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SAINT LUCIA

FOREST ACT

July 9, 2008

FOREST ACT

SAINT LUCIA

NO. OF 2008

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THE FOREST ACT

SAINT LUCIA

NO. OF 2008

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ENTITLED

AN ACT to repeal and replace the Forest Water and Soil Conservation Act and for related matters.

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

PART I. PRELIMINARY

Short Title

1. This Act may be cited as the Forest Act, 2008.

Interpretation

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

"allowable annual cut" means a rate of timber harvesting specified for an area of land per year;

"authorised officer" means a forest officer;

"Board" means the Forest Fund Board referred to in section 46;

"cattle" includes horses, mules, asses, goats, sheep and swine;

"Crown Land" includes all waste or vacant lands in the Island vested in the Commissioner of Lands in trust for the Government of Saint Lucia, and all land leased by the Commissioner of Lands on behalf of the Government of Saint Lucia as forest reserves;

"Dealer" means a person who by way of business buys and sells timber or otherwise acquires timber for purposes of trade and whether a person trades or not in timber is a question of fact in each case.

"Forest Management and Conservation plan" means the National Forest Management and Conservation plan prepared under section 16;

"forest management area" means any area of land declared under this Act to be a forest management area;

"forest officer" includes the Chief Forest Officer and any other person appointed to be a forest officer;

"forest produce" includes -

(a) trees, plants, fauna, stones, water, minerals, sand and soil exist in or taken from a forest reserve, Crown land or forest management area; or

(b) all parts and produce of such trees and plants;

"forest reserve" means any area of land declared by or under this section 5 to be a forest reserve;

"functions" includes duties and powers;

"Fund" means the Forestry Fund established under section 42;

"livestock" includes cattle, horses, mules, asses, goats, sheep and swine;

"Minister" means the Minister responsible for matters related to forests;

"private land" means land that is not Crown land;

"property mark" means a mark placed on timber to denote that after all purchase money or royalties due to the Crown have been paid, the owner has or will have a right of property in the timber;

"protected area" means any area of land declared by the Minister pursuant to section 26 to be a protected area;

"timber" means -

(a) trees, whether standing, fallen, living, dead, limbed, bucked or peeled; and

(b) logs, boards and planks;

"tree" includes bamboo, lianes, shrubs and bushes of all kinds, seedlings, saplings and reshoots of all ages, and any part of a tree.

PART II. FOREST ADMINISTRATION

Establishment of Forestry Department

3. (1) There is hereby established a department of Government to be called the Forestry Department, hereinafter referred to as the Department.

(2) For the due administration of the Department, the Public Service Commission may appoint -

(a) a Chief Forest Officer;

(b) such other officers and employees as may be necessary for the efficient operation of the department.

(3) On the application of a person who is engaged in the establishment or conservation of a forest in a forest management area or on land leased from the Crown Lands Commissioner, the Chief Forest Officer may, by instrument in writing, designate as special forest officer, any person whom the applicant to exercise the powers of a forest officer under this Act in relation to the applicant's forest.

(4) A person who makes an application referred to in subsection (3) may make a written request to the Chief Forest Officer for revocation of the designation referred to in that subsection.

(5) While the designation under subsection (3) remains valid, a special forest officer shall have all the rights and responsibilities of a forest officer under this Act.

Functions of the Department

4. The functions of the Forestry Department shall include –

- (a) sustainable management of forests in Crown lands or in forest reserves and the effective conservation of those forests;
- (b) directing and controlling the exploitation, in a rational manner, of forest resources by the introduction of adequate systems for of those resources;
- (c) preparing and implementing a national forest management and conservation plan;
- (d) promoting the conservation and development of forests on private lands;
- (e) promoting, establishing and maintaining a forest research programme with a view to -
 - (i) enhancing forest management and development;
 - (ii) identifying and obtaining silvicultural data to be used in ensuring the preservation or improving financial yields of species to the national economy;
 - (iii) encouraging reforestation of suitable lands;
- (f) establishing and promoting public education programmes to improve understanding of the contribution of forests to national well-being and national development;
- (g) establishing and recreational facilities in such forest conservation areas and forest management areas as may be designated for that purpose;
- (h) promoting agroforestry and social forestry programmes for the benefit of farmers, schools and any other interested persons, or groups of persons;
- (i) determining, with the approval of the Minister, fees for licences or permits granted under this Act or any services rendered by the Department;
- (j) preparation and implementation of forest inventories and the demarcation and maintenance of forest boundaries;
- (k) control and supervision of the cutting, harvesting, mi ling and sale of timber and other forest produce;
- (l) granting of licences and permits under this Act;
- (m) compiling information and statistics concerning the use of timber and other forest produce;
- (n) protection and preservation of forest reserves in watersheds, protected areas and forest management areas;
- (o) developing programmes for proper soil conservation and river bank protection;
- (p) taking steps to enforce compliance with the provisions of this Act;
- (q) protection of wildlife and biological resources in forest habitats;
- (r) providing advice and assistance in the management of forests outside of forest reserves;

- (s) such other functions as may be assigned under this Act or any other enactment.

PART III. FOREST MANAGEMENT

Declaration of Forest Reserve

5. Subject to section 11, the Minister may by order from time to time declare to be forest reserves –

- (a) any Crown lands; or
- (b) any private land if the owner thereof applies in writing for such a declaration.

Purpose of Forest Reserve

6. (1) Forest reserves shall be used primarily for the following purposes –

- (a) the conservation of forests existing naturally and forest plantations in the area of those forest reserves;
- (b) the provision of land for the development of forest resources, including the establishment of forest plantations;
- (c) the generation of forest products;
- (d) the conservation of soil and water resources;
- (e) the provision of parks and other recreational amenities;
- (f) the protection and conservation of native flora and fauna; and
- (g) the conservation of biological diversity and related habitats.

(2) A lease of any parcel of land in a forest reserve shall be regulated by the following conditions -

- (a) the land may only be used for purposes compatible with subsection (1); and
- (b) if the parcel of land includes any Crown lands, the Commissioner of Lands shall not grant any lease without the approval in writ of the Chief Forest Officer.

