

DFIDC

Grenada Forest Management Project - Phase II
Forestry and Wildlife Legislation Review

Draft Protected Area, Forestry and Wildlife legislation

Report to the Government of Grenada

by

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October 2003

INTRODUCTION TO THE DRAFT PROTECTED AREA, FORESTRY AND WILDLIFE LAW

The text of the draft law which is presented in this document has been prepared following a one-week workshop held on 4-8 March, 2002 in St. George's, with the participation of representatives of numerous government departments, private sector, NGOs etc.. It reflects suggestions and comments received during the workshop and subsequent observations raised by the Forestry and National Parks Department Management Team.

The **existing legal framework** is not discussed in this document, as a DFIDC document by Rosalyn E. Wilkinson, published in April 1999 (Grenada Forest Management Project - An examination of existing relevant and related forestry legislation) describes it and includes recommendations for revisions.

A striking feature in the practical implementation of the legal framework of Grenada relating to forestry and protected areas is that **many provisions of the Forest, Soil and Water Conservation Act and the National Parks and Protected Areas Act have remained dead letter**, despite their apparent adequacy and (in the case of the latter Act) their recent adoption. For example, the National Parks and Protected Areas Act requires the creation of a management plan in relation to any protected area. This is an appropriate requirement, which is also recommended for inclusion in the new Act, although the current provisions have not yet been implemented. Similarly, there is provision for the creation of a National Parks Advisory Council, which could be an appropriate tool to bring useful stakeholders' insights into management, but this body has never come into existence, although participatory management processes are not new to Grenada.

A particular effort has therefore been made to identify means for the new law to have the best chances of effective implementation. Some mechanisms to this end have been set out in the text of the draft. For example, there is a deadline within which management plans must be adopted, with a condition that following the deadline no permits be issued except in accordance with the plans. There is also a specific term for the creation of the advisory council, and a requirement that the council meet with a specified frequency.

However, the most important tool to facilitate future implementation and enforcement has been the effort to draft a text which is fully "owned" by the concerned people, following in the steps of the process which took place for the formulation of the current forestry policy, which was characterized by an outstanding effort of public consultation and involvement.

The following are among the most significant or most innovative provisions of the proposed draft.

Protected forests: the draft generally takes a less authoritarian approach regarding protected forests compared to the existing provisions in this regard, although continuing to vest powers in the Minister to create protected forests on private land and impose necessary limitations as a last resort. Pursuant to the current law, protected forests may be declared on private land for various specified protection purposes. The new draft requires that the possibility of joint management of such areas by the administration and the owner should be at least explored,

and only where an agreement cannot be reached may the necessary restrictions be imposed by the Minister.

The purposes for declaration of protected forests include a number of watershed protection concerns. To some extent, therefore, the protected forest mechanism could help to protect critical watersheds. The new draft, however, includes a specific part on watershed management. Therefore, unlike in the existing law, the possibility of declaring protected forests has been limited to private forested lands. For private lands which are not covered by forest but require particular management measures in the interests of watershed protection, the mechanism set out in the new provisions on watershed management (see the next para.) would have to be used.

Watershed management: the approach which has been followed in the newly introduced provisions on watershed management is similar to that regarding protected forests, i.e., an effort will have to be made to get concerned owners to agree to the inclusion of their land into “critical watersheds” and to the adoption of adequate watershed management plans wherever necessary. Only where an agreement cannot be reached with private owners may the Minister responsible for forestry, in consultation with other concerned Ministers, impose the necessary restrictions by order.

Prohibitions and requirements for permits: the draft law envisages the following:

- requirement for a permit to **take timber** in forest reserves and Crown land, and total prohibition to take any timber in protected areas;
- requirement for a permit to **process or remove timber** located within and from forest reserves and Crown land;
- requirement for a permit to **take, process or remove forest produce other than timber** located within and from protected areas and forest reserves; possibility to issue regulations requiring registration of persons wishing to take, process or remove forest produce other than timber for commercial purposes from Crown land. Under the draft as currently formulated, therefore, taking non-timber forest produce from Crown land (which does not have the status of forest reserve or protected area) would be allowed without formalities, unless regulations were issued requiring registration.
- requirement for a permit to **pasture animals and cultivate land** in protected areas and forest reserves; cultivation on Crown land does not require a permit under the forestry legislation, but clearing of land for cultivation or other purposes, which is prohibited in protected areas and forest reserves, is allowed on Crown land subject to a permit. Naturally this does not mean that people are free to cultivate Crown land (just like they are not free to cultivate someone else’s land), but only that the Forestry Department is not the authority to which one should go if he wanted to do so.
- possibility to allow **exemptions** from the prohibitions under the four previous points **for customary uses or domestic purposes**. The exemptions should be set out either in applicable management plans (for the case of protected areas and forest reserves) or by ministerial order (for the case Crown land, as here management plans would not be required).

- possibility to issue regulations requiring **registration** of any person wishing to engage in **collection of forest produce other than timber for commercial purposes** on Crown land;
- requirement for a permit to **construct buildings and roads** or paths within protected areas, forest reserves and forested areas on Crown land;
- total prohibition of **hunting** in forest reserves and protected areas;
- requirement for a permit to **fish** in forest reserves and prohibition to fish in protected areas, except where expressly authorized;
- in **protected forests**, limitation of activities as specified in management agreements which may have been entered into by the owners and the forestry administration and total prohibition to carry out activities which may have been prohibited by ministerial order;
- requirement for a permit to cut certain trees listed in annex to the Act on **private land**; these include significant indigenous species and mangroves;
- requirement for a permit to conduct **scientific research** and **film wildlife for commercial purposes** in protected areas and forest reserves;
- requirement for an **authorization to take wildlife the taking of which** is otherwise prohibited than **for scientific purposes**;
- requirement for an **authorization to keep wild animals in captivity**, subject to various conditions.

DRAFT PROTECTED AREA, FORESTRY AND WILDLIFE ACT

PART I - PRELIMINARY

Short title

Interpretation

In this Act, unless the context otherwise requires:

“biodiversity” means the variability among living organisms from all sources, including, inter alia, terrestrial, marine and other aquatic ecosystems and the ecological complexes of which they are part; this includes diversity within species, between species and of ecosystems;

“closed season” means in relation to any wildlife species¹ the period of time which may be declared by the Minister to be a closed season under section [Closed seasons];

“conservation” means the protection, improvement and wise use of natural resources to provide the greatest social and economic value for the present and future;

“Council” means the Council established in section [Establishment of the Council];

“critical watershed” means an area declared to be a critical watershed under section [Declaration of critical watersheds];

"Crown land" includes all lands vested in Her Majesty or the Government whether by forfeiture, escheat, purchase or exchange and the waste or vacant land of the Crown or the Government;

"Department" means the Department of Forestry and National Parks, established under section [Department of Forestry and National Parks];

"Director" means the Director of Forestry and National Parks appointed under section [Department of Forestry and National Parks];

“enforcement officer” means an officer designated under section [Enforcement officers];

"forest produce"² means trees and plants and all parts and produce of such trees and plants,

¹ This definition allows to establish different closed seasons for different animal species.

