

**THE NATURAL RESOURCES CONSERVATION
AUTHORITY ACT**

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THE NATURAL RESOURCES CONSERVATION
AUTHORITY ACTAct
9 of 1991.

[5th July, 1991.]

Preliminary

1. This Act may be cited as the Natural Resources Con- Short title.
servation Authority Act.

2. In this Act —

Interpreta-
tion.

- “appointed day” means the 5th day of July, 1991.
“Authority” means the Natural Resources Conservation
Authority established under section 3;
“chairman” means the chairman of the Authority;
“functions” includes powers and duties;
“licence” means a licence required under section 12;
“marine park” means an area designated as such pur-
suant to section 5 (1) (c);
“member” means member of the Authority;
“national park” means an area designated as such pur-
suant to section 5 (1) (a);
“permit” means a permit required under section 9;
“person responsible” in relation to an enterprise, con-
struction or development, includes any person at
whose order or on whose behalf the enterprise, con-
struction or development will be or, as the case may
be, is being undertaken;
“protected area” means an area designated as such pur-
suant to section 5 (1) (b);
“sewage effluent” includes any effluent from sewage dis-
posal or sewage works;

“trade effluent” includes any liquid, other than domestic sewage, (either with or without particles of matter in suspension in it) which is discharged from premises used for carrying on any trade or industry; and for the purposes of this definition any premises wholly or mainly used (whether for profit or not) for agricultural purposes or for scientific research or experiment shall be deemed to be premises used for carrying on a trade;

“Tribunal” means the Tribunal established under section 34.

PART I. *Natural Resources Conservation Authority
Establishment and Functions*

Establishment of Authority.

3.—(1) There is hereby established a body to be called the Natural Resources Conservation Authority.

First Schedule.

(2) The provisions of the First Schedule shall have effect as to the constitution and operations of the Authority and otherwise in relation thereto.

Functions of Authority.

- 4.—(1) The functions of the Authority shall be—
- (a) to take such steps as are necessary for the effective management of the physical environment of Jamaica so as to ensure the conservation, protection and proper use of its natural resources;
 - (b) to promote public awareness of the ecological systems of Jamaica and their importance to the social and economic life of the Island;
 - (c) to manage such national parks, marine parks, protected areas and public recreational facilities as may be prescribed;
 - (d) to advise the Minister on matters of general policy relating to the management, development, conservation and care of the environment; and

- (e) to perform such other functions pertaining to the natural resources of Jamaica as may be assigned to it by the Minister or by or under this Act or any other enactment.

(2) In performing the functions specified in subsection (1) the Authority may—

- (a) develop, implement and monitor plans and programmes relating to the management of the environment and the conservation and protection of natural resources;
- (b) construct and maintain buildings and other facilities for public recreational purposes;
- (c) in relation to prescribed national parks, marine parks, protected areas and public recreational facilities—
 - (i) carry out or cause to be carried out such improvements as it thinks fit; and
 - (ii) provide for the zoning thereof for specified purposes and for the licensing of persons carrying on any trade or business therein;
- (d) formulate standards and codes of practice to be observed for the improvement and maintenance of the quality of the environment generally, including the release of substances into the environment in connection with any works, activity or undertaking;
- (e) investigate the effect on the environment of any activity that causes or might cause pollution or that involves or might involve waste management or disposal, and take such action as it thinks appropriate;
- (f) undertake studies in relation to the environment and encourage and promote research into the use

of techniques for the management of pollution and the conservation of natural resources;

- (g) conduct seminars and training programmes and gather and disseminate information relating to environmental matters;
- (h) do anything or enter into any arrangement which, in the opinion of the Authority, is necessary to ensure the proper performance of its functions.

Designation
of national
park,
protected
area, etc.

5.—(1) The Minister may, on the recommendation of the Authority after consultation with the Jamaica National Heritage Trust, by order published in the *Gazette* designate—

- (a) any area of land as a national park to be maintained for the benefit of the public;
- (b) any area of land or water as a protected area in which may be preserved any object (whether animate or inanimate) or unusual combination of elements of the natural environment that is of aesthetic, educational, historical or scientific interest; or
- (c) any area of land lying under tidal water and adjacent to such land or any area of water as a marine park.

(2) The Authority shall cause any order made under subsection (1) to be published once in a daily newspaper circulating in Jamaica.

Delegation.

6.—(1) The Authority may delegate any of its functions under this Act (other than the power to make regulations) to any member, officer or agent of the Authority.

(2) Every delegation under subsection (1) is revocable by the Authority and the delegation of a function shall not preclude the performance of that function by the Authority.

7.—(1) The Minister may, after consultation with the chairman, give to the Authority such directions of a general character as to the policy to be followed by the Authority in the performance of its functions as appear to the Minister to be necessary in the public interest, and the Authority shall give effect thereto.

Ministerial directions.

(2) The Authority shall furnish to the Minister such information as he may require with respect to the activities of the Authority and shall afford to him facilities for verifying such information in such manner, and at such times as he may reasonably require.

8. Any person, body or agency having authority over any matter in respect of which the Authority has functions to perform pursuant to this Act shall not, whether provisionally or finally, approve or determine such matter until the Authority has been consulted thereon.

Authority to be consulted.

9.—(1) The Minister may, on the recommendation of the Authority, by order published in the *Gazette*, prescribe the areas in Jamaica, and the description or category of enterprise, construction or development to which the provisions of this section shall apply; and the Authority shall cause any order so prescribed to be published once in a daily newspaper circulating in Jamaica.