Declaration of Forest Management Areas

7. (1) The Minister may, by order, declare to be forest management areas –

- (a) any Crown lands to be a forest reserve;
- (b) any private lands, if he is satisfied that the use of the land should be controlled for the protection of the national interest.

(2) Forest management areas shall be used primarily for the purposes specified in section 6 (1) in relation to forest reserves.

(3) Every Forest Reserve shall be surveyed and a map t published in the *Gazette* at the time of the proclamation of the reserve.

Demarcation and Proclamation of Reserves

8. Upon the proclamation of any such order the Chief Forest Officer shall cause the boundaries of the Forest Reserve to be marked out, defined and maintained in such manner as to be visible clearly at all times and therefore no land shall be devised or sold within the Forest Reserve.

Forest Management Plans

9. (1) The Chief Forest Officer shall, once every ten prepare and submit to the Minister for his approval a forest management plan.

(2) Every forest management plan shall contain such particulars and proposals as shall be prescribed in relation to-

- (a) the land to which the plan relates;
- (b) the forests and other natural resources on that land;
- (c) the determination of an allowable annual cut and the production of other forest products in relation to the forests mentioned in paragraph (b);
- (d) forest plantations proposed to be established and other silvicultural practices to be carried out;
- (e) a conservation and protection programme;
- (f) portions of the land proposed to be leased, the purposes for which the leased areas are to be used and the terms and conditions of the lease;
- (g) the role of the Department and other government agencies or statutory authorities in the implementation of the plan.

(3) Where the Minister has approved a forest management plan, the Chief Forest Officer shall ensure that the forest reserve and forest management area to which it relates are managed in accordance with the plan.

Compulsory Acquisition of Land for Forest Reserve

10. Where, on the recommendation in writing of the Chief Forest Officer, the Minister is satisfied that it is necessary to acquire any private and for the purposes of forest reserves, the Minister may proceed to acquire that land in the manner prescribed in the Land Acquisition Act.

Notice of Proposed Declaration of Forest Reserve

11. (1) The Minister shall, at least ninety days before the making of an order under section 5 -

- (a) publish in the *Gazette* and in such other medium as the Minister thinks fit, a notice of his intention to make the order;

(b) invite, in such manner as he thinks fit, comments bers of the public
in relation to the proposed order.

(2) The Minister shall take into account any comments received before making an order under section 5.

(3) Whenever the Minister proposes to amend or revoke order under section 5 he shall give public notice of his intention and provide an opportunity for public comment as mentioned in subsection (1) (b).

(4) any amendment or revocation of an order under section 5 shall be done by order which shall be subject to affirmative resolution.

Interim Protection Measures For Forest Reserves And Management Areas

12. (1) The Minister may, in respect of a forest reserve or a forest management area or proposed forest reserve or forest management area, provide such interim measures as may, in his opinion, be necessary to protect such reserve or management area or proposed reserve or management area.

(2) Any measures provided for pursuant to this section shall remain in force for no longer than six months.

Appointment of local forest management committees

13. (1) For the purposes of this Part the Minister may, after consultation with the Chief Forest Officer, appoint a local forest management committee for the or any part of a forest reserve, forest management area or protected area.

(2) Whenever possible, each local forest management committee shall include at least two members having local knowledge of the area, or part thereof, in which the forest reserve, forest management area or protected area is located.

(3) The Chief Forest Officer shall, from time to time, make available to any forest management committee such technical advice and assistance as may be necessary to assist the committee in its functions.

Functions of local forest management committee

14. The functions of a local forest management committee shall include the following-

- (a) monitoring of the condition of natural resources in the relevant forest reserve, forest management area or protected area;
- (b) holding of discussions, public meetings and like activities relating to such natural resources;

- (c) advising the Chief Forest Officer on matters relating to the development of the forest management plan and the making of regulations;
- (d) proposing incentives for conservation practices in the area in which the relevant forest reserve, forest management area or protected area is located;
- (e) assisting in the design and execution of conservation projects in that area; and
- (f) such other functions as may be provided by or under this Act.

Determination of allowable annual cut

15. (1) For the purpose of this Act and regulations made under section 35, the Chief Forest Officer shall determine the allowable annual cut for –

- (a) any forest reserve;
- (b) any area within a forest reserve and shall designate the boundaries of any area referred to in this paragraph; or
- (c) any forest management area.

(2) In determining an allowable annual cut under subsection (1) the Chief Forest Officer shall consider-

- (a) the rate of timber production that may be sustained on the area of a forest reserve or any part of that area, taking into account-
 - (i) the composition of the forest and its expected rate of growth;
 - (ii) the expected time that it will take the forest to become reestablished following denudation;
 - (iii) the silvicultural treatments to be applied in the area;
 - (iv) the standard of timber utilization and the allowance for decay, waste and breakage expected to be applied with respect to timber harvesting;
 - (v) any other information that, in his opinion, relates to the capacity of the area to produce timber on a sustainable basis;
- (b) the short and long term implications to Saint Lucia of alternative rates of timber harvesting from the area;
- (c) the environmental, economic and social objectives of the Government in respect of the area, the general region and Saint Lucia;
- (d) abnormal infestations in, devastations of, and major salvage programmes planned for timber on the area.

Inventory and classification of forests and forest lands

16. (1) The Chief Forest Officer shall develop and maintain an inventory of forests and land suitable for the development of forests in Saint Lucia.

(2) The Chief Forest Officer shall make an assessment of the land referred to in subsection (1) in order to determine its potential for -

- (a) growing trees to create a sustainable forest;
- (b) the protection and enhancement of water and soil resources;
- (c) providing forest oriented recreation;

- (d) producing forage for livestock and wildlife;
- (e) achieving forest conservation purposes;
- (f) maintaining and enhancing the biological diversity of Saint Lucia's flora and fauna;
- (g) accommodating other forest uses.

National Forest Management and Conservation plan

17. (1) Within two years of the commencement of this Act, the Chief Forest Officer shall prepare a draft national Forest Management and Conservation Plan.

