

The purpose of the Environmental Protection and Management Bill is to provide a framework for regulation, including: protection of the environment for the present and future generations and protection of human health; conservation of biological diversity in conformity with the natural biogeographic characteristics of Antigua and Barbuda; the control and management of factors damaging the environment; the exercise of control over the state of the environment and over the sources of pollution; the prevention and limitation of pollution; the establishment and management of the National Environmental Information Management and Advisory System; environmental strategies, programmes and plans; collection of, and access to, environmental information; the economic organization of environmental protection activities; the rights and the obligations of the State; and the juristic in respect of environmental protection.

## **PART 1: PRELIMINARY**

### **Section 1 Short title and commencement**

This clause provides the short title of the Environmental Protection and Management Act of 2014, and shall come into operation on the date that the Minister may, by Notice published in the Gazette, appoint.

### **Section 2 Interpretation**

Section 2 sets out definitions for the purposes of this Act.

### **Section 3 Act binds Crown**

### **Section 4 Objects of the Act**

The list of prescribed Objects of the Act as set out in Section 4 is intended to provide guidance and clarity as to the intentions of the Act. Subsection (a) - (g) as listed below, identifies the main objects and purposes of the Act.

- (a) ensure the establishment of an integrated environmental management system in which environment is managed in a sustainable manner;
- (b) ensure that decisions pertaining to the environment are made in an integrated manner in which the Environment Department, in collaboration with appropriate authorities, non-governmental organizations and other persons, determines priorities and facilitates coordination among governmental entities to effectively harmonize activities and where necessary, take action to protect, enhance and conserve the environment
- (c) Provide for preventive and remedial measures for the control and mitigation of all forms of environmental degradation or pollution including the management of hazardous substances and wastes for the purposes of protecting human health and maintaining the quality of the environment;
- (d) Facilitate the implementation of obligations assumed by Antigua and Barbuda under multilateral environmental agreements;
- (e) Make provision for the sustainable financing for the management of the environment and conservation of natural resources in Antigua and Barbuda;
- (f) Promote and encourage among all persons a better understanding and appreciation of the environment; and
- (g) Enhance the legal, regulatory and institutional framework for environmental management in Antigua and Barbuda.

**PART II: ADMINISTRATION**

**Section 5 Responsibilities of Minister**

Section 5 sets out the responsibilities and functions of the

Minister.

The list of prescribed functions in Subsection 5(a) - (h) is intended to provide guidance to both the GOAB and the Environment Division to assist with the implementation of this Act and any other laws related to environmental management and protection.

**Section 6 Policy directions and delegation by Minister**

Subsection 1, provides that the Minister may from time to time give the Department directions of a special or general character in the exercise of the powers conferred and the duties imposed on the Department by or under this Act.

Subsection 2, provides that the Minister may delegate his or her functions to the Director in writing. However, the Minister may not delegate his or her functions under Section 149 to make Regulations.

Subsection 3 provides that any delegation while in force shall not prevent the discharge by the Minister of any functions thereby delegated and may be- pursuant to Subsection 3(a) subject to such conditions, qualifications and exceptions as may be specified; and Subsection 3(b) revoked or varied at any time.

**Section 7 Functions of Director, duties and powers of Department**

Subsection 1 specifies who shall control the Environment Department and or Division. It provides that the Departments shall be under the control and direction of the Director and the Department shall perform such functions as are prescribed under this Act.

Subsection 2 specifies the types of functions that the Department shall arrange and carry out which will be required for the proper discharge of the responsibilities and functions of the Minister

under this Act.

Subsection 2 (a) - (x) makes provision for the types of functions, responsibilities and actions that will be carried out by the Department (without prejudice).

Section 3 provides that the officers of the Department shall be called “environment officers” and that such officers shall discharge all of their functions under this Act as authorised and directed by the Director.

Section 4 provides that all statutory notices and other documents authorised to be issued by the Department under this Act shall be signed by the Director or by an officer to whom this duty is delegated by the Director pursuant to Section 9.

The purpose of Section 5 Subsection (a) - (c) is to give guidance to the Department in performing its functions using the principles of environmental management, namely- (a) the “polluter pays” principle: the polluter should bear the cost of measures to reduce pollution decided upon by public authorities to ensure that the environment is in an acceptable state, and should compensate citizens for the harm they suffer from pollution; (b) the “precautionary” principle: where there are threats of serious or irreversible damage, lack of full scientific certainty shall not be used as a reason for postponing measures to prevent environmental degradation; (c) the “avoidance” principle: it is preferable to avoid environmental damage as it can be impossible or more expensive to repair rather than prevent damage.

