub>2</sub>	2			0.07-0.1
C <sub>3</sub> HFBBr <sub>65</sub>	5			0.3-1.5

$C_3HF_2Br_5$		9	0.2-1.9
$C_3HF_3Br_4$		12	0.3-1.8
$C_3HF_4Br_3$		12	0.5-2.2
$C_3HF_5Br_2$		19	0.9-2.0
$C_3HF_6Br_5$	5		0.7-3.3
$C_3H_2FBr_5$		9	0.1-1.9
$C_3H_2F_2Br_4$		16	0.2-2.1
$C_3H_2F_3Br_3$		18	0.2-5.6
$C_3H_2F_4Br_2$		16	0.3-7.5
$C_3H_2F_5Br$		8	0.9-1.4
$C_3H_3FBr_4$		12	0.08-
			1.9
$C_3H_3F_2Br_3$		18	0.1-3.1
$C_3H_3F_3Br_2$		18	0.1-2.5
$C_3H_3F_4Br$		12	0.3-4.4
$C_3H_4FBr_3$		12	0.03-
			0.3
$C_3H_4F_2Br_2$		16	0.1-1.0
$C_3H_4F_3Br$		12	0.07-
			0.8
$C_3H_5FBr_2$		9	0.04-
		9	0.4
$C_3H_5F_2Br$			0.07-
			0.8
$C_3H_6FBr$		5	0.02-0.7

Annex E:

Controlled Substance

**Group****Substance****Ozone-Depleting Potential****Group I**CH<sub>3</sub>Br

Methyl bromide

0.6

**SECOND SCHEDULE**

**FORM 1**

**ST KITTS AND NEVIS**

**ST KITTS AND NEVIS NATIONAL OZONE UNIT**

**MINISTRY OF HEALTH AND ENVIRONMENT**

**APPLICATION FOR REGISTRATION**

**AS AN IMPORTER OF OZONE DEPLETING SUBSTANCES (ODS)**

Name of Applicant: .....		
Name of Enterprise: .....		
Street Address of Enterprise: .....		
Tele No.: .....		
Fax No.: .....		
Email:.....		
..... of .....		.....hereby applies for registration
(Applicant's name)		(Enterprise name)
As an importer of the following types of ODSs:		
CFCs	Types: .....	HS Code: .....
HCFCs	Types: .....	HS Code: .....
Halons	Types: .....	HS Code: .....
Carbon tetrachloride		
1, 1, 1 –tetachloroethance		
Other	Types: .....	HS Code: .....
Signature of applicant:.....		Date: .....

FORM 2

ST KITTS AND NEVIS

ST KITTS AND NEVIS NATIONAL OZONE UNIT

MINISTRY OF HEALTH AND ENVIRONMENT

CERTIFICATE OF REGISTRATION

TO IMPORT OZONE DEPLETING SUBSTANCES (ODS)

Importer No.: .....		
This is to certify that .....		
of ..... operating in.....		
(Enterprise name)		(Street address)
is a registered importer of the following ODS:		
CFCs	Types: .....	HS Code:.....
HCFCs	Types: .....	HS Code:.....
Halons	Types: .....	HS Code:.....
Carbon tetrachloride		
1, 1, 1 -tetrachloroethane		
Other	Types: .....	HS Code:.....
Name of Authorised Officer:		
Title of Authorised Officer:		
Signature:.....		Date:.....



FORM 3  
**ST KITTS AND NEVIS**  
**LICENSING DEPARTMENT**  
**MINISTRY OF HEALTH AND ENVIRONMENT**

**APPLICATION FOR IMPORT LICENCE FOR  
OZONE DEPLETING SUBSTANCES (ODS)**

Registered importer:..... Importer #: ..... (Registered importer's name)							
Name of Enterprise: ..... Street Address of Enterprise: ..... (Enterprise name)							
Date: .....							
Sir, As a Registered importer of ODS, with an annual quota of .....OD Pkg, I hereby apply for a license to import the following ODSs:							
		Annual Quota		Amt. imported for current year	Amt to be imported		Country of Export
		Kg	ODP Kg		Kg	ODP Kg	
Approximate Date of Arrival: .....							
Importing Year: .....							
Cumulative Import to Date, for Importing Year: .....							
Quantity of Current Import: .....							
Balance for Importing Year: .....							
Authorised Officer: .....							
Date: .....							