(2) The draft plan shall contain -

- (a) a statement of the forest resource management and conservation policy;
- (b) an inventory and description of forest lands;
- (c) provision for the protection, conservation and promotion of forest resources;
- (d) proposals for the protection of watersheds, soil, water, wildlife and other forest resources;
- (e) an outline of the economic objectives for the sustainable development of woodbased industries in Saint Lucia;
- (f) programme for social forestry, community development and forest related education;
- (g) proposals for implementation of the plan.

(3) In preparing the draft plan, the Chief Forest Officer shall consult with such statutory authorities, government departments or agencies, private conservation organizations and community based organizations as, in the opinion of the Chief Forest Officer, may be relevant, having regard to the contents of the draft plan.

(4) The draft plan shall, in such manner as the Chief Forest Officer thinks appropriate, be made available for public comment.

Revision and approval of draft plan

18. (1) The Chief Forest Officer may revise the draft plan in such manner as he thinks fit, having regard to any comments received from members of the public.

(2) The Chief Forest Officer shall submit the draft plan, including where relevant, any revisions made thereto, to the Minister for his approval.

(3) Where the Minister is satisfied that the implementation of the draft plan is likely to be in the public interest he shall approve it without modification and shall cause the plan as so approved (hereinafter referred to as the "Forest Plan") to be laid on the table of both Houses of Parliament.

Periodic review of plan

19. (1) The Chief Forest Officer shall at intervals of not more than five years, review the provisions of the Forest Plan and, if he thinks necessary, prepare amendments thereto.

(2) The provisions of subsections (3) and (4) of section 17 and section 18 shall apply in relation to amendments proposed under this section in like manner as they apply to a draft plan.

Development of forests

20. It shall be the duty of the Chief Forest Officer to develop and implement programmes for the establishment of nurseries, the provision of seedlings and other planting material, reforestation and such other facilities as he considers necessary for the establishment and maintenance of trees and other forest crops.

Recreational facilities in certain forests

21. (1) The Chief Forest Officer may establish recreational facilities in such forest reserves or forest management areas as he considers appropriate and such facilities may include -

- (a) parks;
- (b) roads and trails;
- (c) camp grounds;
- (d) picnic sites;
- (e) such other facilities as the Chief Forest Officer may determine.

(2) Regulations made under section 59 may prescribe fees to be paid for the use of facilities provided pursuant to subsection (1).

Public education programme

22. The Chief Forest Officer may formulate and implement public education programmes with a view to increasing public awareness of the importance of forestry to the national interest.

Forest research

23. (1) The Chief Forest Officer may designate areas of land in a forest reserve or forest management area for the purpose of research with a view to -

- (a) improving knowledge of Saint Lucia's forests and trees;
- (b) increasing the yields of forest crops;
- (c) encouraging good forest practices;
- (d) conservation of fauna and flora.

(2) The Chief Forest Officer shall prepare and submit to the Minister an annual report of all activities and expenditure relating to research undertaken or sponsored by the Department.

Forest land use permit

24. (1) The Chief Forest Officer may on application grant any person forest land use permit to enter, occupy, and use a specified area of a forest reserve for one or more of the following purposes-

- a) conducting scientific research
- b) education or training
- c) recreation or eco-tourism, including hiking, camping and hunting
- d) taking any photograph or making any film or video or sound recording
- e) any other purpose publicly notified by the Chief Forest Officer.

(2) No person shall cut or take any forest produce under a forest land use permit except where-

- a) the applicant satisfies the Chief Forest Officer that this is necessary for or incidental to *bona fide* scientific research;
- b) the permit specifies the kind and quality of forest produce that may be cut and taken; and
- c) the forest produce is cut and taken in accordance with conditions specified in the permit.

(3) Unless sooner surrendered, revoked, or renewed under this Act, a forest land use permit expires on-

- a) the expiry date specified in the permit; or
- b) the end of the calendar year in which the permit is granted

(4) On application made by the holder at any time before the permit expires, the Chief Forest Officer may renew the permit on any conditions it thinks fit.

Afforestation agreement

25. The Chief Forest Officer may on application grant any person an afforestation agreement by entering into a legally binding agreement with the person concerned authorizing that person to-

- a) plant specified trees and specified plants in a specified area of forest reserve; and
- b) manage the planted area in accordance with a forest management plan approved by the Chief Forest Officer.

PART IV. FOREST PROTECTION

Declaration of protected area

26. (1) The Minister may on the advice of the Chief Forest Officer declare any Crown land to be a protected area if it appears to him to be desirable for the following purposes-

- (a) protection against storms, winds, rolling stones, floods and landslides;
- (b) preservation of soil on the ridges and slopes and in the valleys of hilly tracts;
- (c) prevention of the formation of ravines and torrents;
- (d) protection against erosion or deposits of sand, stones or gravel;
- (e) maintenance of water supply in springs, rivers, canals and tanks;
- (f) protection of roads, bridges, railways and other land communication;
- (g) protection against forest fire;
- (h) preservation of public health;
- (i) protection of national amenities, flora and fauna.

(2) The Minister may -

- (a) on the application of any owner of private land; and
- (b) on the recommendation of the Chief Forest Officer, declare such land to be a protected area for the purposes specified in subsection (1).

(3) The Minister may by regulations prohibit or regulate in any protected area -

- (a) the breaking up or clearing of lands for cultivation;
- (b) the pasturing of cattle; and
- (c) the burning or clearing of vegetation.
- (d) the felling, cutting, lopping and burning of, or injuring to any trees or timber;
- (e) the pasturing or straying of livestock;
- (f) the use of pesticides;
- (g) the pollution of any river(s), stream or water catchments areas;
- (h) the construction, alteration, or extension of individual sewerage disposal systems.
- (i) the entry of any dogs, cats and other feral animals.

(4) Upon an area being proposed to be a protected area, the Minister shall issue in writing an Interim Protected Area Notice to be published in the *Gazette* which shall be valid for a period not exceeding ninety days and shall prohibit the owner or occupier from carrying out any work of any nature on that protected area.