² The existing Forest, Soil and water Conservation Act limits the meaning of this term to trees and plants and their parts and produce found in or brought from Crown land or protected forests. This formulation extends the definition to produce found anywhere, but the provisions regarding requirements for permits, and consequently on offences, make appropriate distinctions depending on whether the produce has been obtained from Crown land or not.

including charcoal;

“forest reserve” means an area declared to be a forest reserve under section [Declaration of protected areas and forest reserves];

“hunt” means to trap, chase, pursue, worry, follow after or on the trail of, search for, shoot at, stalk, lie in wait for, or to attempt, in any manner, to capture, kill or injure any wildlife, whether or not the wildlife is captured, killed or injured;

“management plan” means in relation to any forest reserve or any protected area the plan adopted in accordance with section [Management plans];

"Minister" means such Minister as may be from time to time responsible for protected areas, forestry and wildlife;

“person” includes both natural and legal persons;

“policy” means the policy adopted under section [Policy];

"private land" means land other than Crown land;

"protected area" includes national parks and other protected areas declared under section [Declaration of protected areas and forest reserves];

“protected forest” means an area declared to be a protected forest under section [Creation and management of protected forests];

"national plan" means the plan referred to in section [National plan];

"timber" includes trees when they have fallen or been felled, and sawn or split wood;

"tree" means any woody plant having a main trunk and usually a distinct crown, including mangroves, palms, bamboos, stumps, brushwood and canes;

“watershed management committee” means a committee established under section [Watershed management committees];

“watershed management plan” means in relation to any critical watershed the plan adopted in accordance with section [Adoption of watershed management plans];

"wildlife" means any terrestrial or freshwater wild animals, vertebrate or invertebrate, including turtles on land, and does not include domestic animals;³

³ It is not necessary to include eggs and nests of wild animals in the definition of wildlife. Under the current formulation of the draft act, hunting some wildlife species would be allowed, while taking or disturbing eggs and nests of any

PART II - ADMINISTRATION

Department of Forestry and National Parks

- (1) The Minister shall establish and maintain a Department of Forestry and National Parks.
- (2) Upon recommendation of the Minister through the Public Service Commission, a suitable person shall be appointed the Director of the Department of Forestry and National Parks.
- (3) Upon recommendation of the Minister, the Public Service Commission shall appoint such public officers to be forest officers as may be necessary to carry out the functions of the Department.

Functions of the Department

The Department shall be responsible for the implementation of this Act and of the policy and in particular for:

- (a) ensuring the sustainable development of the forest and wildlife resources of Grenada;
- (b) protecting biodiversity;
- (c) monitoring the forest and wildlife resources of Grenada and their habitats;
- (d) conservation of watersheds;
- (e) promoting tree planting and reforestation;
- (f) promoting the practice of forestry in agricultural and other areas and encouraging proper forestry practices on private land;
- (g) undertaking such forestry and related activities on private land as may be agreed with land owners and as are necessary;⁴
- (h) promoting scientific research, education and training in forestry, wildlife, watershed management and related matters;
- (i) regulating fires on Crown land;
- (j) providing recreational facilities as may be appropriate in protected areas, forest reserves and forested areas on Crown land;

wildlife species would in any case be an offence.

⁴ The landowner may not necessarily have agreed to the creation of protected forest on his land, but the Government may have found it necessary to create it.

(k) conducting investigations and enforcing the provisions of this Act in accordance with it .

Functions of the Director

The Director shall be responsible for supervising the personnel of the Department and acting in conjunction with the Council and the Minister to ensure the efficient implementation of this Act.

Delegation of functions

(1) The Minister may delegate any of the functions conferred by this Act except the power to issue permits conferred by section [Issue of permits] and the power to make regulations conferred by section [Power to make regulations].

(2) The Director may delegate any of the functions conferred by this Act except the power to suspend and revoke permits conferred by section [Power to suspend and Revoke permits], the power to prohibit the lighting of fires conferred by section [Prohibition to light fires] and the power to issue preservation orders conferred by section [Preservation orders].

Establishment of the Council

(1) There shall be established a Forestry and National Parks Advisory Council, consisting of:⁵

(a) the Director;

(b) a representative of the Ministry of Tourism;

(c) a representative of the Police Department;

(d) a representative of the National Water and Sewerage Authority;

(e) a representative of the Chamber of Commerce;

(f) two representatives of concerned non-governmental organizations appointed by the Minister.

⁵ The National Parks and Protected Areas Act currently includes a similar provision, establishing that the Advisory Council consists of: the Director, the Chief Forestry Officer, two members appointed by the Minister at his discretion, three members appointed by the Minister one each on the recommendation of the Grenada National Trust, the Tourist Board and the Grenada Hotel Association, the Permanent Secretary for tourism, a representative of the Ministry of Finance, a representative of the Department of the Environment.

(2) Members of the Council shall serve for a period of three years and may be reappointed.

Functions of the Council

The Council shall monitor the implementation of the policy and of this Act and make recommendations to the Minister on any matters relating to them, and on any other related matter that the Minister may refer to the Council.

Officials of the Council

(1) Not later than ... after the entry into force of this Act, the Minister shall appoint the members of the Council in accordance with section [Establishment of the Council] and appoint a chairperson and a deputy chairperson among them.

(2) In the event of absence or incapacity of the chairperson and deputy chairperson the other members of the Council shall elect one of their number to act as chairperson.

Meetings of the Council

(1) The Council shall be convened by the chairperson at least once not later than three months after the chairperson has been appointed.

(2) The Council shall be convened whenever the Minister or any of its members request it and not less than once every three months.

(3) A majority of members shall constitute a quorum of the Council.

(4) The Council may establish its own rules of procedure.

(5) A stipend in an amount determined by the Minister shall be paid to members of the Council following their participation in meetings.

PART III - POLICY AND PLANNING

Policy

(1) The Government shall ensure that a policy promoting the conservation of forestry, wildlife and biodiversity and contributing to the social and economic development of Grenada, adopted in accordance with sec. [Adoption of policy, national plan and management plans], is in place. ⁶

⁶ It is understood that Grenada already has a forest policy adopted following a thorough process of public consultation in 1998. Requiring in the new Act that a policy be in place, however, is still useful as it will make the requirement for a national policy applicable at all times, regardless of possibly changing Governments' views in this regard. Under the draft Act as currently formulated, any adoption of a new policy or revision of the current policy would be subject to

(2) The Minister shall revise the policy as appropriate, but not less than every ten years, in accordance with the process set out in section [Adoption of national plan, management plans, and revisions of policy].