Permit required.

(2) Subject to the provisions of this section and section 31, no person shall undertake in a prescribed area any enterprise, construction or development of a prescribed description or category except under and in accordance with a permit issued by the Authority.

(3) Any person who proposes to undertake in a prescribed area any enterprise, construction or development of a prescribed description or category shall, before commencing such enterprise, construction or development, apply in the prescribed form and manner to the Authority for a

permit, and such application shall be accompanied by the prescribed fee and such information or documents as the Authority may require.

(4) Where a permit is required under subsection (2) and any activity connected with the enterprise, construction or development will or is likely to result in the discharge of effluents, then, application for such permit shall be accompanied by an application for a licence to discharge effluents as required under section 12.

(5) In considering an application made under subsection (3) the Authority—

- (a) shall consult with any agency or department of Government exercising functions in connection with the environment; and
- (b) shall have regard to all material considerations including the nature of the enterprise, construction or development and the effect which it will or is likely to have on the environment generally, and in particular on any natural resources in the area concerned,

and the Authority shall not grant a permit if it is satisfied that any activity connected with the enterprise, construction or development to which the application relates is or is likely to be injurious to public health or to any natural resources.

(6) The Authority may—

- (a) grant a permit subject to such terms and conditions as it thinks fit; or
- (b) refuse to grant a permit,

and where the Authority refuses to grant a licence it shall state in writing the reasons for its decision and inform the applicant of his right under section 35 to appeal against the decision.

(7) Any person who contravenes any provisions of subsection (2) shall be guilty of an offence and shall be liable on summary conviction before a Resident Magistrate to a fine not exceeding fifty thousand dollars or to imprisonment for a term not exceeding two years or to both such fine and imprisonment, and—

- (a) where a person defaults in the payment of a fine imposed under this subsection, he shall be liable to imprisonment for a term not exceeding one year; and
- (b) where the offence is a continuing offence, he shall be liable to a further fine not exceeding three thousand dollars for each day on which the offence continues after conviction.

10.—(1) Subject to the provisions of this section, the Authority may by notice in writing require an applicant for a permit or the person responsible for undertaking in a prescribed area, any enterprise, construction or development of a prescribed description or category—

Power of Authority to request environmental impact assessment, etc.

- (a) to furnish to the Authority such documents or information as the Authority thinks fit; or
- (b) where it is of the opinion that the activities of such enterprise, construction or development are having or are likely to have an adverse effect on the environment, to submit to the Authority in respect of the enterprise, construction or development, an environmental impact assessment containing such information as may be prescribed,

and the applicant or, as the case may be, the person responsible shall comply with the requirement.

(2) A notice issued pursuant to subsection (1) shall state the period within which the documents, information or assessment, as the case may be, shall be submitted to the Authority.

(3) Where the Authority issues a notice under subsection (1), it shall inform any agency or department of Government having responsibility for the issue of any licence, permit, approval or consent in connection with any matter affecting the environment that a notice has been issued, and such agency or department shall not grant such licence, permit, approval or consent as aforesaid unless it has been notified by the Authority that the notice has been complied with and that the Authority has issued or intends to issue a permit.

(4) Any person who, not being an applicant for a permit, refuses or fails to submit an environmental impact assessment as required by the Authority shall be guilty of an offence and shall be liable on summary conviction before a Resident Magistrate to a fine not exceeding thirty thousand dollars.

**Revocation
of permit.**

11.—(1) Subject to subsection (2), the Authority may by notice addressed to the person to whom a permit was issued revoke or suspend the permit if it is satisfied that there has been a breach of any term or condition subject to which the permit was granted, or if such person fails or neglects to submit to the Authority, in accordance with section 10, any documents, information or assessment required thereunder.

(2) Except as provided in subsection (3), the Authority shall, before revoking a permit, serve on the person to whom it was granted a notice in writing—

- (a) specifying the breach or default on which the Authority relies and requiring him to remedy it within such time as may be specified in the notice; and
- (b) informing him that he may apply to the Authority to be heard on the matter within such time as may be specified in the notice.

(3) The Authority shall not be obliged to serve a notice pursuant to subsection (2) in relation to any breach if a cessation order pursuant to section 13 or an enforcement notice pursuant to section 18 is in effect in relation to that breach.

12.—(1) Subject to the provisions of this section, no person shall—

Licences for the discharge of effluents, etc.

- (a) discharge on or cause or permit the entry into waters, on the ground or into the ground, of any sewage or trade effluent or any poisonous, noxious or polluting matter; or
 - (b) construct, reconstruct or alter any works for the discharge of any sewage or trade effluent or any poisonous, noxious or polluting matter,
- except under and in accordance with a licence for the purpose granted by the Authority under this Act.

(2) A licence shall not be required if the discharge or entry—

- (a) results only from a use of water made in pursuance of a licence to abstract and use water granted under any enactment; or
- (b) is in accordance with good agricultural practice, as determined by the Authority after consultation with the Minister responsible for agriculture; or
- (c) is caused or permitted in an emergency in order to avoid a greater danger to the public and, as soon as practicable thereafter, particulars of the discharge or entry are furnished to the Authority; or
- (d) results from the domestic waste effected by means of absorption or soakaway pits or other prescribed waste disposal system and is in accordance with such provisions as may be prescribed by or under

this enactment or any other law in force pertaining to such disposal.