FORM 4  
ST KITTS AND NEVIS  
OZONE LICENSING DEPARTMENT  
MINISTRY OF HEALTH AND ENVIRONMENT  
LICENSE TO IMPORT OZONE DEPLETING SUBSTANCES (ODS)  
YEAR .....

License No.:  
This is to certify that:

Name of Registered importer:  
.....  
..... Importer #: .....

*(importer's name)*

Of ..... operating in  
.....  
*(enterprise name)* *(street address)*

Is granted a license to import the following ODS:

Approximate Date of Arrival:.....  
Importing Year: .....

Cumulative Import to date, for importing year: .....

Quantity of Current Import: .....

Balance for importing year: .....

Authorised Officer: .....

Date: .....

\_\_\_\_\_

FORM 5

ST KITTS AND NEVIS

CUSTOMS AND EXCISE DEPARTMENT

ORDER FOR RETROFIT

Name of Persons Importing: .....

Street Address of Person Importing: .....  
Mailing Address of Person Importing: .....  
.....

Tel No.:

Equipment/Goods Imported:.....

Country of Export:  
Date of Entry into St kitts and Nevis:  
....., is hereby ordered to retrofit the  
equipment/goods described (name of person importing)

above, by a licensed retrofitter as guided by the national ozone unit, no later than  
.....

(Date)

.....  
Authorised Officer  
.....  
Date

FORM 6

ST KITTS AND NEVIS

ST KITTS AND NEVIS NATIONAL OZONE UNIT

MINISTRY OF HEALTH AND ENVIRONMENT

APPLICATION FOR RETROFITTER LICENCE

Name of Applicant: .....

Street address of applicant: .....

Mailing address of applicant: .....

Tel No.: .....

of..... a qualified Retrofitter, hereby  
applies for a licence to retrofit equipment using ozone depleting substances, to an  
ozone friendly refrigerant, under the

guidance of the National Ozone Unit.

.....

Signature of Retrofitter

.....

Date

**DECISION**

Approved:

Not Approved:

Reason:

Date: .....

FORM 7  
**ST KITTS AND NEVIS**  
**ST KITTS AND NEVIS NATIONAL OZONE UNIT**  
**MINISTRY OF HEALTH AND ENVIRONMENT**  
**RETROFITTER LICENCE**

Licence No.: .....

This is to certify that, .....  
*(Retrofitter's name)*

of .....  
*(Address)*

Is a qualified retrofitter:

This licence is valid until: .....  
*(Date)*

.....  
Authorised officer:

.....  
Signature:

.....  
Date

**THIRD SCHEDULE**  
**FEES**

(Regulations 4, 5 (5)(b), 8(3)(b))

1. Registered importer .....	\$20
2. Ozone Depleting Substance Licence .....	\$20
3. Retrofitter Licence .....	\$20

**FOURTH SCHEDULE****FORFEITURE**

1. (1) The Comptroller shall, except as provided by sub-paragraph (2), give notice of the seizure of anything seized as liable to forfeiture and of the grounds of that seizure to any person who to his knowledge was the owner of, or one of the owners of that thing at the time of its seizure.

(2) Notice shall not be required to be given under sub-paragraph (1) if the seizure was made in the presence of—

- (a) the person whose offence or suspected offence occasioned the seizure;
- (b) the owner or any of the owners of the thing seized or any servant or agent of his; or
- (c) in the case of anything seized in a vessel or aircraft, the master or commander of that vessel or aircraft.

2. Notice under paragraph (1) shall be given in writing and shall be deemed to have been duly served on the person concerned—

- (a) if delivered to him personally;
- (b) if addressed to him and left or forwarded by post to him at his usual or last known place of abode or business, or in the case of a body corporate at its registered or principal office;
- (c) where he has no address in Saint Christopher and Nevis, or his address is unknown, by publication of the notice of seizure in the *Gazette* and in a newspaper circulated in Saint Christopher and Nevis.