Inventory

(1) The Director shall keep an inventory of the forest resources of Grenada.⁷

(2) The inventory shall include all available information on the state of forest resources and their ownership and utilization, as well as information on areas requiring protection and on suitability of land for forestry uses including production, afforestation and reforestation.

(3) The inventory shall be kept under periodic review and updated as necessary and not less than every five years.

(4) The inventory shall be made accessible by the Director to any person who may have a genuine interest in the inventory.

Wildlife surveys

The Director shall monitor the state of the wildlife of Grenada and keep surveys of such species as may be necessary for the purpose of conservation of wildlife and biodiversity.

Record of watersheds

The Director shall keep a record of watersheds of Grenada and monitor their state, identifying watersheds which require particular protection for purposes of conservation of water and soil.⁸

the process of public consultation which is being set out.

⁷ This formulation suggests that the Department should be responsible for monitoring the state of forest resources found on any land in Grenada, including public land. Naturally this would not imply that management responsibilities/powers of the Department would be the same as regards private and public land, as they would have to concentrate exclusively on the latter, with limited exceptions regarding protected forests. The contents of plans regarding suitability of land for particular forestry uses would simply stand as suggestions with respect to private land.

⁸ The three sections respectively on inventory, wildlife surveys and record of watersheds set out requirements for collection of data respectively on forests, particular wildlife species and watersheds. These are essential steps in the resource management planning processes which the Department is called upon to oversee. For example, the "inventory" of forest resources is to constitute the basis for proposing any new forest reserves or protected forests, and

National plan

(1) Based on the inventory referred to in section [Inventory] and on the surveys referred to in section [Wildlife surveys] and any other available information, the Director shall prepare a national plan regarding protected areas, wildlife and forestry.

(2) The national plan shall :

(a) set out a national protected area and forest reserve system, identifying areas of Crown land which may be suitable for declaration as protected areas or forest reserves;

(b) identify areas of private land which may be suitable for declaration as protected forests;

(c) identify areas of Crown land which are available and suitable for forestry production, afforestation, reforestation and other forestry and related uses;

(d) state measures required for the protection or utilization of land in light of the findings under the previous subsections and any other measures required for the implementation of the policy;

(e) indicate species of wildlife for which the keeping of surveys in accordance with sec. [Wildlife surveys] is appropriate;

(f) estimate staffing, budgetary and administrative requirements.

(3) The national plan shall be kept under periodic review and updated at least every five years.

Management plans

(1) Subject to the contents of the national plan, the Minister shall adopt a management plan for every protected area and forest reserve in accordance with the process set out in sec. ... [Adoption of policy, national plan and management plans].⁹

(2) Management plans shall be adopted within ... from the entry into force of this Act for existing protected areas and forest reserves and within ... from the date of declaration for any new protected area or forest reserve.

(3) Every management plan shall be kept under constant review and updated as necessary.

may contribute information for the creation of new protected areas. Keeping a record of watersheds, as required by the relevant provisions, is part of the watershed management planning process newly introduced by the draft law.

⁹ Under the existing Act, the preparation of a management plan for submission to the Minister is not an obligation but only a possibility for the Director. With this proposed formulation the preparation of management plans would be compulsory and there would be a deadline for their adoption.

Contents of management plans

Every management plan shall

- (a) describe the area and its flora and fauna resources;
- (b) state the purposes for which the area has been declared as a protected area or forest reserve, specifying environmental, social, economic and other objectives to be achieved in the management of the area;
- (c) specify any exemptions from applicable rules, in accordance with sec. [Exemptions for customary practices or domestic uses];
- (d) identify measures for stake-holder participation in management;
- (e) in the case of protected areas, include measures to be adopted in relation to the purposes for which the protected area has been declared and
 - (i) set out zones where particular activities such as cultivation, fishing, camping, access with or without vehicles may or may not be carried out;
 - (ii) determine the location of any tourist facilities and applicable conditions ;
- (f) in the case of forest reserves, set out applicable conditions regarding any activities which must or are allowed to be carried out, including conditions regarding
 - (i) logging, including harvesting practices and minimum or maximum limits by quantity, species or size;
 - (ii) location and construction of main roads;
 - (iii) post-harvest use of the land;¹⁰
 - (iv) agricultural, pastoral and other activities, whether or not in conjunction with forestry;
 - (v) afforestation and reforestation.

Adoption of policy, national plan and management plans

¹⁰ Post-harvest operations required could be, for example, natural forest recovery, or replanting, or even non-forest uses such as grazing or agriculture. The plan should give a general indication of the way in which any such activities will be carried out (e.g., whether by the Department, or by the holders of timber permit as a permit condition).

(1) Before the adoption of the policy, the national plan and any management plan, the Director shall solicit comments from the public and for this purpose shall:

(a) publish a notice including a draft text in the Gazette and at least one circulating national newspaper and broadcast media, inviting interested persons to submit comments within a specified period of time;

(b) send a copy of the notice to the Council and to relevant government departments;

(c) make copies of the notice available at all forestry offices to anybody who may request them;

(2) After a period of not less than two months from publication of the notice in the Gazette, the Director shall to organize at least one public meeting¹¹ to discuss the draft text.

(3) Within three months from the expiry of the term referred to in subsection (1) (a), the Minister shall take into consideration any comments which have been received, revise the draft text as appropriate and table it to Parliament for discussion.

(4) After revising the policy or plan on the basis of any resolution which may have been adopted by Parliament, the Minister shall adopt the policy or plan.

(5) Any revision of the policy, national plan or management plans shall be adopted in accordance with the process set out in this section.

PART IV - PROTECTED AREAS AND FOREST RESERVES

National protected area and forest reserve system

National parks, other protected areas and forest reserves shall constitute the national protected area and forest reserve system.

Proposed declaration of protected areas

The Director may propose that any area of Crown land be declared to be a national park or other protected area whenever this appears to be necessary for any of the following purposes:

(a) conservation of biodiversity;¹²

¹¹ This general terminology ("public meeting") is meant to refer to whichever form of public consultation may be most appropriate in Grenada. Experience gained thus far, for example, shows that people are most effectively involved by sending invitations to various concerned organizations, institutions, etc., This approach could continue to be followed in implementing these provisions.

¹² Reference to conservation of biodiversity and sites of special scientific interest covers practically any concerns which may require the creation of a protected area, such as

- (b) conservation of sites of special scientific interest;
- (c) preservation of the natural beauty of the area;
- (d) creation of a recreational area;
- (e) preservation of a historic landmark or a place or object of historic, prehistoric, archaeological, cultural or scientific importance.

