

VIRGIN ISLANDS
NATIONAL PARKS ACT, 2006
ARRANGEMENT OF SECTIONS

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I Assent

DANCIA PENN, OBE, QC
Acting Governor
13th April, 2006

VIRGIN ISLANDS

No. 4 of 2006

An Act to provide for a national system of parks and other protected areas and for connected matters.

[Gazetted 4th May, 2006]

ENACTED by the Legislature of the Virgin Islands as follows:

**PART I
PRELIMINARY**

1. This Act may be cited as the National Parks Act, 2006 and shall come into operation on such date as the Governor may, by Proclamation published in the *Gazette*, appoint. Short title and commencement.

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

“alien invasive species” means a species occurring outside its normal distribution which threatens ecosystems, habitats or species;

“archaeological relic” means

- (a) any archaeological deposit, or
- (b) any artifact, remains or material evidence associated with an archaeological deposit,

that relates to human activity occurring within the Territory and is or may be able through investigation by archaeological methods to provide evidence relating to the history of the Territory;

“authorised officer” means a person designated under section 56;

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

“Board” means the Board of the Trust established under section 5;

“building or place”, in relation to a Historic Site declared under Part III, includes

- (a) a building or structure or part of a building or structure or a group of buildings or structures and any equipment, furniture, or other articles located therein;
- (b) a site containing an archaeological relic;
- (c) a monument;
- (d) a historic tree;
- (e) any combination of the above; and
- (f) the land associated with any thing mentioned in paragraphs (a) to (d) and in its immediate surroundings where necessary for its conservation;

"components of biological diversity" means ecosystems, species, living organisms or parts thereof, genetic resources or any other biotic components of ecosystems with actual or potential use or value to humanity;

"conservation agreement" means an agreement made pursuant to Part VI;

"cultural heritage" includes landscapes, buildings, places, structures, and other remains or features of human activity of aesthetic, archaeological, architectural, cultural, historic, scientific or social significance whether religious or secular, on land or in the sea;

"Director" means the Director of the National Parks Trust appointed pursuant to section 6;

“ecological community” means an assemblage of species occupying a particular area;

“endangered species” means a wildlife species that is in danger of extinction throughout all or part of its range and whose survival is unlikely if the

factors jeopardizing it continue to operate or which already may be extinct but is not presumed extinct, and includes endangered populations and endangered ecological communities;

“habitat” means an area or areas occupied, or periodically or occasionally occupied, by a species, population or ecological community;

“historic” means that which at the time of consideration was associated with human activity that occurred fifty or more years before that time;

“historic shipwreck” means the remains or any part of a ship declared as a historic shipwreck under section 35;

“historic shipwreck relic” means any articles considered historic shipwreck relics pursuant to section 35;

“living modified organism” means any living organism that possesses a novel combination of genetic material obtained through the use of modern biotechnology;

“management plan” means the management plan required under section 25 for a park or other protected area declared under this Act, or the management plan that may be required as part of a conservation agreement under section 44;

“migratory species” means the entire population or any geographically separate part of the population of any species or lower taxon of wild animal, a significant proportion of whose members cyclically and predictably cross one or more national jurisdictional boundaries;

“Minister” means the Minister for the time being responsible for matters under this Act;

“natural heritage” includes but is not limited to the following-

- (a) ecosystems and ecosystem processes;
- (b) biological diversity, the components of biological diversity, and wildlife;
- (c) landforms of significance, including geological features and processes of scientific significance;

“park or other protected area”, means a strict nature reserve, wilderness area, national park, natural monument, habitat or species management area, protected landscape or seascape, managed resource area, urban park, or historic site established under Part III including historic shipwrecks

where declared as a national park or other protected area pursuant to Part V;

“person” includes corporation or other legal person;

“protected area” means a park or other protected area established under this Act;

“protected area system” means the system of protected areas as provided in section 10;

“population” in relation to wildlife, means a group of organisms all of the same species, occupying a particular area;

“public authority” means any public or local authority in the British Virgin Islands constituted under an Act, a government department, or a statutory body representing the Crown, and includes a person exercising any function on behalf of the authority, department or body;

No. 13 of 2001 “receiver of wrecks” means the person appointed as such pursuant to section 269 of the Merchant Shipping Act, 2001;

“sea or marine”, includes the sea, seabed, and coast, and any marine life or products encompassed therein;

“species” includes sub-species, lower taxa or populations thereof;

“take or taking” includes

- (a) when used in connection with a specimen of wildlife, to hunt, collect, injure, harm, disturb, destroy, capture, kill, possess, move, trade or transfer by any means; and
- (b) when used in connection with an object of cultural heritage significance or historic value, or an historic shipwreck or historic shipwreck relic, to collect, disturb, move, demolish, damage, excavate, possess, move, trade, or transfer;

“threatened species” means a wildlife species

- (a) that is likely to become endangered within the foreseeable future throughout all or part of its range if the factors causing numerical decline or habitat degradation continue to operate; or
- (b) that is rare because it is usually localized within restricted geographical areas or habitats or is thinly scattered over a more extensive range and which is potentially or actually subject to decline and possible endangerment or extinction; and

- (c) includes threatened populations and threatened ecological communities;

“Trust” means the National Parks Trust established under section 3;

“vulnerable species” means wildlife species that are likely to become threatened unless the circumstances and factors threatening survival or evolutionary development cease to operate, including vulnerable populations and vulnerable ecological communities;

“wetlands” means areas of marsh, salt pond, fen, peatland or water, whether natural or artificial, permanent or temporary, with water that is static or flowing, fresh, brackish or salt, including areas of marine water the depth of which at low tide does not exceed twenty feet and the associated land below with any near-shore reefs, sea grass beds, mangroves, or other marine life or products encompassed within such areas;

“wildlife” means

- (a) any species of a wild member of the animal kingdom whether vertebrate or invertebrate including fish, their life forms and development stages, whether dead or alive, eggs, or parts of eggs, embryos, skin, feathers, horns, shells, and any other part of an individual of the species; and
- (b) any species of a wild member of the plant kingdom including vascular and non-vascular plants and fungi, their life forms and development stages, whether dead or alive, and any seeds, leaves, roots, or any other part of an individual of the species.

PART II

ADMINISTRATION: NATIONAL PARKS TRUST

3. (1) There is constituted by this Act a body corporate to be known as the National Parks Trust of the Virgin Islands which shall be the continuation of the National Parks Trust constituted under section 3 of the National Parks Trust Ordinance and upon commencement of this Act, shall be read and construed as having been established under this Act.

National Parks Trust.

Cap. 243

(2) The Trust shall have perpetual succession and a common seal and with power, subject to the provisions of this Act, to do all things a body corporate may legally do and are necessary for, or incidental to, carrying out the objects of this Act, and exercising its functions under this Act.

(3) Without prejudice to the generality of subsection (2), the Trust may

- (a) sue or be sued in its corporate name;
- (b) acquire, hold, mortgage, lease, sell, dispose of or otherwise deal with land and other property; and
- (c) make and enter into contracts.

Functions of
the Trust.

4. The Trust's functions are to

- (a) manage parks and other protected areas established under this Act in a manner consistent with
 - (i) the specific classification given to each park or other protected area pursuant to section 15; and
 - (ii) each area's management plan;
- (b) advise the Minister on the state of the Virgin Islands' parks and other protected areas established under Part III of this Act and any special or general actions that may be needed to further their protection and the objects of this Act, including proposals to designate new areas or modify existing areas;
- (c) identify, monitor and advise the Minister on historic buildings or places in the Virgin Islands that may need special protection through declaration as Historic Sites under Part III of this Act and to promote and assist with their conservation and restoration;
- (d) promote public understanding of the Virgin Islands' natural and cultural heritage and develop and conduct community information and educational programmes toward this end, with special emphasis on parks and other protected areas established under this Act;
- (e) prepare and implement
 - (i) management and other plans required under this Act;
 - (ii) annual budgets for Trust operations as required by section 9;
- (f) promote, undertake, and supervise scientific studies, monitoring, and research consistent with the objects of this Act;

- (g) construct, regulate, and alter fences, roads, paths, buildings and other facilities inside a protected area consistent with the conservation objectives and management plan for the area;
- (h) provide, or cause to be provided and, control any facilities or services for persons visiting or otherwise using a park or other protected area established under this Act, including concessions for accommodation, meals and refreshments, huts, camping sites, parking, moorings, and tour guides, as appropriate;
- (i) coordinate and exchange information with other public authorities, non-governmental organisations, and international organisations in furtherance of the objects of this Act;
- (j) provide technical advice and assistance to other public authorities, as requested or on its initiative;
- (k) implement relevant obligations under international and regional conventions applicable to the Territory, represent the Territory at international meetings, and participate in international and regional programmes and activities in furtherance of the objects of this Act;
- (l) set up and promote advisory committees, subcommittees, and other formal and informal arrangements to help the Trust carry out its functions under this Act;
- (m) employ and train staff and officers necessary to carry out its functions under this Act;
- (n) appoint agents, and delegate its functions, as appropriate;
- (o) perform all other duties necessary or appropriate for carrying out the objects of this Act.

5. (1) There shall be a Board for the Trust, which shall be the governing body of the Trust overseeing and guiding the affairs of the Trust including its financial affairs. Trust Board.

(2) The Board shall make recommendations on matters within the scope of this Act and provide guidance and support to the Director on programmes and operations, as needed, to ensure fulfilment of the Trust's functions and the objects of this Act.

(3) The Board shall, at least once a month, report to the Minister on the performance of its functions.

Schedule 1

(4) Schedule 1 has effect with respect to membership of the Board, its procedures and other related matters.

(5) The Minister may, with the approval of Executive Council, by Order vary Schedule 1 from time to time.

Director and staff
of the Trust.

6. (1) Subject to the approval of the Executive Council, the Minister shall appoint, on such terms and conditions as he thinks fit, a fit and proper person to be Director of the Trust.

(2) The Board shall, on such terms and conditions as it thinks fit, appoint other staff of the Trust as may be necessary for the efficient performance of the functions of the Trust.

(3) The Director shall be

- (a) responsible for the management of the affairs of the Trust, including all day-to-day operations of the Trust in fulfilment of the Trust's functions under this Act,
- (b) a voting member of the Trust Board.

(4) All things required of the Director under this Act shall be done on behalf of the Trust.

(5) The Trust may engage consultants for the purpose of getting expert advice or specialized services to perform its functions.

(6) The Trust may, with the approval of the Minister, arrange for the use of services of staff and facilities of another public authority.

Finances of the
Trust.

