



TURKS AND CAICOS ISLANDS

CHAPTER 10.01
NATIONAL PARKS ORDINANCE
and Subsidiary Legislation

Revised Edition
showing the law as at 31 August 2009

This is a revised edition of the law, prepared by the Law Revision Commissioner under the authority of the Revised Edition of the Laws Ordinance 1997.

This edition contains a consolidation of the following laws—

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CHAPTER 10.01
NATIONAL PARKS ORDINANCE
ARRANGEMENT OF SECTIONS

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CHAPTER 10.01
NATIONAL PARKS ORDINANCE

(Ordinances 11 of 1975, 10 of 1989, 12 of 1992 and 4 of 2005)

Commencement

[30 October 1975]

AN ORDINANCE TO PROVIDE POWERS TO PERMIT THE ESTABLISHMENT OF PARKS, NATURE RESERVES, SANCTUARIES AND AREAS OF HISTORICAL INTEREST, AND GENERALLY FOR THE CONSERVATION OF THE NATURAL ENVIRONMENT AND ECOLOGY OF THE ISLANDS AND FOR PURPOSES CONNECTED THEREWITH.

Short title

1. This Ordinance may be cited as the National Parks Ordinance.

Interpretation

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

“area of historical interest” means an area declared to be of historical interest under section 3;

“court” means the Magistrate’s Court;

“development” includes any change in use, the erection of any structure and the carrying out of any drainage, dredging or sewerage scheme, and such other activities as may be prescribed by the Governor by order;

“national park” means a national park established under section 3;

“nature reserve” means a nature reserve established under section 3;

“private land” means any land the title to which is vested in any person other than the Crown or the Government;

“sanctuary” means a sanctuary established under section 3.

Declaration of national parks, etc

3. (1) The Governor may by order declare any area in the Islands, including any part of the territorial waters of the Islands, to be—

- (a) a national park; or
- (b) a nature reserve; or
- (c) a sanctuary; or
- (d) an area of historical interest.

(2) For the purposes of the Logwood (Hotel) Development Agreement dated 22 April 2003, the Governor may, by order declare that from a specified date the limits of the Pigeon Pond and Frenchman’s Creek Nature Reserve shall be altered or varied in the manner specified in that order.

(Amended by Ord. 4 of 2005)

Usage of national parks, etc

4. (1) Subject to any regulations relating to any particular national park or nature reserve—

- (a) an area which is designated as a national park shall be open to members of the public for recreational use, including camping, fishing and sailing, and the Governor may make a grant of development permission for the erection in the area of buildings, the construction of roads, marinas and such other development as may be considered to be desirable to facilitate enjoyment by the public of the natural setting of the area and any features of historical interest therein:

Provided that in considering whether or not any such development as is mentioned in this paragraph as being permissible shall be authorised in any particular case, the paramount consideration shall be to limit such development to the minimum consistent with the reasonable access to and enjoyment of the area by members of the public;

- (b) an area which is designated as a nature reserve may be used for agricultural, arboricultural, piscicultural, sporting and recreational purposes, subject to such restrictions as may be prescribed and which may be considered desirable to ensure a proper balance in the natural ecology of the area; but no building or other development shall be permitted except in accordance with the conditions of a grant of development permission made by the

Governor and such grant shall only be made for a building or other development which is required for one of the aforesaid uses which are permissible in a nature reserve.

(Amended by Ord. 10 of 1989)

(2) The declaration of an area as a sanctuary shall be made primarily for the purpose of the protection of the natural ecology, or of any particular form of living organism (including any marine life), in the area, and the avoidance of disturbance of the area by human beings, either at any time or at particular times according to the circumstances and the form of life which it is desired to protect. Entry into a sanctuary shall not be permitted except in accordance with any regulations made in respect of that sanctuary and no person shall carry out any development in a sanctuary.

(3) The declaration of an area of historical interest shall be primarily for the purpose of protecting an object of historical interest therein. Such an area may form part of a national park, nature reserve or sanctuary, and in such case shall be subject to those provisions of this section and any regulations which are applicable to that park, reserve or sanctuary. In the case of any other area of historical interest, the public shall have access to the area, or to any object of interest therein, during such times and subject to such conditions as may be prescribed by regulations which are applicable to that area; and no person shall carry out any development in that area except under a grant of development permission made by the Governor.