(5) Any person who fails to comply with the provisions of an interim protected area notice is guilty of an offence.

(6) Where a declaration is made under subsection (1) notice thereof shall be published in the *Gazette* and in such other medium as the Minister thinks fit.

Power of entry, etc.

27. It shall be lawful for a forest officer or any person authorised in writing by the Chief Forest Officer, to enter upon-

- (a) any lands in a protected area, forest reserve or forest management area; or
- (b) any lands which, in the opinion of the Chief Forest Officer, may need to be declared a protected area or forest reserve or forest management area, and to carry out surveys and inspect the same.

Remission of property tax

28. If, and for so long as, the owner of private land in a protected area or forest management area declared to be a forest reserve complies with the regulations or directions under this Act in relation to that land-

- (a) he shall in each financial year, on application to the Chief Forest Officer, be granted a certificate to that effect; and
- (b) be entitled to remission of property tax in respect of that land in that financial year.

Acquisition of lease

29. (1) Where the owner of private land in a protected area fails to comply with regulations or directions under this Act relating to that land, the Chief Forest Officer may assume control of the said land or lease from the owner for such term as the Chief Forest Officer may deem necessary to retain the land under the Chief Forest Officer's control.

(2) If the owner of the land agrees to the grant of a lease pursuant to subsection (1), the amount of annual rent to be reserved and all other questions arising between the owner (or persons claiming to be the owner) shall be determined by agreement between the Chief Forest Officer and the owner.

(3) In default of an agreement pursuant to subsections (1) and (2), the Chief Forest Officer may take steps to have the land acquired for public purposes by the Government in accordance with the Land Acquisition Act.

PART V. MANAGEMENT OF TIMBER AND NON TIMBER FOREST PRODUCTS

Permit to move Timber and non timber forest products

30. No person shall convey or move any timber, the produce of the State, along any public road or pathway or by water, except under a written permit from a Forest Officer authorised to grant such permits, and any person who contravenes the provisions of this section commits an offence and shall be liable on summary conviction to a fine not exceeding ten thousand dollars.

Reason for refusal of permit

31. No Forest Officer shall issue any such permit to convey or move timber or non timber forest products unless he is satisfied that the timber is the product of land which the applicant was the registered proprietor at the time that the timber was cut or that the applicant's possession of such timber is otherwise honest or lawful.

Notice of intention to be a timber dealer and certificate thereon

32. (1) No person shall deal in timber unless he notifies the fact of his being such a dealer and the place or premises at which he intends to conduct his timber business to the Chief Forest Officer, and, so long as he so deals, notifies fact as aforesaid within the first fifteen days of January and July in each year. The Chief Forest Officer shall give such dealer a certificate to the effect that such notification has been made.

Penalty

(2) Every dealer who contravenes any provisions of subsection (1) of this section commits an offence and shall be liable on summary conviction to a fine not exceeding twenty five thousand dollars or imprisonment for three years.

Dealing with unnotified place

33. Whoever deals in timber at any place other than the premises of which he has given notice under section 32 of this Act shall be guilty of an offence and be liable on summary conviction to a penalty of a fine not exceeding ten thousand dollars or in default of payment to two years irrespective of and in addition to any other punishment to which he may be liable under this Act.

Dealers' notice

34. (1) Every dealer shall cause to be affixed in a conspicuous place in front of the place of business or premises at which he posts a sign on which shall be painted in clearly visible letters a description of the type of work carried out, and in default of so doing commits an offence and shall be liable on summary conviction to a fine not exceeding three thousand dollars or in default of payment to six months imprisonment.

Sign boards

(2) Whoever puts or has any board or letters on any premises falsely purporting that he is a dealer in timber or falsely describing the type of work commits an offence and shall be liable on summary conviction to a fine not exceeding five thousand dollars or in default of payment to twelve months imprisonment.

Books or documents to be kept by dealers

35. (1) Every dealer shall keep on his business place or premises such books as the Minister may from time to time prescribe.

(2) Every dealer shall, immediately after the receipt of delivery of any timber, whether his property or not, make the proper entries in the said books or other documents according to the forms prescribed as aforesaid. Copies or numbers of receipts or permits to move timber shall be noted as proof of ownership by the dealer.

Power of inspection

36. (1) It shall be lawful for any forest officer to enter the place of business or premises of any dealer and to call for, inspect and take extracts from the dealer's books or other documents during the hours of business of such dealer.

Order for inspection

(2) Provided that on a written order of the Magistrate a dealer shall be bound to produce his books at any other time for the purpose of inspection and taking of extracts by any person named in that order.

Penalties respecting non-production of, and entries in books

37. If such dealer or the person in charge of the dealer's place of business or premises for the time being fails to produce any such book or other records or refuses to allow extracts to be made therefrom or if any entry which ought to have been made has not been made or if any entry therein is false in any particular such dealer or person in charge as the case commits an offence and liable on summary conviction to a fine not exceeding five thousand dollars or in default of payment to twelve months imprisonment.

Liability of dealers for others

38. The dealer shall be held liable for the breach of of the provisions of this Act by any person employed by him or over whom he has control, or for whom he is responsible, or who acts for him or on his behalf.

Liability of servants, agents and others

39. Where an offence for which the dealer is liable under this Act, has in fact been committed by some agent or servant of, employee of or her person acting for, such dealer, such agent or servant, employee or other person shall be liable to the same penalty or punishment, as if he were the dealer.

Power of dealer to exempt himself on charging actual offence

40. Where the dealer is charged with an offence against this Act, he shall be entitled, upon information duly laid by him, to have any other person whom he charges as the actual offender brought before the Court at the time appointed for hearing the charge; and if, after the commission of the offence has been proved, the said dealer proves to the satisfaction of the Court, that he has used diligence to enforce the execution of the provisions of the law, and that the said other person committed the offence in question without his knowledge, consent or connivance, or wilful neglect or default, the said dealer shall be exempt from any penalty or punishment; but the said other person may thereupon be summarily convicted of such offence and shall be liable to the same penalty or punishment therefore as if he were the dealer.