(3) Any person who contravenes the provisions of subsection (1) shall be guilty of an offence and shall be liable on summary conviction before a Resident Magistrate to a fine not exceeding fifty thousand dollars or to imprisonment for a term not exceeding two years or to both such fine and imprisonment, and—

- (a) where a person defaults in the payment of a fine imposed under this subsection, he shall be liable to imprisonment for a term not exceeding one year; and
- (b) where the offence is a continuing offence, he shall be liable to a further fine not exceeding three thousand dollars for each day on which the offence continues after conviction.

(4) The provisions of regulations made under this Act shall have effect in relation to the grant, suspension and revocation of licences and otherwise in relation thereto.

Cessation
order.

13.—(1) Without prejudice to the provisions of section 9 (7), 10 (4), 11 and 12 (3)—

- (a) where a person fails to comply with the provisions of section 9 (2); or
- (b) where the person responsible fails to submit an environmental impact assessment within the time specified by the Authority; or
- (c) where a person fails to comply with the provisions of section 12 (1),

the Authority may issue an order in writing to such person directing him to cease, by such date as shall be specified in the order, the activity in respect of which the permit, licence or environmental impact assessment, as the case may be, is required.

(2) Where the person to whom an order is issued under subsection (1), fails to comply with the order, the Minister may take such steps as he considers appropriate to ensure the cessation of the activity to which the order relates.

(3) Where authorized by the Minister acting pursuant to subsection (2), a member of the Jamaica Constabulary Force may use such force as may be necessary for the purpose of ensuring compliance with an order referred to in that subsection; and any person who hinders or obstructs any such member acting as aforesaid shall be guilty of an offence and shall be liable on summary conviction before a Resident Magistrate to a fine not exceeding ten thousand dollars or to imprisonment for a term not exceeding one year.

14.—(1) The National Water Commission shall not be held to have violated the provisions of section 12 (1) by reason only of the fact that a discharge from a sewer or works vested in the Commission contravenes the conditions of a licence relating to the discharge if—

National Water Commission excused in specific circumstances.

- (a) the contravention is attributable to a discharge into the sewer or works caused or permitted by another person; and
- (b) the Commission was not bound to receive the discharge into the sewer or works, or was bound to receive it there subject to conditions which were not observed; and
- (c) the Commission could not reasonably have been expected to prevent the discharge into the sewer or works.

(2) A person shall not be held to have violated the provisions of section 12 (1) in consequence of a discharge which he caused or permitted to be made into a sewer or works vested in the Commission if the Commission was

bound to receive the discharge there either unconditionally or subject to conditions which were observed.

Notice to
abstain from
agricultural
practices.

15.—(1) Where it appears to the Authority that any waters have been or are likely to be polluted in consequence of an act or omission which, for the purposes of paragraph (b) of section 12 (2) is consistent with good agricultural practice, the Authority may, in consultation with the Minister responsible for agriculture, serve on the occupier of the land where the act or omission took place, a notice requesting him to stop or prevent acts or omissions of that kind.

(2) Any person who refuses or fails to comply with a notice served under this section shall be guilty of an offence and shall be liable on summary conviction before a Resident Magistrate to a fine not exceeding twenty thousand dollars or to imprisonment for a term not exceeding two years or to both such fine and imprisonment, and—

- (a) where a person defaults in the payment of a fine imposed under this subsection, he shall be liable to imprisonment for a term not exceeding one year; and
- (b) where the offence is a continuing offence, he shall be liable to a further fine not exceeding three thousand dollars for each day on which the offence continues after conviction.

Operations
by Author-
ity
regarding
pollution
of water.

16.—(1) Without prejudice to the provisions of section 18, where it appears to the Authority that any poisonous, noxious or polluting matter is likely to enter, or is or was present in any waters, the Authority may, after consultation with any agency or department of Government having functions in relation to water or water resources, carry out such operations as it considers appropriate—

- (a) where such matter appears likely to enter such waters, for the purpose of preventing it from doing so; and

(b) where such matter appears to be or to have been present in such waters, for the purpose of removing or disposing of the matter, or of remedying or mitigating any pollution caused by its presence in the waters, or of restoring the waters, so far as it is reasonably practicable to do so, to the state in which they were immediately before the matter became present in the waters.

(2) Any amounts reasonably incurred by the Authority in carrying out operations in pursuance of subsection (1) are, subject to subsection (3), recoverable by the Authority as a debt incurred by the person or persons who caused or permitted the poisonous, noxious or polluting matter, as the case may be, to be present at the place from which it was likely in the opinion of the Authority to enter waters or, as the case may be, to be present in such waters; and accordingly, without prejudice to any penalty imposable on such person or persons, such sums may be recovered summarily in a Resident Magistrate's Court, without limit of amount, as a civil debt.

(3) A person shall not be liable to pay any sums expended by the Authority pursuant to this section if he satisfies the court that such sums were incurred unnecessarily.

(4) Any person who wilfully obstructs the Authority or any person authorized in that behalf in the exercise of its powers under this section shall be guilty of an offence under this Act and shall be liable on summary conviction before a Resident Magistrate to a fine not exceeding ten thousand dollars or to imprisonment for a term not exceeding one year.

17.—(1) The Authority may by notice in writing require the owner or operator of any sewage treatment plant, industrial waste treatment facility or any facility for the

Information
on pollution
control
facility.

disposal of solid waste or for the abatement of air pollution or any other facility for controlling pollution, to submit to the Authority at such intervals as the Authority may specify in the notice, information relating to all or any of the following—

- (a) the performance of the facility;
- (b) the quantity and condition of effluent discharged;
- (c) the area affected by the discharge of effluents,

and such owner or operator as aforesaid shall comply with the requirements of the notice.

