

CHAPTER 393

NATIONAL CONSERVATION COMMISSION

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SCHEDULE

CHAPTER 393

NATIONAL CONSERVATION COMMISSION

An Act to revise and consolidate the law relating to public parks, beaches and related matters, and to make provision for the conservation of sites and buildings of national interest.

1982-8.
1990-33.
1996-23.
1998-39.
2000-19.

[1st April, 1982] Commence-
ment.
1982/62.

PART I

Preliminary

1. This Act may be cited as the *National Conservation Commission Act*. Short title.

2. For the purposes of this Act

Interpreta-
tion.

“beach” includes the land adjoining the foreshore of Barbados and extending not more than 33 metres beyond the landward limit of the foreshore;

“Commission” means the National Conservation Commission established under section 4;

“Minister” means the Minister responsible for the Environment. 2000-19.

3. *Repealed by 2000-19.*

PART II

Establishment and Functions of the National Conservation Commission

4. (1) For the purposes of this Act, there shall be established a Commission to be known as the National Conservation Commission. Establish-
ment of
Commis-
sion.

s.5

Schedule. (2) The *Schedule* has effect with respect to the constitution of the Commission and otherwise in relation thereto.

Cap. 1. (3) The Commission is a body corporate and, subject to this Act, section 21 of the *Interpretation Act* applies thereto.

- Functions of Commission. 5. (1) The functions of the Commission are
- (a) to conserve the natural beauty, topographic features, historic buildings, sites and monuments of Barbados;
 - 2000-19. (b) to remove from any beach, public park or public garden, or from the access thereto, any derelict object;
 - 2000-19. (c) to control, maintain and develop the public parks, public gardens and beaches of Barbados;
 - (d) to maintain public access to, and to provide a lifeguard service at, such of the beaches of Barbados as it thinks fit;
 - 2000-19. (e) to secure the observance of sanitary and cleanly conditions and practices at and in respect of the public parks, public gardens and beaches in Barbados and such other sites, buildings or monuments of national interest as the Minister may designate;
 - (f) to maintain and assist in maintaining, to such extent as the Minister directs, existing and future beach facilities;
 - (g) to advise the Minister on
 - (i) the construction of beach and ancillary recreational facilities;
 - (ii) the control of the construction in any public park, public garden or on any beach of huts, booths, tents, sheds, stands, stalls, bath-houses, shops (whether fixed or movable);
 - (iii) the removal of coral from the ocean bed or any other thing the removal of which might cause the encroachment of the sea; and

- (iv) such other matters relating to the public parks, public gardens and beaches of Barbados, including matters pertaining to beach control and the protection of the sea-coast of Barbados from erosion or encroachment by the sea, as the Minister may refer to it for advice; 2000-19.
- (h) to advise the Minister generally on sites, buildings or monuments of national interest designated by the Minister under this section; 2000-19.
- (i) to beautify public parks, public gardens, beaches and such other areas as specified by the Minister; 2000-19.
- (j) to enter into written agreements with owners or occupiers of land adjoining the foreshore for the purpose of obtaining public access to beaches; and 2000-19.
- (k) 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 by any other enactment.
- (2) Notwithstanding subsection (1), the Commission may, upon a request being made to it in writing, clean, maintain or develop the lands
- (a) in the possession of any person; or
- (b) comprising a cemetery or other burial place of a church.
- (3) Where work is done by the Commission on lands referred to in subsection (2), the Commission may, subject to the provisions of the regulations, charge a fee for the work done.
- (4) Upon application being made to it in writing, the Commission may, with the approval of the Minister, waive all or part of any fee payable to it in pursuance of subsection (3).

5A. In the exercise of its functions under this Act, the National Conservation Commission shall have regard to the coastal zone management plan referred to in the *Coastal Zone Management Act*. 2000-19.
Coastal zone management plan. 1998-39. Cap. 394.

ss.6-8A

Committees and 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 a committee or to any officer or servant of the Commission, as it thinks fit.

Compulsory acquisition of land. 2000-19.

7. Notwithstanding anything contained in this Act, any land required by the Commission

- (a) for the development of a park; or
- (b) for the provision of a public access to a beach,

Cap. 228.

may be acquired by the Crown in accordance with the *Land Acquisition Act*.

Restrictions on power of Commission.

