



MONTSERRAT

CHAPTER 12.03

FORESTRY, WILDLIFE, NATIONAL PARKS AND PROTECTED AREAS ACT and Subsidiary Legislation

Revised Edition

showing the law as at 1 January 2013

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

This edition contains a consolidation of the following laws—

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CHAPTER 12.03

FORESTRY, WILDLIFE, NATIONAL PARKS AND PROTECTED AREAS ACT

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CHAPTER 12.03

FORESTRY, WILDLIFE, NATIONAL PARKS AND PROTECTED AREAS ACT

(Acts 3 of 1996 and 9 of 2011)

AN ACT TO PROVIDE FOR THE ADMINISTRATION, CONSERVATION AND PROPER USE OF FORESTS, THE PROTECTION AND MANAGEMENT OF WILDLIFE, THE ESTABLISHMENT AND MAINTENANCE OF NATIONAL PARKS AND PROTECTED AREAS, AND FOR MATTERS CONNECTED THEREWITH.

Commencement

[9 May 1996]

PART 1

PRELIMINARY

Short title

1. This Act may be cited as the Forestry, Wildlife, National Parks and Protected Areas Act.

Interpretation

2. In this Act, unless the context otherwise requires—
- “**agro-forestry**” means the growing of timber or other forest produce in combination with either the growing of crops or the rearing of livestock or both;
- “**authorised officer**” means a person appointed under section 5, a police officer, or such other person as may be appointed by the Governor acting on the advice of Cabinet for the purposes of this Act; *(Amended by Act 9 of 2011)*
- “**Board**” means the Forestry, Wildlife, National Parks and Protected Areas Board established under section 3;
- “**Crown lands**” means all lands vested in the Government whether by forfeiture, escheat, purchase or exchange, and all unclaimed land;
- “**forest produce**” means timber, product of timber and vegetable growth, whether alive or dead;
- “**fund**” means the Environmental Fund established under section 8;

“**hunt**” means to kill, capture, take, trap, injure, shoot at, lie in wait for, wilfully disturb or molest, and any attempt to do, or the giving of assistance in doing any of these things;

“**livestock**” includes cattle, sheep, goats, swine, poultry and horses;

“**mineral**” means a substance in liquid, solid or gaseous form occurring naturally in or on the earth or on, in or under the sea bed and formed by or subject to a geological process, but does not include water;

“**Minister**” means the Minister responsible for the Environment;

“**national park**” means any park declared to be a national park under section 34;

“**national parks system**” means all lands comprising national parks;

“**Permanent Secretary**” means the Permanent Secretary to the Ministry responsible for the Environment.

PART 2

ADMINISTRATION

Establishment of Environmental Board

3. (1) There shall be a Forestry, Wildlife, National Parks and Protected Areas Board, hereinafter referred to as the “**Board**”, which shall comprise the following persons—

- (a) the Permanent Secretary who shall be the Chairman of the Board;
- (b) the Director of Agriculture who shall be the Secretary of the Board;
- (c) the Environmental Officer;
- (d) the Director of Tourism;
- (e) the Manager, Montserrat Water Authority;
- (f) a representative of the Montserrat National Trust nominated by the President of the Montserrat National Trust and approved by the Governor acting on the advice of Cabinet;
- (g) two persons appointed by the Governor acting on the advice of Cabinet from among persons having experience in forestry, wildlife, national parks, or environmental matters.

(Amended by Act 9 of 2011)

(2) An appointment under subsections (1)(f) and (1)(g) shall be for a period of two years and a person so appointed shall be eligible for reappointment.

(3) The Chairman of the Board shall call a meeting of the Board not less than two times per year.

(4) The Board shall formulate rules to regulate its meetings.

Functions of the Board

4. The functions of the Board include—

- (a) advising the Minister on matters pertaining to—
 - (i) the management and administration of forests, wildlife, national parks and protected areas; and
 - (ii) the formulation and implementation of policy in respect of forests, wildlife, national parks and protected areas;
- (b) reviewing and revising the national forest, wildlife and national parks plan; and transmitting it to the Minister;
- (c) reviewing individual management plans for forestry, wildlife or national parks; and
- (d) advising the Minister on any specific environmental matters that may be referred by the Minister to the Board.

Appointment of Officers

5. The Governor may, after consultation with the Public Service Commission, appoint an environmental officer and such forest officers as may be required for the purposes of this Act.

Functions of Environmental Officer

6. The functions of the Environmental Officer shall include—

- (a) (i) the conservation, management, development and general administration of forests;
- (ii) the protection and management of wildlife;
- (iii) the management and general administration of national parks;
- (b) maintaining demarcated boundaries of forests;
- (c) national parks and conducting forest and park inventories;
 - (i) preparing forest plans and forest management plans;
 - (ii) preparing national park plans;
- (d) (i) conducting sales of timber and other forest produce;
- (ii) the carrying out, control and supervision of cutting, harvesting, milling and sale of timber and other forest

- produce, including charcoal, where the activity is conducted by government agencies;
- (iii) regulating the activities of persons, whether individual or corporate, who cut, harvest, transport, mill and sell timber and other forest produce;
 - (iv) the inspection and collection of information and statistics concerning timber and forest produce;
 - (v) the implementation of fire prevention mechanisms for forests, conservation areas and protected areas;
- (e) (i) the protection of watersheds to ensure a clean, safe and reliable supply of drinking water;
- (ii) promoting and assisting the practice of forestry and agro-forestry in agricultural, pastoral and other areas in conjunction with the other divisions of the Ministry of Agriculture;
 - (iii) promoting proper soil conservation practices in forests and conservation areas;
 - (iv) planting trees in public places and maintaining them;
- (f) (i) the supervision and training of staff;
- (ii) promoting and conducting educational programs to improve understanding of the contribution of forests, wildlife and national parks to the well being and development of Montserrat;
- (g) carrying out research and surveys for the protection, control and disposition of wildlife;
- (h) implementing the forest, wildlife and national parks policy of the Government;
- (i) prosecuting offenders against the contravention of offences under this Act;
- (j) the discharge of any other functions and duties that may be assigned under this Act.