7. (1) The Minister may authorise, out of monies provided by the Legislative Council for that purpose, payment to the Trust of such sums as the Trust may require for the carrying out of its functions.

(2) The Trust may

- (a) raise money from organisations and the public to help fund its activities;
- (b) borrow money in such amounts, from such sources, and in such manner as the Minister for Finance may approve;
- (c) act as trustee of money or other property vested in the Trust;
- (d) use money of the Trust to meet the Trust's commitments

under any agreement to which the Trust is a party; and

- (e) invest money of the Trust not immediately required for the furtherance of its objects in such manner as the Trust may determine.

(3) Where monies are donated or raised for a special purpose, the Trust may establish a special fund in a financial institution in the Virgin Islands and such fund shall be used as specified by the donor or for the specific purpose for which the monies were raised and expenditures from any such fund must be authorised or the payment of an item of expenditure confirmed at a duly constituted meeting of the Board through tabling and approval of a report related to that expenditure.

8. (1) The Trust shall keep proper accounts of all monies received and expended by the Trust, and prepare and deliver to the Minister on an annual basis a financial report that includes copies of the Trust's financial statements and accounts for the twelve month period to which the report relates, how the expenditures achieved programme goals, and an auditor's report prepared in the form and manner approved by the Auditor General.

Financial accounts, records and annual report.

(2) The Minister shall table or cause it to be tabled, in the Legislative Council as soon as practicable after the report is delivered to him, a copy of the annual financial report of the Trust together with an annual report of the operations and activities of the Trust for that financial year.

(3) The Trust shall do all things necessary to ensure efficiency and economy of its operations and maintain accounts using generally accepted accounting principles, including standard internal and external audit procedures.

9. (1) The Director shall prepare the annual budget in consultation with the Board and in such form and manner as the Board may require taking into account the prior year's budget and achievements and programme goals for the coming year in the context of its strategic plan required under section 11, including performance indicators by which the Trust's achievements for the year are to be measured.

Annual budget.

(2) The Board shall forward to the Minister for approval an annual budget for the proposed work programme for the coming year in such format and timeframe as the Minister may direct.

10. (1) The parks and other protected areas established under this Act comprise a protected areas system and to guide the development and management of the system and specific areas within the system, the Trust shall prepare and periodically update, as needed, a protected areas system plan.

Protected Areas System Plan.

(2) The protected areas system plan prepared pursuant to subsection (1) shall, among other things, describe conservation goals and priorities of the

system, how individual areas contribute to these goals and priorities and the criteria for adding new protected areas, from time to time, to maintain and strengthen the system taking into account the following key elements

- (a) representativeness and adequacy for supporting and maintaining ecological processes, biological diversity, and important natural and cultural heritage features such as landform types, landscapes and historic sites;
- (b) integration with other related initiatives and protected areas systems at international, transboundary, regional and local levels;
- (c) compliance with obligations, commitments, or expected responsibilities under international and regional conventions, agreements, or programmes, including those related to designation of specially protected areas and wildlife on land or in the sea, conservation of migratory species, protection of wetlands for endangered waterfowl, conservation of biological diversity, protection of wildlife controlled in international trade, and preservation of world heritage sites; and
- (d) supporting environmental protection and sustainable economic and social development in the Territory.

Five-year
Strategic Plan.

11. (1) The Trust is to conduct its activities, as far as is practicable, in accordance with a five-year strategic plan.

(2) The Director shall, not later than six months after the commencement of this Act, prepare and deliver to the Board, a draft strategic plan with special emphasis on actions for the coming five year period and associated performance indicators to measure progress.

(3) The draft strategic plan shall include

- (a) conservation priorities for the period involved drawing upon the protected areas system plan prepared pursuant to section 10;
- (b) proposed actions to add to Schedule 2 to further these conservation priorities, including designation of new or expanded marine or terrestrial areas taking into account the assets and gaps in the existing protected areas system and associated criteria for adding new individual protected areas as laid out in the protected areas system plan;

Schedule 2

(c) other measures that are needed to further the objects of the Act; and

(d) financial implications and requirements of all actions.

(4) The Board may either endorse the draft strategic plan or return it to the Director for revision and resubmission and the plan shall be revised until endorsed by the Board.

(5) The strategic plan, once endorsed by the Board, shall be submitted to the Minister for approval.

(6) At least six months before the expiry of the five years to which a strategic plan relates, the Director shall prepare for the endorsement of the Board, a new draft strategic plan in the same manner as the original plan and the Director may prepare a new draft plan or revise the existing plan at more frequent intervals as needed.

12. (1) The Trust may acquire property by grant, gift, devise or bequest, whether on trust or otherwise and may agree to and carry out, the conditions of any such grant, gift, devise or bequest, but only if the carrying out of any such condition is not inconsistent with the functions of the Trust.

Acquisition of property by grant, gift, devise, or bequest.

(2) If the Trust has, by grant, gift, devise or bequest, acquired property subject to a condition to which the Trust has agreed under subsection (1), the Trust shall not sell, lease, exchange or dispose of any such property otherwise than in accordance with the condition.

(3) The Trust may receive gifts, devises, and bequests of money to be used for the conservation, management or restoration of resources of natural and cultural heritage under this Act so long as such gifts, devises and bequests of money are made for purposes consistent with this Act.

PART III ESTABLISHMENT OF PROTECTED AREAS

13. The parks and other protected areas established under this Act are hereby dedicated to the people of the Virgin Islands for their benefit, education, and use, subject to this Act, and they shall be maintained, conserved, restored, and used so as to leave them unimpaired for the benefit of future generations.

Parks dedicated to public.

Parks and other
protected areas
declared under
Act.

Schedule 2
Cap. 243
Cap 85
Cap 96

14. The areas of land or sea, or combination thereof, as specified in Schedule 2, are declared to be parks and other protected areas for purposes of this Act with the titles, classifications, and legal descriptions specified in that Schedule, and at the commencement of this Act any parks and other protected areas constituted under the National Parks Ordinance, the Marine Parks and Protected Areas Ordinance, and areas incorporated in this Act previously protected under the Wild Birds Protection Ordinance, shall continue and be construed as coming under this Act with the titles, classification and legal descriptions specified in Schedule 2.

Classification of
parks and other
protected areas.

15. For the purpose of classifying parks and other protected areas established, from time to time, under this Act, the following classifications shall apply with their associated conservation and management objectives:

- (a) an area classified as a Strict Nature Reserve or Wilderness Area which shall be an area of land or sea of high natural quality in an unmodified or slightly modified state possessing outstanding or representative ecosystems, features or species and large enough to ensure preservation of the area's natural integrity for present and future generations, to be managed in this state in perpetuity, and such an area shall,
 - (i) if classified as a Strict Nature Reserve, be for the conservation, management and preservation of habitats, ecosystems and wildlife species in as undisturbed a state as possible while maintaining biodiversity and established ecological processes, and to secure examples of the natural environment primarily for scientific study and research, environmental monitoring, and science education; or
 - (ii) if classified as a Wilderness Area, be primarily for the conservation management, protection and preservation in a natural wilderness condition, biological diversity and essential ecological processes, and to provide for carefully managed public access consistent with maintaining the wilderness qualities of the area for present and future generations;
- (b) an area classified as a National Park where it consists of land or Marine Park where it consists of the sea and sea bed, shall be a natural area of land or sea containing a representative sample of major natural regions, features, or scenery, or where wildlife, habitats, or surface features are of special significance and are not materially altered by

current human occupation or exploitation, to be maintained in perpetuity with the following conservation and management objectives:

- (i) to protect natural and scenic areas of national and international significance for spiritual, scientific, educational, recreational or tourism purposes,
- (ii) to protect, in as natural a state as possible, representative samples of major physiographic regions, biotic communities, genetic resources and species for ecological stability and diversity ,
- (iii) to manage visitor use for inspirational, scientific, educational, recreational or cultural purposes at a level which will maintain the area in a natural or near natural state ,
- (iv) to eliminate and thereafter prevent exploitation or occupation harmful to the purposes for which the area was declared , and
- (v) to take into account the needs of indigenous people, including subsistence resource use, in so far as that use does not adversely affect the conservation objectives of the area ,

and, where an area is materially altered, the management objectives shall, in addition, be to arrest and reverse existing adverse changes;

- (c) an area classified as a Natural Monument shall be a unique area of land or sea containing one or more natural or natural and associated cultural, feature of outstanding value because of its inherent rarity, representative or aesthetic qualities, which shall be managed in such a way as to protect or preserve in perpetuity its special feature or features and to provide opportunities for scientific research, education and public appreciation to the extent consistent with its conservation objectives;
- (d) an area classified as a Habitat or Species Management Area shall be an area of land or sea that serves an important role in the protection and survival of wildlife, where the protection of wildlife habitat is essential to the well-being of nationally or locally-important wild plants or to resident or migratory wild animals, and where specific human manipulation and active intervention are required to ensure

maintenance of such habitats or to meet the habitat requirements of specific species or both, and such areas may incorporate breeding and nesting areas, wetlands, coral reefs, estuaries, grasslands, forests or spawning areas including marine feeding beds;

- (e) an area classified as a Protected Landscape or Seascape which shall be an area of land or sea where the interaction of people and nature over time has produced a distinctive character with significant aesthetic, ecological or cultural heritage value and often with high biological diversity, and which managed in such a way as to maintain and support the harmonious interaction of people and nature by preserving and promoting
 - (i) the diversity of the landscape, habitat and associated species,
 - (ii) places of cultural heritage significance that are an integral part of the area's character,
 - (iii) lifestyles and economic activities including fishing when in harmony with the character of the area, and
 - (iv) opportunities for scientific research, education and public enjoyment compatible with the conservation objectives of the area;
- (f) an area classified as a Managed Resource Area which shall be an area of land or sea large enough to absorb sustainable resource uses without detriment to its long-term natural values, and shall be managed to ensure long-term protection and maintenance of biological diversity while providing a sustainable flow of natural products and services to meet community needs;
- (g) an area classified as an Urban Park which may be a relatively small area that may be significantly altered from its natural state, and managed primarily for aesthetic, educational, scientific or recreational purposes, including the preservation, display and propagation of wild plant collections in botanical gardens or wild animal collections in zoological parks;
- (h) an area classified as an Historic Site which shall be an area of national importance for its historic and cultural values and not otherwise associated with a natural site established under this Part, and managed primarily for the conservation

of the historic and cultural features of the site and any objects located therein, and where visitor use, educational activities and scientific research and monitoring may be authorised so long as compatible with preservation of the site's historic and cultural values.

16. Land or other property under a conservation agreement in force pursuant to Part VI may be included in or associated with a national park or other protected area established under this Act so long as the management objectives and terms of the agreement are compatible with the purposes of the park or other protected area.

