

No. 4.] *Parks and Beaches Commission Act* [1983.

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I ASSENT

[L.S.]

ALLEN LEWIS,
*Governor-General.**16th March, 1983*

SAINT LUCIA

No. 4 of 1983

AN ACT to provide for the control and maintenance and development of the public parks, gardens and beaches of Saint Lucia.

[16th March, 1983]

BE IT ENACTED by the Queen's Most Excellent Majesty, by and with the advice and consent of the Parliament of Saint Lucia, and by the Authority of the same as follows :—

PART I

Preliminary

1. This Act may be cited as the Parks and Beaches Commission Act, 1983. Short Title

2. For the purpose of this Act, the expression — Interpretation
“ beach ” means the land adjoining the foreshore of Saint Lucia and extending not more than two hundred feet beyond the landward limit of the foreshore and includes jetties adjacent thereto ;

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“ Commission ” means the Parks and Beaches Commission established by section 3 ;

“ Member ” means member of the Parks and Beaches Commission ;

“ Minister ” means the Minister responsible for Tourism.

PART II

Establishment and functions of the Parks and Beaches Commission

Establishment of Commission **3.**—(1) For the purposes of this Act, there shall be established a Commission to be known as the Parks and Beaches Commission.

Schedule (2) The provisions of the Schedule to this Act shall have effect with respect to the constitution of the Commission and otherwise in relation thereto.

No. 18 of 1968 (3) Subject to this Act, section 19 of the Interpretation Act shall apply to the Commission.

Functions of Commission **4.**—(1) The functions of the Commission shall be—

- (a) to control, maintain and develop the public parks, gardens and beaches of Saint Lucia ;
- (b) to provide a lifeguard service at such of the public beaches of Saint Lucia as it thinks fit ;
- (c) to secure the observance of sanitary and cleanly conditions and practices at and in respect of the public parks, gardens and beaches of Saint Lucia ;
- (d) to maintain and assist in maintaining to such extent as the Minister directs, existing and future beach facilities ;
- (e) to advise the Minister on —
 - (i) the erection of beach and ancillary recreational facilities ;

- (ii) the control of the erection in any public park, garden or on any beach of huts, booths, tents, sheds, stands, stalls, bathhouses, shops (whether fixed or movable) and on the removal of coral from the ocean bed or any other thing the removal of which might cause the encroachment of the sea ; and
 - (iii) such other matters relating to the public parks, gardens and beaches of Saint Lucia, including matters pertaining to beach control and the protection of the sea-coast of Saint Lucia from erosion or encroachment by the sea, as the Minister on the advice or recommendation of the Ministry of Works may refer to it for such advice ;
- (f) generally to carry out this Act, together with such other functions as may be conferred upon it by the Minister for the purposes of this Act or any other enactment.

(2) The Commission may, subject to the approval of the Minister, make regulations —

- (a) prescribing the sanitary and cleanly conditions and practices to be observed at and in respect of public parks, gardens, and beaches ;
- (b) prescribing the duties of its officers and servants ;
- (c) prescribing the fees chargeable by the Commission for work done by the Commission as well as for entry to or for the use of any property under the control of or maintained by the Commission and for the issue of a licence under section 14 and the terms and conditions on which such fees shall be paid ;

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- (d) for the preservation from danger, obstruction or annoyance of members of the public using the public parks, gardens or beaches ;
- (e) for the preservation of order and good conduct by the users of public parks, gardens or beaches ;
- (f) generally for the better carrying out of its functions under this Act.

(3) Any regulation made and approved under paragraph (c) of subsection (2) shall be subject to negative resolution.

Maintenance
of other
lands

5. (1) Notwithstanding section 4, the Commission may, upon a request being made to it in writing, maintain or develop the lands —

- (a) of any person ; or
- (b) comprising a cemetery or other burial place of a church.

(2) Where any work done by the Commission is in respect of lands referred to in subsection (1), the Commission may, subject to the provisions of the regulations, charge a fee.