Discharge of functions of Environmental Officer

7. (1) In the discharge of his functions under this Act the Environmental Officer shall be under the general direction of the Permanent Secretary.

(2) The Environmental Officer shall not undertake proceedings for the prosecution of any person under this Act without the prior approval of the Director of Public Prosecutions. *(Amended by Act 9 of 2011)*

Establishment and administration of Environmental Fund

8. (1) There is hereby established a Fund to be known as the “**Environmental Fund**”.

(2) The Environmental Fund shall be managed by the Board which shall keep proper accounts and other records in respect of the operations of the Fund and shall cause to be prepared a statement of accounts in respect of each financial year.

(3) The Board shall cause the accounts of the Fund to be audited annually by the Auditor General and a copy of the audited accounts of the Fund shall be laid by the Minister before the Legislative Assembly at its meeting next following the date on which the accounts were audited.

(Amended by Act 9 of 2011)

Income and expenses of fund

9. (1) There shall be paid into the Environmental Fund—

- (a) any sum contributed to the fund by any person, foundation, organisation or agency;
- (b) sums appropriated by government;
- (c) all sums specified by this Act for payment into the Environmental Fund.

(2) There shall be paid out of the Environmental Fund—

- (a) expenses related to forestry national parks and the protection of wildlife;
- (b) loans and grants to owners or tenants of private lands for tree planting and forest management.

PART 3

NATIONAL FORESTRY PLAN

National Forestry Plan

10. (1) The Environmental Officer shall prepare a National Forestry Plan, hereinafter referred to as the “**Plan**” for the preservation, development and management of forest reserves, protected forests, wildlife and national parks.

(2) Without restricting the generality of subsection (1) the Plan shall include—

- (a) a statement of forest, wildlife and national parks policy;
- (b) an assessment of the total stock, volume of growing stock and sustainable yield of timber and other forest produce;

- (c) an estimate of national supply and demand for timber and other forest produce;
- (d) the domestic contribution to national supply and demand for timber and forest produce;
- (e) the yield of water from forests; and
- (f) the measures to be taken to ensure the contribution of forests, wildlife and national parks to the economy of Montserrat.

(3) The National Forestry Plan shall be in conformity with the Approved National Physical Development Plan prepared under the provisions of the Physical Planning Act.

Preparation and approval of Plan

11. (1) In the preparation of the Plan the Environmental Officer may be assisted by such persons as may be assigned by the Permanent Secretary for that purpose.

(2) The Plan shall be prepared as soon as may be practicable after the commencement of this Act and, after its completion shall be submitted by the Environmental Officer to the Board.

(3) The Board shall, after making such revisions to the Plan as it considers appropriate, submit the Plan for the Approval of the Governor acting on the advice of Cabinet through the Minister. *(Amended by Act 9 of 2011)*

(4) A Plan approved by the Governor acting on the advice of Cabinet shall be known as the Approved National Forestry Plan and shall be available for inspection at the offices of the Ministry responsible for forestry, or such other place as the Governor acting on the advice of Cabinet may prescribe. *(Amended by Act 9 of 2011)*

(5) The Environmental Officer may make available to the public at reasonable cost, copies of the Approved National Forestry Plan, and the proceeds of sale shall be paid into the Environmental Fund.

Revision and modification of Plan

12. (1) The Board shall keep under review the Approved National Forestry Plan and shall prepare such proposals for its revision and modification as it deems fit.

(2) A proposal for the revision or modification of the Approved National Forestry Plan shall be submitted through the Minister for the approval of the Governor acting on the advice of Cabinet, and shall take effect on the approval of the Governor acting on the advice of Cabinet.

(Amended by Act 9 of 2011)

Status of Plan

13. Except where the Governor acting on the advice of Cabinet considers it inexpedient in the national interest so to do, any policy or measure taken in relation to the protection, exploitation, development or conservation of forest reserves, protected forests, wildlife, national parks and protected areas shall be in accordance with the Approved National Forestry Plan. *(Amended by Act 9 of 2011)*

PART 4

FOREST RESERVES

Declaration of Forest Reserves

14. (1) The Governor acting on the advice of Cabinet may by order published in the *Gazette* declare an area of land to be a forest reserve. *(Amended by Act 9 of 2011)*

(2) Any private land declared to be forest reserve under subsection (1) shall be acquired by the Crown and the provisions of the Land Acquisition Act or any law in force relating to the acquisition of land shall apply.

Mapping and demarcation of boundaries

15. (1) Within two years of the declaration of a forest reserve, the Environmental Officer shall cause the boundaries of that forest reserve to be so marked and defined as to be clearly visible at all times.

(2) The Environmental Officer shall cause a map of each forest reserve to be prepared and deposited in the Chief Surveyor's Office where it shall be made available to the public for inspection.

Forest Management Plans

16. (1) The Environmental Officer shall, in consultation with the Board, prepare a forest management plan for each forest reserve.

(2) A Forest Management Plan shall be in conformity with the Approved National Forestry Plan and shall contain—

- (a)* a description of the area including its size and boundaries;
- (b)* a statement of management objectives;
- (c)* where appropriate, a description of any silvicultural, harvesting and reforestation measures;
- (d)* the designation of any areas to be preserved in a natural state for wildlife, research and recreation.

(3) A Forest Management Plan of a forest reserve shall be prepared within two years of the declaration of that forest reserve, and after its completion shall be submitted by the Environmental Officer to the Board.

(4) The Board shall, after making such revisions to the Plan as it considers appropriate, submit the Plan to the Minister for the approval of the Governor acting on the advice of Cabinet. (*Amended by Act 9 of 2011*)

(5) A Plan approved by the Governor acting on the advice of Cabinet shall be available for inspection at the offices of the Ministry responsible for forestry, or such other place as the Minister may prescribe. (*Amended by Act 9 of 2011*)

Board to keep under review Management Plans

17. The Board shall keep under review Forest Management Plans and shall forward to the Minister such proposals for their revision and modification as it deems fit.