Conservation agreements and protected areas.

17. (1) The Minister may in consultation with the Trust, by Order in the *Gazette*, vary Schedule 2 by the

Establishing new protected areas or modifying existing ones. Schedule 2

- (a) addition of an area as a new park or other protected area, or
- (b) modification of an existing protected area.

(2) The Minister shall before amending Schedule 2, issue a notice in the *Gazette* and a newspaper published and circulated in the Territory and the notice shall

- (a) provide sufficient information for the public to understand the reasons for and purposes of the proposed amendment, including
 - (i) for a new area, the proposed title, classification pursuant to section 15, the legal description, and how the proposed area fits within the protected areas system;
 - (ii) for an existing area, the proposed modification including any changes in title, classification, and boundaries, along with associated reasons;
- (b) specify an address or addresses at which copies of the proposal may be inspected;
- (c) invite interested persons to make written submissions to the Director about the proposal;
- (d) specify an address of the place to which submissions about the proposal may be forwarded and the date by which submissions must be made;

- (e) indicate whether public meetings will be held to receive additional verbal comments and where meetings are held, the verbal comments shall be recorded.

(3) The Trust shall, before submitting recommendations to the Minister on establishing new protected areas modifying existing areas or any other action involving an amendment to Schedule 2, solicit advice from a scientific committee established pursuant to section 18 and any relevant public authorities and take their comments into account along with any submissions and comments received pursuant to subsection (2).

(4) The Minister shall take into account any views from the Trust on the proposed amendment to Schedule 2 and, any submissions received from the public, public authorities or other sources.

(5) An Order made pursuant to subsection (1) shall be subject to a negative resolution of the Legislative Council.

Scientific
Committees and
Technical
Committee.

18.(1) The Board may, with the approval of the Minister, establish Scientific Committees to advise it and the Director on matters under this Act.

(2) Members of a Scientific Committee shall be selected for their skills and knowledge of matters concerning the specific purpose or purposes for which the Committee is established and, may be drawn from members of the Trust, the Conservation and Fisheries Department, the Agricultural Department, the Environmental Health Department, the Town and Country Planning Department and the broader scientific community including, but not limited to, the H. Laverty Stoutt Community College and other educational institutions, non-governmental organisations including regional and international organisations and private persons with scientific and technical expertise relevant to the Scientific Committee's purpose.

(3) The Chairman of the Board shall appoint a chairman of any Scientific Committee established under this section and each Committee may establish its own procedures for meeting and conducting its business.

(4) A member of the Scientific Committee shall be appointed on such terms and conditions as the Board may, with the approval of the Minister, determine and such member is eligible for reappointment.

(5) A member may resign from office by written notice addressed to the Minister through the Director.

(6) A member may be removed from office by the Minister

- (a) for mental or physical disability, incompetence, neglect of duty or conduct that impairs the performance of the member's duties;

- (b) if the member is an undischarged bankrupt or has compounded with his creditors;
- (c) if the member is absent without leave from two consecutive meetings of the Committee of which the member has had notice or;
- (d) for any other act or omission that in the opinion of the Minister
 - (i) makes it inappropriate for the member to continue as a member; or
 - (ii) may adversely affect the functioning of the Committee.

(7) The Scientific Committee is to record and maintain minutes of its meetings.

(8) A member is entitled to such remuneration and allowance in respect of the performance of the member's functions under this Ordinance as the Minister from time to time determines on the recommendation of the Minister for Finance.

(9) The Director shall arrange for the Scientific Committee to have, or to have the services or use of, staff or facilities to enable it to carry out its functions.

(10) The Trust may, as it deems necessary from time to time and with the approval of the Minister, establish a committee to be known as the Technical Advisory Committee to advise it and the Director on any matter on which the Trust or the Director may require advice.

(11) Without limiting the generality of subsection (10), the Trust or the Director may seek the advice of a Technical Advisory Committee on any matter involving the preparation of plans for

- (a) economic development within any park established under this Act;
- (b) the restoration of any building under a conservation agreement pursuant to Part VI;
- (c) archaeological exploration within a protected area;

(12) A member of a Technical Advisory Committee shall be appointed on such terms and conditions as the Trust with the approval of the Minister may determine and as may be specified in that member's instrument of appointment.

(13) The terms of reference for a Technical Advisory Committee shall be determined by the Board and communicated to each member.

Functions of
Scientific
Committees.

19. The functions and purposes of a Scientific Committee established under section 18 shall be specified in writing and may include the following:

- (a) to advise on and assist with preparation and maintenance of a protected areas system plan pursuant to section 10;
- (b) to advise on and assist, as appropriate, with preparation, implementation, and monitoring of management plans required under this Act, including integration of new scientific information relevant for such management;
- (c) to advise on areas of critical habitat identified under section 31;
- (d) to identify, monitor and advise on the status of endangered species in relation to habitat for those wildlife species in the national parks and other protected areas and measures needed to ensure their survival;
- (e) to identify, monitor and advise on the status of threatened species in relation to habitat for those wildlife species in national parks and other protected areas to ensure they do not become endangered, and to identify, monitor and advise on vulnerable species and measures to protect habitats of those species in order to ensure they do not become threatened or endangered;
- (f) periodically to review and make recommendations on amendments to Schedule 2, including the identification and inclusion of new areas or the modification of existing areas, and resources that may be important subjects for conservation agreements under this Act;
- (g) to advise and make recommendations to the Director on any other scientific or other matter relevant for attaining the objects of this Act or as may be referred to it by the Minister or the Director or that the Committee may consider on its own initiative.

Schedule 2

Map with Chief
Surveyor.

20. (1) The Director shall, in a timely fashion, deposit with the Chief Surveyor a copy of a map delineating national parks and other protected areas listed in Schedule 2, and shall inform the Chief Surveyor whenever there are amendments to Schedule 2 changing the configuration of the map to ensure that the map on file is always current, and such map shall be receivable in evidence

and shall be *prima facie* evidence of the boundaries of a park or other protected area to which it relates.

(2) The Director shall provide in a timely fashion a copy of any map deposited with the Chief Surveyor under subsection (1) to the Conservation and Fisheries Department and the Town and Country Planning Department for their records and use.

21. All lands, buildings, rights, and easements situated or pertaining to land or buildings situated within an area designated as a park or other protected area under this Act and which on the date of any Order made pursuant to section 17 were vested in the Crown shall remain so vested and shall not, without approval of the Trust, be assigned, sublet, leased, mortgaged or dealt with in any other manner whatsoever either by the Crown or by any person deriving title from the Crown.

Rights vested in Crown.

22. (1) Where a proposed park or other protected area under this Act includes any private land, building, or other private rights or interests that are to be acquired by the Government or the Trust, the owner of the property shall be advised of such proposed designation, and the acquisition of such rights or interests shall be governed by the Land Acquisition Ordinance.

Acquisition of rights.

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(2) Within three months of the service of the notice to the owner as provided for in subsection (1), the owner may appeal to the Executive Council against inclusion of his property in the proposed park or other protected area.

23. (1) If the Trust has by grant, gift, devise or bequest, pursuant to section 12 acquired land subject to the condition that the land be managed as a park or other protected area under this Act, the Trust may agree to, and carry out, those conditions so far as they are not inconsistent with the objects of this Act and the functions of the Trust.

Donated land for protected areas under this Act.

(2) So far as consistent with this Act and the conditions of the grant, gift, devise, or bequest accepted under subsection (1), the Minister may by Order published in the *Gazette*, designate the land acquired by the Trust as a new park or other protected area according to the appropriate classification as provided under section 15 and Schedule 2 shall be amended accordingly.

Schedule 2

(3) When the Trust accepts a grant, gift, devise, or bequest of land under subsection (1), the Trust shall manage the land in accordance with a management plan that meets the conditions of the grant, gift, devise, or bequest and, unless the conditions specify otherwise, the preparation, approval and periodic revision of the management plan shall be as provided under Part IV.

24. The Minister may, on the recommendation of the Trust, make regulations for giving effect to any international agreement

International protected areas.

- (a) with one or more other countries for including a park or other protected area established under this Act as a Transboundary Protected Area whose constituent parts are especially dedicated to the protection and maintenance of biological diversity and of natural and associated cultural or historic resources, and managed cooperatively through legal and other effective means; or
- (b) with an international organization for designation of one or more parks or other protected areas established under this Act as part of a Biosphere Reserve or a World Heritage Site.

PART IV PROTECTED AREAS MANAGEMENT

Management
Plan required.

Schedule 2

25. (1) The Director shall, in consultation with other public authorities especially those with conservation and planning responsibilities, not later than three years after the commencement of this Act, prepare a draft management plan for every park or other protected area listed in Schedule 2.

(2) If, at the commencement of this Act, there is an approved management plan for a park or other protected area listed in Schedule 2, the Director shall consider the plan and, after modifying the plan in such manner as he thinks fit, shall process the plan as if it were a new plan under this Act.

(3) The Director may prepare a single management plan for a combination of contiguous or related areas for which separate plans are required under this Act.

(4) For any protected area established subsequent to the commencement of this Act, the Director shall prepare a draft management plan no later than three years from its establishment.

Content of
Management
Plan.

26. (1) A management plan shall contain a written scheme of the operations which the Trust proposes to undertake inside the boundaries of the park or other protected area to which it applies so as to carry out and fulfill the area's purposes and objectives.

(2) In preparing a management plan required under this Act, the Director shall take into consideration the following matters:

- (a) the area's primary ecosystem characterization and associated conservation objectives, including how it meets the objectives of the protected areas system plan required under section 10;

- (b) relevant management principles for carrying out its objectives, and for reducing or eliminating threats to achieving these objectives;
- (c) conservation of biological diversity, maintenance and restoration of ecosystems, ecological processes, and populations of endangered, threatened, or vulnerable species and their habitats;
- (d) protection and restoration of buildings, structures and places of cultural heritage significance;
- (e) prohibition of any works adversely affecting the natural condition or cultural or historic features of the area for which it was declared;
- (f) provision of opportunities, so long as compatible with the conservation objectives of the area, for public understanding, enjoyment and appreciation of its natural and cultural values, including opportunities for sustainable use of the area;
- (g) encouragement and control of appropriate scientific research, scientific inventory and monitoring activities;
- (h) social and economic benefits to local communities;
- (i) land use and land development plans and land management practices adjacent to or in the region of the area;
- (j) the wider Caribbean and international context, including regional and international conventions and agreements to which the Territory is or is expecting to become a Party and associated regional and international policies and technical guidance on protected areas matters, and special considerations for migratory species, wetlands for endangered waterfowl, biodiversity conservation, wildlife protected in international trade, and world heritage sites.