DUTY AND LIABILITY OF PERSON OFFERING TIMBER TO DEALER

Refusal to answer or making false answers

41. (1) Any person who, when offering for sale or disposal otherwise any timber to a dealer, refuses to answer, or makes any false answer, to any question put to him by such dealer or his servant or person in charge of such dealer's business place or premises for the purpose of ascertaining---

- (a) his name and place of residence;
- (b) the particular situation of the land of which timber is the produce;
- (c) whether he is the owner, tenant or contractor in occupation of any such and or the servant or agent of any such owner, tenant or contractor,

shall be guilty of an offence and be liable on summary conviction to a penalty of five thousand dollars.

PART VI. FOREST FUND

Establishment of the Forest Fund

42. There is hereby established a fund to be known as the Forest Fund, referred to in this Act as "the Fund".

Objects of the Fund

43. (1) The objects of the Fund is to facilitate forest conservation and development.

(2) The Fund may also be used to provide training and technical advice to persons involved in any of the objects specified in subsection (1).

(3) Access to the benefits of the Fund will be open to any applicant who is capable of implementing forest conservation or development acc to the criteria established under this Act or any Regulations made thereunder.

(4) Any person who benefits from the Fund will be required to observe the requirements laid down by the Board established hereunder in section 46, in fulfillment for which he and his assigned successors will be entitled to exercise full rights of ownership to any timber produced by a project assisted with incentives from the Fund.

Source of monies for fund

44. The monies of the Fund will be derived from:

- (a) grants and loans for encouraging private forestry investment;
- (b) long-term deposits by local and foreign financiers;
- (c) funds granted by global environmental institutions for carbon sequestration;
- (d) any other donations to the Fund;

Bank Accounts

45. Monies for the Fund shall be paid into bank accounts opened for the purpose by the Fund Manager established under the provisions of this or any regulations made thereunder.

Management of the Fund

46. A management board for the Fund which will be known as the Forest Fund Board, herein referred to as “the Board” whose compensation and functions shall be set out in the First Schedule.

PART VII. ENFORCEMENT

Power of authorised officers

47. (1) An authorised officer may at any reasonable time -

- (a) enter any premises within a forest reserve, protected area or forest management area for the purpose of ensuring compliance with this or any other enactment pertaining to the protection of forests;
- (b) enter any premises on which the authorised officer has reasonable cause to believe that any unlawful forest produce is stored or generated, and shall, if required to do so by the person in charge of the premises, produce to such person his authority for so entering.

(2) Any person who assaults or obstructs an authorised officer acting in the execution of his duty under subsection (1) commits an offence and shall be liable on summary

conviction to a fine not exceeding twenty thousand dollars or to imprisonment for a term not exceeding two years.

Licences and permits

48. Subject to this Act and the regulations, the Chief Forest Officer may grant such licences and permits as may be prescribed, in relation to the following-

- (a) harvesting of timber on Crown lands;
- (b) processing of timber and other forest products;
- (c) sale of timber;
- (d) sawmilling activities and equipment;
- (e) removal of dead or damaged timber;
- (f) research activities;
- (g) recreational facilities established under section 21;
- (h) any other purposes approved by the Chief Forest Officer.

Power of inspection of land

49. (1) Subject to subsection (2), an authorised officer may at any reasonable time -

- (a) enter upon any land within a forest reserve, protected area or forest management area for the purpose of -
 - (i) inspecting the condition of the land and of any work which is being, or has been done thereon;
 - (ii) ascertaining what plants are cultivated or are most suitable to be cultivated on the land and the conditions under which those plants are or should be so cultivated;
- (b) on any such land as aforesaid take such angles, bearings or measurements and such samples of the soil as may be necessary for determining the purpose for which the land may be used.

(2) A person shall not enter upon any private land pursuant to subsection (1) -

- (a) except with the consent of the owner of the land; or
- (b) unless he has given to the occupier not less than _____ days notice of his intention to enter on the land; or
- (c) if the name or address of the occupier is not known to and cannot reasonably be ascertained by him and a period of not less than three days has elapsed since he posted on or near to the land, a notice of his intention to enter upon that land.

Prohibition on cutting of trees or other forest produce in forest

50. (1) Subject to subsection (3), no person shall cut, fell, girdle, lop, tap, uproot or burn any tree or other forest produce in a forest reserve unless he is the holder of a licence or permit issued by the Chief Forest Officer for that purpose.

(2) Any person who contravenes subsection (1) commits an offence and is liable on summary conviction to a fine not exceeding thirty thousand dollars or to imprisonment for a term not exceeding three years or to both such fine and imprisonment.

(3) The provisions of this section shall not apply in relation to private lands unless the owner of that land has entered into a special agreement with the Chief Forest Officer for the application of that section to that land.

Offences in forest reserve, etc.

51. (1) Subject to the provisions of subsection (3) of this section, any person who, in any forest reserve, protected area or forest management area -

- (a) wilfully or by gross negligence causes any damage in felling or dragging any timber;
- (b) kindles, keeps or carries any fire;
- (c) without reasonable cause lights or throws down or drops any match or other lighted inflammable material;
- (d) clears, cultivates or breaks up any land for cultivation or for any other purpose;
- (e) establishes or carries on any forest industry;
- (f) carries any saw, axe, auger or cutlass;
- (g) removes soil, sand or gravel;
- (h) kills, wounds or captures any wildlife;
- (i) places noxious or toxic substances in streams, rivers or other water bodies;
- (j) disposes of solid or liquid waste;
- (k) erects any structure without the permission of the Chief Forest Officer.

shall be guilty of an offence and shall be liable on summary conviction to a fine not exceeding thirty thousand dollars and in default of payment to imprisonment for a term not exceeding three years.