Management of forest reserves

18. The Environmental Officer shall manage forest reserves consistent with the applicable forest management plan as a permanent forest estate for—

- (a) the sustained yield of timber or other forest produce;
- (b) the storage and collection of water for human consumption and other purposes;
- (c) the protection of wildlife and flora;
- (d) recreation and scenic beauty; and
- (e) scientific research.

PART 5

PROTECTED FORESTS

Protected forest

19. (1) The Governor acting on the advice of Cabinet may by Order published in the *Gazette* declare any land to be a protected forest if in the opinion of the Governor acting on the advice of Cabinet it appears necessary for any of the following purposes—

- (a) for the prevention of deforestation and soil erosion;
- (b) for the prevention of wastage of timber resources;

- (c) for securing the proper management of lands upon which trees are growing and which are not under permanent agricultural cultivation;
- (d) for the maintenance of water supplies; and
- (e) for the preservation of health.

(Amended by Act 9 of 2011)

(2) The Environmental Officer shall within thirty days of a declaration under subsection (1) serve notice on each owner of lands specified in the Order that such land has been declared a protected forest.

(3) Within sixty days of the declaration under subsection (1) the Environmental Officer shall cause the boundaries of that protected forest to be marked and defined as to be clearly visible at all times, and shall have a right of access for this purpose.

(4) The Environmental Officer may, for the purposes set out in subsection (1) enter a protected forest without notice to inspect the area and to carry out such surveys or works as the Minister may direct.

Remission of land tax and incentives

20. (1) The owner of a protected forest who complies with the provisions of this Act in relation to protected forests shall be entitled to a remission of any property tax payable in respect of the land comprising that protected forest.

(2) The Governor acting on the advice of Cabinet may grant incentives to the owner of a protected forest for the purpose of preserving or developing the land comprising the protected forest in a manner approved by the Governor acting on the advice of Cabinet.

(Amended by Act 9 of 2011)

Agreement to manage private land as protected forest

21. (1) Notwithstanding section 19 the Minister may, with the approval of the Governor acting on the advice of Cabinet enter into agreement with the owner of private land for the management and control of that land as a protected forest. *(Amended by Act 9 of 2011)*

(2) Land which is the subject of an agreement under subsection (1) shall be placed under the control and management of the Environmental Officer for the purpose of—

- (a) managing and maintaining a forest plantation or natural forest;
- (b) thinning for timber, poles, charcoal and other forest produce;
- (c) harvesting and replanting;
- (d) soil and water conservation;

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- (e) wildlife protection; or
- (f) recreation.

(3) An Agreement made pursuant to subsection (1) shall be in writing signed by the owner of the land or by a person having authority to sign on behalf of the owner and by the Minister on behalf of the Government, and shall contain—

- (a) a description of the land including a description of its boundaries; and
- (b) a plan of planting, thinning, harvesting and replanting, indicating the species to be planted or occurring naturally and the extent of grazing or agricultural activity to be allowed.

PART 6

CONSERVATION AREAS AND PROTECTED AREAS

Declaration of Conservation Areas

22. (1) The Governor acting on the advice of Cabinet may by order published in the *Gazette* declare an area of land or water or both, whether private land or Crown land to be a conservation area on any of the following grounds—

- (a) that the area requires conservation practices and management controls to prevent or limit sedimentation, pollution or erosion in order to maintain a clean and reliable supply of water for domestic, industrial and commercial use or hydroelectric production;
- (b) that the area requires conservation practices and management controls in order to maintain the soil or water resources in a productive state for agricultural development and the productivity or stability of surrounding areas;
- (c) that the area is in a dangerous or unstable state above roadsides, along river or stream banks, or near residential or industrial areas or the water resources of an area are in a polluted condition which may be injurious to the health of human beings, animals or plants.

(2) Where the grounds for making a declaration under subsection (1) no longer exist the Governor acting on the advice of Cabinet may by order published in the *Gazette* revoke or vary the declaration and a variation may include an amendment to a boundary or a change in the measures to be taken for the conservation of the area.

(Amended by Act 9 of 2011)

Contents of Declaration Order

23. An order declaring an area to be a conservation area shall include—

- (a) a general description of the area and its boundaries;
- (b) a general statement of the purpose or purposes for which the area was created.

Conservation Plans

24. (1) The Environmental Officer shall prepare, within six months of the declaration of an area as a conservation area, a conservation plan for that area containing—

- (a) a general description of the natural resource features and problems which require that the area be declared a conservation area;
- (b) a statement of the general distribution of private, Crown and Crown-leased land in the area;
- (c) an identification of the most fragile or critical areas for priority management attention, and general management requirements; and
- (d) a recommended time frame for implementing the management plan according to the resources available.

(2) The Environmental Officer may prepare conservation plans for individual parcels of private land, giving priority to the most fragile or critical lands in a conservation area in order to guide the owner or occupier on improved conservation practices.

Interim protection of conservation areas

25. (1) Where the Environmental Officer is of the opinion that interim measures are necessary to protect a conservation area, he may serve a notice upon any person to abate any activity in which that person is engaged which is damaging the area.

(2) A person who fails to comply with a notice given under subsection (1) commits an offence and is liable on summary conviction to a fine of \$5,000.

Preservation order

26. (1) Where it appears to the Board expedient in the national interest to preserve a species of tree, plant or individuals thereof or an area of vegetation the Board may make an order for the proposed preservation of that species of tree, plant or individual thereof or the area of vegetation as the case may be.

(2) An order made under subsection (1) shall be prepared in draft and shall take effect as a proposal for the preservation of the species of tree, plant or individual thereof or area of vegetation specified in the order.

(3) A preservation order shall specify the location of the tree or plant or the extent of the area to be preserved, and shall be served on the owner and occupier of the land to which the order relates and on any person or organisation whose interests are likely to be affected by the enforcement of the order.

(4) Notwithstanding subsection (3) a preservation order shall invite representations from the public to be made with respect to the proposal within twenty eight days of the date of the order.