Proposed declaration of forest reserves

The Director may propose that any area of Crown land which is suitable for management as permanent forest be declared to be a forest reserve.

Declaration of protected areas and forest reserves

- (1) A proposal for the declaration of a protected area or a forest reserve shall include:-
 - (a) a description of the concerned land including size and boundaries;
 - (b) a statement of the purposes pursued by the declaration.
- (2) The Director shall solicit comments regarding any proposal under this section and for this purpose shall:-
 - (a) publish the proposal in the Gazette and at least one circulating national newspaper and broadcast media, inviting interested persons to submit comments within a specified period of time;
 - (b) send a copy of the proposal to the Council and to relevant government departments;
 - (c) make copies of the proposal available at all forestry offices to anybody who may request them.
- (3) After a period of not less than two months from publication of the proposal in the Gazette, the Director shall organize at least one public meeting to discuss the proposal.
- (4) Within three months from the expiry of the term referred to in subsection (2) (a), the Minister shall take into consideration any comments which have been received, revise the proposal as appropriate and may by proclamation published in the Gazette declare the concerned land to be a protected area or a forest reserve.
- (5) Forest reserves declared under the Forest, Soil and Water Conservation Act (cap. 116) shall

the protection of wetlands and any other environmentally sensitive areas.

be considered to be forest reserves under this Act.

(6) No land may be granted, devised or sold within a protected area or a forest reserve.

(7) No right or title to or interest in any land within the protected area and forest reserve system may be acquired by prescription.¹³

¹⁴

Public utility works

(1) An authority responsible for a public utility may, after the entry into force of this Act, manage and maintain any works or undertaking in any area of the protected area and forest reserve system which it was authorized and had commenced to do before that date.

(2) Any new works or extension of existing works or undertaking on or under the surface of

¹³ This sub-section is currently included in the National Parks and Protected Areas Act regarding land within the National Parks System.

¹⁴ It would be possible to provide for the extension of protected areas or forest reserves to private land, upon spontaneous request of any land owner who might be interested. This may happen where concerned owners believe this would be an improvement of their land for any reason (for example in case it became more attractive for tourism). If this is considered possible in Grenada, the following section could be incorporated here:

“Extension of protected areas and forest reserves to private land

(1) Any owner of land neighbouring a protected area or forest reserve wishing to have such land included within the boundaries of such protected area or forest reserve may apply to the Minister for this purpose.

(2) The Minister may declare any land referred to in an application under subsection (1) to be included within the boundaries of the protected area or forest reserve referred to in the same application, for such period of time as may be agreed with the owner of the land.

(3) Any land which has been included within the boundaries of a protected area or forest reserve under this section shall remain vested in its owner.

(4) Any owner whose land has been included within the boundaries of a protected area or forest reserve under this section may apply to the Minister to have such land excluded from the protected area or forest reserve before the end of the period of time agreed under subsection (2).

(5) Upon an application under subsection (4) the Minister may exclude the concerned land from the protected area or forest reserve, provided that such exclusion does not seriously undermine the implementation of the applicable management plan. “

land within the protected area and forest reserve system shall be in accordance with the applicable management plan.¹⁵

PART V - FORESTS ON PRIVATE LAND

Assistance to private land owners

(1) The Director may, on the request of any private land owner, provide assistance on forestry matters, including forest management, reforestation, afforestation and supply of seedlings.

(2) The Director may charge such reasonable sums for services under subsection (1) as may be prescribed.

Creation and management of protected forests

(1) The Minister may propose that any forest¹⁶ on private land be declared to be a protected forest, where such land requires management for any of the following purposes:

(a) protection against storms, winds, rolling stones, floods and landslides;

(b) prevention of soil erosion and landslip, formation of ravines and torrents, and deposit of mud, stones and sand upon agricultural land;

¹⁵ The existing National Parks and Protected Areas Act addresses this case (i.e., the extension of existing works or construction of new works by an authority responsible for a public utility) establishing that such authority must enter into an agreement with "the Governor-General in case of Government land or the Minister" setting out applicable terms and conditions. A similar formulation has been excluded in the proposed new draft, because it would conflict with the participatory approach being followed (as significant decisions affecting the state of protected areas could be made without any public consultation), and perhaps also with environmental requirements). The draft provisions as currently formulated subject decisions regarding public works in protected areas to management plans, as any other management decisions. This would imply that unless a particular undertaking may be considered not to conflict with an existing management plan, a revision of the plan would be required to authorize it.

¹⁶ Note that in this draft, unlike in the existing Forest Act, the possibility to create protected forests has been more clearly limited to private forested land rather than any private land. Concerns for the protection of watersheds involving private land could be addressed under the specific provisions of this draft regarding watershed management.

- (c) maintenance of water supplies in springs, rivers, canals and reservoirs;
- (d) prevention of wastage of resources of timber and securing of their proper management;
- (e) protection of roads, bridges, airstrips and other lines of communication;
- (f) preservation of health;
- (g) protection of sites of special scientific interest.

(2) Where a proposal is made to any land owner under subsection (1), the Minister may enter into an agreement with the owner of the concerned land providing for the creation of a protected forest, setting out the respective obligations of the Director and of the land owner and applicable conditions regarding activities which shall or are allowed to be carried out, including:

- (a) logging, including harvesting practices and minimum or maximum limits by quantity, species or size;
- (b) location and construction of main roads;
- (c) post-harvest use of the land;¹⁷
- (d) any agricultural, pastoral and other activities, whether or not in conjunction with forestry;

(3) Where an agreement under subsection (2) cannot be reached, the Minister may by order provide for the creation of a protected forest on the concerned land and for its management.¹⁸

(4) An order or an agreement under this section shall provide for compensation for any loss of use which the owner may suffer.

PART VI - WATERSHED MANAGEMENT

Declaration of critical watersheds

¹⁷ Post-harvest operations required could be, for example, natural forest recovery, or replanting, or even non-forest uses such as grazing or agriculture. Similarly to management plans concerning other areas, these agreements should give a general indication of the way in which post-harvest activities should be carried out (e.g., whether by the Department, or by the owner, or by the holder of any permit granting logging rights).

¹⁸ With this formulation, there will be no restrictions automatically imposed on owners of land declared to be protected forests. Applicable conditions could either be negotiated in agreements entered into by the concerned owners and the administration, or imposed by specific ministerial order.

(1) The Minister, in consultation with the Minister responsible for public utilities, may propose that any watershed listed in the record kept under section [Record of watersheds] be declared to be a critical watershed, where such watershed requires management for any of the following purposes:

- (a) protection against storms, winds, rolling stones, floods and landslides;
- (b) prevention of soil erosion and landslip, formation of ravines and torrents, and deposit of mud, stones and sand upon agricultural land;
- (c) maintenance of water supplies in springs, rivers, canals and reservoirs.