(2) Any person who refuses or fails to comply with the requirements of a notice under subsection (1) shall be guilty of an offence and shall be liable on summary conviction before a Resident Magistrate to a fine not exceeding twenty thousand dollars or to imprisonment for a term not exceeding two years or to both such fine and imprisonment, and—

- (a) where a person defaults in the payment of a fine imposed under this subsection, he shall be liable to imprisonment for a term not exceeding one year; and
- (b) where the offence is a continuing offence, he shall be liable to a further fine not exceeding three thousand dollars for each day on which the offence continues after conviction.

Enforcement of controls.

18.—(1) Subject to the provisions of this section, where it appears to the Authority that the activities of an undertaking in any area are such as to pose a serious threat to the natural resources or to public health, the Authority may serve on the person who appears to have carried out or to be carrying out the activity, a notice (hereinafter referred to as an “enforcement notice”) specifying the offending activity and requiring such steps as may be

specified in the notice to be taken within such period as may be so specified to ameliorate the effect of the activity and, where appropriate, to restore the natural resources to their condition before the activity took place.

(2) The Authority may in the enforcement notice order the immediate cessation of the offending activity if it is of the opinion that the circumstances giving rise to the notice are such as to warrant an order to that effect, and shall specify in the notice the period within which an appeal against its decision may be made pursuant to section 34; and the person on whom the notice is served shall comply with the notice.

(3) Where an appeal is made against an enforcement notice in which the cessation of an offending activity is ordered, the notice shall remain in effect pending the final determination or withdrawal of the appeal.

(4) Where the person referred to in subsection (1) continues or authorizes the continuation of the offending activity while an enforcement notice is in effect or after the dismissal of an appeal under section 34 relating to that notice, he shall be guilty of an offence and shall be liable on summary conviction before a Resident Magistrate to a fine not exceeding fifty thousand dollars or to imprisonment for a term not exceeding two years or to both such fine and imprisonment, and—

- (a) where he defaults in the payment of a fine imposed under this subsection, he shall be liable to imprisonment for a term not exceeding one year; and
- (b) where the offence is a continuing offence, he shall be liable to a further fine not exceeding three thousand dollars for each day on which the offence continues after conviction.

(5) Where the person to whom a notice is issued under subsection (1) fails to comply with the enforcement notice, then, without prejudice to the provisions of subsection (4) the Minister may take such steps as he considers appropriate to ensure the cessation of the activity to which the notice relates.

(6) Where authorized by the Minister acting pursuant to subsection (5), a member of the Jamaica Constabulary Force may use such force as may be necessary for the purpose of ensuring compliance with a notice referred to in that subsection; and any person who hinders or obstructs any such member acting as aforesaid shall be guilty of an offence and shall be liable on summary conviction before a Resident Magistrate to a fine not exceeding ten thousand dollars or to imprisonment for a term not exceeding one year.

Supple-
mentary
provisions
as to en-
forcement.

19.—(1) Where an enforcement notice takes effect and, within the time specified therein or such extended period as the Authority may allow, any steps required by the notice to be taken have not been taken, the Authority may enter on the land on which the offending activity took place and take such steps.

(2) Any amount reasonably incurred by the Authority pursuant to subsection (1) may be recovered from the person who carried on the activity, without limit of amount, as a civil debt in the Resident Magistrate's Court in the parish in which such steps as aforesaid were taken, so, however, that a person shall not be liable to pay any sums expended by the Authority under this section if he satisfies the Court that such sums were incurred unnecessarily.

(3) A person who, having been entitled to appeal to the Tribunal under section 34 fails to do so, shall not be entitled in proceedings under subsection (2) to dispute

the validity of the action taken by the Authority on any ground that could have been raised in such appeal.

20.—(1) Any person duly authorized in that behalf by the Minister or by the Authority may at all reasonable times enter any premises for the purposes of ensuring compliance with this or any other law pertaining to the protection of the environment and shall, if required to do so by the person in charge of the premises, produce his authority for so entering to such person. Right of entry.

(2) Any person who assaults or obstructs a duly authorized person acting in the execution of his duty under subsection (1) commits an offence and shall be liable on summary conviction before a Resident Magistrate to a fine not exceeding ten thousand dollars or to imprisonment for a term not exceeding twelve months.

PART II. *Financial Provisions, Accounts and Report*

21. The funds and resources of the Authority shall consist of— Funds of Authority.

- (a) such sums as may be provided annually for the purpose in the Estimates of Revenue and Expenditure of the Island;
- (b) all sums which the Authority is authorized to collect by or under this or any other enactment; and
- (c) all other sums or property which may in any manner become payable to or vested in the Authority in respect of any matter incidental to its functions.

22. The expenses of the Authority, including the remuneration of members and staff thereof, shall be paid out of the funds and resources of the Authority. Expenses of Authority.

Borrowing powers.

23.—(1) Subject to the provisions of subsection (2), the Authority may borrow sums required by it for meeting any of its obligations or discharging any of its functions.

(2) The power of the Authority to borrow shall be exercisable only with approval of the Minister responsible for finance as to the amount, the sources of borrowing and the terms on which the borrowing may be effected, and an approval given in any respect for the purposes of this subsection may be either general or limited to a particular borrowing or otherwise, or may be either unconditional or subject to conditions.

Minister of Finance may guarantee loans.