(5) After considering representations made with respect to a preservation order the Board may withdraw the order or forward it for the approval of the Governor acting on the advice of Cabinet, along with a summary of the representations received in respect of the order. *(Amended by Act 9 of 2011)*

(6) The Governor acting on the advice of Cabinet may approve a preservation order with or without modification or may cancel the preservation order. *(Amended by Act 9 of 2011)*

(7) A preservation order takes effect from the date of its publication in the *Gazette*, and a copy of the preservation order shall be served on the owner and occupier of the land to which the order relates.

Contravention of preservation order

27. (1) Except with the written permission of the Board no person shall cut, lop, uproot or otherwise destroy or damage a tree or plant which is the subject of a preservation order, or carry out any scientific study or research or any operation or work in an area or on vegetation which is the subject of a preservation order.

(2) A person who contravenes subsection (1) commits an offence and is liable on summary conviction to a fine of \$2,000 or to a term of imprisonment of six months.

PART 7

WILDLIFE

Wildlife property of the Crown

28. Wildlife, whether resident, migratory or transient, native or introduced, including captive wild species having their origin in Montserrat are property of the Crown and may not be hunted, taken or possessed except at such times and in such manner as may be provided in this Act or by regulations made thereunder.

Wildlife surveys

29. (1) The Environmental Officer shall undertake a survey of the wildlife of Montserrat every ten years.

(2) The results of a survey made under subsection (1) shall be made available for public inspection at such place and at such times as the Minister may determine.

(3) The Environmental Officer may make available to the public at reasonable cost copies of the wildlife survey and all proceeds from this source shall be paid into the Environmental Fund.

Declaration of wildlife reserve

30. (1) The Governor acting on the advice of Cabinet may by Order published in the *Gazette* declare an area of land or water or both, whether Crown or private to be a wildlife reserve. *(Amended by Act 9 of 2011)*

(2) A declaration under subsection (1) shall contain—

(a) a description of the land, including its area and boundaries; and

(b) a statement of management objectives.

(3) Any private land declared to be a wildlife reserve shall be acquired by the Crown and the provisions of the Land Acquisition Act or any law in force relating to the acquisition of land shall apply.

(4) The Governor acting on the advice of Cabinet may by Order published in the *Gazette* alter the boundaries of a wildlife reserve. *(Amended by Act 9 of 2011)*

Classification of wildlife

31. For the purposes of this Act, wildlife shall be classified into protected wildlife containing those species specified in the First Schedule, partially protected wildlife containing those species specified in the Second Schedule, and unprotected wildlife containing any species not contained in the First or Second Schedule.

Wildlife causing damage to private property

32. (1) Where protected or partially protected wildlife is alleged to be causing damage to crops or other private property, the owner or occupier of that property may report same to the Environmental Officer who shall expeditiously take such action as may be reasonably necessary including, in consultation with the Minister, the granting of a licence to kill such wildlife.

(2) Wildlife killed under subsection (1) shall be the property of the Crown and shall be disposed of only as authorised by the Environmental Officer.

Amendment of Schedules

33. (1) The Governor acting on the advice of Cabinet may, by order published in the *Gazette*—

- (a) add to, vary or delete any species from the First and Second Schedules;
- (b) impose and vary the closed season in respect of any species of wildlife specified in the Second Schedule.

(Amended by Act 9 of 2011)

(2) For the purposes of subsection (1), “**closed season**” means a period during which the killing, wounding, hunting or taking of specified wildlife is prohibited.

PART 8

NATIONAL PARKS

Establishment of national parks

34. (1) The Governor acting on the advice of Cabinet may by order published in the *Gazette* declare an area of land to be a national park.
(Amended by Act 9 of 2011)

(2) Any private land declared to be a national park shall be acquired by the Crown and the provisions of the Land Acquisition Act or any law in force relating to the acquisition of land shall apply.

(3) All national parks shall be managed by the Crown and shall be dedicated to the people of Montserrat for their benefit, education and enjoyment.

Additions to national parks

35. The Governor acting on the advice of Cabinet may by Order add to any national park—

- (a) any crown land and lands leased to the crown;
- (b) private lands donated for the purpose of a national park; and
- (c) lands acquired for the purpose of protecting any area deemed necessary for the preservation of a national park.

(Amended by Act 9 of 2011)

Setting aside of lands for national parks

36. In considering whether an area of land should be set aside for use as a national park the Governor acting on the advice of Cabinet shall have regard to—

- (a) the need to preserve the natural beauty of the area;
- (b) the suitability of the area for recreational purposes;
- (c) the historic, cultural or national importance of the area;
- (d) the need to preserve historic sites, or objects of historic, prehistoric, archaeological educational or scientific importance.

(Amended by Act 9 of 2011)

Publication of plan of national parks

37. (1) A plan of the boundaries of a national park or a plan to extend such boundaries shall be published in the *Gazette* and in at least two consecutive issues of a newspaper circulating in Montserrat.

(2) Any person may within two months of the final publication under subsection (1) object to the setting aside of lands as a national park.

(3) An objection shall be in writing addressed to the Permanent Secretary who shall refer it to the Board within seven days after receiving it.

(4) The Board shall within thirty days of receiving notice of an objection under subsection (1) consider the objection and advise the Governor acting on the advice of Cabinet on how the objection may be dealt with. *(Amended by Act 9 of 2011)*

(5) The Governor acting on the advice of Cabinet shall consider the objection in light of the recommendations of the Board and shall within thirty days of the making of such recommendations notify the applicant in writing, of its decision in the matter. *(Amended by Act 9 of 2011)*

Restriction on disposition and acquisition of certain lands

38. (1) Except where the Governor considers it expedient in the national interest, no land comprising a national park shall be granted, sold or otherwise disposed of and no person shall use or occupy any land comprising a national park.

(2) Notwithstanding anything to the contrary in any other law, no right, title or interest in or to any lands comprising a national park may be acquired by any person by prescription.

