



SAINT VINCENT AND THE GRENADINES

ACT NO. 13 OF 2010

I ASSENT

[L.S.]

DR. FREDERICK BALLANTYNE
Governor-General
7th October, 2010

AN ACT to amend the National Parks Act 2002.

[12th October, 2010]

BE IT ENACTED by the Queen's Most Excellent Majesty, by and with the advice and consent of the House of Assembly of Saint Vincent and the Grenadines and by the authority of the same, as follows:

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| <p>1. This Act may be cited as the National Parks (Amendment) Act, 2010.</p> <p>2. The National Parks Act 2002 is amended in the manner set out in the Schedule.</p> | <p>Short title</p> <p>Amendment , of
National Parks
Act 2002
No.33 of 2002</p> |
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SCHEDULE**(section 2)**

1. In the long title insert after the words "national parks" wherever they occur the words "and protected areas".
2. In section 1 insert after the words "National Parks" the words "and Protected Areas".
3. In section 2:
 - (a) insert in their appropriate alphabetical positions the following definitions:
 - ' "biological diversity" means the variability among living organisms from all sources, terrestrial, marine and other aquatic ecosystems and the ecological complexes of which they are a part and includes diversity within species, between species and the diversity of ecosystems;
 - "customs officer" means an officer of customs within the meaning of the Customs (Control and Management) Act 1999;
 - "fisheries officer" has the same meaning as in the Fisheries Act;
 - "forest officer" has the same meaning as in the Forest Resource Conservation Act 1992;
 - "health officer" has the same meaning as in the Public Health Act;
 - "historic resources" means an archaeological or historic site, object or artifact;
 - "plan" in relation to a national park or protected area, means a plan described in section 10;
 - "protected area" means any geographically defined area of land or sea declared a protected area under this Act;
 - (b) in the definition of "Minister", insert after the words "national parks" the words "and protected areas";

- (c) delete the definition of "national park plan".
- 4. In section 3 insert after the words "national parks" the words "and protected areas".
- 5. In section 5 (1) insert after the words "national parks" in the second place where they occur the words "and protected areas".
- 6. In section 7 (2):
 - (a) insert after the words "national park" wherever they occur the words "and protected area"; and
 - (b) insert after the words "national parks" wherever they occur the words "and protected areas".
- 7. In section 8:
 - (a) Delete subsection (1) and insert the following subsections:
 - "(1) There is established a National Parks Board comprising of
 - (a) the Director General of Finance and Planning or his nominee;
 - (b) the Head of the Physical Planning Department;
 - (c) the Chairman of the Saint Vincent and the Grenadines National Trust;
 - (d) the Medical Officer of Health;
 - (e) the Director of Forestry;
 - (f) the Commissioner of Police or his nominee who shall be a gazetted officer;
 - (g) the Chief Executive Officer of the Saint Vincent and the Grenadines Tourism Authority;
 - (h) the Director or his nominee and where a Director has not been appointed, a Superintendent to be appointed by the Cabinet;
 - (i) the Permanent Secretary of the Ministry responsible for tourism or his nominee who shall be a senior public officer within the Ministry;

- (j) one person from a non-governmental organisation;
- (k) one person nominated by the Chamber of Industry and Commerce; and
- (l) two persons who in the opinion of the Cabinet, have had wide experience in and have shown capacity in environmental matters.

(1a) The Cabinet shall, by instrument in writing, appoint the members specified by paragraphs (j) to (l)."

- (b) in subsection (3), delete the words "paragraph (i)" and insert the words "paragraph (h)"; and
- (c) in subsection (4), delete the words "paragraphs (f) to (h)" and insert the words "paragraphs (j) to (l)".

8. In section 9:

- (a) in paragraphs (a), (b) and (c) insert after the words "national parks" wherever they occur the words "and protected areas"; and
- (b) insert after paragraph (e) the following paragraph:

"(ea) to fix, charge and receive fees and charges for a facility or other services or amenities provided by the Authority and to reduce, waive or refund such fees and charges so fixed, generally or in any particular case or class of case;"

9. Insert after section 9 the following section:

"Delegation 9A. (1) The Authority may, on such terms and conditions as it may specify in writing, delegate to a governmental entity, non-governmental entity, or community-based organisation any of its functions and responsibilities under section 7 including the functions to manage and maintain national parks and protected areas.