- (2) Any person who, in any forest reserve, protected area or forest management area -
 - (a) except in the circumstances mentioned in subsection (3), erects any building or shelter, or removes any forest produce, or carries a firearm;
 - (b) knowingly counterfeits on any tree or timber, or has in his possession any implement for counterfeiting a mark used by forest officers to indicate that any tree or timber is the property of Government or of some person or may be lawfully felled or removed by some person;
 - (c) unlawfully or fraudulently affixes to any tree or timber a mark used by forest officers;
 - (d) alters, defaces or obliterates any mark placed on any tree or timber by or under the authority of a forest officer;
 - (e) pastures cattle or permits cattle to trespass;
 - (f) damages, alters or removes any noticeboard, landmark, sign, fence, ditch, embankment, hedge or railing;

- (g) assaults or obstructs a forest officer, a constable or any other person acting in the execution of his duty under this Act.

commits an offence and shall be liable on summary conviction to a fine not exceeding twenty thousand dollars and in default of payment to imprisonment for a term not exceeding twelve months.

(3) Nothing in this section shall be construed as prohibiting or rendering punishable any act done-

- (a) in accordance with the permission in writing of the Chief Forest Officer or a forest officer; or
- (b) by or in accordance with the permission of the owner or lessee of the land on which the act is done; or
- (c) pursuant to and in accordance with any licence or permit granted under this Act.

Power to demand production of removal permits

52. It shall be lawful for any Forest Officer or any person authorised by him, or for any rural constable, or member of Police force, in any public road or place to stop any person conveying or removing, or who he may have cause to suspect in conveying or removing timber, or other forest produce, the produce of the state, and to demand the production of the permit for such conveying or removal, and if such persons are conveying and removing such timber or other forest produce and fail to produce such permit or to account satisfactorily for its absence, such Forest Officer, authorised person, rural constable or member of the police force may arrest such person and take him and such timber or other forest produce before a Magistrate or Justice of the Peace or the Officer or noncommissioned officer in charge of the nearest Police station to be dealt with according to the law.

Power to arrest

53. (1) For the purpose of carrying out the provisions of this Act, every Forest Officer shall have the authority, privileges and protection of a police constable conferred or granted by any law in force in Saint Lucia.

(2) Any Forest Officer, authorised person, rural constable or member of the police force may, without a warrant, arrest any person reasonably suspected of having been concerned in any forest offence if such person refuses to give his name or residence, or give name or residence which there is reason to believe to be false, or if there is reason to believe that he will abscond.

(3) Every person making an arrest under this section shall, without unnecessary delay, take or send the person arrested before a Magistrate or Justice of the Peace or the Officer or noncommissioned officer in charge of the nearest Police station to be dealt with according to the law.

Power to seize tools and produce

54. When there is reason to believe that a forest offence has been committed in respect of any forest produce, such produce, together with all tools, power saws and equipment, ropes, chains, boats, crafts, carriages, motor vehicle and carts and livestock used in the commission of such offence, may be seized by the Forest Officer or person authorised by him or by any rural constable or member of the Police on the complaint of a Forest Officer or member of the Police Force.

Complaints laid by an officer may be prosecuted by another officer or by a police officer

55. (1) All complaints for offences against this Act shall be laid in the name of a Forest Officer.

(2) Where a Forest Officer makes a complaint against another person for an offence against this Act any other Forest Officer may appear on his behalf before the Court hearing the said complaints; and shall have the same privileges as to addressing the Court and as to examining witnesses as if he were the complainant.

(3) Any Police Officer may conduct the prosecution of any complaint under this Act notwithstanding that such complaint was not laid by a member of the Police Force.

Prevention of offences

56. (1) Every Forest Officer, rural constable and member of the Police Force is hereby authorised to prevent the commission of any forest offence.

(2) Every person who assaults, molests, obstructs, or hinders any Forest Officer or any person authorised by him in the execution of his duty, or aids or incites any other person so to assault, molest, obstruct or resist any Forest Officer or any person authorised by him or any person aiding or assisting such Forest Officer, or any person authorised by him in the execution of his duty, commits an offence and shall be liable to a fine not exceeding five thousand dollars. Provided that where such assault, molestation, obstruction, or resistance is by use of weapons such as knives, firearms, or any other instruments the penalty shall be imprisonment with hard labour for a period not less than two years.

Protection of persons acting under Act

57. In any action brought against any person for anything done or *bona fide* intended to be done in the exercise or supposed exercise of the powers given by this Act or by any rules made thereunder, it shall be expressly alleged that the defendant acted maliciously and without reasonable and probable cause, and if at the trial the plaintiff fails to prove such allegation judgment shall be given for the defendant.

Seizure and forfeiture of conveyance

58. (1) If any forest officer or any constable has reasonable cause to suspect that any conveyance is being used or has been used for the commission of an offence against this Act, he may without a warrant search that conveyance and if the search reveals that the conveyance is being used or has been used for the commission of an offence against this Act, seize and detain it.

(2) If any forest officer or any constable has reasonable cause to suspect that an offence against this Act has been committed in respect of any forest produce, he may seize and detain that forest produce and any tools, ropes, chains and cattle used or suspected to be used in committing the offence.

(3) On the conviction of any person for an offence against this Act, the court shall, upon the application of the prosecution, order the forfeiture of any conveyance, forest produce or any other thing seized pursuant to this section, if the court is satisfied that-

- (a) the person so convicted owns that conveyance or other thing, or the owner thereof permitted it to be used for the commission of the offence; or
- (b) the circumstances are otherwise such that it is just to order the forfeiture.

(4) If, upon the application of any person prejudiced by an order made by the court under subsection (3), the court is satisfied that it is just to revoke the order, the court may revoke the order upon such terms and conditions (if any) as it thinks fit.

(5) Any application to the court under subsection (4) for the revocation of an order shall be made within three months of the date of the order unless the court extends that period (whether it has expired or not) upon being satisfied by the applicant that, in the special circumstances of the case, it was not reasonably practicable for him to make the application within that period.