Leases of land within national park system

39. The Governor acting on the advice of Cabinet may lease an area or building within the national parks system for the purpose of providing a public amenity. (*Amended by Act 9 of 2011*)

PART 9

LICENCES AND PERMITS

Power to grant leases and issue permits

40. (1) The Governor acting on the advice of Cabinet may—

- (a) grant leases of land within a forest reserve for such purposes as the Governor acting on the advice of Cabinet deems fit;
- (b) issue permits to fell, take, extract or remove timber and other forest produce, water or minerals from forest reserves, protected forests or conservation areas;
- (c) issue permits to clear, cultivate or break up land in a forest reserve, protected forest or conservation area;
- (d) issue permits to pasture livestock or permit livestock to graze; or
- (d) issue permits for any purpose otherwise prohibited by this Act.

(2) A permit issued, or lease granted, under subsection (1) shall be—

- (a) subject to such conditions and procedures, including management conditions, as may be stated therein or prescribed by regulations;
- (b) transferable only with the written permission of the Governor acting on the advice of Cabinet;
- (c) valid for such period as may be stated therein or prescribed by regulations.

(*Amended by Act 9 of 2011*)

Wildlife licences

41. (1) The Minister may issue, or, by order published in the *Gazette*, authorise the Environmental Officer to issue Wildlife licences—

- (a) to hunt partially protected wildlife;
- (b) to import or export wildlife;
- (c) to any recognized scientific, cultural or educational organization to hunt or capture wildlife.

(2) Wildlife licences shall specify the wildlife to be hunted or taken, the person authorised to do so and any conditions or limitations which the Minister considers necessary or appropriate.

(3) The issue of a licence under this section shall be—

- (a) subject to such conditions as may be specified in the licence;
- (b) liable to revocation for breach of any condition specified therein; and
- (c) subject to the payment of such fee as may be prescribed by order of the Governor acting on the advice of Cabinet.

(Amended by Act 9 of 2011)

Fire permits

42. (1) No person shall start a fire in a forest, forest reserve, protected forest, or conservation area except in accordance with a permit issued by the Chief Fire Officer.

(2) The Chief Fire Officer shall not issue a permit under this section without the concurrence of the Environmental Officer.

(3) A permit issued under this section shall be transferable only with the written permission of the Chief Fire Officer.

PART 10

OFFENCES AND ENFORCEMENT

Offences in relation to conservation areas, forest reserves and protected forests

43. (1) Any person who within a conservation area, in forest reserve or protected forest—

- (a) pollutes a river or stream with garbage, chemicals or other waste;
- (b) takes out of a river or stream bed or bank any sand, gravel, shale, boulders, or other natural material except at those sites so designated for that purpose;
- (c) de-stabilizes a slope so as to cause a land slide;
- (d) violates the terms of a conservation plan; or
- (e) undertakes any other activity in contravention of this Act,

commits an offence and is liable on summary conviction to a fine of \$5,000 or to a term of imprisonment of six months or to both such fine and imprisonment.

(2) Any person who without an appropriate licence or permit issued under this Act—

- (a) damages any timber or other forest produce;
- (b) clears, cultivates or breaks up any land for cultivation or for any other purpose;
- (c) pastures livestock or permits livestock to graze;
- (d) excavates for minerals;
- (e) sets fire to any timber or other forest produce, including grass or undergrowth;
- (f) damages, alters or removes any notice, sign or boundary marker;
- (g) affixes to timber a mark or brand used by Government or alters, defaces or obliterates any mark placed on timber by or under the authority of an authorised officer;
- (h) performs any act prohibited by this Act or regulations made under this Act,

in a forest reserve, protected forest or conservation area commits an offence and is liable on summary conviction to a fine of \$5,000 or to a term of imprisonment of one year or to both such fine and imprisonment.

(3) Any person who causes a fire which spreads from an area outside a forest reserve, protected forest or conservation area to a forest reserve, protected forest or conservation area commits an offence and is liable on summary conviction to a fine of \$5,000 or to a term of imprisonment of one year or to both such fine and imprisonment.

Offences in relation to wildlife and wildlife reserves

44. (1) Any person who without an appropriate licence issued under this Act—

- (a) hunts or is a member of a party engaged in hunting in a wildlife reserve;
- (b) is found within a wildlife reserve under circumstances showing that he was hunting wildlife;
- (c) carries in a wildlife reserve a gun or other weapon or device capable of being used to hunt wildlife;
- (d) hunts, fishes or takes any mammal, bird, reptile, amphibian, fish, crustacea or any other animal or plant in a wildlife reserve;
- (e) disturbs, damages or destroys the nest, eggs or young of any wildlife within a wildlife reserve,

commits an offence and is liable on summary conviction to a fine of \$5,000 or to a term of imprisonment of one year or to both fine and imprisonment.

(2) A person found in a wildlife reserve with wildlife in his possession shall be deemed to have hunted that wildlife in that wildlife reserve unless the contrary is proved.

(3) Any person who without an appropriate licence issued under this Act—

- (a) fells, cuts, marks, burns, strips the bark of, or otherwise injures any tree;
- (b) clears, cultivates or breaks up any land for cultivation or for any other purpose;
- (c) pastures livestock or permits trespassing of livestock;
- (d) kindles, keeps or carries any fire;
- (e) remove any forest produce,

in a wildlife reserve commits an offence and is liable on summary conviction to a fine of \$5,000, or to a term of imprisonment of one year or to both fine and imprisonment.

No hunting of, or injury to protected wildlife

45. A person who hunts or does an act likely to cause damage or injury to protected wildlife commits an offence and is liable on summary conviction to a fine of \$5,000, or to a term of imprisonment of one year or to both such fine and imprisonment.

Offences during closed season

46. Any person who during a closed season—

- (a) takes or hunts any partially protected wildlife;
- (b) damages or destroys the nest, egg, fry or young of any partially protected wildlife;
- (c) exposes or offers for sale or purchases any partially protected wildlife or the eggs, fry or young thereof during the closed season;
- (d) imports or exports any wildlife into or from Montserrat without first having obtained a licence,

commits an offence and is liable on summary conviction to a fine \$5,000 or to a term of imprisonment of six months or to both such fine and imprisonment.