8. Notwithstanding the powers conferred on the Commission by section 5, the Commission shall not, without the prior approval of the Minister,

- (a) assign to any post on the staff of the Commission any salary in excess of such amount *per annum* as the Minister may determine and notify to the Commission in writing;
- (b) appoint any person to a post on the staff of the Commission to which a salary in excess of the amount determined by the Minister under paragraph (a) is assigned;
- (c) make any provision for the payment of pensions, gratuities or like benefits to any officer or servant of the Commission or to others by reference to their service to the Commission; or
- (d) dispose of or charge any property held by the Commission for the purposes of its functions under this Act.

Savings of pension etc. 1996-23.

8A. Where a public officer who has pensionable service is transferred to or becomes employed in the service of the Commission, his service with the Commission shall, whether or not there was a break in service, be aggregated with his service in the public service,

and his pension shall be calculated in accordance with the *Pensions Act* and the *Pensions Regulations, 1947*, as if all of his service was service in the public service. Cap. 25. 1947-20.

PART III

Finance

9. The Commission may, in accordance with regulations made under section 30, charge such fees for entry to or for the use of any property under the control of or maintained by the Commission as the Minister may by order prescribe. Power to charge fees.

- 10.** The funds and resources of the Commission consist of Finances of the Commission.
- (a) such amounts as may be paid to its account out of moneys voted for the purpose by Parliament;
 - (b) such amounts as may accrue from the operations of the Commission;
 - (c) such amounts as may be borrowed by the Commission from time to time for the purposes of its functions; and
 - (d) such other amounts as may be available to the Commission from any other source approved by the Minister.

11. (1) Subject to subsection (2), the Commission may borrow money required by it for meeting any of its obligations or performing any of its functions. Borrowing powers.

(2) The power conferred on the Commission by subsection (1) is exercisable only with the approval of the Minister of Finance, and there must be a stipulation as to

- (a) the amount and source of the loan; and
- (b) the terms and conditions on which such loan may be effected,

and the approval may either be general or limited to a particular borrowing.

12. (1) The funds of the Commission shall be applied towards discharging the obligations and performing any functions of the Commission under this Act and the regulations. Applications of funds of Commission and expenditure.

(2) The plans of the Commission in relation to its capital expenditure shall be approved by the Cabinet prior to their execution.

13. (1) The Commission shall, in respect of its functions under this Act, keep proper accounts and adequate financial and other records in relation thereto to the satisfaction of and in accordance with the directions of the Auditor-General or any auditor appointed under subsection (2) for the purpose of auditing the accounts, and shall prepare a statement of accounts in respect of each financial year. Accounts and audit.

(2) The Commission shall, within 3 months from the end of each financial year, submit its accounts for audit to the Auditor-General or to an auditor whom the Minister may appoint.

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

Report.

14. (1) The Commission shall, not later than 6 months from 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
- (b) a statement of the accounts of the Commission for that financial year audited in accordance with section 13.

(2) A copy of the report together with a copy of the auditor's report shall be printed and laid on the tables of the Senate and House of Assembly and published in the *Official Gazette* not later than 3 months from the date of the receipt thereof by the Minister.

Protection
of Com-
mission,
etc.

15. (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 or execution or intended execution of this Act.

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

- (a) of the contravention by a member of paragraph 14 of the Schedule; or
- (b) of any omission, defect or irregularity not affecting the merits of the case.

PART IV

Selling in Public Parks, Public Gardens and on Beaches

16. (1) Any person who desires to operate a business of selling goods or services in a public park, in a public garden or on a beach shall first obtain from the Commission a licence for the purpose. Selling in public park etc. 2000-19.

(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 and 2 recent testimonials.

(3) This section applies to a person carrying on any hotel, restaurant or other business in respect of which there is in existence a valid licence granted under the *Liquor Licences Act*. 2000-19.
Cap. 182.

17. The Commission shall consider the application for the grant of a licence under section 16 and in so doing may Licence.

(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, in a public garden or on a beach or a designated part thereof; but the Commission may refuse to issue a licence if it is satisfied that the number of licensed vendors in a public park, in a public garden or on a beach exceeds a limit determined by the Commission and approved by the Minister. 2000-19.
2000-19.

18. A licence under this Act Conditions of licence.

(a) must be in such form as the Commission determines;

(b) is not transferable;

(c) is, subject to section 22, valid for a period not exceeding one year; and

(d) is subject to the conditions specified in the licence.

Register of licences.

19. (1) The Commission shall cause to be kept a register in which there are recorded

(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.

Change of address to be notified.

20. 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 the change to the Commission, which shall cause that change to be effected in the register.

Duplicate licence.

