

REPUBLIC ACT NO. 9106

AN ACT FOR THE ESTABLISHMENT AND MANAGEMENT OF SAGAY MARINE RESERVE, DEFINING ITS SCOPE COVERAGE, AND FOR OTHER PURPOSES.

Section 1. Title. — This Act shall be known and cited as the "Sagay Marine Reserve Law."

Sec. 2. Establishment. — There is hereby established as part of the National Integrated Protected Areas System (NIPAS) under Republic Act No. 7586 protected landscapes and seascapes in the City of Sagay, Province of Negros Occidental to be known as the Sagay Marine Reserve, hereinafter referred to as Reserve.

Sec. 3. Scope. — The Reserve shall be located at 11°0'59"N and 123°29'E comprising the islands of Molocaboc, Molocaboc Diut, Matabas and Suyac, and their surrounding reefs as well as the reefs of Carbin, Macahulom and Panal, and the coastal waters of barangays Himoga-an Baybay, Old Sagay, Taba-ao, Bulanon, Molocaboc and Vito, all in the City of Sagay, Province of Negros Occidental. More particularly, the Reserve shall have the following technical description:

	NORTHING	EASTING
1	10°57'28"	123°21'42"
2	11°7'35"	123°26'37"
3	11°6'55"	123°28'13"
4	10°56'39"	123°36'50"
5	10°54'23"	123°30'45"
6	10°56'16"	123°30'37"
7	10°56'26"	123°30'4"
8	10°56'7"	123°28'59"
9	10°55'19"	123°28'11"
10	10°56'11"	123°26'52"
11	10°57'28"	123°24'19"
12	10°56'37"	123°23'35"
13	10°57'30"	123°23'16"
14	10°57'41"	123°22'14" containing an area of 32,000 hectares, more or less.

Within six (6) months from the effectivity of this Act, the Department of Environment and Natural Resources (DENR) shall mark the boundaries of the Reserve on the ground and at sea with visible and permanent markers and shall thereafter see to it that the same are maintained.

Sec. 4. Definition of Terms. — For purposes of this Act, the following terms are defined as follows:

- (a) "Buffer zones" are identified areas outside the boundaries of and immediately adjacent to the Reserve that need special development and control in order to avoid or minimize harm to the Reserve.
- (b) "Ecotourism" is a kind of tourism wherein no damage to the ecology is sustained by the influx of visitors to the Reserve.
- (c) "Fish production" refers to the capacity of the species found within the Reserve to multiply to achieve a certain density of fish population.
- (d) "Management plan" is the plan described in Sec. 8 (1) thereof.
- (e) "Management manual" is the manual relating to the management of the Reserve described in Sec. 8 (2) thereof.
- (f) "Maximum sustainable yield" is the greatest amount of fish and fish products taken or harvested from within the Reserve without affecting sustainability.
- (g) "Multiple-use zones" shall refer to areas where settlement, traditional or sustainable activities and other income-generating or livelihood activities may be allowed to the extent prescribed in the management plan.
- (h) "Secretary" shall refer to the Secretary of the Department of Environment and Natural Resources.
- (i) "Small fisherfolk inhabitant" shall refer to any person who has actually and continuously lived within the Reserve for a period of five (5) years before the passage of this Act and is solely dependent on fishing for sustenance and livelihood.

Sec. 5. The Protected Area Management Board for Sagay Marine Reserve. — There is hereby created a Protected Area Management Board for Sagay Marine Reserve (PAMB-SMR) which shall be the sole policy-making and permit-granting body of the Reserve and its buffer zones.

In addition to the powers enumerated in Republic Act No. 7586, the PAMB-SMR shall decide by a majority vote and shall have the following powers and functions:

- (a) Formulate the management plan and management manual of the Reserve;
- (b) Decide matters relating to planning, peripheral protection and general administration of the Reserve in accordance with the management plan;
- (c) Plan the proper utilization of the annual budget allocations and the proper disposition of fees and other funds generated or held by the Reserve;
- (d) Control and supervise the office of the Sagay Marine Reserve Superintendent (SMRSu);
- (e) Delineate and demarcate management zones such as strict protection zones, multiple-use and buffer zones;
- (f) Promulgate rules and regulations to promote development programs and projects on biodiversity conservation and sustainable development consistent with the management manual;
- (g) Control and regulate the construction, operation and maintenance of buildings, roads, trails, waterworks, sewerage, fire protection and sanitation systems, and other public utilities within the Reserve;