(2) A proposal formulated under this section shall include

- (a) a description of the watershed, including size and boundaries and details as to land ownership;
- (b) a statement of the reasons for considering that watershed to require particular protection.

(3) The Director shall solicit comments regarding any proposal under this section and for this purpose shall:-

- (a) publish the proposal in the Gazette and at least one circulating national newspaper and broadcast media, inviting interested persons to submit comments within a specified period of time;
- (b) send a copy of the proposal to the Council and to relevant government departments;
- (c) make copies of the proposal available at all forestry offices to anybody who may request them.

(4) After a period of not less than two months from publication of the proposal in the Gazette, the Director shall organize at least one public meeting to discuss the proposal.

(5) The Minister, in consultation with the Minister responsible for public utilities, shall take into consideration any comments which have been received, revise the proposal as appropriate and may by proclamation published in the Gazette declare the watershed to be a critical watershed.

Critical watersheds on private land

(1) Where any land concerned by a proposal under section [Declaration of critical watersheds] is private, the Minister, in consultation with the Minister for public utilities, may either

- (a) enter into an agreement with the owner of the concerned land providing for the inclusion of such land within the critical watershed and setting out the respective obligations of the Minister, the Minister responsible for public utilities and the land owner; or

(b) where an agreement under paragraph (a) cannot be reached, provide by inter-ministerial order for the inclusion of the concerned land within the critical watershed.

(2) An agreement or an order under this section shall provide for compensation for any loss of use which the owner may suffer.

Watershed management committees

(1) The Minister, in consultation with the Minister responsible for public utilities, shall establish a watershed management committee for every critical watershed.

(2) A watershed management committee shall consist of :-

(a) the parish forest ranger;

(b) ... other members as may be appointed by the Minister upon recommendation of the Director and in consultation with the Minister responsible for public utilities to represent local residents and owners of land within the watershed.

(3) Every watershed management committee may make recommendations to the Minister on any matters relating to the adoption and the implementation of the applicable watershed management plan, including any proposed revisions of the plan, and on any other related matter that the Minister may refer to it.

Watershed management plans

(1) The Minister shall, in consultation with the Minister responsible for public utilities, within one year from the declaration of a critical watershed, adopt a plan for the management of that watershed, in accordance with the process set out in section [Adoption of watershed management plans].

(2) Any watershed management plan shall

(a) describe the area, its flora, water and soil resources and any activities which affect the watershed within such area;

(b) include measures regarding forest and watershed conservation, such as fire prevention and control, control of land clearing and soil conservation;

(c) set out zones where activities which may affect the critical watershed may or may not be carried out.

(3) All activities within critical watersheds shall be subject to the applicable watershed management plan.

Adoption of watershed management plans

(1) Every watershed management committee shall prepare a draft watershed management plan for the management of the concerned critical watershed.

(2) The Director shall solicit comments on any draft plan prepared under subsection (1), in accordance with the process set out in section ... [Adoption of policy, national plan and management plans] (1)-(2).

(3) Within three months from the expiry of the term within which interested persons may submit comments on the draft plan, the Minister shall take into consideration any comments which have been received, revise the draft plan as appropriate and adopt it.

(4) Where any private land is part of a critical watershed, the Director shall, before the adoption or revision of a watershed management plan, seek agreement with the owners of the concerned land regarding any contents of the plan which affect the owners' rights and interests.

(5) Where an agreement under subsection (3) cannot be reached, the Minister, in agreement with the Minister responsible for public utilities, may order that a watershed management plan be applied to any private land within the concerned critical watershed.

PART VII - PROTECTION RULES

Offences in forest reserves and protected areas

(1) Unless authorised under this Act by a permit or otherwise, it shall be unlawful for any person to attempt or to carry out any of the following acts in a protected area or forest reserve:

- (a) fell, cut, girdle, mark, lop, tap or bleed any tree or injure any tree or timber;
- (b) cause any damage by negligence in felling any tree or cutting or dragging any timber;
- (c) clear land for cultivation or other purpose;
- (d) erect any building or buildings or livestock enclosures;
- (e) construct or obstruct any roads, paths or waterways;
- (f) pasture or allow the trespass of livestock;
- (g) process or convey or remove any forest produce;
- (g) mine, including taking of soil and stone;¹⁹

¹⁹ Under this formulation, mining would be completely prohibited in protected areas and forest reserves, as no possibility is given to issue mining permits. The question as to whether "mining" should include any exploration for minerals. This should be clarified.

- (h) hunt;
 - (i) fish;
 - (j) conduct scientific research;
 - (k) film wildlife for commercial purposes;
 - (l) camp;
 - (m) post signs;
 - (n) use any vehicle except in an area established for access or parking of vehicles;
 - (o) dump any waste except in containers placed for this purpose;
 - (p) otherwise act in violation of the applicable management plan.
- (2) A person who is guilty of an offence under subsection (1) is liable, on summary conviction,
- (a) in the cases referred to under (a), (b), (c), (d), (e), (f) and (p), to a fine of ... [and to imprisonment for ...];
 - (b) in the cases referred to under (g), to a fine of ...;
 - (c) in the cases referred to under (h), to a fine of ...;
 - (d) in the cases referred to under (i), to a fine of ...;
 - (e) in the cases referred to under (j), to a fine of ...;
 - (f) in the cases referred to under (k), to a fine of ...;
 - (g) in the cases referred to under (l), (m), (n) and (o), to a fine of

Offences on Crown land

- (1) Unless authorised under this Act by a permit or otherwise, it shall be unlawful for any person to attempt or to carry out any of the following acts on Crown land:
- (a) fell, cut, girdle, mark, lop, tap or bleed any tree or injure any tree or timber;
 - (b) cause any damage by negligence in felling any tree or cutting or dragging any timber;
-

(c) clear land for cultivation or other purpose;

(d) erect any building or buildings or livestock enclosures within forested land;

(e) construct or obstruct any roads, paths or waterways within forested land;

(f) pasture or allow the trespass of livestock;

(g) process or convey or remove any timber.

(2) Any person who is guilty of an offence under subsection (1) is liable, on summary conviction,

(a) in the cases referred to under (a), (b), (c), (d), (e) and (f), to a fine of ...[and to imprisonment for ...];

(b) in the cases referred to under (g), to a fine of

Exemptions for customary practices or domestic uses

(1) Any management plan may, with respect to all or part of its area of application, authorize

(a) felling of trees;

(b) pasturing of livestock;

(c) processing, conveyance or removal of forest produce;

(d) cultivation of land

where these are recognized as customary practices or for domestic uses.

(2) The Minister may by order authorize activities referred to in subsection (1) on Crown land where these are recognized as customary practices or for domestic uses.²⁰

Offences in protected forests

(1) It shall be unlawful for any person to attempt to act or to act in violation of an agreement under section ... (2) [Creation and management of protected forests] or of an order under section ... (3) [Creation and management of protected forests].