24.—(1) With the approval of the House of Representatives, the Minister responsible for finance may guarantee, in such manner and on such conditions as he may think fit, the repayment of the principal and the payment of interest on any authorized borrowings of the Authority.

(2) Notwithstanding anything to the contrary, where any loan is, pursuant to subsection (1), guaranteed by the Minister responsible for finance, the repayment of the principal moneys and interest represented by the loan so guaranteed shall, during the continuance of such guarantee, be a first charge upon such revenue and assets of the Authority as shall be specified by that Minister.

(3) Where the Minister responsible for finance is satisfied that there has been default in the repayment of any principal moneys or in the payment of interest guaranteed under the provisions of this section, he shall direct the repayment or, as the case may be, the payment, out of the Consolidated Fund and assets of Jamaica, of the amount in respect of which there has been such default.

(4) The Authority shall make to the Accountant-General, at such times and in such manner as the Minister responsible for finance may direct, payments of such

amounts as may be so directed in or towards repayment of any sums issued in fulfilment of any guarantee under this section, and payments of interest on what is outstanding for the time being in respect of any sums so issued at such rate as that Minister may direct, and different rates of interest may be directed as respects different sums and as respects interest for different periods.

25. All moneys of the Authority not immediately required to be expended for the purpose of meeting any obligations or discharging any functions of the Authority, may be invested in such securities as may be approved either generally or specifically by the Minister and the Authority may, with the approval of the Minister, sell all or any of such securities.

Power to invest moneys.

26.—(1) The Authority shall keep accounts and other records in relation to its business and shall prepare annually a statement of accounts in a form satisfactory to the Minister, being a form which shall conform to the best commercial standards.

Accounts and audits.

(2) The accounts of the Authority shall be audited annually by the Auditor-General or by an auditor appointed in each year by the Authority with the approval of the Minister.

27.—(1) As soon as practicable after the end of each financial year, the Authority shall cause to be made and shall transmit to the Minister—

Annual report and estimates.

- (a) a statement of its accounts audited in accordance with section 26 (2); and
- (b) a report dealing generally with the proceedings and policies of the Authority during that financial year.

(2) The Minister shall cause a copy of such report together with the annual statement of accounts and the

auditor's report thereon to be tabled in the House of Representatives and in the Senate.

(3) The Authority shall, as soon as may be practicable before the 31st day of December in each year, submit to the Minister for approval, its estimates of revenue and expenditure in respect of the period commencing on the 1st day of April in the following year and ending on the thirty-first day of March of the subsequent year, and shall, during that year, submit to the Minister for approval any estimate of further expenditure as may become necessary.

Exemption
from taxes
and duties.

28.—(1) The Authority shall be exempt from income tax and property tax.

(2) All instruments executed by or on behalf of the Authority shall be exempt from stamp duty.

(3) Any transfer by the Authority of any property belonging to it or of any right or interest created in, over or otherwise with respect to any such property, shall be exempt from transfer tax.

(4) No customs duty or other similar impost shall be payable upon any article imported into Jamaica, or taken out of bond in Jamaica by the Authority and shown to the satisfaction of the Commissioner of Customs and Excise to be required for the use of the Authority in the performance of its functions.

PART III. *Staff*

Appoint-
ment of
staff.

29.—(1) The Authority may appoint and employ, at such remuneration and subject to such terms and conditions as it thinks fit, an Executive Director and such other officers, employees and agents as it thinks necessary for the proper performance of its functions, so, however, that—

- (a) no salary in excess of the prescribed rate per annum shall be assigned to any post without the prior approval of the Minister; and

- (b) no appointment shall be made to any post to which a salary in excess of the prescribed rate is assigned without prior approval of the Minister.

(2) In subsection (1) the prescribed rate means a rate of fifty thousand dollars per annum or such higher rate as the Minister may, by order, prescribe.

(3) The Governor-General may, subject to such conditions as he may impose, approve the appointment of any officer employed in the service of the Government to any office with the Authority and while so employed any officer so appointed shall be treated, in relation to any pension, gratuity, or other allowance and in relation to other rights as a public officer, as continuing in the service of the Government.

30. The Authority may with the approval of the Minister—

- (a) enter into arrangements respecting schemes, whether by way of insurance policies or not; and
 (b) make regulations,

Pension scheme, medical benefits, etc.

for medical benefits, pensions, gratuities and other retiring benefits or disability or death benefits, in respect of the employees of the Authority and such arrangements or regulations may include provisions for the grant of benefits to the dependants and the legal representatives of such employees.

PART IV. *General*

31. The grant of a permit or a licence under this Act does not dispense with the necessity of obtaining planning permission when such permission is required under the Town and Country Planning Act, and in such circumstances, an application under that Act for planning permission in respect of any development which, pursuant to an order under section 9 (1), is of a prescribed description or category

Requirement for planning permission unaffected.

shall be made thereunder simultaneously with the making of an application for a permit or licence under this Act.

Ministerial orders to protect environment.

32.—(1) Where the Authority reports to the Minister—

- (a) the existence of any local condition in any part of the Island tending to endanger the environment, and there are no powers under any law other than this section whereby such condition may be removed or guarded against; or
- (b) that a natural resource in any part of the Island appears to be threatened with destruction or degradation and that measures apart from, or in addition to those specifically provided for in this Act should be taken promptly,

the Minister may by order published in the *Gazette*, direct the enforcement of any measures recommended by the Authority or any measures that he thinks expedient for removing or otherwise guarding against any such condition and the probable consequences thereof, or for preventing or mitigating as far as possible such destruction or degradation.