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

Renewal and surrender of licence.

22. (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 the licence for a 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 the surrender any business in respect of which that licence was issued ceases to operate.

23. 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 customer, officer or servant of the Commission, parish constable or member of the Police Force.

Displaying
of licence.

24. Notwithstanding sections 23 and 31(1) (c), any customer, officer or servant of the Commission, parish constable or member of the Police Force may request a vendor referred to in section 23 to produce his licence for inspection

Production
of licence.

(a) at the time of the request; or

(b) within 48 hours from the time of the request,

(i) at the nearest police station, in the case of a request by a member of the Police Force, or

(ii) at the principal office of the Commission, in any other case.

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

Suspension
or revoca-
tion of
licence.

(a) has been convicted in Barbados or elsewhere of

(i) a criminal offence involving moral turpitude, or

(ii) an offence under the *Offences Against the Person Act*;

Cap. 141.

(b) is deceased, bankrupt or incapable of carrying on the business in respect of which the licence is issued; or

(c) has contravened any of the provisions of the licence.

26. 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 a decision of the Judge is final.

Appeals.

27. Where a licence is suspended or cancelled under section 25, 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 carry-
ing on of
business
pending
determina-
tion of
appeal.

PART V

*Miscellaneous*Transi-
tional.

1990-33.

28. (1) As from 1st April, 1982,

(a) any person who was employed on the staff of the Caves Authority or of the Parks and Beaches Commission immediately before that date and is employed by the Commission on that date shall be deemed to be transferred from the service of that Authority and that Commission to the service of the Commission established under section 4;

(b) the persons so transferred

(i) shall for all purposes be treated as if their employment in the service of the Caves Authority, or, as the case may be, the Parks and Beaches Commission was employment in the service of the National Conservation Commission, and

(ii) shall, upon their transfer to the service of the National Conservation Commission, be employed under terms and conditions no less favourable than when they were employed in the service of the Caves Authority or of the Parks and Beaches Commission, as the case may be; and

(c) all assets and liabilities of the Caves Authority and of the Parks and Beaches Commission are transferred to the National Conservation Commission.

1990-33.

(2) For the purposes of paragraphs (a) and (b) of subsection (1), service of the staff referred to in those paragraphs shall be aggregated with their service with the Commission for the purpose of computing any pension or other retiring allowance to which they may be entitled.

(3) Any person who was employed on the staff of the Parks and Beaches Commission or the Caves Authority for a period of at least five years and resigned or retired from that Commission or that Authority before the 1st day of April, 1982 shall, for the

purposes of pension and other retiring allowances, be treated as if his service was service with the Commission.

29. 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 the Committee shall give effect to those directions. Minister may give directions.

30. (1) The Commission may, subject to the approval of the Minister, make regulations Regulations.

purposes of pension and other retiring allowances, be treated as if his service was service with the Commission.

29. 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 the committee shall give effect to those directions. Minister may give directions.

30. (1) The Commission may, subject to the approval of the Minister, make regulations Regulations.

- (a) prescribing the sanitary and cleanly conditions and practices to be observed at and in respect of public parks, public gardens and beaches; 2000-19.
- (b) with respect to the duties of its officers and servants;
- (c) prescribing the fees chargeable by the Commission for entry to or for the use of any property under the control of or maintained by the Commission, and the terms and conditions on which such fees shall be paid;
- (d) for the preservation from danger, obstruction or annoyance of members of the public using public parks, public gardens or beaches; 2000-19.
- (e) for the preservation of order and good conduct among members of the public using public parks, public gardens or beaches; 2000-19.
- (f) *Repealed by 2000-19.*
- (g) *Repealed by 2000-19.*
- (h) as to all matters necessary for the proper keeping and control of moneys paid to the Commission;
- (i) for the prevention of the deterioration of historic sites, buildings and monuments of national interest designated by the Minister under section 5(1) and for the preservation thereof; and

(j) generally for the better carrying out of its functions under this Act.

(2) Any regulations made and approved under paragraph (c) of subsection (1) are subject to negative resolution.

Offences.

31. (1) Any person who

2000-19.

(a) sells or offers for sale any goods or services in a public park, in a public garden 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 23;

(d) fails, without reasonable excuse, to comply with a request made under section 24; or

2000-19.

(e) for the purpose of selling goods or services or for any immoral or unlawful purpose, solicits in a public park, in a public garden or on a beach

2000-19.

is guilty of an offence and is liable on summary conviction to a fine of \$500 or to imprisonment for a term of 6 months, or to both.