²⁰ Unlike in protected areas and forest reserves, where the possibility is given, under this draft, to allow exemptions for customary rights in management plans, in the case of Crown land exemptions would have to be authorized by specific ministerial orders, as a management plan is not required on this land.

(2) Any person who is guilty of an offence under subsection (1) is liable, on summary conviction, to a fine of

Offences in critical watersheds

(1) It shall be unlawful for any person to attempt to act or to act in violation of a watershed management plan.

(2) Any person who is guilty of an offence under subsection (1) is liable, on summary conviction, to a fine of ...

Offences in relation to fishing in watercourses

(1) It shall be unlawful for any person, for the purpose of fishing, in any river, lake or other watercourse, to attempt to use or use poison or explosives

(2) Any person who is guilty of an offence under subsection (1) is liable, on summary conviction, to a fine of²¹

Offences on private land

(1) It shall be unlawful for any person on private land to attempt to cut or cut any of the trees listed in Schedule I to this Act.

(2) Any person who is guilty of an offence under subsection (1) is liable, on summary conviction, to a fine of

Preservation orders

(1) The Director may by order require the preservation of any tree or trees which are particularly significant for environmental, historic or other reasons.

(2) It shall be unlawful for any person to attempt to take or damage or take or damage any tree whose preservation is ordered under subsection (1).

(3) Any person who is guilty of an offence under subsection (2) is liable, on summary conviction, to a fine of

PART VIII - PERMITS

Issue of permits

²¹ This provision was included to meet general concern regarding taking of crayfish with poison. However, regulation of fishing, although only in freshwater, should be addressed more widely, whether in this law or in other legislation.

(1) Upon application in the prescribed form, the Minister may issue a permit authorising such of the following acts as may be specified in the permit, subject to such conditions as may be prescribed:

(a) in a forest reserve or on Crown land, fell trees in a quantity larger than ... cubic metres.

(b) in a protected area, forest reserve or forested area on Crown land, erect any buildings or livestock enclosures or construct any roads or paths;

(2) Upon application in the prescribed form, the Director may issue a permit authorising such of the following acts as may be specified in the permit, subject to such conditions as may be prescribed:

(a) in a protected area:

(i) process, convey or remove forest produce other than timber;

(ii) cultivate land;

(iii) pasture livestock;

(iv) fish;

(v) conduct scientific research;

(vi) film wildlife for commercial purposes;

(b) in a forest reserve:

(i) fell trees up to a quantity of ... cubic metres;

(ii) cultivate land;

(iii) pasture livestock;

(iv) process or convey or remove any forest produce;

(v) fish;

(vi) conduct scientific research;

(vii) film wildlife for commercial purposes;

(c) on Crown land

(i) fell trees up to a quantity of ... cubic metres;

(ii) clear forested land for cultivation or other purposes;

(iii) pasture livestock;

(d) on private land, cut any of the trees listed in Schedule I to this Act.

Duration of permits

A permit may be issued for such period of time not exceeding ... as may be stated therein or prescribed by rules.

Contents of permits

(1) Every permit or authorization issued under this Act must specify

(a) the date of issue;

(b) the date of expiry, except as provided under section [Keeping of wildlife in captivity];

(c) the latest date at which the activities authorised under it must be started;

(d) the area in respect of which the permit or authorization is issued;

(e) such conditions as the Director considers appropriate in accordance with the applicable area management plan;

(f) the amount and form of any bond or other surety which the holder of the permit or authorization may be required to post to guarantee performance under the licence;

(g) the compensation to be paid by the holder of the permit or authorization for any failure to fulfil the terms or conditions of the licence.

(2) Any permits or authorizations issued under ... which are valid on the date of entry into force of this Act remain valid until their expiry, unless they conflict with applicable management plans.

(3) A permit or authorization issued under this Act may not be transferred.

(4) A permit or authorization issued under this Act may be subject to the payment of such fees as may be prescribed.

Compliance with plans

(1) Except as provided in subsection (2), no permit or authorization shall be issued under this Act except in accordance with the contents of the national plan and the applicable management plan.

(2) A permit or authorization may be issued in the absence of the national plan or applicable management plan

(a) in respect of existing protected areas and forest reserves, within twenty-four months following the entry into force of this Act;

(b) in respect of any new protected area or forest reserve, within twelve months following the declaration thereof.

Power to suspend and revoke permits or authorizations

(1) In addition to any penalty under this Act, the Director may suspend in whole or in part operations under a permit or authorization issued under this Act at any time that a violation of the conditions of the permit or authorization or a violation of this Act has occurred or is likely to occur.

(2) Where the Director intends to suspend operations under a permit or authorization under subsection (1), the Director serves notice to the holder of the permit or authorization specifying the reasons for suspension and requiring all necessary measures to remedy or prevent the violation, allowing a reasonable period of time for the holder of the permit or authorization to take the required measures.

(3) Following such period of time, Director or, where the permit or authorization has been issued by the Minister, the Minister may, where he or she is not satisfied that the required measures have been taken, revoke the permit or authorization.

(4) The Director shall, if so requested, allow the holder of the permit or authorization an opportunity to be heard before a permit or authorization is revoked.

(5) An appeal against the suspension of operations under a permit or authorization or the revocation of a permit or authorization may be filed with the competent court.

PART IX - WILDLIFE

Ownership of wildlife

All wildlife species and species of animals which have acquired such status and are within the territorial limits of the State of Grenada are hereby declared property of the State of Grenada.

] ²²

²² A previous version of this report included a brief paper presenting legislation of various countries of the world regarding the issue of ownership of wildlife. Where wildlife is considered to be State property, as under this draft provision, a consequence is usually that the State is responsible for damage which may be caused by it (for example to crops or livestock).

Species which may be hunted

(1) Following consultation with the Council, the Minister shall from time to time by order determine the species of wildlife that may be hunted, subject to such conditions as may be specified in the order, including conditions regarding sex and age groups.

(2) The species of wildlife which are listed in annex II may be hunted until the adoption of any order under subsection (1).

(3) Any order issued under this section must be based on any wildlife surveys kept under section [Wildlife surveys], and pursue the purpose of conservation of wildlife and biodiversity.

Areas where hunting is prohibited

The Minister may from time to time by order prohibit hunting of all or some wildlife species in a specified area.

Closed seasons

(1) Following consultation with the Council, the Minister may by order prohibit hunting of such specified species as may be necessary for the purpose of conservation of wildlife and biodiversity, for specified periods of time, subject to such conditions as may be specified in the order.

(2) Upon the entry into force of this Act, before the publication of an order under subsection (1) the period from ... to ... shall be considered a closed season for any wildlife species.