Delegation of
functions

6. The Commission may appoint a committee for any of the purposes of the Commission which in the opinion of the Commission would be better regulated or managed by means of a committee and may delegate any of its functions to such committee or to any officer or servant of the Commission, as it thinks fit.

Restrictions
of powers of
Commission

7. Notwithstanding the powers conferred on the Commission under subsection 3 of section 3, the Commission shall not without the prior approval of the Minister—

- (a) assign any salary, in excess of such sum as the Minister may determine and notify in writing to the Commission, to any post on the staff of the Commission ;
- (b) appoint any person to any post on the staff of the Commission to which a salary determined by the Minister under paragraph (a) is assigned ;

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- (c) make any provision for the payment of pensions, gratuities or other like benefits to any officer or servants of the Commission or to others with reference to their service to the Commission ;
- (d) dispose of or charge any property held by the Commission for the purposes of its functions under this Act.

8. The Commission may, in accordance with regulations made under paragraph (c) of subsection (2) of section 4, charge fees for entry to or for the use of any property under the control of or maintained by the Commission, and for maintenance and development of lands of any person or of a church under section 5.

9.—(1) The Commission shall keep proper accounts and adequate financial and other records in relation to its functions under the Act to the satisfaction of and in accordance with the directions of the Director of Audit or any auditor appointed under subsection (2) for the purpose of auditing such accounts and shall prepare a statement of accounts in respect of each financial year.

(2) The Commission shall, within three months after the end of each financial year, submit its accounts for audit to the Director of Audit or to an auditor appointed for the purpose by the Minister.

(3) The Commission and all other persons concerned with the keeping of its accounts shall grant to the person auditing such accounts under subsection (2) access to all books, documents and cash relating to those accounts and shall give him on request all such information as may be within their knowledge in relation to the operation of the Commission.

10.—(1) The Commission shall, not later than six months after the end of each financial year, submit to the Minister a report containing —

- (a) an account of the activities and transactions of the Commission throughout that financial year in such detail as the Minister may direct ; and

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(b) a statement of the accounts of the Commission for that financial year audited in accordance with section 9.

(2) A copy of the report together with a copy of the auditor's report shall be printed and laid on the table of the Senate and of the House of Assembly and published in the *Gazette*.

Protection of
Commission

11.—(1) No action, prosecution or other proceedings shall be brought or instituted against the Commission or any member thereof in respect of any act done *bona fide* in pursuance of execution or intended execution of this Act.

(2) No act done or proceedings taken under this Act by the Commission shall be questioned on the ground —

- (a) of the contravention of paragraph 15 of the Schedule by a member ; or
- (b) of any omission, defect or irregularity not affecting the merits of the case.

Expenses

12. The expenses of the Commission and of the carrying out of this Act shall be defrayed out of —

- (a) the fees collected by virtue of the Regulations ;
- (b) any other moneys received by the Commission whether by way of grant, loan, order of the court or otherwise ; and
- (c) moneys voted for the purpose by Parliament.

Application
for licence

13.—(1) Any person who desires to operate a business of selling goods or services in a public park or on a beach shall first obtain from the Commission a licence for the purpose.

(2) An application for a licence under this section—

- (a) must be in writing addressed to, and in a form approved by, the Commission ; and
- (b) must be accompanied by a Police certificate of character.

Grant of
licence

14.—(1) The Commission shall consider the application for the grant of a licence under section 13 and in so doing may —

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(a) require an applicant to appear before it to be interviewed ; and
 (b) request such other information in writing from the applicant as it thinks necessary, and may issue to the applicant, on payment by him of the prescribed fee, a licence under this Act to sell in a public park or on a beach or a designated part thereof. The Commission may however refuse to issue a licence if it is satisfied that the number of licensed vendors in a public park or on a beach has attained the limit determined by the Commission and approved by the Minister.

15. A licence under this Act — Conditions of licence

- (a) shall be in such form as the Commission may specify ;
 (b) is not transferable ;
 (c) is, subject to section 10, valid for a period not exceeding one year ; and
 (d) is subject to the conditions specified in the licence.