(2) Any governmental entity, non-governmental entity, or community-based organisation to which functions and responsibilities have been delegated by the Authority pursuant to this section shall, subject to such terms and conditions as may be specified in the instrument of delegation, do all things necessary for the carrying out of those functions and responsibilities.

(3) Any delegation made pursuant to this section shall be notified in the *Gazette*.

(4) In this section, "governmental entity" means any department of Government, statutory body and any enterprise or institution which, in whole or in part, is publicly funded or owned by the Government."

10. In section 10:

- (a) delete subsection (1) and insert the following subsection:

"(1) The Director shall prepare and keep under review plans for the management and development of national parks and protected areas.";

- (b) in subsection (2)(c)(iii), delete the words "historical and archaeological sites" and insert the words "historic resources"; and
- (c) insert after the words "national park" wherever they occur the words "or protected area".

11. In section 11:

- (a) in subsection (1), insert after the word "beauty," where it first occurs the words "biological diversity,"; and
- (b) insert after the words "national park" wherever they occur the words "or protected area"; and

12. In section 13 insert after the words "national park" the words "or protected area".

13. In section 14 (1) insert after the words "national park" the words "or protected area".

14. In section 15 insert after the words “national park” wherever they occur the words “or protected area”.

15. In section 16 insert after the words “national park” wherever they occur the words “or protected area”.

16. In section 17 (1) insert after the word “national park” the words “or protected area”.

17. In section 18 insert after the words “national park” wherever they occur the words “or protected area”.

18. In section 19 insert after the words “national park” the words “or protected area”.

19. In section 20 insert after the words “national park” the words “or protected area”.

20. In section 21 insert after the words “national park” wherever they occur the words “or protected area”.

21. In section 22 insert after the words “national park” the words “or protected area”.

22. In section 23:

(a) in subsections (1), (3) and (5), insert after the words “national park” wherever they occur the words “or protected area”; and

(b) in subsection (2):

(i) delete the words “ten thousand dollars” and insert the words “fifty thousand dollars”; and

(ii) delete the words “one year” and insert the words “five years”.

23. In section 24:

(a) delete subsection (1) and insert the following subsection:

“(1) A national park officer, a fisheries officer, a forest officer, a health officer, a customs officer and a member of the Police Force shall be authorised officers under this Act.”; and

(b) in subsection (2), delete the words “with respect to a marine national park”.

24. In section 25:

- (a) in subsection (1) insert after the words "national park" wherever they occur the words "or protected area"; and
- (b) delete subsections (2), (3) and (4) and insert the following subsections:

"(2) If a person commits, attempts to commit, or is reasonably suspected by an authorized officer to have committed an offence the authorized officer may

- (a) order the person to cease commission of the offence and require the person to give his name and place of residence; or
- (b) without a warrant, arrest the person.

(3) If a person fails to comply with any order issued to him under subsection (2) (a) by an authorized officer or the officer has reasonable grounds to believe that the person has given to him a false name or address, the authorized officer may arrest the person without a warrant.

(4) Where an authorized officer arrests a person under subsection (2) (b) or (3), he shall produce his identity card for inspection by that person unless it is not reasonably practicable to do so.

(5) Where a person is arrested under subsection (2) (b) or (3), an authorized officer shall immediately deliver the person, or cause him to be delivered, to the nearest police station.

(6) A person who fails to comply with an order issued to him under subsection (2) (a) or who gives to an authorized officer a false name or address commits an offence and is liable on summary conviction to a fine of five thousand dollars or to imprisonment for a term of two months or both.

(7) Nothing in this section shall prevent the arrest of a person in accordance with any other law."