Taking of wildlife for scientific purposes

(1) Following consultation with the Council, the Minister may authorize any person/scientific institution to take specified wildlife specimens for scientific purposes otherwise than in accordance with sections [Animals which may be hunted], [Closed season], [Areas where hunting is prohibited], subject to such conditions as may be prescribed.

(2) The holder of any authorization issued under this section shall submit detailed reports concerning activities carried out under the authorization at such frequency and in such form as may be prescribed.

Keeping of wildlife in captivity²³

²³ The issue of keeping wild animals in captivity was the object of some debate at the workshop of 4-8 March, 2002. For a number of ecological and other reasons, it was generally considered not advisable to allow the keeping of wild animals in Grenada, although there are currently cases of animals kept as pets (such as monkeys) or as attractions for tourists. Under the suggested formulation of the draft, an authorization

(1) Following consultation with the Council, the Minister may authorize any person to keep a specified number of wildlife specimens for scientific or educational purposes.

(2) Any person who at the time of entry into force of this Act keeps any specimen of wildlife in captivity shall apply to the Director to obtain an authorization under this section within three months. The Director may authorize the person to continue to keep the specimen.

(3) An authorization under subsection (2) shall be valid for the duration of the life of the concerned specimen or of any of their offspring, provided that the birth of any offspring is reported to the Director within one month.

(4) Any authorization under this section shall establish appropriate conditions to preserve animals' health and prevent cruelty.

(5) Where the species of any wildlife specimen concerned by this section is listed under the Convention on International Trade in Endangered Species of Wild Flora and Fauna, the provisions of the Convention or of any laws of Grenada adopted to implement the Convention shall apply.

Breeding of wildlife

(1) Following consultation with the Council, the Minister may authorize any person to breed wildlife of specified species, provided that such activity does not affect the conservation of wildlife and ecosystems of Grenada.

(2) Animals bred in accordance with an authorization issued under this section are the property of the holder of the authorization.

(3) Any authorization issued under this section may, with respect to animals bred in accordance with it, authorize exemptions from the provisions of this law which are applicable to wildlife, provided that such exemption does not affect the conservation of wildlife and ecosystems of Grenada.

(4) Any authorization issued under this section shall be valid for a period of one year and may be renewed.

would have to be requested at the ministerial level, and could be issued only for scientific or educational purposes. Keeping of animals to show tourists could therefore be authorized only if the initiative could be considered as "educational". As to animals which are already being kept as pets, these could also be the subject of an authorization, which should be requested not later than three months from the entry into force of the Act. No other wild animals could be kept as pets in the future, so the duration of these authorizations would be that of the life of concerned animals. Regarding their offspring, another authorization would have to be requested.

(5) Any authorization issued under this section shall establish appropriate conditions to preserve animals' health and prevent cruelty.

Offences in relation to wildlife

(1) It shall be unlawful for any person to attempt or to carry out any of the following acts in relation to wildlife:-

- (a) hunt any wildlife specimens which may not be hunted under this Act;
- (b) hunt in any areas where hunting is prohibited under this Act;
- (c) during any closed season, hunt specimens of the concerned species;
- (d) during any closed season, transport or keep in depots, whether alive or dead, any specimen of concerned species, except for fifteen days after the beginning of the same closed season;
- (e) hunt with dogs, snares, nets, slings or any other devices or means prohibited by regulations;
- (f) hold, carry, catch, disturb or destroy nests, eggs or fledgings of wildlife species;
- (g) purchase or sell wildlife species or parts thereof, or their nests, eggs or fledgings;
- (h) hold an authorization under section [Taking of wildlife for scientific purposes] and take wildlife in violation of any of the conditions set out in such authorization;
- (i) hunt on any public roads or at a distance of one hundred yards from any dwelling;
- (j) keep wildlife in captivity otherwise than in accordance with section [Keeping of wildlife in captivity] or section [Breeding of wildlife];

(2) Any person who is guilty of an offence under subsection (1) is liable, on summary conviction,

- (a) in the cases referred to under (a), (b) and (c), to a fine of ...[and to imprisonment for ...];
- (b) in the cases referred to under (d) and (g) ..., to a fine of ...;
- (c) in the cases referred to under (e), to a fine of ...;
- (d) in the cases referred to under (f), to a fine of ...
- (e) in the cases referred to under (h), to a fine of ...
- (f) in the cases referred to under (i), to a fine of ...

(g) in the cases referred to under (j), to a fine of ...

PART X - PREVENTION OF FIRES

Prohibition to light fires

(1) Unless authorised by a permit issued under section ... [Fire permits], it shall be unlawful for any person to attempt or to carry out the act of lighting or causing to be lit a fire in any:-

(a) protected area;

(b) forest reserve;

(c) protected forest, unless authorized under an agreement or an order under section [Creation and management of protected forests];

(d) any other area referred to under subsection (2)

except in a place established for the purpose of lighting fires.

(2) A person who is guilty of an offence under subsection (1) is liable, on summary conviction, to a fine of

(3) The Director may, where the hazard of forest fire warrants such action, prohibit the lighting of fires in any specified area or period of time, for such time as the hazard persists.

(4) It shall be unlawful for any person to attempt or carry out the act of lighting or causing to be lit a fire in violation of subsection (3).

(5) Any person who is guilty of an offence under subsection (4) is liable, on summary conviction, to a fine of ...

Fire permits

The Director may issue fire permits authorizing the lighting of fires in any area or period of time in which the lighting of fires is prohibited under section ... [Prohibition to light fires].

PART XI - ENFORCEMENT

Enforcement officers

(1) Police officers, rural constables and such officers of the Department as may be appointed for this purpose by the Director are enforcement officers for the purposes of this Act.

(2) The Minister may appoint any suitable volunteer to be an enforcement officer.

Warrants for search, arrest and seizure

Where a magistrate is satisfied by information on oath that there is a reasonable ground for suspecting that an offence under this Act has been, is being, or is about to be committed, the Magistrate issues a warrant authorizing an enforcement officer:

(a) to enter at any time the place named in the warrant with force if necessary, and to search the place and the persons found in that place;

(b) to detain a person reasonably suspected of having been concerned in an offence under this Act; and

(c) to seize anything which may be of evidential value in a prosecution for an offence under this Act.

Power of inspection

An enforcement officer may, without a warrant,

(a) require the production by any person of any permit or other authority for any act committed by such person for which such permit or other authority is required under this Act;

(b) stop and inspect any vehicle which he reasonably suspects is carrying any forest produce or wildlife specimen which has been obtained or is being transported in contravention of this Act;

(c) enter any land or premises in a protected area or forest reserve, any land or premises in which an activity under a permit issued under this Act is conducted, and any land in a protected forest and inspect such premises or land.