16.—(1) The Commission shall cause to be kept a register in which there is recorded — Register of licences

- (a) the name and address of each person to whom a licence is issued ;
 (b) the type of business in respect of which the licence is issued ;
 (c) the number of the licence ; and
 (d) the address at which the business is conducted.

(2) The register shall at all reasonable times be open to inspection at the principal office of the Commission.

17. The holder of a licence shall, within 14 days of any change of his address or of the address at which the business is being conducted, notify the fact of such change to the Commission, which shall cause that change to be effected in the register. Change of address to be notified

18. Where a licence under this Act has been lost, destroyed or defaced, the Commission may, on application made to it and on payment of the prescribed Duplicate Licence

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fee, issue a duplicate licence for the unexpired portion of the term for which the original licence was issued.

Renewal and
surrender of
licence

19.—(1) Where a licence issued under this Act has expired, the Commission may, on application made to it and on payment of the prescribed fee, renew such licence for a further period not exceeding one year.

(2) Notwithstanding anything contained in this Act, the holder of a licence may at any time surrender that licence and from the date of such surrender any business in respect of which that licence was issued shall cease to operate.

Displaying of
licence

20. A vendor exercising the trade or calling in respect of which a licence is issued under this Act shall display that licence in a conspicuous place so that it may be easily seen by any officer or servant of the Commission, Rural Constable or member of the Police Force, or a person authorised by the Commissioner of Police.

Production
of licence

21. Notwithstanding sections 20 and 26 (1) (c) any officer or servant of the Commission, Rural Constable or member of the Police Force may request a vendor to produce his licence for inspection at the nearest police station within forty-eight hours.

Suspension or
revocation of
licence

22. Notwithstanding anything contained in this Act, the Commission may suspend or cancel a licence where the holder thereof —

- (a) has been convicted in Saint Lucia for a Criminal offence involving moral turpitude, or misdemeanour ;
- (b) was deceased, bankrupt or incapable of carrying on the business in respect of which the licence was issued ; or
- (c) has contravened any of the provisions of the licence.

Appeals

23. Any person aggrieved by a decision of the Commission may, within 14 days of the date of the decision, appeal against that decision to a Judge in Chambers, and the decision of the Judge shall be final.

24. Where a licence is suspended or cancelled under section 22 the person to whom it was issued may not, pending the determination of any appeal against suspension or cancellation, carry on the business in respect of which the licence was issued.

Prohibition
on carrying
on of business
pending
determination
of appeal

PART III

Miscellaneous

25. The Minister may give directions to the Commission or any committee appointed by the Commission as to the exercise and performance of any of its functions under this Act and the Commission or such committee shall give effect to such directions.

Minister may
give directions

- 26.—(1) Any person who —
- (a) sells or offers for sale any goods or services in a public park or on a beach without obtaining a licence under this Act ;
 - (b) contravenes any condition contained in a licence issued under this Act ;
 - (c) fails to display a licence in accordance with section 20 ;
 - (d) fails, without reasonable excuse, to comply with a request made under section 21 ;
 - (e) solicits in a public park or on a beach for the purpose of selling goods or services or for any immoral or unlawful purpose

Offences

is guilty of 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 to both.

- (2) Any person who —
- (a) assaults, resists, obstructs or intimidates any member of the Police Force, Rural Constable or any person authorised by the Commissioner of Police or officer or servant of the Commission in the performance of his functions ; or

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(b) uses indecent, abusive or insulting language to any person referred to in paragraph (a) above
is guilty of 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 to both.

(3) Any person who, without authority or excuse—
(a) wilfully damages any tree, shrub or grass planted or laid out ; or
(b) deposits any waste paper, waste matter, rubbish or litter,
in any public park or garden or on a beach, is guilty of 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 to both.

Power of
arrest

27.—(1) A person employed by the Commission as a Ranger or Warden may arrest any person who commits an offence specified in paragraph (e) of subsection (1), or paragraph (a) or (b) of subsection (2), of section 26.