3. Where any person, who was at the time of the seizure of anything the owner or one of the owners of it, claims that it was not liable to forfeiture, he shall, within one month of the date of service of the notice of seizure or, where no such notice was served, within one month of the date of seizure, give notice of his claim in writing to the Comptroller at any customs office.

4. Any notice under paragraph 3 shall specify the name and address of the claimant and, in the case of a claimant who is outside Saint Christopher and Nevis, shall specify the name and address of a solicitor in Saint Christopher and Nevis who is authorised to accept service and act on behalf of the claimant, and service upon a solicitor so specified shall be deemed to be proper service upon the claimant.

5. If, on the expiration of the relevant period under paragraph 3 for the giving of a notice of claim, no such notice has been given to the Comptroller, or where such notice is given, that notice does not comply with any requirement of paragraph 4, the thing seized shall be deemed to have been duly condemned as forfeited.

6. Where notice of claim in respect of anything seized is duly given in accordance with paragraphs 3 and 4, the Comptroller shall take proceedings for the condemnation of that thing by the court, and if the court finds that the thing was at the time of its seizure liable to forfeiture, that court shall condemn that thing as forfeited.

7. Where anything is in accordance with either paragraphs 5 or 6 deemed to have been condemned or condemned as forfeited, then without prejudice to any restoration or sale, the forfeiture shall be deemed to have had effect from the date when the liability to forfeiture arose.

8. Proceedings for the condemnation of anything shall be civil proceedings and may be instituted—

- (a) in any Magistrate's court having jurisdiction in the place—
  - (i) where any offence in connection with that thing was committed or where any proceedings for such an offence have been instituted,
  - (ii) where the claimant resides or, if the claimant has specified a solicitor under paragraph 4, where that solicitor has his office, or
  - (iii) where that thing was found, detained or seized or where the thing was first brought after being found, detained or seized, or
- (b) in the High Court.

9. (1) In any proceedings for condemnation, the claimant or his solicitor shall make oath that the thing was or was to the best of his knowledge information and belief, the property of the claimant at the time of the seizure.

(2) In any proceedings for condemnation before the High Court, the claimant shall give such security for the costs of the proceedings as may be determined by the court.

(3) If any requirement of this paragraph is not complied with, the Court shall give judgment for the Comptroller.

10. (1) Any party to condemnation proceedings in a Magistrate's Court may appeal to the High Court against the decision of that Magistrate's Court in those proceedings.

(2) Where any appeal is made against the decision of any Court in condemnation proceedings the thing shall remain in the possession of, or be returned to the possession of the Comptroller until the final determination of the matter.

11. In any proceedings arising out of the seizure of anything, the fact, from and manner of the seizure shall be taken to have been as set forth in the process unless the contrary is proved.

12. Where, anything is at the time of its seizure the property of a body corporate, of two or more partners or of any number of persons exceeding five not being in partnership, the oath required to be taken by paragraph 9, and any other thing required by this Schedule or the Rules of Court to be done by, or by any person authorised by the claimant or owner may be taken or done by the following persons respectively, that is to say—

- (a) where the owner is a body corporate, the secretary or some other authorised officer of that body;
- (b) where the owners are in partnership, any of those owners; or
- (c) where the owners are any number of persons exceeding five not being in partnership, any two of those persons on behalf of themselves and their co-owners.

13. (1) Where anything under these Regulations has been sold or destroyed, and it is held in proceedings taken under this Schedule that the thing was not liable to forfeiture at the time of its seizure, the Comptroller shall on demand by the claimant tender to him—

- (a) where the thing was restored, an amount equal to any amount paid as a condition of that restoration

- (b) where the thing was sold, an amount equal to the proceeds of sale; or
- (c) where the thing was destroyed, an amount equal to its market value at the time of its seizure.

(2) Where an amount tendered under sub-paragraph (1) includes a sum on account of the duty chargeable on the thing which has not paid, the Comptroller may deduct so much of the amount as represents the duty.

(3) If the claimant accepts an amount tendered to him under sub-paragraph (1) he shall not be entitled to maintain any further action on account of the seizure, detention, restoration, sale or destruction of the thing seized.

(4) Where the claimant and the Comptroller are unable to agree upon the market value of anything destroyed in accordance with these Regulations, that value shall be determined by the Customs Appeal Commissioners.

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