- (h) Fix prescribed fees to be collected from the government agencies or any person, firm or corporation deriving benefits from the Reserve and exact administrative fees or fines for violation of the provisions of this Act;
- (i) Grant entry permits to ecotourists, campers, research groups or individuals and visitors;
- (j) Grant permits for sustainable utilization of marine resources in accordance with existing rules and regulations governing the same;
- (k) Enter into contracts and agreements with private entities or public agencies as may be necessary to carry out the purposes of this Act;
- (l) Accepts funds, gifts or donations for the Reserve;
- (m) Call on any agency or instrumentality of the government as well as academic institutions, non-government organizations and other sectors as may be necessary to accomplish the objectives of this Act.
- (n) Conduct studies on various characteristics, features and conditions of the Reserve;
- (o) Adopt and enforce plans or schemes for the control of activities that may threaten the ecological balance of the Reserve in consultation with the local government units in the area and other government agencies and instrumentality;
- (p) Retain legal counsel to defend cases against the PAMB-SMR and the office of the Marine Reserve Superintendent whenever they are sued in connection with the performance of their duties under this Act.

The DENR, through the Regional Executive Director, shall ensure that the PAMB-SMR acts within the scope of its powers and functions. In case of conflict between administrative orders issued by the DENR pursuant to Republic Act No. 7586 and the resolutions issued by the PAMB-SMR, the secretary shall decide whether to apply the rule or withdraw its application from the Reserve.

Sec. 6. Composition. — The PAMB-SMR shall be composed of the following:

- (a) The regional executive director of the DENR Region VI, as ex officio chairperson;
- (b) The mayor of the City of Sagay, as ex officio co-chairperson;
- (c) The chairman of the Committee on Natural Resources of the Sangguniang Panlungsod of Sagay, as ex officio member;
- (d) The chief of police of Sagay City, as ex officio member;
- (e) The punong barangays of Himoga-an Baybay, Old Sagay, Taba-ao, Bulanon, Vito and Molocaboc, all of Sagay City, Negros Occidental, as ex officio members:
- (f) The city planning and development officer of Sagay City, as ex officio member;
- (g) Five (5) representatives from non-government organizations, as members, who shall be endorsed by heads of organizations which are based in the City of Sagay, Negros Occidental, and have established and recognized interest in protected areas. These representatives shall include two (2)

representatives from fisherfolk organizations, one (1) representative from duly registered commercial fishing associations, one (1) representative from the youth sector and one (1) representative from the civic-oriented organizations;

- (h) A representative of Sagay Ecumenical Council, as member;
- (i) A representative of the Department of Agriculture (DA) appointed by the Secretary of Agriculture, as member; and
- (j) The Reserve Superintendent (hereinafter provided), as member.

The members shall choose from among themselves the vice chairperson of the PAMB-SMR.

The non-ex officio members of the PAMB-SMR shall serve for a term of five (6) years. The two (2) co-chairpersons, the vice chairperson, and the members shall not receive compensation but shall be entitled to reasonable per diem incurred in the performance of their duties in accordance with existing budgeting and auditing rules and regulations.

Sec. 7. Removal from Office. — A PAMB member may be removed for cause and upon majority vote on the following grounds:

- a) More than three (3) consecutive unexcused absences in regular PAMB en banc meetings;
- b) Commission of any of the prohibited acts as provided in this Act, the Republic Act No. 7586 or other rules and regulations governing protected areas and protected species;
- c) Graft and corruption; and
- d) Conviction of any criminal offense.

The non-ex officio members of the PAMB-SMR shall serve for a term of five (5) years. The two (2) co-chairpersons, the vice chairperson, and the members shall not receive compensation but shall be entitled to reasonable per diem incurred in the performance of their duties in accordance with existing budgeting and auditing rules and regulations.

Sec. 8. Management Plan and Manual. — Within one (1) year from the effectivity of this Act, a management manual which contains the Marine Reserve Management Plan and supporting data shall be prepared in accordance with the General Management Planning Strategy as provided in Republic Act No. 7586. The management plan shall serve as the basic long-term framework plan in the management of the marine reserve and guide in the preparation of the annual operations plan and budget. The management manual shall be drafted with the assistance of experts in such fields as socioeconomic planning, ecology and marine reserve management, reviewed and endorsed by the PAMB-SMR, and approved by the Secretary.

- (1) The management plan shall promote the adoption and implementation of innovative management techniques, including:
 - (a) buffer zone management;
 - (b) habitat conservation and rehabilitation;

- (c) diversity management;
- (d) community organizing;
- (e) socioeconomic and scientific researches;
- (f) site-specific policy development;
- (g) pest management; and
- (h) others which the PAMB-SMR may deem appropriate.