PART VII. GENERAL

Regulations

59. (1) The Minister may make regulations generally for the proper carrying out of the provisions and purposes of this Act, and in particular, but without prejudice to the generality of the foregoing, may make regulations -

- (a) providing for the grant of licences and permits for the exploitation and taking of forest produce in forest reserves and other Crown land, the terms and conditions applicable to those licences and permits, the making of reports and returns by the holders of licences and permits and the fees and royalties payable for licences and permits;
- (b) prohibiting or regulating in forest reserves, protected areas and forest management areas the felling, collection, removal and disposal of timber and other forest produce;

- (c) regulating the practice of forestry on lands in forest management areas;
- (d) providing for the marking of timber and the manufacture, use and possession of marking instruments;
- (e) regulating the granting of leases of land in forest reserves, the contents of leases and the conditions subject to which leases shall be granted;
- (f) providing for the seizing and impounding of cattle found trespassing in forest reserves, protected areas and forest management areas;
- (g) providing for the preservation of endemic or endangered species of trees or trees remarkable for size, variety or beauty whether on Crown land or private land;
- (h) providing for the recreational use of land in forest reserves;
- (i) providing that areas of land defined in the regulations shall be treated as areas of particular ecological or scientific interest and providing for the conservation of those areas;
- (j) the management of Crown lands forest reserves, protected forest and protected areas;
- (k) the making of reports and returns by the holders of licences and permits;
- (l) the fees and royalties payable for licences and permits;
- (m) prescribing the form of permits and providing for their issue, production, and return;
- (n) regulating the issue of property marks and classification marks for timber and the registration of such marks, and declaring the circumstances in which the registration of any property mark or classification mark may be refused or cancelled; prescribing the time for which such registration should hold good; limiting the number of such marks that may be registered by any one person, and providing for levy of fees for such registration;
- (o) the lighting and use of fires;
- (p) regulating the use of chain saws
- (q) recreational use of forest reserves and protected forests;
- (r) providing for the declaration and protection of endangered species of trees and plants;
- (s) regulating the Fund;
- (t) the preservation of lands of particular ecological or scientific interest;
- (u) prescribing the duties of forest officers;
- (v) penalties and offences for violations; and
- (w) generally carrying into effect the provisions of this Act
- (x) prescribing any other matter or anything which may be, or is required by this Act to be prescribed;
- (y) Generally for carrying into effect the provisions of this Act.

(2) Notwithstanding anything contained in the Interpretation Act, regulations made under this Act may provide in respect of any breach of the provisions of those regulations that the offender shall be liable on summary conviction thereof before a Magistrate to such fine not exceeding thirty thousand dollars or to term of imprisonment not exceeding three years as may be prescribed therein.

Prosecution to be commenced within two years

60. All prosecutions for offences against this Act or any regulations hereunder shall be commenced within three years next after the commission of such offence or, if the Court is satisfied that a forest officer with due diligence could not have been aware within that period that the offence had been committed, within such further period as the Court may allow.

Liability of partner, director, manager, secretary or other officer

61. Whenever any partnership, company, society, or association whatsoever is the dealer, without prejudice to the liability of the partnership, Company, society, or association for any contravention against this Act, every partner, director, manager, secretary, or other officer of the partnership, company, society or association, shall be guilty of an offence against this Act and liable to a like penalty, unless he shall prove to the satisfaction of the Court that he in no way directly or indirectly contributed to the contravention and that some other person is the true offender, and that he with all due diligence has given such information or evidence as leads to the discovery of the true offender.

Protection of Persons Acting Under Act

62. In any action brought against any person for anything done or in good faith intended to be done in the exercise or supposed exercise of the powers given by this Act or by any rules made thereunder, it shall be expressly alleged that the defendant acted maliciously and without reasonable and probable cause and if at the trial the plaintiff fails to prove such allegation judgement shall be given for the defendant.

Presumption as to Ownership of Produce

63. When, in any proceedings taken under this Act, or in consequence of anything done under this Act, a question arises as to whether any forest produce is the property of the Government, such produce shall be presumed to be the property of the Government until the contrary is proved.

Rewards

64. The Minister may order such rewards as he thinks fit to be paid in respect of any seizure made under this Act to the person making such seizure or through whose information or means such seizure was made.

Other Orders of court

65. (1) Where an offender has been convicted of an offence under this Act or Regulations made under this Act, in addition to any fine, imprisonment, or other sanction that may be imposed the court may, after considering the nature of the offence and the

circumstances surrounding its commission, make an additional order having any or all of the following effects-

- (a) prohibiting the offender from doing any act or engaging in any activity that may result in the continuation or repetition of the offence;
- (b) directing the offender to take such action as the court considers appropriate as to remedy or avoid any harm to the biological and indigenous resources of Saint Lucia that results or may result from the act or omission that constituted the offence;
- (c) directing the offender to publish, at the offender's cost, in the manner prescribed by the court, the facts relating to the conviction;
- (d) directing the offender to post such bond or pay such amount of money into court as will ensure compliance with any order made under this section;
- (e) requiring the offender to comply with such other reasonable conditions as the court considers appropriate in the circumstances.

Repeal and Savings

66. (1) The Forest Soil and Water and Conservation Act is hereby repealed.

(2) Notwithstanding the repeal of the Forest Soil and Water Conservation Act, all Regulations, Rules, Proclamations and Orders made pursuant to that Act continue in force until repealed or replaced by this Act or by _____ made under this Act.

Reference to repealed Act

67. Where any document refers expressly or by implication to an enactment _____ by this Act the reference shall except where the context _____ requires, be construed *mutatis mutandis* to a reference to the Forestry Department.

Preservation of rights, claims and proceedings

68. Every proceeding under the repealed Forest Water and Conservation Act may be continued and completed-

- (a) if the proceedings has been partly or wholly heard, as if the Forest Water and Soil Conservation Act was still in force; and
- (b) in all other cases, as if the proceedings had been commenced under this Act.

FIRST SCHEDULE

Composition of the Board

1. (1) The Board will be composed of the following persons appointed by the Minister-

- (a) the Chief Forest Officer;
- (b) a representative of the Ministry responsible for finance;
- (c) two representatives of the private sector;
- (d) a representative from the Ministry responsible for agriculture;
- (e) one representative of civil society.