(3) A management plan shall include the means by which the Trust proposes to achieve the plan's objectives and performance measures including any cooperative or co-management agreements for implementation of the plan with other public authorities, other organisations or persons and any special revenues anticipated from fees and other services to be provided.

(4) A management plan may divide land within the park or other protected area into zones reflecting different management needs, uses, and conservation objectives, and also may incorporate land under a conservation agreement made

pursuant to Part VI as a specific zone when such land is adjacent to or related to an established park or other protected area under this Act.

(5) A management plan shall contain, as applicable, provisions for addressing pre-existing tenure over any sites within the area and rights to use the site, including customary use by local communities, where consistent and compatible with the conservation objectives of the area.

Review and
comment on
draft plan.

27. (1) As soon as practicable after preparing a draft management plan pursuant to section 25, the Director shall

- (a) give notice of the preparation of the draft management plan to any public authority that the Director knows is likely to be affected by the plan; and
- (b) give public notice of the preparation of the draft management plan by publishing a notice in the *Gazette* and in a newspaper published and circulated in the Territory; and
- (c) submit it to the Scientific Committee for its advice.

(2) The notice shall

- (a) state that the draft management plan has been prepared;
- (b) specify an address or addresses at which copies of the plan may be inspected;
- (c) invite interested persons to make written submissions to the Director about the draft management plan;
- (d) specify an address of the place to which submissions about the draft management plan may be forwarded and the date by which submissions must be made; and
- (e) identify any public meetings to be held in the course of review of one or more of the draft management plans where additional comments will be received and recorded.

(3) Public meetings may be organized by the Director to receive comments on draft management plans being prepared pursuant to this Act and a record shall be kept of the comments received at such meetings.

(4) The Director shall consider all written submissions received by him and any advice received from the Scientific Committee.

(5) The Director may amend the draft management plan to take account of those submissions, comments, and advice.

28. (1) After considering the submissions and making amendments, if any, to the draft management plan, the Director shall

Director to refer draft plan to Board.

- (a) forward the draft management plan to the Board; and
- (b) provide the Board with a summary of any advice given by the Scientific Committee and of the submissions and comments received about the draft management plan along with his comments and a summary of amendments made to the draft management plan by the Director to take account of the submissions, comments and advice.

(2) The Board may

- (a) endorse the draft management plan without amendment or with any amendments that it considers appropriate, and forward the draft management plan to the Minister together with a summary of submissions received under section 27 and any additional comments from the Trust as desired for his approval; or
- (b) refer the draft management plan back to the Director for further consideration.

29. (1) The Executive Council may, with the advice of the Minister, approve a draft management plan for a protected area and such plan comes into effect when approved by the Executive Council.

Approval by Executive Council.

(2) As soon as practicable after the approval of a management plan, the Director shall

- (a) send copies to the Conservation and Fisheries Department, the Town and Country Planning Department and any other public authority likely to be affected by the plan;
- (b) give public notice of the approval of the plan in the *Gazette* and a newspaper published and circulated in the Territory; and
- (c) make a copy of the management plan available for public inspection during business hours and make copies or extracts of the management plan available to the public on request for a reasonable price fixed by the Minister in consultation with the Director.

(3) Notwithstanding anything in this or any other Act, where a management plan is approved under this Part, no operations shall be undertaken in relation to the lands to which the plan relates unless the operations are in accordance with that plan.

Periodic review
of management
plan.

30. (1) The Director shall keep each management plan under review and, if a date by which a plan is to be reviewed is stated in it, shall review the plan by that date.

(2) If a management plan does not state a date by which it is to be reviewed, the Director shall review and update the plan at least every five years according to considerations and procedures applicable to development of the original plan.

(3) Not less than six months before a management plan expires, the Director shall prepare a new plan to replace it and the management plan that has expired shall have effect until the new plan is approved.

Identifying
critical habitat.

31. (1) The Trust shall identify to the extent feasible any zones or sites inside a park or other protected area established under this Act that may contain habitat critical to the survival of an endangered species and such zones or sites shall be considered critical habitat for that species.

(2) The Trust through the Director shall seek the advice and consult with a scientific committee established pursuant to section 18 for this purpose before designating critical habitat under subsection (1) and, once designated, a map identifying such critical habitat and the associated endangered species shall be incorporated into a management plan along with any special protection measures required to ensure the integrity of those zones or sites.

(3) For purposes of this section, "endangered species" includes those species so identified by a scientific committee established under section 18 for this purpose, species considered endangered under the Endangered Animals and Plants Ordinance, species protected under the Wild Birds Protection Act and the Turtles Ordinance, species listed as endangered under international or regional conventions to which the Territory is a Party, and species of animals or plants that may be designated as endangered, from time to time, under any other Act.

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Cooperative and
co-management
agreements.

32. (1) The Trust with the approval of the Minister may make a cooperative agreement with other public authorities, non-governmental organisations, or other persons, whether local, regional, or international, for the purposes of management or co-management of specific tasks under this Act, including development or implementation of all or portions of a management plan.

(2) A cooperative agreement made under subsection (1) may be arranged on such terms as are agreed between the parties for the

- (a) use of the services of officers, employees, consultants or other persons connected with the public authority, non-governmental organization, or other person, whether local, regional or international, or the use of buildings, equipment or other property of the public authority or organization;
- (b) where the land or marine area is vested in or controlled by a public authority, other organization or other person, for the management of the area by the Trust as if it were part of a park or other protected area under this Act; or
- (c) where the land or marine area contains sites of cultural heritage significance, for the restoration, research, maintenance, interpretation and management of any such sites or the maintenance, restoration, research, handling, storage, interpretation, and display of objects on those sites, including historic shipwreck relics.

(3) A cooperative agreement shall specify the services and other arrangements agreed, any conditions or payments under the agreement and the period of time for which the agreement is to have effect.

33. (1) The Trust may set terms of access, use, and benefit sharing to any genetic resources found in a park or other protected area established under this Act, whether for use by a public authority, non-governmental organization, or the private sector including use in *ex-situ* conservation, and the terms may include the types of genetic resources to which access may apply, transfer of relevant technologies, reporting requirements and financial considerations.

Access to genetic resources.

(2) For the purposes of this section,

- (a) “genetic resources” means any material of plant, animal, microbial or other origin containing functional units of heredity, whether of actual or potential or unknown value;
- (b) “*ex-situ* conservation” means the conservation of components of biological diversity outside their natural habitats.

34. For purposes of fulfilling the Territory’s obligations under international law, the Trust shall cooperate, offer technical advice, monitor, and provide assessments on issues of biosafety and the development, use, handling, transport, or release of any living modified organism whenever such issues may arise from time to time in the Territory in order to ensure that such activities are undertaken in a manner that prevents risks to biological diversity and any components of biological diversity in a park or other protected area established under this Act.

Living modified organism.

PART V HISTORIC SHIPWRECKS

Designation of
historic
shipwrecks.

35. (1) The remains of all ships that have been situated in the territorial waters of the Virgin Islands for fifty years or more are historic shipwrecks for purposes of this Act.

(2) All shipwrecks declared historic shipwrecks under any enactment so long as not declared unprotected wrecks under that enactment shall at the commencement of this Act be considered historic shipwrecks under this Act.

(3) All articles that have been situated in the territorial waters of the Virgin Islands for fifty years or more and that are associated with ships are historic shipwreck relics for purposes of this Act.

(4) If any remains of a ship or articles have been removed from the territorial waters of the Virgin Islands at any time, subsections (1), (2) and (3) apply to those remains or articles after the 50th anniversary of the likely date that the remains or articles first came to rest on the sea-bed.

(5) Subsection (4) does not apply to any remains of a ship or articles that have been salvaged or recovered if the salvage or recovery was not contrary to any law in force at the time it occurred.

(6) After a determination that an item does not have natural or cultural heritage significance, the Minister may, by notice published in the *Gazette*, declare that

- (a) subsection (1) does not apply to the remains, or part of the remains, of a particular ship or class of ships; or
- (b) subsection (3) does not apply to the particular relic or class of relics.

Historic
shipwrecks and
relics protected.

36. (1) Every historic shipwreck or historic shipwreck relic in the territorial waters of the Virgin Islands shall vest in the Crown absolutely and shall be protected.

(2) For purposes of this Part, "territorial waters" extends from the mean high water mark on the landward side to the 200 nautical-mile exclusive fisheries zone on the seaward side.

Historic
shipwrecks as
national parks.

37. (1) If the Director is of the opinion that a historic shipwreck or historic shipwreck relic situated in territorial waters of the Virgin Islands is of natural or cultural heritage significance, he may recommend to the Minister that the site of the shipwreck or relic be designated as a national park or other protected area pursuant to Part III.

(2) Where a site of a historic shipwreck or historic relic is recommended for designation as a national park or other protected area under subsection (1), all provisions of the Act with respect to establishment, classification, and management of parks and protected areas shall apply.

(3) Where a site of a historic shipwreck or historic relic is under consideration for designation as a national park or other protected area under this Act, the Director shall work with the Receiver of Wrecks, the Conservation and Fisheries Department, and other relevant public authorities on interim protection measures to ensure preservation of the site through control of diving, research, or other activities while it is being established as a park or other protected area under this Act.

38. Where the Minister is of the opinion that disclosure of the location of a site of a historic shipwreck or historic relic that is or may be included in a national park or other protected area under this Act would not be in the best interest for protecting and preserving the site or relic for the time being, he may choose not to disclose the location to the public until provision can be made to ensure its interim protection while being established as a national park or other protected area under this Act.

Disclosing location of historic shipwrecks.

39. In any proceedings, a certificate from the Receiver of Wrecks declaring that a shipwreck or relic is or is not a historic shipwreck or historic relic, as the case may be, shall be receivable in evidence and shall be *prima facie* evidence of the fact.

Evidence of historic shipwrecks or relics.

40. Where the Receiver of Wrecks has declared that a shipwreck is not a historic shipwreck under this Act, but the Minister is of the opinion that the shipwreck has natural or cultural heritage significance, the Minister may instruct the Director to work with the Receiver of Wrecks, the Conservation and Fisheries Department, and other relevant public authorities with a view to designating all or a portion of the shipwreck for protection under this Act.

Other shipwrecks of potential value.

PART VI CONSERVATION AGREEMENTS

41. In this Part, the "owner" in relation to any real property, means

"Owner" defined.