2000-19.

(1A) A person who is guilty of an offence under subsection (1) and who has previously been convicted of an offence under that subsection, is liable on summary conviction to a fine of \$1 000 or to imprisonment for a term of 12 months, or to both.

(2) Any person who

2000-19.

(a) assaults, resists, obstructs or intimidates any member of the Police Force, parish constable or officer or servant of the Commission in the performance of his functions; or

2000-19.

(b) uses indecent, abusive or insulting language to any member of the Police Force, parish constable or officer or servant of the Commission in the performance of his functions

is guilty of an offence and is liable on summary conviction to a fine of \$1 000 or to imprisonment for a term of 12 months, or to both.

(2A) A person who commits an offence under subsection (2) having previously been convicted of an offence under that subsection is liable on summary conviction to a fine of \$2 000 or to imprisonment for a term of 18 months, or to both. 2000-19.

(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 park or public garden or on a beach is guilty of an offence and is liable on summary conviction to a fine of \$500 or to imprisonment for a term of 6 months, or to both; and, in addition, a court before which a person is convicted of an offence under paragraph (a) may order that person to pay full compensation in satisfaction of the damage.

(4) *Repealed by s.10 of Act 2000-12 by implication.*

(5) Any person who defaces, damages or destroys any historic building, site or monument so designated by the Minister under section 5(1) is guilty of an offence and is liable

(a) in the case of defacement, on summary conviction to a fine of \$500 or to imprisonment for a term of 6 months, or to both;

(b) in the case of damage that does not exceed the monetary limit on the criminal jurisdiction of a magistrate, on summary conviction to a fine of \$2 500 or to imprisonment for a term of 12 months, or to both; and

(c) in the case of destruction or damage that exceeds the monetary limit on the criminal jurisdiction of a magistrate, on conviction on indictment to imprisonment for a term of 10 years.

(5A) A person who is guilty of an offence under subsection (5) and who has previously been convicted of an offence under that 2000-19.

subsection, is liable on summary conviction to a fine of \$5 000 or to imprisonment for a term of 18 months, or to both.

Powers of arrest.

32. (1) A person employed by the Commission as a ranger or warden may arrest without a warrant any person who commits an offence specified in paragraph (e) of subsection (1), or paragraph (a) or (b) of subsection (2), of section 31.

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

Power to seek assistance.

33. A ranger or warden referred to in section 32 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 may render such assistance as may be reasonable.

SCHEDULE

(Section 4(2))

1. The Commission consists of a chairman, a deputy chairman and not less than 7 nor more than 9 other members, all of whom shall be appointed by the Minister by instrument in writing.

2. Subject to paragraphs 4, 5 and 6, a member holds office for such period not exceeding 3 years as the Minister may direct in the instrument appointing such member, but is eligible for re-appointment.

3. The Minister may appoint, in accordance with paragraph 2, any person to act temporarily in the place of any member in case of the absence from Barbados or the inability to act of such member.

4. A member, other than the chairman, may at any time resign his office by instrument in writing addressed to the chairman, who shall forthwith cause the same to be forwarded to the Minister, and upon the date of the receipt by the chairman of such instrument ceases to be a member of the Commission unless some other date is mentioned in the instrument.

5. The chairman may at any time resign his office by instrument in writing addressed to the Minister, and upon the date of the receipt by the Minister of such instrument ceases to be chairman and a member of the Commission unless some other date is mentioned in the instrument.

6. 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 Barbados of a member without leave of the Minister;
- (d) the failure of a member to attend 3 consecutive meetings of the Commission, unless such failure to attend was approved by the Minister.

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

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

9. (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 and 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.

10. (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 times and places as the Commission determines.

(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 7 days of the receipt by him of a requisition for that purpose addressed to him in writing by any 3 members.

11. 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 the chairman and the deputy chairman, the members present and constituting a quorum may elect a temporary chairman from among their number, who shall preside at that meeting.

12. Four members of the Commission present at any meeting constitute a quorum.

13. The decisions 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 presiding at the meeting has a casting vote.

14. (1) Subject to this paragraph, a member who is in any way, whether directly or indirectly, interested in a contract or proposed contract with the Commission shall 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

THE LAWS OF BARBADOS

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, the 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) A notice as is mentioned in sub-paragraph (3) has no effect unless it is given at a meeting of the Commission or the member concerned takes reasonable steps to secure 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 is guilty of an offence and shall be liable on summary conviction to a fine of \$500.