(2) A person arrested under subsection (1) shall, for the purpose of all proceedings related to such arrest, be treated as if he were arrested by a member of the Police Force.

Power to seek
assistance

28. A Ranger or Warden referred to in section 27 may, if necessary, request the assistance of a member of the Police Force in effecting an arrest under that section, and that member of the Police Force shall render such assistance as may be reasonable.

SCHEDULE

CONSTITUTION AND PROCEDURE OF COMMISSION

1. The Commission shall consist of a Chairman, a Deputy Chairman and not less than five nor more than seven other members, all of whom shall be appointed by the Minister by instrument in writing.

2. A member shall, subject to paragraphs 4, 5 and 6 hold office for such period as the Minister may direct in the instrument appointing such member, but shall be eligible for re-appointment.

3. Where a member has expressed his inability to act as such member or is absent from Saint Lucia for a long period, the Minister may appoint, any person to act temporarily in his place.

4. A member, other than the Chairman, may at any time resign his office in writing addressed to the Chairman and upon the date of receipt by the Chairman of such letter shall cease to be a member of the Commission.

5. The Chairman may at any time resign his office in writing addressed to the Minister and upon the date of the receipt by the Minister of such letter shall cease to be Chairman and a member of the Commission.

6. The Minister may at any time by instrument in writing revoke the appointment of any member of the Commission.

7. A vacancy shall be deemed to arise in the membership of the 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 absence from Saint Lucia of a member without leave of the Minister ;
- (d) the failure of a member to attend three consecutive meetings of the Commission, without permission.

8. Members shall be eligible for such remuneration whether by way of fees or travelling or other allowances, as the Minister may determine.

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

10.—(1) The seal of the Commission shall be kept in the custody of the Chairman or Deputy Chairman or such officer of the Commission as the Commission may approve and may be affixed to documents or instruments pursuant to a resolution of the Commission in the presence of the Chairman or Deputy Chairman and the Secretary to the Commission.

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

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

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11.—(1) The 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 time and place as the Commission may determine.

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

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

13. The quorum of the Commission at any meeting shall be three.

14. The decision of the Commission at any meeting shall be by a majority of votes and in the event of an equality of votes the Chairman or Deputy Chairman or the member presiding at the meeting shall have a casting vote.

15.—(1) Subject to this paragraph, it shall be the duty of a member who is in any way, whether directly or indirectly, interested in a contract or proposed contract with the Commission to declare the nature of his interest at a meeting of the Commission.

(2) In the case of such proposed contract the declaration required by this paragraph shall be made at the meeting of the Commission at which the contract is first taken into consideration, or if the member was not at the date of that meeting interested in the proposed contract, at the next meeting of the Commission held after he becomes so interested and in any case where the member becomes interested in a contract with the Commission after it is made, such declaration shall be made at the first meeting of the Commission held after the member acquires such interest or becomes so interested.

(3) For the purposes of this paragraph a general notice given to other members by a member to the effect that he is also a member of a specified company or firm and is to be regarded as interested in any contract which may, after the date of the notice, be made with that company or firm shall be deemed to be sufficient declaration of interest in relation to any contract so made.

(4) No such notice as is mentioned in subparagraph (3) shall be of effect unless it is given at a meeting of the Commission or the member concerned takes reasonable steps to ensure that it is brought up and read at the next meeting of the Commission after it is given.

(5) A member shall not vote in respect of any contract or arrangement in which he is interested and, if he does so, his vote shall not be counted nor shall he be counted in the quorum present on the consideration of any such contract or arrangement.

(6) Any member who contravenes any of the provisions of this paragraph shall be guilty of an offence and shall be liable on summary conviction to a fine of five hundred dollars.

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Passed in the House of Assembly this 4th day of February,
1983.

W. ST. CLAIR-DANIEL,
Speaker.

Passed in the Senate this 17th day of February, 1983.

E. HENRY GIRAUDY,
President.