25. In section 27 insert after the word "Act" the words "or any Regulation made under this Act".

26. Insert after section 30 the following section:

"Proceedings
with respect to
things seized

30A. (1) Where any thing is seized under section 27 (d) and

- (a) any person is convicted of an offence against this Act or any Regulation made under this Act;
- (b) the court is satisfied that
 - (i) the person owns the thing used in the commission of the offence;
 - (ii) the owner thereof permitted it to be so used; or
 - (iii) the circumstances are otherwise such that it is just so to do,

the court shall, upon the application of the Authority, order the forfeiture of the thing and disposal of the thing as the Minister may direct.

(2) Where the Authority proposes to apply for forfeiture of a thing under subsection (1), it shall, subject to subsection (3), give to any person who, to its knowledge, was at the time of the seizure the owner thereof, notice of the seizure and of the intention, after the expiration of thirty days from the date of the notice, to apply for forfeiture thereof and of the ground therefor.

(3) Notice shall not be required under subsection (2) if the seizure was made in the presence of the owner or any of the owners of the thing seized or any servant or agent of the owner.

(4) Without prejudice to any other form of service, notice under subsection (2) may be published in at least two local newspapers in general circulation in Saint Vincent and the Grenadines.

(5) Any person having a claim to any thing seized may appear before the court at the hearing of the application and show cause why an order for forfeiture should not be made.

(6) Where, at the hearing of an application pursuant to subsection (1), no person appears before the court to show cause why an order for forfeiture should not be made, the court shall presume that the thing has been abandoned.

(7) If, upon the application of any person prejudiced by an order made by the court under subsection (1), the court is satisfied that it is just to revoke such order, the court may revoke such order upon such terms and conditions as it thinks appropriate, and without prejudice to the generality of the foregoing, shall require such person, to pay in respect of storage, maintenance, administrative expenses, security and insurance of the thing such charges as may be charged by the person in whose custody the thing is and is approved by the court, not exceeding one and one-half times the value thereof as determined by the court.

(8) An application to the court under subsection (7) for the revocation of an order, shall be made within thirty days of the date of the order or within such greater time as the court may allow, not exceeding six months from the date of the order.”.

27. In section 31 delete the word “Minister” in each place where it occurs and insert the word “Director”.

28. In section 32 insert after the words “national park” wherever they occur the words “or protected area”.

29. In section 33 (1) insert after the words “national park” wherever they occur the words “or protected areas”.

30. Repeal section 35 and insert the following section:

"Trust Fund

35. (1) The Minister shall, on the recommendation of the Board, establish a special fund to be known as the National Parks and Protected Areas Trust Fund, hereinafter referred to as the Fund.

(2) Moneys derived from fees charged for entry into national parks and protected areas may from time to time be paid into the Fund as well as contributions by individuals or organisations.

(3) Moneys standing to the credit of the Fund shall be used for the conservation, protection, management and development of national parks and protected areas.

(4) Subject to negative resolution of the House of Assembly, the Minister may make regulations providing for the operation and management of the Fund."

31. Insert after section 39 the following section:

"Exemption
from value added
tax No. 25 of
2006

39A. Notwithstanding the provisions contained in the Value Added Tax Act 2006, the Authority shall not be liable to the payment of value added tax."

32. In section 40:

(a) in subsection (1):

(i) insert after the words "national parks" the words "or protected areas";

(ii) insert after the words "national park" wherever they occur the words "or protected area";

(iii) delete paragraph (c) and insert the following paragraph:

"(c) provide fees for entry into any national park or protected area";

(iv) in paragraph (e), delete the word "and" appearing after the semi colon;

(v) in paragraph (f), delete the full stop appearing at the end thereof and insert a semi-colon; and

(vi) add after paragraph (f) the following paragraph:

“(g) provide for zoning in any national park or protected area.”.

(b) in subsection (2):

(i) delete the words “five thousand dollars” and insert the words “fifty thousand dollars”; and

(ii) delete the words “one year” and insert the words “two years”.

Passed in the House of Assembly this 5th day of August, 2010.

NICOLE HERBERT
Clerk of the House of Assembly.

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