Prohibited hunting methods

47. Any person who—

- (a) sets in any position any electrical device designed to frighten any protected or partially protected wildlife;
- (b) sets in any position any article which is likely to cause or is calculated to cause injury to any protected or partially protected wildlife;
- (c) sets in any place any noxious substance for the purpose of killing, taking, injuring or stupefying or which is likely or calculated to kill, injure or stupefy or is otherwise injurious to any protected or partially protected wildlife;
- (d) for the purpose of killing or capturing any protected or partially protected wildlife, uses any live animal or any decoy or appliance whatsoever;
- (e) uses any form of artificial light for the purpose of killing or capturing any protected or partially protected wildlife;
- (f) deposits or permits the deposit of any deleterious substances in water frequented by fish, crayfish, shrimps or crabs, or deposits a deleterious substance in a place from which it is likely to enter such water;
- (g) constructs or excavates or maintains any pit for the purpose of catching or killing protected or partially protected wildlife;
- (h) engages in logging, lumbering or land clearing and who puts or permits to be put any slash, stumps or other debris into any water frequented by fish, crayfish, shrimps or crabs,

commits an offence and is liable on summary conviction to a fine of \$2,000 or to a term of imprisonment of six months or to both such fine and imprisonment.

Offences in relation to national parks

48. Any person who—

- (a) hunts, traps or kills an animal in a national park;
- (b) takes any flower, shrub, or plant growing in a national park;
- (c) removes or defaces any artefact or object of historic or archaeological interest from a national park,

commits an offence and is liable on summary conviction to a fine of \$2,000 or to a term of imprisonment of one year or to both such fine and imprisonment.

Powers of authorised officers

49. Where an authorised officer has reasonable grounds to believe that a person has committed an offence under this Act the authorised officer may—

- (a) question any person found in possession of any forest produce, wildlife or any article which appear to have been removed from a national park;
- (b) call upon any person to produce any licence or permit required by this Act or regulations made thereunder;
- (c) stop and search the person and any vehicle, or other conveyance in the possession of that person or in which that person happens to be, and open and search any baggage or other thing in his possession;
- (d) enter and search any land or premises other than a premises used exclusively as a dwelling house, in the occupation of that person;
- (e) seize any tools, power saws, vehicles, boat or other equipment he suspects to have been used in the commission of that offence;
- (f) seize any forest produce, livestock, minerals, artifacts, flora or fauna;
- (g) under the authority of a warrant issued by a Magistrate enter and search any dwelling house in the occupation of that person and seize any wildlife or article which the authorised officer has reason to believe has been taken or used in the commission of the offence;
- (h) arrest any person that he reasonably suspects of being concerned in the contravention of any of the provisions of this Act or any regulation made under this Act.

Procedure in case of seizure or arrest

50. (1) Where an article has been seized by an authorised officer pursuant to section 49, it shall, without undue delay be taken before a Magistrate who may, upon satisfactory proof that the article was in the possession of the person from whom it was seized, order that the article be forfeited, and upon making such an order the article may be disposed of at the direction of the Minister.

(2) A person arrested under this Act shall be taken forthwith to the nearest police station and be placed in the custody of the officer on duty.

Obstructing authorised officer an offence

51. A person who assaults or obstructs an authorised officer or any person assisting an authorised officer in the performance of the duties of an authorised officer under this Act commits an offence and is liable on summary conviction to a fine of \$2,000 or to a term of imprisonment of six months or to both such fine and imprisonment.

Compounding of offences

52. (1) The Environmental Officer may with the approval of the Director of Public Prosecutions compound any offence committed against this Act by accepting on behalf of the Government from the person alleged to have committed the offence a sum not exceeding the maximum fine specified for that offence, plus all reasonable expenses the Government may have incurred in the storage, maintenance or removal of any tools, vehicles, forest produce, livestock or minerals seized in connection with the offence. *(Amended by Act 9 of 2011)*

(2) The Environmental Officer may, in compounding an offence under this section, order the release of any article seized under this Act on such condition, including the payment of such additional sums of money not exceeding the value of the articles seized, as he may think fit.

(3) In any proceedings brought against a person in respect of an alleged offence under this Act it shall be a defence for such person to prove that the offence with which he is charged has been compounded under this section.

Repeat offenders

53. A person convicted of an offence under this Act within five years of a previous conviction under this Act shall, upon the second conviction be liable to two times the fine or two times the term of imprisonment or both prescribed for that offence.

Action against authorised officer

54. No action shall be brought against an authorised officer in respect of anything done or omitted to be done by him in good faith in the execution of his powers and duties under this Act.

PART 11

MISCELLANEOUS

Compensation for loss

55. (1) Subject to the provisions of subsection (2), no compensation shall be payable under this Act to any person who claims that he has

suffered or is likely to suffer loss through the declaration of any lands as a protected forest or conservation area, or whose land or the vegetation thereon is the subject of a preservation order under section 26.

(2) Where the owner of private land which is declared to be a protected forest or conservation area or the owner of land or vegetation which is the subject of a preservation order under section 26 claims that he ought to be pecuniarily compensated for loss suffered or likely to be suffered as a result of such declaration or order, he shall within three months of the making of that declaration or order serve on the Minister a statement of his claim with full particulars of his estimated loss.

(3) The Minister shall within fourteen days of the receipt of a statement of claim notify the Governor acting on the advice of Cabinet of the particulars of the claim and the Governor acting on the advice of Cabinet shall within thirty days of receiving such notification appoint a Committee consisting of—

- (a) a person nominated by the Governor acting on the advice of Cabinet;
- (b) a person nominated by the claimant;
- (c) such other person as may be agreed upon by the Governor acting on the advice of Cabinet and the claimant, which person shall be the Chairman.