(2) The management manual shall include:

- (a) basic background information;
- (b) field inventory of the resources within the Reserve;
- (c) assessment of the assets and limitations;
- (d) regional interrelationships;
- (e) particular objectives for managing the Reserve;
- (f) divisions of the Reserve into management zones;
- (g) review of the boundaries of the Reserve; and
- (h) design and management programs.

The management plan shall be reviewed and updated on a regular basis, at least once every three (3) years. However, in cases where significant physical development occur within the Reserve or critical resources constraints prevent implementation of important programs or projects, the management plan or some components thereof may be revised or modified. Any modification or revision of the management plan shall be approved by a majority of PAMB-SMR members.

Sec. 9. Sagay Marine Reserve Office. — There is hereby created the Sagay Marine Reserve Office headed by the Sagay Marine Reserve Superintendent, hereinafter referred to as the Reserve Superintendent, who shall be the chief operations officer of the Reserve.

Sec. 10. Powers and Functions of the Reserve Superintendent. — The Reserve Superintendent shall have full responsibility for the protection of the resources within the Reserve. As such, he/she shall have the following duties and responsibilities in addition to those provided under existing rules and regulations:

- (a) Serve as secretariat to the PAMB-SMR with the duty to provide the PAMB-SMR with all the information necessary to make appropriate decisions for the implementation of this Act;
- (b) Hire and supervise the necessary personnel to support operations as the budget may allow;

- (c) Establish a productive partnership with local communities, including groups supporting the achievement of the goals and objectives of this Act;
- (d) Develop and implement marine reserve information, education and visitor programs;
- (e) Enforce the laws, rules and regulations and PAMB-SMR resolutions relevant to the Reserve and its buffer zones, and assist in the prosecution of offenses;
- (f) Monitor all activities within the Reserve and its buffer zones in conformity with the management plan; and
- (g) Perform such other function as the PAMB-SMR may assign.

Sec. 11. Small Fisherfolk Inhabitants. — Small fisherfolk inhabitants shall be allowed to fish within the Reserve subject to the rules and regulations promulgated by the PAMB-SMR.

Sec. 12. Other Activities within the Reserve. — Proposals for activities which are outside the scope of the management plan shall be subject to an Environmental Impact Assessment (EIA) as required by existing laws, rules and regulations. Results thereof shall be taken into consideration in the decision-making process of the PAMB-SMR. No actual implementation of such activities shall be allowed without the required Environmental Compliance Certificate (ECC) under the Philippine Environmental Impact Assessment System and PAMB-SMR approval. For purposes of this Act, the following are provided:

- (a) Existing Infrastructure. — Existing infrastructure established within the Reserve by government and non-government institutions shall be subject to inventory and evaluation as to whether it conforms to the management plan and assessed in terms of their significance to the public interest and impact to the Reserve. In case they are found significant to public interest, but with no adverse impact to the Reserve, a contract or agreement may be entered into by the PAMB-SMR including negotiations of payment fees based on profit-sharing agreement in accordance with law: Provided, that infrastructure which do not conform to the management plan shall not be allowed to be repaired, renovated or improved until they are naturally destroyed and vacated. Repairs, renovation and improvement of the existing infrastructure allowed by the PAMB-SMR within the Reserve shall be in conformity with the management plan and duly approved by the PAMB-SMR.
- (b) Special-Use Infrastructure. — Special-use infrastructure such as power lines, telecommunications equipment and military installations may be allowed in the Reserve if they conform to the management plan: Provided, that construction of these special-use infrastructures shall be subject to EIA and the issuance of ECC by the DENR and approval of the PAMB-SMR: Provided, further, that power lines and telecommunications equipment must not traverse through strict-protection zones and preferably be constructed within the multiple-use zones only. Military installations shall not be constructed of permanent materials and must be covered by a memorandum of agreement with the PAMB-SMR providing for regulation of facilities.
- (c) Livelihood and Other Economic Activities. — Except as otherwise provided herein, only small fisherfolk inhabitants shall be allowed within the multiple-use or buffer zones of the Reserve to engage in livelihood and economic activities, in conformity with the management plan and subject to the terms and conditions imposed by the PAMB-SMR.

The PAMB-SMR, upon recommendation of the Reserve Superintendent, when findings show that fish production exceeds the maximum sustainable yield, may open certain portions of the multiple-use

zones and buffer zones to economic activities which shall be in accordance with the management plan and in all cases use ecologically sustainable methods.