(Amended by Ord. 10 of 1989)

(4) Sections 63, 64 and 65 of the Physical Planning Ordinance shall apply *mutatis mutandis* to applications for development permission in a national park, a nature reserve, a sanctuary or an area of historical interest as they apply to applications for development permission in a conservation area made under the Physical Planning Ordinance:

Provided that the Director of Planning appointed under the Physical Planning Ordinance shall make available to the Minister responsible for this Ordinance a copy of the environmental impact statement referred to in those sections before any application for development permission is approved.
(Inserted by Ords.10 of 1989 and 12 of 1992)

Provisions with respect to land in areas declared to be national parks, etc

5. In any case in which private land is included in any area which has been declared to be a national park, a nature reserve, a sanctuary or an area of historical interest and the Governor does not consider that it is necessary for the purpose to which the declaration relates to acquire such land under the Land Acquisition Ordinance, any person entitled to any interest therein shall be entitled to receive compensation from the Government for the diminution, if any, in the value of his interest consequential upon any restrictions imposed on his use of the land by reason of such declaration. If agreement cannot be reached between the Government and the party concerned as to whether or not any compensation is payable, or as to the amount thereof, the matter shall be referred to arbitration under the provisions of the Arbitration Ordinance.

Restriction on certain activities harmful to the ecology

6. (1) If the Governor is satisfied that—
- (a) it is, or is likely to become, necessary for the prevention of the pollution of, or any other harmful or disturbing effect or influence on, the natural ecology of any national park, nature reserve or sanctuary; or
 - (b) the preservation of any particular form of living organism (including vegetable or marine life) in any part of the Islands so requires,

he may by order impose restrictions on any development or the depositing or discharge of any waste or harmful matter in any area which he considers would have direct or indirect harmful effect on such natural ecology or living organism.

(2) The provisions of section 5, with respect to the assessment and payment of any compensation, shall apply *mutatis mutandis* in the case of any diminution in the value of any interest in land by reason of any restrictions imposed by order made under this section.

Enforcement

7. (1) Any person who—
- (a) carries out any development in a national park, nature reserve, sanctuary or area of historical interest, except in accordance with the terms of a grant of development permission made under section 4; or
 - (b) fails to comply with any restriction imposed by an order made under section 6; or
 - (c) enters any sanctuary without authority,

shall be guilty of an offence and shall be liable on summary conviction to a fine of \$50,000 dollars or to twelve months imprisonment or to both such fine and imprisonment.

(Amended by Ords. 10 of 1989 and 12 of 1992)

(2) The court before which any person is convicted under the provisions of this section may order the demolition of any structure erected or the reinstatement of anything altered or removed in contravention of the provisions referred to in subsection (1), and in default of compliance with any such order of the court, the Governor may cause the necessary work to be carried out and may recover as a civil debt the cost of so doing from the person in default.

(3) An appeal shall lie to the Supreme Court from any decision or order of the Magistrate's Court made under this section.

Regulations

8. (1) The Governor may make regulations for carrying into effect the purposes and provisions of this Ordinance, and without derogation from the generality of the power hereby conferred, such regulations may provide—

- (a) for the control and management of national parks, nature reserves, sanctuaries and areas of historical interest;
- (b) the conditions subject to which members of the public shall be permitted to enter and use any national park, nature reserve or area of historical interest, and for the issue of licences to permit persons to enter any national park, nature reserve, sanctuary or area of historical interest for any particular purpose;
- (c) for the regulation and control of prohibition of any hunting or fishing in or the removal of any living organism or any substance from any national park, nature reserve, sanctuary or area of historical interest;
- (d) for the appointment of persons as wardens and for the conferring on such wardens of powers to enforce the regulations;
- (e) that a contravention of a provision of the regulations constitutes an offence and for a penalty on summary conviction in respect of such contravention not exceeding—
 - (i) a fine of \$50,000 or a term of imprisonment for 12 months or both; and
 - (ii) in the case of a continuing offence, a fine of \$100 for every day or part of a day on which the offence continues;
- (f) power for a court to order a person convicted of an offence referred to in paragraph (e) to pay the cost of repairing any damage to a national park, nature reserve, sanctuary or area of historical interest caused by the commission of such offence;
- (g) power for a warden, a police officer or a fishery officer to arrest without warrant any person whom such warden or officer, as the case may be, reasonably suspects to be committing, to have committed or to be about to commit an offence against the regulations or this Ordinance, and for the seizure or forfeiture to the Crown of any article used in the commission of any such offence or alleged offence;
- (h) power for a police officer or fishery officer to initiate proceedings for offences against the regulations; and
- (i) for the imposition of fees and charges in respect of any matter with regard to which provision is made in the regulations or in this Ordinance.

(Amended by Ord. 12 of 1992)

(2) In subsection (1)(f), “fishery officer” has the meaning assigned thereto by regulation 3(1) of the Fisheries Protection Regulations. *(Substituted by Ord. 12 of 1992)*