(Amended by Act 9 of 2011)

(4) The Committee shall hear the claimant and such persons as he may bring before the Committee and such persons as the Minister may direct to appear before the Committee and shall determine in accordance with the provisions of this section what compensation if any, is to be paid to the claimant and the determination of the Committee shall be final.

(5) In making a determination under subsection (4) the Committee shall—

- (a) not take into account—
 - (i) any remote, contingent or possible uses to which the land might in future be put; and
 - (ii) any loss suffered as a result of a change of system, that is, where the effect of the declaration is to compel the owner to adopt a better system of husbandry than he had practiced before;
- (b) have regard to—
 - (i) the actual use of the land at the date when the Order was made and during the three years immediately preceding that date;

- (ii) evidence adduced if any, as to the progressive deterioration of the land through soil erosion, deforestation or other causes which might reasonably be expected to be arrested by its declaration as a forest reserve or conservation area.

(6) The Committee shall forward its determination in the form of a report through the Minister to the Governor acting on the advice of Cabinet. *(Amended by Act 9 of 2011)*

(7) In this section, the word “owner” includes a tenant whose contract of tenancy confers on him the right to occupy the land for five years or more from the date of the Order.

Fire control

56. (1) Notwithstanding the provisions of any other law, the Environmental Officer shall, subject to section 42, be responsible for the prevention of fires in forested areas, conservation areas and national parks.

(2) The provisions of subsection (1) shall not affect the authority of the fire services or the police to respond to, or control a fire in any of the areas specified in that subsection, but where practical the Environmental Officer shall be consulted as to the manner in which such control is to be exercised.

Provision of information on forestry

57. (1) The Environmental Officer shall, on the request of any person and so far as may be practicable, provide information on forestry including forest planning, silviculture, tree planting, thinning, charcoal production, harvesting and sale of timber and on wildlife, national parks and protected areas.

(2) The Environmental Officer may make reasonable charges for services rendered under subsection (1), and the income from this source shall be paid into the Environmental Fund.

Regulations

58. (1) The Governor acting on the advice of Cabinet may make regulations for giving effect to the provisions of this Act. *(Amended by Act 9 of 2011)*

(2) Regulations under subsection (1) may be made in respect of conservation areas, forest reserves, protected forests, wildlife reserves and national parks for—

- (a) the preservation of fauna and flora;
- (b) the regulation of hunting and fishing;

- (c) the preservation and maintenance of water supplies and any watershed or water catchment area;
- (d) the granting of leases, licences and permits;
- (e) the prevention of squatting, trespass or encroachment;
- (f) the prevention of soil erosion;
- (g) the prevention and control of fire;
- (h) the making of surveys of lands and the protection of boundaries;
- (i) the entry and control of persons, animals and vehicles;
- (j) the construction, maintenance, operation and administration of roads and ways;
- (k) the regulation and control of any trade, occupation or business;
- (l) prescribing fees for grant of licences and permits and visiting national parks;
- (m) the regulation and control of research.

Act to bind the Crown

59. This Act binds the Crown.

FIRST SCHEDULE*(Section 31)***PROTECTED WILDLIFE****BIRDS**

<i>Scientific Name</i>	<i>English Name</i>	<i>Local Name</i>
<i>Podilymbus podiceps</i>	Pied-billed Grebe	Duck
<i>Podiceps dominicus</i>	Least Grebe	Duck
<i>Puffinus iherminieri</i>	Audubons Shearwater	—
<i>Phaethon aethereus</i>	Red billed Tropicbird	Trophic
<i>Phaethon lepturus</i>	Wh. tailed Tropicbird	Trophic
<i>Pelecanus occidentalis</i>	Brown Pelican	Pelican
<i>Sula leucogaster</i>	Brown Booby	Booby
<i>Sula sula</i>	Red footed Booby	White Booby
<i>Fregata magnificens</i>	Manificent Frigate Bird	Man O War
<i>Ardea herodias</i>	Gt. Blue Heron	Grey Gaudling
<i>Butorides virescens</i>	Green Heron	Little Gaudling
<i>Florida Caerulea</i>	Little blue Heron	Blue Gaudling
<i>Bubulcus ibis</i>	Cattle Egret	Cattle Bird
<i>Dichromanassa rufescens</i>	Reddish Egret	Gaudling
<i>Egreta alba</i>	Great Egret	White Gaudling
<i>Egreta thula</i>	Snowy Egret	White Gaudling
<i>Nyctanassa violacea</i>	Yellow cr. Night Heron	Crab Gaudling
<i>Plegadis falcinellus</i>	Glossy Ibis	Coco
Family Anatidae	Migratory Ducks	—
Family Accipitridae	Migratory Hawks	—
Family Paltionidae	Migratory Ospreys	Fish Eagle
Family Falconidae	Migratory Falcons	—
<i>Porzana carolina</i>	Sora	Rail
<i>Porphyryla martinica</i>	Purple Gallinule	Coot
<i>Fulica caribaca</i>	Caribbean Coot	Coot
Family Charadriidae	Migratory Plovers, etc.	—
Family Scopopacidae	Migratory Sandpipers, etc.	—
Family Laridae	Gulls & Terns	—
<i>Columbina passerina</i>	Common Ground Dove	Ground Dove

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<i>Coccyzus minor</i>	Mangrove Cuckoo	Coo coo
<i>Crotophaga ani</i>	Smooth billed Ani	Blackbird
Family Caprimulgidae	Migratory Nightjars	—
Family Apodidae	Migratory Swifts	—
<i>Eulampis jugularis</i>	Purple th. Carib	Dr. Carcoo
<i>Sericotes holosericeus</i>	Green th. Carib	Dr. Carcoo
<i>Orthorhyncus cristatus</i>	Ant. crested Hummingbird	Sparrow
<i>Ceryle alcyon</i>	Belted Kingfisher	Kingfisher
<i>Tyrannus dominicensis</i>	Grey Kingbird	Loogerhead
<i>Progne subis</i>	Purple/Caribbean Martin	Swallow
Family Hirundinidae	Migratory Swallows	—
<i>Margarops fuscus</i>	Scaly breasted Thrasher	Thrush
<i>Cinclocertjoa</i>	—	—
<i>Cinclocertjoa rifocaida</i>	Trembeler	—
Family Parulidae	Migratory Wood Warblers	—
<i>Dendroica petechia</i>	Yellow Warbler	West Indian Canary
<i>Coereba flaveola</i>	Bananaquit	Yellow Breast
Family Icteridae	Migratory Blackbirds	—
<i>Icterus oberi</i>	Montserrat Oriole	Tannia Bird
Family Thraupidae	Migratory Tanagers	—
<i>Tiaris bicolor</i>	Blk. faced Grassquit	Chitty Bird

REPTILES

Species of reptiles excluding the Iguana (*Iguana iguana*), the galliwasp, (*Diploglossus montisserrati*) and the Anole (*Abolis lividus*). All amphibians except the Mountain Chicken (*Leptodactylus fallax*).