(d) Energy and Mineral Use. — Survey for energy and mineral resources within the Reserve shall be allowed for the purpose of gathering information on energy and mineral resources: Provided, that such activity is carried out without damage to the area and conducted in accordance with a program approved by the PAMB-SMR. The result of such surveys shall be made available to the public. The PAMB-SMR shall submit such energy and mineral survey findings to the President for recommendation to Congress. Any exploitation and utilization of energy and mineral resources within the Reserve shall be allowed only following approval of the PAMB-SMR, compliance with the EIA System and other applicable laws, rules and regulations and through a law passed by Congress.

(e) Special Activities. — All other activities such as ecotourism and related activities, scientific research, marine life rescue by other agencies, government programs affecting the Reserve, and military activities shall be properly coordinated with and approved by the PAMB-SMR.

Sec. 13. Reserve Trust Fund. — A trust fund shall be created for the Reserve for purposes of financing projects and activities provided in the Management Plan. For this purpose, the PAMB-SMR may solicit and receive donations, endowments and grants in the form of contributions: Provided, that donations generated by the PAMB-SMR shall accrue to the Reserve for its use. A minimum of five percent (5%) of the total amount shall be remitted to the Integrated Protected Areas Fund of the DENR.

Disbursement from the Reserve trust fund shall be made solely for the protection, maintenance, administration and management of the Reserve, and duly approved projects by the PAMB-SMR in accordance with the guidelines developed by the PAMB-SMR for the purpose.

All incomes generated within the Reserve shall accrue to the trust fund and may be utilized directly by the PAMB-SMR for the above purpose. These incomes shall be derived from taxes from the permitted sale and export of flora and fauna and other resources of the Reserve; proceeds from the lease of multiple-use or buffer zone areas; contribution from industries and facilities directly benefiting from the Reserve; and such other fees and incomes derived from the operation of the Reserve.

Sec. 14. Prohibited Acts. — The following acts are prohibited within the Reserve:

(a) Hunting, destroying, disturbing or mere possession of any marine resources or products derived therefrom without a permit from the PAMB-SMR;

(b) Dumping or otherwise disposing of any waste products detrimental to the Reserve or to plants, animals or inhabitants therein;

(c) Use of any motorized equipment without a permit;

(d) Mutilating, defacing or destroying objects of natural beauty or ecological importance found within the Reserve;

(e) Mineral or energy exploration or any entry into the Reserve which has a tendency to damage its ecological balance;

(f) Constructing or maintaining any kind of structure, fence or enclosures and conducting any business enterprise without a permit;

(g) Altering, removing, destroying or defacing boundary marks or buoys; and

(h) Performing any other act analogous to the foregoing;

Provided, that the establishment of submarine electric power transmission cables, submarine water pipelines, submarine telecommunication wires, and ports and wharves shall not be prohibited notwithstanding the provisions of this Act.

Sec. 15. Penalties. — Any person found guilty of any of the offenses enumerated above shall be punished with fine in an amount not less than Five thousand pesos (P5,000.00) but not more than Five hundred thousand pesos (P500,000.00), exclusive of the value of the things damaged, or imprisonment of not less than one (1) year and not more than six (6) years, or both, as determined by the court. Prohibited acts mentioned in paragraph (a) of Sec. 14 of this Act shall be punished with penalties imposed under Articles 309 and 310 of the Revised Penal Code. If the Reserve requires rehabilitation and restoration as determined by the court, the offender shall be required to restore or compensate for the restoration of the damage. The court shall order the forfeiture of all mineral, flora or fauna collected or removed, including all equipment, devices and firearms used in connection therewith, and any construction or improvements made thereon by the offender. If the offender is an association or corporation, the president or manager shall be responsible for the act of his/her employees and laborers.

Sec. 16. Appropriations. — The amount necessary to carry out the provisions of this Act shall be included in the General Appropriations Act of the year following its enactment into law and thereafter.

Sec. 17. Transitory Provision. — Pending the organization of a new PAMB in accordance with this Act, the incumbent PAMB members shall continue to hold office until a new PAMB has been convened.

Sec. 18. Separability Clause. — If any part of this Act shall be declared unconstitutional, such declaration shall not affect the other parts or Sections hereof.

Sec. 19. Repealing Clause. — All laws, presidential decrees, executive orders, and rules and regulations inconsistent with the provisions of this Act shall be deemed repealed or modified accordingly.

Sec. 20. Effectivity. — This Act shall take effect fifteen (15) days after its complete publication in two (2) newspapers of general circulation.

Approved: April 14, 2001.