(2) The Board will elect from among its members a Chairman who will be responsible for the conduct of its meetings.

(3) The Chairman and other members of the Board will be paid such allowances as the Minister may determine, in consultation with the Minister responsible for finance.

Administration of Fund

2. (1) The Board will manage and administer the Fund.

(2) For the purpose of subsection (1) of this section, the Board will select a commercial bank by a transparent competitive process and enter into a contract for its services to manage the Fund.

(3) The bank so contracted will appoint one of its senior officers to be Fund Manager.

(4) The Fund Manager will be responsible for arranging the sound investment of the Fund and for the disbursement of moneys on behalf of the Board, in accordance with procedures and criteria approved by the Board.

(5) The Fund Manager will have authority to recover any sums lent on behalf of the Board.

3. (1) A member of the Board other than an *ex-officio* member will hold office for a period of not more than four years and on expiration of that period is eligible for reappointment.

(2) A member of the Board other than an *ex-officio* member may at any time resign his appointment by letter addressed to the Minister.

(3) The Chairman or a member of the Board may be removed from office by the Minister for inability to perform his functions, for stated misbehaviour or for any just cause.

(4) The Chairman will notify the Minister of any vacancies that occur in the membership of the Board within one month of occurrence of the vacancy.

4. The Board shall determine and regulate the procedure and rules for its meetings.

5. (1) A member of the Board who is personally interested in any matter being considered or dealt with by the Board must disclose the nature of his interest at a meeting of the Board and should not take part in any deliberation or decision of the Board with respect to the matter.

(2) A member who fails to disclose his interest under subsection (1) of this section will be removed from the Board.

6. The Board will establish criteria for use of the Fund and may authorise the Fund Manager to make payments from the Fund-

- (a) for forest conservation and development;
- (b) to cover fund management fees and operational expenses of the Fund Manager.

7. On behalf of the Board, the Fund Manager will keep proper accounting records and will prepare annual accounts in such form as the Auditor General may approve.

8. The books of accounts of the Fund will be audited by the Auditor General, or by an auditor appointed by him, within 3 months after the end of each financial year. Each audit report of the Fund must specify whether in the opinion of the Auditor General-

- (a) proper books of account have been kept in respect of the Fund;
- (b) the financial statement on the Fund is accurate;
- (c) payments made from the Fund were in conformity with the authorised expenditure and criteria approved by the Board;
- (d) the disbursements were in accordance with approved disbursement procedures;
- (e) the accounting and internal control procedures were accurately observed.

9. In addition to the annual audit, technical audits will be conducted on a selective basis by the Auditor General or by an auditor appointed by him on the recommendation of the Board.

10. The Chief Forest Officer will act as secretary to the Board and will be responsible for convening the meetings of the Board, necessary from time to time. The Chief Forest Officer will assign any staff that may be needed to assist the Board, as deemed necessary.

11. The financial year of the Fund will be the same as the financial year of the Government.

12. (1) The Board will submit to the Minister as soon as practicable and in any event not later than six months after the end of each financial year a report dealing with the activities and operation of the Fund during the year to which the report relates and shall include:

- (a) the audited accounts of the Fund and the Auditor General's report on the accounts of the Fund;
- (b) such other information as the Board may consider necessary.

(2) The Minister will submit the report to Parliament in two months after receipt of the annual report, with such statement as the Minister may consider necessary.

SECOND SCHEDULE

FORMS

No. 1 SECTION

Information Against Persons in Wrongful Possession of Crown Land

SAINT LUCIA

District

Be it remembered that on this day _____ day of _____ 20____
Comes before me, the undersigned district magistrate, (Name of forest officer),
forest officer (or as the case may be), and informs me that one of
_____, is without any probable claim or pretence of title, in possession of certain
lands belonging to Her Majesty The Queen, situate in (describe situation) and
comprising (extent of lands).

.....
Forest Officer

Taken before me, the undersigned district magistrate, this _____ day
of _____ 200_____

.....
Magistrate District

No. 2 – Section 30

Summons to Person in Wrongful Possession of Crown Land

SAINT LUCIA

District

To _____, of _____

WHEREAS information has been laid before me, the undersigned district
magistrate, by (name of forest officer), forest officer (or as the case may be)
that you, the said _____,
_____, are without any probable claim or pretence of title, in
possession of certain lands belonging to Her Majesty the Queen (describe
situation and extent of the lands, according to the information): NOW I, the

said district magistrate, do hereby summon you to attend before me at the district court at _____ a.m/p.m., on the _____ day of _____, 20____, then and there to answer touching the matter of the said information; and in default of your so appearing, or if you shall fail to show to my satisfaction that you have some probable claim or pretence of title to such lands, then I, the said district magistrate, will make an order for the putting you out of the possession of the said lands.

Dated this _____ day of _____, 20____

.....
Magistrate _____ District _____

No. 3 – Section 29

Order for Delivery of Possession of Lands

SAINT LUCIA

District _____

To _____, police constable, and to all other constables.

WHEREAS an information was, on the _____ day of _____ 20____
Laid before me, the undersigned district magistrate, by (name of forest officer), forest officer (or as the case may be), that _____ is in possession of certain lands belonging to Her Majesty The Queen situate in (describe situation and extent of the lands, according to the information), and I, the said district magistrate thereupon issued my summons to the said _____ to appear before me at _____ on the _____ day of _____, 20____ and answer touching the matter of the said information; and whereas the said summons was, on the _____ day of _____ 20____, duly served on the said _____ by delivering the same to him or her personally (or, by leaving the same at _____ being is or her usual place of abode, or, by affixing a copy of such summons on _____ being an open and conspicuous part of the lands mentioned in the said Information); And Whereas the said failed to appear before me on the said _____ day of _____ 20____ (or, did appear before me, but failed to satisfy me that he had any probable claim or pretence of title to such lands): Now I, the said district magistrate, do hereby order and require you, the said constable, taking such force as may be required for the purpose, to enter upon the said lands situate in _____ and comprising