SECOND SCHEDULE*(Section 31)***PARTIALLY PROTECTED WILDLIFE**

Partially Protected wildlife includes the following species which are protected, subject to an Open (hunting) Season and a Closed (no hunting) Season:

MAMMALS

<i>Scientific Name</i>	<i>English Name</i>	<i>Local Name</i>
Dasiprocta agouti	Agouti	Agouti

REPTILES

<i>Scientific Name</i>	<i>English Name</i>	<i>Local Name</i>
Iguana iguana	Iguana	Iguana

AMPHIBIANS

<i>Scientific Name</i>	<i>English Name</i>	<i>Local Name</i>
Leptodactylus Fallax	Mountain Chicken	Mountain Chicken

BIRDS

<i>Scientific Name</i>	<i>English Name</i>	<i>Local Name</i>
Gallinula chloropus	Common Gallinule	Coot
Columba squamosa	Red necked Pigeon	Mountain Pigeon
Zenaida aurita	Zenaida Dove	Wood Dove
Geotrygon mystacea	Bridled Quail Dove	Patridge

FOREST RESERVE ORDER – SECTION 14

(S.R.O. 40/2007)

Commencement

[12 June 2007]

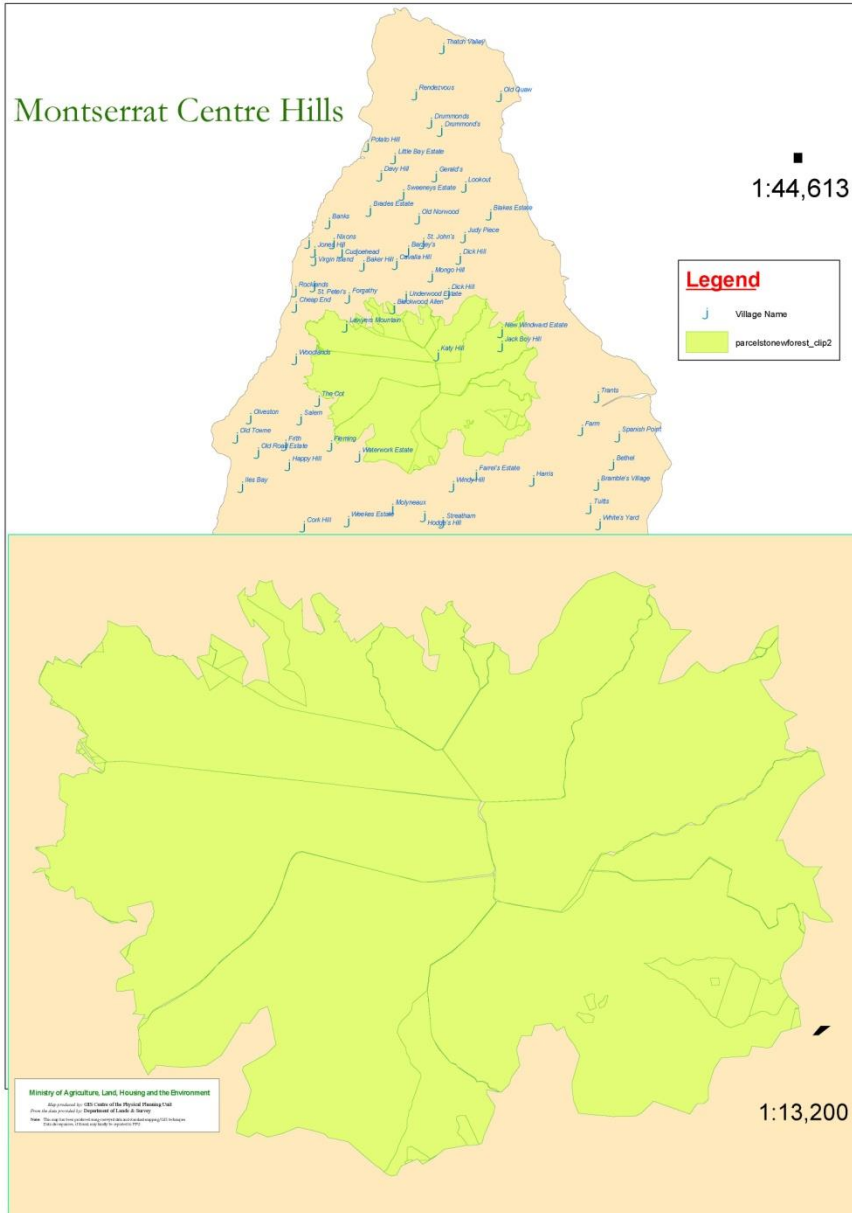
Short title

1. This Order may be cited as the Forest Reserve Order.

Forest reserve

2. The area demarcated in the map set out in the Schedule hereto is hereby declared to be a protected forest reserve.

SCHEDULE



PROTECTED FOREST ORDER – SECTION 19

(S.R.O. 39/2007)

Commencement

[12 June 2007]

Short title

1. This Order may be cited as the Protected Forest Order.

Protected forest

2. The areas demarcated in the maps set out in the Schedule hereto are hereby declared protected forests.
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SCHEDULE