(2) An order made under subsection (1) may be made to extend to the whole Island or to any part thereof and may contain such ancillary and supplementary matters as the Minister thinks fit.

(3) The Authority shall cause a copy of every order made under this section to be published once in a daily newspaper circulating in Jamaica.

(4) Any person who obstructs a person who is taking any measures authorized by an order under subsection (1) shall be guilty of an offence and shall be liable on summary conviction before a Resident Magistrate to a fine not exceeding ten thousand dollars or to imprisonment for a term not exceeding one year.

(5) Any person who contravenes the provisions of an order made under subsection (1) shall be guilty of an offence and shall be liable on summary conviction before a Resident Magistrate to a fine not exceeding fifty thousand dollars or to imprisonment for a term not exceeding two years or to both such fine and imprisonment, and—

- (a) where a person defaults in the payment of a fine imposed under this subsection, he shall be liable to imprisonment for a term not exceeding one year; and
- (b) where the offence is a continuing offence, he shall be liable to a further fine not exceeding three thousand dollars for each day on which the offence continues after conviction.

33.—(1) Without prejudice to the exercise of the power conferred on the Minister under section 32, the Minister may, on the recommendation of the Authority and if he is satisfied that it is in the public interest to do so, by order published in the *Gazette* declare any area to be an environmental protection area and direct the Authority to prepare and to submit to him, for approval an environmental protection plan for that area; and the Authority shall act accordingly.

Environmental protection area.

(2) The undertaking of any activity in an environmental protection area shall be subject to such provisions as may be prescribed by regulations, subject to negative resolution, in relation to the protection of the environment and the natural resources in that area.

(3) The Authority shall cause an order made under subsection (1) to be published once in a daily newspaper circulating in Jamaica.

34.—(1) There is hereby established for the purposes of this Act a Tribunal, and the provisions of the Second Sche-

Tribunal.
Second
Schedule.

dule shall have effect as to the constitution of the Tribunal and otherwise in relation thereto.

(2) The Tribunal shall hear appeals made to it in respect of the issue of enforcement notices by the Authority pursuant to section 18 and in respect of any such appeal the Tribunal may, subject to the provisions of this section, quash or vary the notice or may dismiss the appeal; and if the notice is varied or the appeal dismissed, the Tribunal may direct that the enforcement notice shall not take effect until such date (not being later than twenty-eight days from the determination of the appeal) as the Tribunal thinks fit.

(3) Before determining an appeal the Tribunal shall give the appellant, who may be represented by an attorney-at-law or any other person, the opportunity to be heard by the Tribunal.

(4) The decision of the Tribunal shall be final.

Appeal to
Minister.

35.—(1) Subject to the provisions of this section, an aggrieved person may appeal to the Minister against a decision of the Authority in relation to a permit or licence and the appeal shall be made in writing within twenty-eight days of the date of the decision or within such further period as the Minister may in any special circumstances allow.

(2) On hearing an appeal under this section, the Minister may—

- (a) dismiss the appeal and confirm the decision of the Authority;
- (b) allow the appeal and set aside the decision;
- (c) vary the decision; or
- (d) allow the appeal and direct that the matter be determined afresh by the Authority,

and the Minister's decision shall be final.

(3) For the purposes of this section, an aggrieved person is a person—

- (a) who has been refused a permit or a licence or who objects to the terms and conditions subject to which a permit or licence is granted; or
- (b) who is the holder of a permit or licence and who objects to a decision of the Authority in respect of such permit or licence.

36. The Authority may by instrument in writing authorize any such person as it thinks fit (hereinafter referred to as the authorized person) to institute proceedings against any person for an offence against this Act and to recover any penalties under this Act or regulations made thereunder, and the authorized person may prosecute or conduct such proceedings.

Persons entitled to take proceedings.

37. All prosecutions for offences against this Act or any regulations made thereunder shall be commenced within twelve calendar months next after the commission of such offence or, if the Court is satisfied that the Authority with due diligence could not have been aware within that period that the offence had been committed, within such further period as the Court may allow.

Prosecutions to be commenced within twelve months.

38.—(1) The Minister may make regulations for the purpose of giving effect to the provisions of this Act, and in particular but without prejudice to the generality of the foregoing, such regulations may contain provisions in relation to—

Regulations.

- (a) standards and codes of practice with respect to the protection and rehabilitation of the environment and the conservation of natural resources;
- (b) the description or category of enterprise, construction or development in respect of which an environ-

- mental impact assessment is required by the Authority;
- (c) the quantity, condition or concentration of substances that may be released into the environment;
 - (d) the importation, collection, storage, recycling, recovery or disposal of substances which may be hazardous to the environment;
 - (e) the establishment of ambient air quality standards, an air pollution monitoring system and index, and the manufacture, use and emission of air contaminants;
 - (f) the discharge of waste generally, and the fees payable in relation thereto;
 - (g) the design, construction, operation, maintenance and monitoring of facilities for the control of pollution and the disposal of waste;
 - (h) the management of national parks, marine parks, protected areas and public recreational beaches or other public recreational facilities, the fees (if any) payable in respect of their use, and the standards of care and sanitation, cleanliness and safety to be observed in relation thereto;
 - (i) the employment of lifeguards at beaches to which members of the public habitually resort and the training and qualification of lifeguards;
 - (j) the preservation of order and good conduct among members of the public using national parks, marine parks, protected areas, public recreational beaches or other public recreational facilities;
 - (k) the erection on lands forming part of or adjoining any public recreational facility of huts, booths, tents, sheds, stands and stalls, whether fixed or moveable;