- (a) the person in whom the fee simple is vested if the property is held in fee simple;
- (b) the lessee of the property if the property is held under a lease from the Crown;

- (c) a public authority (not being a Government Department) that owns or has the control and management of the land or other property; or
- (d) if the land or other property is under the control and management of a Government Department, the responsible Minister.

Parties to a conservation agreement.

42. (1) The Minister, or the Trust with the approval of the Minister, may enter into a conservation agreement with the owner of land or other property of natural or cultural heritage significance under this Act.

(2) The Trust may negotiate the making of a conservation agreement, whether or not the Trust is to be a party to the agreement and, where the Trust considers it appropriate it may, with the approval of the Minister, be a party to any such agreement.

(3) A conservation agreement shall not take effect under this section unless

- (a) all the owners of the land or other property are parties to the agreement or have consented in writing to the agreement;
- (b) where the land or a building is subject to a lease or other tenancy agreement, the lessee or tenant has consented in writing to the conservation agreement; and
- (c) where the land or a building is subject to a mortgage or covenant, the mortgagee or person entitled to the benefit of the mortgage or covenant has consented in writing to the agreement.

Voluntary nature of conservation agreement.

43. (1) A conservation agreement is a voluntary agreement entered into between the Minister, with the concurrence of the Trust, or jointly with the Trust, and an owner of land or other property of natural or cultural heritage significance under this Act for the purpose of conservation, maintenance, restoration or enhancement of all or a portion of the land or other property and such agreement may

- (a) grant rights and privileges to the Minister or the Trust, or both the Minister and the Trust, as the case may be, respecting the land or other property that is the subject of the agreement;
- (b) provide that the owner of the land or other property may forego certain specified development rights to the land or other property in perpetuity or for a specified period of time

in return for special consideration, including monetary consideration where appropriate;

- (c) grant rights and privileges to the owner in the form of technical assistance with fencing and interpretive materials, plant and animal surveys, stabilization and restoration of works on historic sites or with historic buildings or places, and other specialist advice or assistance;
- (d) impose obligations on the Minister or the Trust, or both the Minister and the Trust severally, and on the owner, and any subsequent owner depending on the terms of the agreement.

(2) A conservation agreement may exist for a fixed term or for an indefinite term and shall have effect until it is terminated by consent of all parties to the agreement.

44. (1) The terms of each individual conservation agreement shall be determined by the special features of the land or other property for which the agreement is made, the wishes of the owner, and the conservation interests of the Virgin Islands as determined by the Minister and Trust.

Content of
conservation
agreement.

(2) A conservation agreement may be entered into

- (a) in relation to areas containing indigenous wildlife, including those that may be endangered, threatened, or vulnerable species ;
- (b) in relation to areas containing important or critical habitat for endangered species and important habitat for other threatened or vulnerable species and for species protected under any international agreement including migratory species;
- (c) for the purposes of linking existing parks and protected areas through corridors of land or water for wildlife;
- (d) for the purposes of conserving ecologically sensitive land, including wetlands and restoring and maintaining ecosystem processes;
- (e) for the purpose of conserving biodiversity and the components of biodiversity;
- (f) in relation to Historic Sites under Part III, or other sites of natural or cultural heritage significance;

- (g) for the conservation and study of areas of natural, scientific, cultural, or historic interest;
- (h) for any other purpose prescribed by regulations.

(3) A conservation agreement may

- (a) identify measures where the owner voluntarily restricts certain types of use and development of the land, including access;
- (b) identify measures that require the carrying out of specified activities by either the owner or Minister or Trust (as the case may be);
- (c) specify the manner in which technical assistance is to be provided;
- (d) permit the owner to develop specific compatible public concessions, where consistent with the conservation purposes of the agreement,
- (e) provide for any other measures important for the conservation or enhancement of the area, including implementation of a plan or strategy of management for the area.

(4) A conservation agreement may provide for preparation by the Director in consultation with the owner, or by a third party mutually agreed by the Director and owner, of a management plan for the land or other property that is the subject of the agreement, and the considerations relative to preparing that plan shall be consistent with section 26 to the extent applicable.

(5) A conservation agreement may provide for cooperative or co-management arrangements for implementing the plan as provided in section 32 to the extent applicable.

Duration and
variation of
conservation
agreement.

45. (1) A conservation agreement shall have effect on the day or the happening of an event as specified in the agreement.

(2) An agreement may be varied by a subsequent agreement between the initial parties to it.

(3) An agreement shall have effect until it is terminated by consent of all parties to the agreement or in any such other manner or in such circumstances as may be set out in the agreement.

(4) Notwithstanding subsections (2) and (3), an agreement may be varied or terminated by the Minister, or by the Minister and the Trust, as the case may be, by Order published in the *Gazette*, without the consent of the owner if the Minister, on advice of the Trust, or the Minister and the Trust, are of the opinion that the area is no longer needed for, or is no longer capable of being used to achieve, any purpose for which the agreement was made.

(5) If an agreement is varied under subsection (4), the owner may, by written notice, terminate the agreement.

(6) The owner of land or other property subject to a conservation agreement is not entitled to any compensation as a result of any variation or termination of an agreement by the Minister under subsection (4).

46. A conservation agreement may be registered in the office of the Land Registry and once registered, it runs with the land against which it is registered according to the terms of the agreement.

Conservation agreement may run with land.

47. On being notified by the Minister or the Trust, as the case may be, that a conservation agreement has been entered into, or that any such agreement has been varied or terminated, the Office of the Land Registry shall

Registration on conservation agreement.

- (a) register the agreement, variation or termination in the Land Registry; and
- (b) if appropriate, make an entry in any other folio of the Register kept under another enactment or in any official record relating to Crown land.

48. (1) The Director shall keep a register of conservation agreements in force from time to time which shall be available for viewing by the public during normal business hours and copies or extracts shall be available on payment of a small fee fixed by the Minister in consultation with the Director.

Information about conservation agreements in force.

(2) The Director shall forward, in a timely fashion, a copy of a conservation agreement, once concluded, varied, or terminated, to the Minister responsible for administering the Physical Planning Act, 2004 and any other public authorities with responsibility or interest in the land, if any, under the agreement.

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PART VII

CONTROLLED ACTIVITIES

49. (1) A person shall not, within a park or other protected area established under Part III of this Act,

Prohibited activities.

- (a) enter any part of an area that has been closed to the public;
- (b) obstruct, pollute, or divert any ghut, river, coastal waters, or other body of water;
- (c) discharge or dispose of any sewage;
- (d) dispose of litter, garbage or other solid waste except in designated containers;
- (e) discharge toxic or hazardous substance, including but not limited to petroleum or substances made from petroleum, and household cleaners;
- (f) carry out any development activity, whether terrestrial or otherwise which may or is likely to adversely impact a park or protected area;
- (g) place, erect, move, destroy, deface or interfere with any fence, gate, boundary marker, or other marker placed or authorized by the Trust;
- (h) light any fire except within an approved area;
- (i) clear, burn or otherwise damage any tree, bush, plant or other vegetation;
- (j) land or fly an aircraft in prohibited space, whether land, air, or water or anchor or moor a vessel in such space;
- (k) introduce or bring in, carry or allow to stray any domesticated animal including cattle, horses, sheep, goats, cats or dogs;
- (l) mine, quarry, drill, or remove any minerals, stone, gravel, earth, beach sand, or other substances or prospect for such substances, whether in a land or marine area;
- (m) remove any living or dead coral or part thereof from any coastal areas for any reason other than *bona fide* research and with the permission of the Trust;

- (n) reside on, occupy or cultivate any land or plant or otherwise grow or harvest any crop whether on land, coast, or in the sea;
- (o) use or have in possession any prohibited weapon, including any firearm or spear-fishing gun and the burden of proof shall be on the person possessing such firearm or spear-fishing gun that he or she did not intend to use it inside the area;
- (p) remove any live animals or plants.

(2) A person who contravenes this section commits an offence and is liable on

- (a) summary convictions, to a fine not exceeding ten thousand dollars or to imprisonment for a term not exceeding one year or both;
- (b) conviction on indictment, to a fine not exceeding fifty thousand dollars or to imprisonment for a term not exceeding two years or both.

(3) Each day on which the offence continues shall constitute a separate offence.

(4) A person shall not be convicted of an offence under this section if the person proves that the action constituting the offence was done in pursuance of a duty imposed on the person by or under another enactment.

50. (1) Inside any park or other protected area established under this Act, no person shall, except in accordance with permission of the Trust and any regulations made under this Act

Activities where permission required.

- (a) drive or park a vehicle, land any air craft or anchor, moor, beach, or leave a vessel, boat, underwater craft or any other mechanical or non-mechanical conveyance;
- (b) camp or light a fire at the campsite;
- (c) dive or perform any similar recreational activity (except snorkelling);
- (d) undertake scientific research or field work at the student or professional level, whether for public, private or academic purposes;

- (e) construct, occupy or destroy any building or other structure whether on land or sea;
- (f) carry on any still photography or make any film or video recording for sale or commercial use;
- (g) operate a concession or other business or solicit, sell or attempt to sell any goods or services;
- (h) engage in any charitable or fundraising event or any solicitation;
- (i) place, erect, move, or interfere with any notice or signage;
- (j) undertake a special event other than in an area designated or authorised for such use.

(2) A person who contravenes this section commits an offence and is liable on

- (a) summary conviction, to a fine not exceeding five thousand dollars or to imprisonment for a term not exceeding six months or both;
- (b) conviction on indictment, to a fine not exceeding ten thousand dollars or to imprisonment for a term not exceeding one year or both.

(3) Each day on which the offence continues shall constitute a separate offence.

(4) No permission shall be given under this section except where the activity to be authorised is consistent with the management plan for the area and subject to such terms and conditions as may be required.

Taking of
wildlife
prohibited.

51. (1) All wildlife within a park or other protected area established under this Act are strictly protected and a person shall not, within such park or protected area

- (a) take any wildlife or perform any act or engage in any activity that may destroy, endanger, or disturb wildlife;
- (b) introduce any exotic or alien invasive species;

- (c) damage any wildlife habitat, including any coral reef or seagrass beds;
- (d) disturb, damage or remove the nest or contents of the nest of any indigenous, endangered or threatened species, including the nest of any seabird,

except in accordance with a written permit issued by the Trust for scientific or research purposes; or when fishing pursuant to a valid fishing licence or permit.