Power of arrest

(1) An enforcement officer may, without a warrant, arrest any person reasonably suspected of having been concerned in an offence under this Act if such person refuses to give his name and residence or gives a name or residence which there is reason to believe to be false, or of there is reason to believe that the person will abscond.

(2) Every person making an arrest under this section must, without unnecessary delay, take or send the person arrested before a magistrate or Justice of the Peace or the officer in charge of the nearest police station to be dealt with according to law.

Power of seizure

(1) When there is reason to believe that an offence has been committed under this Act with respect to any article, such article, together with all tools, vehicles and any other articles which have been used in the commission of the offence, may be seized by an enforcement officer.

(2) Every person seizing any article under this section must, as soon as may be, make a report of such seizure to a magistrate and give the article into the custody of the magistrate or of the

Director.

Custody of seized articles

(1) Any articles seized under section [Power of seizure] or section [Warrants for search, arrest and seizure] must be retained by the magistrate or the Director until the offence in connection with which it was seized has been tried or a decision has been made not to prosecute.

(2) Where any seized article is perishable, the magistrate or the Director may order the article to be sold or destroyed and may deal with the proceeds, if any, as with the same article, if it had not been sold.

Forfeiture

(1) When a person is convicted of an offence under this Act, all articles in respect of which such offence has been committed, and all tools, vehicles or livestock used in the commission of such offence are liable, by order of the convicting magistrate, to be forfeited or to be otherwise dealt with as to the magistrate seems just. Such forfeiture may be in addition to any other penalty or compensation prescribed for such offence.

(2) Any articles which are forfeited under this section must, if forfeited, be taken possession of by the Director, and in any other case may be disposed of in such manner as the magistrate may order.

Compensation in addition to penalty

Where any person is convicted of an offence under this Act whereby any forest produce has been damaged or taken, the convicting magistrate may, in addition to any other penalty, order that person to pay compensation to the owner of such forest produce not exceeding the value of the produce.

Obstruction of justice

Any person who assaults, molests, obstructs or resists an enforcement officer or any person authorized by an enforcement officer in the execution of his duty commits an offence and is liable, on summary conviction, to a fine of ...[and to imprisonment for ...]

Presumption as to ownership of produce

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, or whether any land is Crown land, such produce will be presumed to be the property of the Government, and such land will be considered to be Crown land until the contrary is proved.

PART XII - MISCELLANEOUS

Power to make regulations

The Minister may make regulations to implement this Act, including regulations

- (a) prescribing the conditions of issue and the form of permits and authorizations envisaged under this Act;
- (b) setting out fees for the issue of permits or authorizations under this Act and fees for the entry into protected areas;
- (c) establishing and regulating the issue of permits under this Act through tenders;
- (d) requiring any holders of permits or authorizations issued under this Act to supply scientific information and data in relation to the activities carried out under the same permits and authorizations, in such form as may be prescribed;
- (e) requiring hunters to submit data concerning wildlife specimens seen or hunted, in such form as may be prescribed;
- (f) prescribing conditions regarding breeding of wildlife and the issue of authorizations under section [Wildlife breeding];
- (g) prescribing registration of persons wishing to collect forest produce other than timber for commercial purposes;
- (h) requiring permits for the operation of sawmills.

Parties to an offence

(1) A person is a party to an offence who :-

- (a) actually commits an offence or assists in the attempt to commit the offence;
- (b) does or omits to do anything for the purpose of aiding any other person to commit an offence or attempt to commit the offence; or
- (c) abets any or attempts to abet any other person in the commission of an offence.

(2) Where two or more persons form an intention in common to carry out an unlawful purpose and to assist each other therein and any one of them in carrying out the common purpose commits an offence, each of them who knew or ought to have known that the commission of the offence would be a probable consequence of carrying out the common purpose is a party to that offence.

Continuing offences

Where an offence committed under this Act is a continuing offence, a further fine of ... percent of the fine envisaged for that offence may be imposed for each day during which the offence

continues.

Appeals regarding compensation

(1) Any owner of land who is not satisfied with the amount of compensation offered under sections ...[Creation and management of protected forests] and [Critical watersheds on private land] may lodge a claim with the Minister stating the estimated loss with full particulars.

(2) When a claim is lodged under this section, the Minister shall appoint an Assessment Board consisting of ...

(a) a Magistrate, or if the claim for compensation exceeds ..., a Judge of the High Court;

(b) such person as the claimant may nominate; and

(c) such other person as the Minister may appoint.

(3) The Judge or Magistrate, as the case may be, shall be the chairman of the Assessment Board.

(4) The Assessment Board shall issue a decision on a claim lodged under this section within three months from its appointment.

(5) An appeal against a decision issued by the Assessment Board under this section may be filed with the competent court within thirty days from the date of issue of the decision.²⁴

Contributions

The Council may accept voluntary contributions made by the Government or by organizations or by individuals to promote the objects and purposes of this Act.²⁵

Declaration of Grand Etang National Park, Mount Hartman National Park and Perseverance Forest Reserve

(declaration by this Act of Grand Etang and Mt. Hartman as national parks and Perseverance as Forest Reserve so that pending procedures are completed?)

Repeals and savings

²⁴ The existing sec. 11 of the Forest, Soil and Water Conservation Act leaves to the Minister the decision as to whether a recommendation from the Board should or should not be accepted - thus giving little meaning to the process of creation of a board for determination of the amount for compensation. The new draft modifies this approach by establishing that the Board's determinations are binding on all parties, unless an appeal is filed within a certain time before the courts.

²⁵ Provision found in the existing Act.

(1) The following Acts are hereby repealed:

Forest, Soil and Water Conservation Act, Cap. 116;

(2) Notwithstanding the repeal under subsection (1), an action taken or anything done in exercise of a power conferred by or under the repealed Act(s) will be considered to have been taken or done under this Act.

Applicability to the Crown

This Act and any regulations made under it apply to the Crown.

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SCHEDULE I

Trees which may not be cut on private land except under a permit

1. Stinking toe
2. Penny piece
3. Immortelle
4. Maruba
5. Maythenus Grenadensis
6. Bullet wood
7. Bois bande
8. Tantacayo
9. Poix doux
10. Calabash
11. Mammy apple
12. Grugru
13. Hogplum
14. Silk cotton
15. Jumbie bead
16. Laurier (all species)
17. Campeche
18. Palmiste
19. Seaside grape
20. Pterocarpus
21. Mangroves (all species)
22. White cedar
23. Manchinele
24. Wild breadnut
25. Cypress
26. Acacia (all species)

SCHEDULE II

The following animals may not be hunted

Monkey (*cercopithecus mona*), in forest reserves and protected areas

The following animals may not be hunted during specified closed seasons

Opossum (*Dipelphis marsupial insularis*)

Tattoo (*Dasypodidea armadillo*)

Iguana (*iguana iguana*)

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