- (l) the limitation or prohibition of—
 - (i) the production, importation, exportation, trade or use of any type of equipment, means or device designed to kill, catch, or destroy, indiscriminately, prescribed animals or prescribed plants;
 - (ii) any action or method which may bring about the extinction of or major adverse effects on, prescribed fauna or flora species;
- (m) the protection of particular species of prescribed fauna and flora;
- (n) the form and manner of, and the fees payable in connection with, an application for any licence or permit that may be granted by the Authority under any enactment;
- (o) the grant, refusal, revocation or suspension of any licence or permit that may be issued by the Authority and the terms, conditions or restrictions subject to which such licence or permit may be granted;
- (p) the fees or charges payable to the Authority for services rendered by the Authority, its servants or agents in carrying out the provisions of any enactment under which the Authority exercises functions;
- (q) the grant, in accordance with section 30, of benefits to and in respect of, employees of the Authority;
- (r) any other matter required by this Act to be prescribed.

(2) For the purposes of paragraphs (l) and (m), “prescribed” means prescribed by the Minister by notice published in the *Gazette*.

(3) Notwithstanding the provisions of section 29 of the Interpretation Act, regulations made under this Act may

prescribe greater penalties than those specified in that section, so, however, that the maximum penalty that may be imposed shall be a fine of fifty thousand dollars and imprisonment for two years.

Act applies
to Crown.

39. This Act binds the Crown.

Modifica-
tion of
laws.

40.—(1) The Minister may, by order, with effect from any date specified in the order, not being earlier than the 5th day of July, 1991, alter any enactment if he considers such alteration to be necessary or expedient on account of anything contained in this Act.

(2) An order made pursuant to subsection (1) shall be subject to affirmative resolution.

(3) In this section—

- (a) “alter” includes adapt or repeal;
- (b) “enactment” includes any instrument having the force of law but does not include this Act.

Vesting of
property.

41. All real and personal property belonging to the Beach Control Authority, including all moneys standing to the credit of or receivable by that Authority pursuant to the Beach Control Act shall, from and after the 5th day of July, 1991, without any conveyance, assignment or other transfer, belong to and be vested in the Natural Resources Conservation Authority, subject to the provisions of this Act and to any enactment regulating the management, maintenance, control, supervision and dealing with, such property or moneys.

Construc-
tion of
references.

42. In any enactment or regulations made thereunder or in any instrument in writing issued pursuant to a statutory power and having effect on or after the 5th day of July, 1991, any reference to the Natural Resources Conservation Department, the Beach Control Authority or the Watershed

Commission shall be construed as a reference to the Authority.

43.—(1) Where an area is prescribed by an order under section 9 (1) and any enterprise, construction or development of a description or category prescribed pursuant to that section is being undertaken in such area at the date on which the order takes effect, the person responsible shall apply for a permit within such time as may be specified in the order.

Transi-
tional.

(2) Any person who is engaged in doing or causing to be done any act referred to in section 12 in respect of which a licence is required under that section, shall apply for a licence in accordance with regulations made under this Act.

FIRST SCHEDULE

(Section 3 (2))

*Constitution and Procedure of the Authority*Constitu-
tion of
Authority.

1. The Authority shall consist of such number of members, not being less than seven nor more than ten persons as the Minister may from time to time determine.

Chairman
and
deputy
chairman.

2.—(1) The Minister shall appoint a chairman and a deputy chairman from amongst the members of the Authority.

(2) In the case of the absence or inability to act of the chairman, the deputy chairman shall exercise the functions of the chairman.

Tenure of
office.

3.—(1) The appointment of every member shall be evidenced by instrument in writing and, subject to the provision of this Schedule, such instrument shall specify the period of office of the member, which shall not exceed three years.

(2) Every member of the Authority shall be eligible for reappointment.

(3) The Minister may at any time revoke the appointment of the chairman, the deputy chairman, or any other member of the Authority if he thinks it expedient so to do.

Leave.

4. The Minister may, on the application of any member, grant leave of absence to such member.

Temporary
appoint-
ment.

5. The Minister may appoint any person to act temporarily in the place of any member of the Authority in the case of the absence or inability to act of that member.

Resigna-
tion.

6.—(1) Any member of the Authority, other than the chairman, may at any time resign his office by instrument in writing addressed to the Minister and transmitted through the chairman, and from the date of receipt by the Minister of such instrument, that member shall cease to be a member of the Authority.

(2) The chairman may at any time resign his office by instrument in writing addressed to the Minister, and such resignation shall take effect as from the date of receipt by the Minister of such instrument.

Publication
of member-
ship.

7. The names of the members of the Authority as first constituted and every change in the membership thereof shall be published in the *Gazette*.

Incorpora-
tion.

8.—(1) The Authority shall be a body corporate having perpetual succession and a common seal with power to acquire, hold and dispose of land and other property of whatever kind.

(2) The seal of the Authority shall be kept in the custody of the chairman or the secretary and shall be affixed to instruments pursuant to a resolution of the Authority in the presence of the chairman or any other member of the Authority, and the secretary.

(3) The seal of the Authority shall be authenticated by the signatures of the chairman or a member of the Authority authorized to act in that behalf by the Authority, and the secretary.

(4) All documents other than those required by law to be under seal, made by, and all decisions of, the Authority may be signified under the hand of the chairman or any other member authorized to act in that behalf by the Authority.

(5) The Authority may sue or be sued in its corporate name and may for all purposes be described by such name.