(2) Any person who takes wildlife in contravention of this section commits an offence and is liable

- (a) when the taking involves an indigenous wildlife or part of any indigenous wildlife that is not considered endangered or threatened under this Act,
 - (i) on summary conviction to a fine not exceeding five thousand dollars or to imprisonment for a term not exceeding six months or both; or
 - (ii) on conviction on indictment to a fine not exceeding twenty five thousand dollars or to imprisonment for a term not exceeding one year or both.
- (b) when the taking involves any wildlife or part of any wildlife of a species considered endangered or threatened under this Act,
 - (i) on summary conviction to a fine not exceeding ten thousand dollars or to imprisonment for a term not exceeding one year or both;
 - (ii) on conviction on indictment to a fine not exceeding fifty thousand dollars or to imprisonment for a term not exceeding two years or both.
- (c) when the taking under subsection (1)(b) is for the purpose of transporting and trade outside the Territory,
 - (i) on summary conviction to a fine not exceeding fifty thousand dollars or to imprisonment for a term not exceeding two years or both; or
 - (ii) on conviction on indictment to a fine not exceeding two hundred and fifty thousand dollars or to

imprisonment for a term not exceeding ten years or both.

(3) Each specimen of an indigenous species or endangered or threatened species of plant or animal may be considered a separate offence.

Taking of
cultural or
historic property
prohibited.

52. (1) All objects of cultural heritage significance located inside a park or other protected area established under this Act, including historic sites, historic shipwrecks or historic shipwreck relics, are strictly protected and no taking shall be allowed except

- (a) in accordance with a written permit issued by the Trust for scientific or research purposes; or
- (b) when authorised by written permit from the Trust for preservation, restoration, maintenance, storage, display, or interpretation.

(2) Any person who knowingly takes an object of cultural heritage significance in contravention of this section commits an offence and is liable

- (a) on summary conviction to a fine not exceeding five thousand dollars or to imprisonment for a term not exceeding six months or both; or
- (b) on conviction on indictment to a fine not exceeding twenty five thousand dollars or to imprisonment for a term not exceeding one year or both.

(3) Any person who knowingly has in his or her possession an object of cultural heritage significance for the purpose of sale or transport outside the Territory in contravention of this section commits an offence and is liable

- (a) on summary conviction to a fine not exceeding fifty thousand dollars, or to imprisonment for a term not exceeding two years or both; or
- (b) on conviction on indictment to a fine not exceeding two hundred and fifty thousand dollars or to imprisonment for a term not exceeding ten years or both.

(4) Each object of cultural heritage significance shall be considered a separate offence.

Damage to
cultural or
historic property
prohibited.

53. (1) A person shall not remove or demolish, damage, or excavate any part or object of a Historic Site declared under Part III or of a historic shipwreck or historic shipwreck relic so designated under Part V except in accordance with

written permission from the Trust or as may be authorised by other relevant enactment in force.

(2) Any person who contravenes this section commits an offence and is liable

- (a) on summary conviction to a fine not exceeding ten thousand dollars, or to imprisonment for a term not exceeding one year or both;
- (b) on conviction on indictment to a fine not exceeding fifty thousand dollars, or to imprisonment for a term not exceeding two years or both.

54. (1) A person who finds, in a fixed position in waters of the Territory, the remains of a ship or of a part of a ship or an article associated with a ship, shall, as soon as practicable, give to the Director a notice setting out a description of the remains or of the article and a description of the place where the remains are, or the article is, situated, being a description of that place sufficient to enable the remains or article to be located.

Requirement to notify Director of shipwreck remains.

(2) Any person who contravenes this section commits an offence and is liable

- (a) if the offender is a natural person, to a fine not exceeding five thousand dollars or to imprisonment for a term not exceeding six months or both; or
- (b) if the offender is a corporation, to a fine not exceeding fifty thousand dollars or to imprisonment for a term not exceeding two years or both .

(3) It is a defence to prosecution for an offence under this section if the person proves, or shows reasonable grounds for believing, that the notice was given to the Director by another person before it was practicable for the first-mentioned person to give such notice.

55. (1) A person shall not, without the consent of the Minister

Offence to trade historic items without consent.

- (a) knowingly buy, sell, or transport an object from a historic site or a historic shipwreck relic; or
- (b) at any time knowingly have in his or her possession such object or relic for purposes of sale anywhere or for transport outside the Territory.

(2) Any person who contravenes this section commits an offence and is liable

- (a) if the offender is a natural person, to a fine not exceeding five thousand dollars or to imprisonment for a term not exceeding six months or both; or
- (b) if the offender is a corporation, to a fine not exceeding fifty thousand dollars or to imprisonment for a term not exceeding two years or both .

PART VIII ENFORCEMENT AND LEGAL PROCEEDINGS

Authorised
Officers

56. (1) For purposes of this Act, “authorised officer” means

- (a) a National Parks Trust Warden, police officer or customs officer; and
- (b) such other persons as may be appointed under subsection (2), including Planning Officers, and authorised officers of the Conservation and Fisheries Department.

(2) Pursuant to subsection (1)(b), the Minister may, by instrument in writing, appoint persons to serve as authorised officers for purposes of this Act and each instrument of appointment shall specify the powers of enforcement in relation to that appointment.

(3) In making appointments under subsection (2), the Minister shall be satisfied that the persons have completed successfully and fully all the proper training necessary for carrying out the enforcement powers identified in the instrument of appointment.

Powers of
authorised
officers.

57. Where an authorised officer has reasonable grounds for believing a person has committed an offence under this Act, the authorised officer may

- (a) stop, detain, and search the person or board and search any vehicle, vessel, boat, underwater craft, land craft, air craft or other mechanical or non-mechanical conveyance (in this section referred to as “conveyance”) connected with the person which appears to have been used in the commission of the offence;
- (b) enter and search any land, building, premises, or the possessions of such person, except that no dwelling house shall be entered or searched without a warrant;
- (c) seize any

- (i) conveyance referred to in subsection (1)(a) along with any article or substance thereon;
- (ii) weapon, equipment, or device of any kind which appears to have been used in the commission of the offence;
- (d) request the name, address and other identifying information of the person;
- (e) if it appears to him to be necessary to arrest the person immediately in order to ensure that the purposes of this Act are not be defeated, arrest such person without a warrant, and the provisions of the Magistrate's Code of Procedure Ordinance shall apply in every such case. Cap. 44

(2) Where an authorised officer has stopped a conveyance as referred to in subsection (1), the driver of the conveyance shall, upon request, give in writing to the authorised officer

- (a) his name and address, including as applicable a local address and home address where different;
- (b) the registration of the conveyance;
- (c) any papers authorizing the person to drive the conveyance, as applicable; and
- (d) if he is not the owner of the conveyance, the name and address of the registered owner and the company with which it is insured.

(3) A driver who fails to comply with the provisions of this section commits an offence and is liable on summary conviction to a fine not exceeding five thousand dollars or to imprisonment for a term not exceeding six months or both.

58. (1) Where in a park or other protected area under this Act, an accident occurs due to the use of a vehicle, vessel, boat, underwater craft, land craft, air craft or other mechanical or non-mechanical conveyance (in this section referred to as "conveyance") and, where any damage or injury is caused to a person, wildlife, or property, the driver of such conveyance shall

Duty to stop in case of accident.

- (a) immediately stop the conveyance;
- (b) upon request, give in writing to an authorised officer or any other person having reasonable grounds for so requesting, including any witness,

- (i) his or her name and address, including as applicable a local address and home address where different;
 - (ii) the registration marks of the conveyance;
 - (iii) any papers authorizing the person to drive the conveyance, as applicable; and
 - (iv) if he or she is not the owner of the conveyance, the name and address of the registered owner and the company with which it is insured.
- (c) in case of such an accident where an authorised officer is not available for any reason, report the accident at the nearest police station as soon as reasonably practicable and in any case within twenty-four hours of the occurrence.

(2) A driver who fails to comply with the provisions of this section commits an offence and is liable on summary conviction to a fine not exceeding five thousand dollars or to imprisonment for a term not exceeding six months or both.

Authorised officer to carry identification.

59. (1) Any authorised officer, when acting in the normal course of his duties under this Act, shall carry proper identification verifying that he is an authorised officer under this Act in relation to the duties being performed and to the extent feasible shall wear a uniform.

(2) Notwithstanding subsection (1), no suit or prosecution shall lie against any authorised officer for any activity that is done or purported to be done in good faith by him under this Act.

Burden of proof and other presumptions.

60. (1) When a person is accused of possessing any thing or of being in any place where such action requires a written permit, such possession or action shall be prima facie evidence against the accused that he possessed the thing or was located in that place in contravention of this Act and the burden of proof shall be on the accused to prove the contrary.

(2) If, in the vicinity of a park or other protected area established under this Act, a person

- (a) is found in possession of any wildlife whether dead or alive, or any part of such wildlife, or any egg, nest, historic shipwreck relic, or stone, mineral, or other substance, object, or thing which is prohibited from being taken inside the park or protected area, and

- (b) fails or refuses to give a satisfactory account of the manner in which he became possessed of the same when so requested by an authorised officer,

this failure or refusal shall, unless the contrary is proved, be evidence that he has removed it from the park or protected area.

61. Nothing in this Act shall prevent any officer of the Trust or other authorised officer, when acting in the performance of his duties under this Act at any time of the day or night, from undertaking any activity within a park or other protected area established under this Act which may be necessary as part of the proper management and protection of the area.

Officers
protected.

62. Any person who

Obstruction etc.
of authorised
officer.

- (a) resists, assaults, or obstructs or in any way interferes with an authorised officer in the exercise of any power conferred on such officer under this Act,
- (b) makes any statement which to his knowledge is false or incorrect,
- (c) aids or abets in the commission of an offence against this Act,

commits an offence and is liable, on summary conviction, to a fine not exceeding five thousand dollars, or to imprisonment for a term not exceeding six months, or both.

63. (1) The Minister may make regulations giving authority to an authorised officer to serve on a person who commits an offence in a park or other protected area under this Act a notice offering the person an opportunity through payment of a fixed penalty to discharge any liability that would arise out of a conviction by court for that offence, and the person upon payment of the fixed penalty in accordance with such terms as may be prescribed shall be exempt from prosecution for that offence and such payment shall have the same effect as a court judgment.

Fixed penalties.

(2) The notice under subsection (1) for payment of a fixed penalty shall be in a standardized form as prescribed by regulations and shall include a specification of the offence, the fixed penalty that applies and the place, manner and time within which the penalty must be paid to avoid further court action.

(3) Regulations shall specify the offences to which this section applies and the amount of fixed penalty payable for each such offence and such offences may relate to

- (a) entry into and behaviour inside a park or other protected area;
- (b) littering;
- (c) use of vehicles, vessels or other water craft, aircraft, or any other conveyance whether mechanical or non-mechanical;
- (d) camping other than at an approved site and manner;
- (e) mooring, anchoring, snorkelling or swimming in prohibited areas;
- (f) animals in the park or other protected area;
- (g) fishing.

(4) No amount of fixed penalty prescribed under this section for an offence shall exceed the maximum amount of penalty which could be imposed for the offence by the court.

(5) Any person who has been served notice under this section and paid three fixed penalties for an offence in one calendar year shall be required to appear before the court for subsequent offences under this Act.

PART IX ENVIRONMENTAL ASSESSMENT

Application of
this Part.
No. of 2004

64. (1) This Part shall apply without prejudice to any provisions relating to environmental assessment required under the Physical Planning Act and any other enactment for the time being in force related to development planning and control.

(2) In this Part,

- (a) “determining authority” means the Planning Authority, the Minister or public authority as the case may be, whose approval is required in order to enable a proposed development project to be carried out or the Minister or public authority on whose behalf the proposed development project is to be carried out;
- (b) “proponent” in relation to an activity means the person proposing to carry out a development project outside a park or other protected area established under this Act and includes any Ministry or public authority proposing to carry out the activity.

65. The Trust may provide technical advice and other assistance to the Planning Authority or any other determining authority in order to help identify and, as appropriate, suggest modifications to mitigate or avoid potential detrimental effects of a proposed development project on a park or other protected area established pursuant to this Act.	Provision of technical advice.
66. (1) For the purpose of attaining the objects of this Act, a determining authority when considering an application for approval of a proposed project, whether private or public, shall examine and take into account to the fullest extent possible environmental impacts of the proposed project.	Taking environment into account.
(2) Without limiting subsection (1), a determining authority shall consider the effect of the proposed project on (a) any parks or other protected areas established under this Act in the locality or region in which the proposed activity is intended to be carried out; (b) any conservation agreement entered into under this Act and applying to the whole or part of the land to which the proposed project relates, and any management plan prepared pursuant to that agreement; (c) critical habitat of endangered wildlife species or habitat of threatened wildlife species or other specially protected wildlife species; (d) any places or objects of cultural heritage significance in a park or other protected area under this Act; (e) other issues as may be required by any guidelines or regulations issued by the Trust or determining authority.	
67. (1) Where any proposed project outside a park or other protected area established under this Act may have significant environmental impacts on the park or other protected area, the determining authority shall require from the proponent as part of the application and approval process an environmental impact assessment in such form and manner as may be prescribed and shall examine and give the assessment material consideration as part of its decision-making process.	Environmental impact assessment required.
(2) A proposed project under subsection (1) that involves issues of biosafety and, in particular, the development, use, handling, transport, or release of living modified organisms shall require an environmental impact assessment that, among other things, examines potential risks of the proposed project to biological diversity or the components of biological diversity inside a park or other protected area established under this Act.	

(3) The determining authority shall request that the proponent prepare and deliver the environmental impact assessment of the proposed project

- (a) as early as is practicable in the planning stages of the project and before irrevocable decisions are made; and
- (b) as a separate document that can be circulated and made available for review by the Trust and other public authorities.

(4) In giving direction to the project proponent on the scope and depth of coverage of an environmental impact assessment, the determining authority shall consult with and receive guidance from the Trust.

(5) In giving material consideration to the environmental impact assessment received from the project proponent, the determining authority shall request its review by and receive guidance from the Trust.

Factors for
environmental
impact
assessment.

68. (1) Any environmental impact assessment required for a proposed project under this Part shall include

- (a) the best available information describing the project and the potential environmental effects on any parks or other protected areas with special attention to impacts on biological diversity, critical habitats for endangered species, threatened species and other protected species including migratory species and their habitats, ecologically sensitive lands including wetlands, and sites of cultural heritage significance;
- (b) the best available information on potential environmental effects of malfunctions or accidents that may occur in connection with the project;
- (c) any cumulative environmental effects over the near or long-term that are likely to result in combination with other development projects or activities that have been or will be carried out, and the significance of these effects;
- (d) measures that are technically and economically feasible to mitigate any significant adverse environmental effects of the development project on a park or protected area; and
- (e) any other matter relevant for informed decision-making by the determining authority in considering the proposed project in the context of the purposes of this Act, including the need for the project and alternatives to the project.

69. In addition to any proposed activities inside a park or other protected area for which an environmental impact assessment is required under the Physical Planning Act, the Director, on behalf of the Trust, shall prepare or require a project applicant to prepare an environmental impact assessment for any proposed project or activity inside a park or other protected area established under this Act when such proposed project or activity has one or more of the following features

Trust to prepare environmental impact assessments.

- (a) invasive species control;
- (b) species introduction; or
- (c) any alterations of the landscape, sea or coastal areas, including beach renourishment.

70. In order to protect the natural environment, biological diversity, and other amenities of the parks and other protected areas established under this Act, the precautionary approach shall be applied in any decision-making under this Part concerning approval of development applications and the lack of scientific certainty and consensus on potential environmental impacts shall not be used as a reason to postpone or avoid imposition of mitigation or other measures to prevent environmental degradation.

Precautionary principle to apply.

71. Before determining whether to grant approval of an application for a development project, where the proposed project requires an environmental impact assessment under section 67, and where the determining authority is satisfied that the proposed project is likely to have significant adverse environmental impacts on a park or other protected area established under this Act but that mitigation, restoration or other measures will, in its opinion, eliminate or reduce the detrimental effect, it shall impose such mitigation, restoration or other measures as a condition of granting permission to go forward with the development project in whole or in part.

Mitigation measures required.

PART X MISCELLANEOUS

72. A person shall not, by an act or an omission, do anything that causes damage to any critical habitat identified pursuant to section 31 and any person who causes such damage is liable for the expenses reasonably incurred by the Virgin Islands in taking measures to restore the damaged habitat, and those expenses may be recovered from that person, with costs in proceedings brought in the name of the Government and, in addition, the person shall be liable

Damage to critical habitat.

- (a) on summary conviction to a fine not exceeding ten thousand dollars, or imprisonment for a period not exceeding one year, or both, or

- (b) on conviction on indictment to a fine not exceeding one hundred thousand dollars, or imprisonment for a period not exceeding two years, or both.

Pollution clean-up.

73. (1) Where a substance that is capable of degrading the natural environment, injuring wildlife, or cultural heritage resources or endangering human health is accidentally discharged, spilled or otherwise deposited in a park or other protected area established under this Act, any person who has charge, management or control of the substance shall take reasonable measures to prevent any degradation of the natural environment and any danger to the wildlife or cultural resources or to persons that may result from the discharge or deposit.

(2) If the Director is of the opinion that a person is not taking the measures required under subsection (1) to mitigate damage, the Director may direct the person to take those measures and, if the person fails to do so, the Minister may direct those measures to be taken on behalf of the Government.

(3) A person who fails to comply with a direction given by the Director under subsection (2) is liable for the expenses reasonably incurred by the Virgin Islands in taking the measures directed, and those expenses may be recovered from that person, with costs, in proceedings brought in the name of the Government.

(4) In addition to liability for clean-up costs under subsection (3), any person who willingly fails to comply with the direction given by the Director under subsection (2) commits an offence and is liable for each day the offence continues

- (a) if the offender is an individual,
 - (i) on summary conviction to a fine not exceeding ten thousand dollars or imprisonment for a term not exceeding one year or both, or
 - (ii) on conviction on indictment to a fine not exceeding fifty thousand dollars or imprisonment for a term not exceeding two years or both.
- (b) If the offender is a corporation or other legal person,
 - (i) on summary conviction to a fine not exceeding fifty thousand dollars, or to imprisonment for a term not exceeding two years or both; or
 - (ii) on conviction on indictment to a fine not exceeding two hundred and fifty thousand dollars or to imprisonment for a term not exceeding five years or to both.

74. Where a person is convicted of an offence under this Act that involves significant deterioration or destruction of natural resources, in addition to imposing liability for a fine, or imprisonment, or both, the court may order payment of such sums of money for restoration, rehabilitation or clean up associated with the deterioration or destruction of those natural resources or such term of community service toward restoration, rehabilitation, or clean up of the area or an equivalent area or both, as the court may determine appropriate, taking into account any recommendations of the Trust and the Minister. Restoration costs recoverable.
75. Where no other penalty is prescribed, regulations may provide in respect of an offence for the imposition of a fine not exceeding ten thousand dollars, or imprisonment for a term not exceeding for one year or both. General penalty.
76. Where any person is convicted of an offence under this Act, in addition to imposing liability for a fine, or imprisonment, or both, the court Confiscation.
- (a) shall confiscate any natural or cultural object that was the subject of the offence, or any proceeds of sale of such object;
 - (b) shall confiscate any weapon, equipment, tools, gear, or device used in the commission of the offence for a period of not less than six months;
 - (c) shall order the cancellation of any license or permit issued to such person under this Act and a new application for re-issuance of such permit shall not be considered for a period of five years;
 - (d) may order the confiscation of any vehicle, vessel, boat, craft or means of conveyance used in the commission of such offence.
77. Where a person is convicted of an offence under this Act a second or subsequent offence within five years of the first offence, the amount of the fine for the subsequent offence may be double the amount prescribed for the first offence and, in addition the person Subsequent offences.
- (a) shall have any weapon or device used in the commission of the offence permanently confiscated; and
 - (b) be ineligible for permits under this Act for a period of up to five years.

Fines
cumulative.

78. A fine imposed for an offence involving more than one animal, plant or object may be calculated in respect of each one as though it had been the subject of a separate charge and the fine then imposed is the total of that calculation.

Continuing
offences.

79. If a contravention of this Act is committed or continued on more than one day, it constitutes a separate offence for each day on which it is committed or continued.

Special remedies.

80. In addition to any other remedy provided by this Act or at law or equity, the Attorney General may institute a civil action in the Magistrate's Court for an injunction or other appropriate relief, including revocation of a permit issued under this Act, or an order to prevent any person from violating the provisions of this Act.

Regulations.

81. (1) The Minister may make regulations to further the objects and purposes of this Act.

(2) Without prejudice to the generality of subsection (1), such regulations may prescribe

- (a) the conduct of persons entering a park or other protected area;
- (b) the fees and licensing conditions for any trade, business concessions, or any other commercial operation or service operating inside a park or other protected area;
- (c) the fees for entry into or special uses of parks or protected areas established under the Act, or special services provided by the Trust including provision of documents to the public;
- (d) any special requirements for marine parks and protected areas;
- (e) the manner of carrying out any scientific research, including research in marine archaeology, in a protected area;
- (f) access to and benefit-sharing associated with use and development of genetic resources found in a park or protected area;
- (g) considerations on use of living modified organisms to prevent risk to biological diversity inside a park or other protected area established under the Act;

- (h) prohibition, monitoring, and emergency measures to control or eradicate alien species or their use or release in or near a protected area;
- (i) protection and conservation of historic shipwrecks, historic shipwreck relics, and historic sites;
- (j) measures to ensure public health and safety in a protected area and in the immediate surrounding areas, as appropriate;
- (k) parking and refreshment facilities for a park or other protected area;
- (l) fixed penalties for offences under the regulations;
- (m) training programmes for authorised officers referred to section 56.