9. Any summons, notice or other document required or authorized to be served upon the Authority under the provisions of this Act or any other law may, unless in any case there is express provision to the contrary, be served by delivering the same to the chairman or secretary, or by sending it by registered post addressed to the secretary at the principal office of the Authority.

Service of documents.

10.—(1) The Authority shall meet at such times as may be necessary or expedient for the transaction of its business and such meetings shall be held at such places and times and on such days as the Authority may determine.

Procedure and meetings.

(2) The chairman may at any time call a special meeting of the Authority and shall call a special meeting within seven days of the receipt of a written request for that purpose addressed to him by any two members of the Authority.

(3) The chairman or, in the case of the absence or inability to act of the chairman, the deputy chairman shall preside at meetings of the Authority and in the case of the absence of both the chairman and deputy chairman from a meeting, the members present shall elect one of their number to preside at that meeting.

(4) A quorum of the Authority shall be four.

(5) The decisions of the Authority shall be by a majority of the votes and in addition to an original vote the chairman, deputy chairman or other person presiding at a meeting shall have a casting vote in any case in which the voting is equal.

(6) Minutes of each meeting of the Authority shall be kept in proper form and shall be confirmed as soon as practicable at a subsequent meeting.

(7) The validity of the proceedings of the Authority shall not be affected by any vacancy amongst the members thereof or by any defect in the appointment of a member thereof.

(8) Subject to the provisions of this Schedule, the Authority may regulate its own proceedings.

Disclosure of interest. 11. A member of the Authority who is directly or indirectly interested in any matter which is being dealt with by the Authority—
 (a) shall disclose the nature of his interest at a meeting of the Authority; and
 (b) shall not take part in any deliberation or decision of the Authority with respect to that matter.

Remuneration of members. 12. There shall be paid from the funds of the Authority to the chairman, deputy chairman and other members of the Authority such remuneration (whether by way of honorarium, salary or fees) and such allowances as the Minister may determine.

Protection of members. 13.—(1) No action, suit, prosecution or other proceedings shall be brought or instituted personally against any member of the Authority in respect of any act done *bona fide* in pursuance or execution or intended execution of the Authority's functions under this or any other enactment.

(2) Where any member of the Authority is exempt from liability by reason only of the provisions of this paragraph, the Authority shall be liable to the extent that it would be if the said member were a servant or agent of the Authority.

Office of chairman or member not a public office. 14. The office of chairman or member of the Authority shall not be a public office for the purpose of Chapter V of the Constitution of Jamaica.

SECOND SCHEDULE (Section 34(1))

Constitution and Procedure of Tribunal

Appointment of members. 1.—(1) The Tribunal shall consist of not less than three nor more than five members appointed by the Minister, being persons appearing to the Minister to be knowledgeable and experienced in matters relating to the environment.

(2) For the hearing of any appeal under this Act, the Tribunal may consist of one member sitting alone if the parties to the appeal agree.

Temporary appointment. 2. If the chairman or other member of the Tribunal is absent or unable to act the Minister may appoint another person to act temporarily as chairman or such other member.

Tenure of office. 3.—(1) The appointment of every member of the Tribunal shall be evidenced by instrument in writing and shall be for a period not exceeding three years.

(2) Every member of the Tribunal shall be eligible for reappointment.

(3) The Minister may at any time revoke the appointment of the chairman or any other member of the Tribunal.

4.—(1) Any member of the Tribunal other than the chairman may at any time resign his office by instrument in writing addressed to the Minister and transmitted through the chairman, and from the date of the receipt by the Minister of such instrument such member shall cease to be a member of the Tribunal. Resignation.

(2) The chairman may at any time resign his office by instrument in writing addressed to the Minister and such resignation shall take effect as from the date of the receipt of such instrument by the Minister.

5. The names of the members of the Tribunal as first constituted and every change in membership thereof shall be published in the *Gazette*. Publication of membership.

6. All documents made by, and all decisions of, the Tribunal may be signified under the hand of the chairman or any member of the Tribunal authorized to act in that behalf. Authentication of documents.

7.—(1) The Tribunal shall meet at such times as may be necessary or expedient for the transaction of business and such meetings shall be held at such places and times and on such days as the Tribunal may determine. Procedure.

(2) The chairman or any other person appointed to act temporarily as chairman shall preside at meetings of the Tribunal.

(3) Subject to paragraph 1 (2) the decisions of the Tribunal shall be by a majority of votes of the members and in addition to an original vote, the chairman shall have a casting vote in any case in which the voting is equal.

(4) The Tribunal shall have power to regulate its own proceedings.

(5) Proper records of all proceedings of the Tribunal shall be kept.

8. There shall be paid to the chairman and other members of the Tribunal such remuneration (whether by way of honorarium, salary or fees) and such allowances as the Minister may determine. Remuneration of members.

9. No action, suit, prosecution or other proceedings shall be brought or instituted personally against any member of the Tribunal in respect Protection of members.

of an act done *bona fide* in pursuance or execution or intended execution of the provisions of this Act.

Disclosure
of interest.

10. Any member of the Tribunal who has any interest, directly or indirectly, in any matter brought before the Tribunal—

- (a) shall disclose the nature of the interest to the Tribunal; and
- (b) shall not take part in any deliberations or decisions of the Tribunal with respect to that matter.

Office of
member not
a public
office.

11. The office of chairman or member of the Tribunal shall not be a public office for the purposes of Chapter V of the Constitution of Jamaica.