(3) The Trust shall have printed copies of this Act and all regulations in the office of the Trust and shall make available copies to members of the public during normal business hours at a reasonable price.

82. (1) The National Parks Ordinance and the Marine Parks and Protected Areas Act are repealed.

Repeals.
Cap. 243
Cap. 85

(2) Notwithstanding subsection (1) any regulations made under the repealed Acts shall be read as if made under this Act unless and until they are replaced by new regulations under this Act.

83. Nothing in this Act affects the continued operation after the commencement of this Act of any saving or transitional provisions contained in an enactment repealed by this Act insofar as it was operating immediately before the commencement of this Act and not inconsistent with this Act.

Savings.

84. Upon the commencement of this Act, the Board constituted under section 3 of the National Parks Trust Ordinance, shall continue as if constituted under this Act until such time as a new Board is constituted under this Act.

Transitional.
Cap. 243

SCHEDULE 1

[Section 5]

BOARD MEMBERSHIP AND PROCEDURES

1. In this Schedule

Interpretation.

“Chairman” means the Chairman of the Board;

“member” means any member of the Board.

Membership

2. (1) The Minister shall appoint members of the Board for a period specified in the instrument of appointment, which shall not exceed three years.

(2) Notwithstanding subparagraph (1), a member of the Board shall be eligible for reappointment.

(3) The Board shall, in addition to the Director, consist of not more than ten members appointed from members of the public, any one or more of whom may represent a non-governmental organisation, as follows:

- (a) one representative each from Tortola, Virgin Gorda, Anegada, and Jost Van Dyke;
- (b) three representatives from the business community with interests in recreational or tourism activity in connection with the Territory's parks and protected areas, including but not limited to the marine, hotel, restaurant, taxi, travel, fishing, and dive industries;
- (c) three persons with knowledge or experience in one or more of the fields of biodiversity conservation; biology with special attention to indigenous plants and animals; coastal and marine ecology; cultural heritage; marine archaeology; architecture; or historic preservation.

(4) The Minister shall appoint

- (a) a Chairman of the Board from persons appointed under subparagraph (3); and
- (b) a suitable person to serve as Secretary to the Board on such terms and conditions as the Minister may determine.

(5) The Minister, in making appointments of members pursuant to subparagraph 3, shall be satisfied that the person

- (a) is of a stature in the community to bring credit to the Trust; and
- (b) has capacity to do one or more of the following:

- (i) increase public knowledge, understanding, and appreciation of the importance of parks and other protected areas as provided under this Act;
- (ii) attract financial support for the Trust and ensure sound financial management;
- (iii) provide sound advice, leadership and direction to the Board in fulfilling the objects and purposes of this Act.

(6) Any member, including the Chairman of the Board, may resign his office by written notice to the Minister.

(7) The Board may designate from time to time one of its members to serve as Vice-Chairman for such general or specific functions and lengths of time as the Board may specify and the Board may revoke any such appointment or the designated person may resign by written notice to the Board.

3. In appointing members of the Board under paragraph 2(1), the Minister shall specify the periods of appointment in such a way that the periods of appointment of not more than one third of the members shall expire every two years. Staggering of appointments.

4. (1) The office of a member becomes vacant if the member Vacancy in office of member.
- (a) dies;
 - (b) completes a term of office and is not reappointed;
 - (c) is absent from fifty percent of the regular meetings of the Board in any one calendar year of which reasonable notice has been given to the member, except on leave granted by the Board or unless the member is excused by the Board for having been absent from those meetings;
 - (d) resigns the office by instrument in writing to the Minister;
 - (e) becomes mentally incapacitated;
 - (f) is convicted of a criminal offence;
 - (g) becomes bankrupt or compounds with his creditors; or

-

(h) is removed from office by the Minister under subparagraph (2).

(2) The Minister may at any time remove a member from office if the Minister is satisfied that the member is no longer suitable to serve as member of the Board or at the request of the Board where a member has been absent from fifty percent or more of the regular meetings of the Board of which the member has had notice, without leave of the Board.

(3) Where a member is removed from office under subparagraph (1) (f), (g) or (h), he is not eligible for reappointment.

(4) The Minister may terminate the appointment of all members of the Board if the Minister is of the opinion that the performance of the Board has been unsatisfactory for a significant period of time.

(5) The performance of the functions of the Board shall not be affected by reason of vacancy in the membership of the Board.

Remuneration. 5. Members of the Board, other than the Director, shall be paid such remuneration as the Minister may from time to time determine.

Personal liability. 6. A matter or thing done or omitted to be done by the Board, a member of the Board or a person acting under the direction of the Board does not, if the matter or thing was done or omitted to be done in good faith, subject the member or person so acting personally to any action, liability, claim or demand.

Procedures

General procedure. 7. Subject to this Act, the Board shall govern its own procedures for calling meetings and for the conduct of business at those meetings.

Quorum. 8. The quorum for a meeting of the Board is six members of whom one shall be the Chairman or the Vice Chairman when acting in the capacity of the Chairman.

Presiding member. 9. The Chairman is to preside at meetings of the Board, and in the absence of the Chairman, the Vice Chairman shall preside.

Voting 10. (1) Each member has one vote and the Chairman, or in his absence the Vice Chairman, shall have a casting vote in the event of an equality of votes.

(2) A decision supported by a majority of the votes cast at a meeting of the Board at which a quorum is present is a decision of the Board.

- 11.** (1) The Board shall hold ordinary meetings of its members at such dates, times, and places as designated by the Chairman and these meetings shall be scheduled at least once every quarter. Ordinary meetings.
- (2) Notice of an ordinary meeting shall be made to the Board members at least seven days prior to the meeting.
- 12.** (1) Special meetings may be called by the Chairman at the request of at least four members of the Board. Special meetings.
- (2) Notice of any special meeting, stating the purpose and particulars of the meeting, shall be provided at least three days prior to the meeting, and no business shall be transacted at a special meeting other than the business of which notice has been given.
- (3) A quorum, as specified under paragraph 8, is required to conduct business at any special meeting.
- 13.** The Board shall Minutes of meetings.
- (a) cause minutes to be kept of proceedings and decisions of each meeting of the Board, whether ordinary or special; and
- (b) give a copy of those minutes to the Minister as soon as practicable after each meeting.
- 14.** (1) A Board member who has an interest whether financial or material, in a matter being considered by the Board shall, as soon as possible after the relevant facts have come to his knowledge, disclose the nature of the interest. Disclosure of interests.
- (2) A disclosure shall be recorded in the minutes of the meeting and the Board member shall not, unless the Board otherwise determines
- (a) be present during any deliberations by the Board on that matter; or
- (b) take part in any decision of the Board relating to the matter.
- 15.** The Trust is to maintain a common seal of the Trust to be kept by the Secretary of the Board. Seal of Trust.

SCHEDULE 2

[Sections 14,17, 19 and 25]

Part A

MARINE PARKS

Wreck of the Rhone

That part or portion of Salt Island, all of the Island of Dead Chest otherwise defined as Block 3330A parcel 1 together with certain adjoining portions of the Sea and the sea bed below which said area is more particularly described and delineated as follows:

Commencing at the most south westerly point 2030880 metres north and 334440 metres east of the Projection Origin thence easterly to a point 2030870 metres north and 335000 metres east thence north-easterly to a point 2031590 metres north and 337965 metres east thence north-westerly to a point 2032335 metres north and 337810 metres east thence south-westerly to a point 2031760 metres north and 334440 metres east of the Projection Origin and thence southerly to the point of commencement, being where the wreck of the Rhone rests in the sea bed and is shown on Plan O. MI-NA-38-SC which is filed at the Survey Department.

Rhone Anchor

All that part or portion of the sea and the sea bed below, north of Peter Island which said area is more particularly described and delineated as follows:

Commencing at the most south-westerly point 2031000 meters north and 331800 metres east of the Projection Origin thence easterly to a point 2031000 metres north and 332200 metres east thence northerly to a point 2031400 metres north and 332200 metres east thence westerly to a point 2031400 metres north and 331800 metres east of the Projection Origin and thence southerly to the point of commencement being where the wreck of the Rhone's anchor rests in the sea bed and is shown in Plan No. MI-NA-38-SC which is filed at the Survey Department.

Part B

NATIONAL PARKS

Name of Area	Registration Section	Block	Parcel(s)	Size (Acres)	Classification
Botanic Gardens	Road Town	2838F	114	2.87	18.7: Urban Park
Cam Bay/Lee Bay	Beef Island Group	3842A	7	19.96	18.2: National Park
Copper Mine Ruins	Virgin Gorda South	4938B	20, 22, 23	31.93	18.2: National Park
Dead Chest	Southern Cays	3330A	1	34.6	18.2: National Park
Devil's Bay	Virgin Gorda South	4738B	25	58	18.2: National Park
Diamond Cay	Jost Van Dyke	1640A	23	1.25	18.2: National Park
Fallen Jerusalem	Southern Cays	4536B	1	48	18.2: National Park
Fort Point – Tower Rocks	Virgin Gorda South	4739B	5	36	18.2: National Park
Great Tobago	Jost Van Dyke	0640A	1	210	18.2: National Park
Little Tobago	Jost Van Dyke	0438A	1	55	18.2: National Park
Mount Sage	Mount Sage	2435B	8	91	18.2: National Park
Prickly Pear	Virgin Gorda East	5545A	1	180	18.2: National Park
Queen Elizabeth II Park	Road Town	2936B	4	0.700	18.7: Urban Park
Shark Bay	West Central	2540B	22	18.4	18.2: National Park
Spring Bay	Virgin Gorda South	4738B	1	5.50	18.2: National Park
The Baths	Virgin Gorda South	4738B	65	6.91	18.3: Natural Monument
Virgin Gorda Peak	Virgin Gorda Central	5044A	14	254.4	18.2: National Park
West Dog Island	Virgin Gorda East	4344A	1	24	18.2: National Park
Windmill Ruin/Mount Healthy	West Central	2640B	20	1	18.2: National Park

Passed by the Legislative Council this 30th day of March, 2006.

V. INEZ ARCHIBALD,
Speaker.

ALVA MC CALL,
Acting Clerk of the Legislative Council.