## **Section 8 Appointment of inspectors**

Section 8 gives the Minister the power to appoint an inspector via written instrument. Subsection (a) – (c) identifies who can be appointed as an inspector, that is, any personnel of the department or appropriate authority, any environmental officer

and any other individual retained by the Department.

Subsection (d) specifies what powers those persons designated as inspectors may exercise.

Section 8 (2) makes provision for each inspector to be issued with an identity card containing a photograph of the holder.

**Section 9 Delegation of powers**

Subsection (1) gives the Director the power to delegate to any other authority in writing any of his or her duties, powers and functions under this Act as he deems advisable and on such terms and conditions as he may think fit.

Subsection (2) prescribes that once the Director delegates his or her authority, duties, powers and functions to any other authority, he or she shall do all such things necessary for the carrying out of those duties, powers and functions.

Subsection (3) provides that any delegation of such authority, pursuant to Subsection (1) has the same force and effect as if it had been done by the Director but shall not prevent the discharge by the Director of any function thereby delegated.

**Section 10 Limitation of personal liability**

Section 10 provides that no personal liability shall attach to the Director, personnel of an appropriate authority, environmental officer or other public officer to whom duties, powers and functions have been delegated by the Director under Section 9 for anything done, permitted to be done or omitted in good faith in the course of discharge of duties.

**Section 11 Cooperation in environmental management**

Subsection 1 provides that in performing its functions the Department shall facilitate cooperation among persons and manage the environment in a manner which fosters participation and promotes consensus, including the encouragement and use of appropriate means to avoid or expeditiously resolve disputes through planning mechanisms for alternative dispute resolution.

Subsection 2 names who should consult with the Department, in the event that they have authority over any matter which the Department has power over. No entity should make or approve any decision without first having consulted the Department. The entity's name is any Ministry, Department of Government or statutory body.

Subsection 3 provides that the Cabinet may require the Minister to submit for its approval, with or without modifications, administrative schemes for-

(a) the proper apportionment of environmental management functions between the Department and other Ministries, departments of Government or statutory body ; and

(b) the proper apportionment of the duties necessary for the performance of such functions between officers of the Department and officers of other Ministries, departments of Government or statutory bodies.

Subsection 4 provides that any administrative scheme approved pursuant to Subsection (3) may be altered or revoked by a revised scheme prepared by the Minister and submitted to and approved by Cabinet, with or without modifications.

Subsection 5 clarifies how an administrative scheme takes effect.

**PART III: SPECIAL POWERS OF INSPECTOR AND  
DIRECTOR**

**Section 12 Power of entry and inspection**

Subsection 1 gives permission for any authorised inspector entry into premises or vehicle for the purpose of-

(a) developing or assisting in the development of any programme under this Act;

(b) monitoring compliance with any environmental programme, condition, permit, license or requirement under this Act;

(c) obtaining information and samples, and confiscating any article relevant to an offence or violation;

(d) generally examining and inspecting the premises, facility, plant, structure, equipment, apparatus, operation or process at all reasonable times, and;

(e) carrying out any provision or requirement of this Act.

Subsection 2 stipulates that an inspector shall not be permitted to enter such premises or vehicle, or obtain any information under this Part, unless-

(a) the occupier or person in charge of the premises or vehicle consents to the entry, or;

(b) where the occupier or the person in charge of the premises or vehicle does not consent, the Department first obtains a warrant issued by a Magistrate.

Subsection 3 provides that if the use of force is required in executing a warrant, performing an inspection, obtaining samples or other information, or performing any other function under this Act, the inspector shall be accompanied by a police officer who shall render such reasonable assistance as may be necessary.

**Section 13      Obtaining samples and information**

In the course of any entry permitted by Section 12, Subsection 13 (1) allows the inspector to review and copy any documents and records, take photographs, inspect any premises or vehicle and take any samples for laboratory analysis of any air, water, soil or other material from such premises or vehicle. Subsection 13 (2) provides that the owner or operator of such premises shall, upon request, receive a receipt for the sample collected, which identifies type of analyses and includes a portion of the sampled material.

**Section 14      Procedure for sample and information obtained**

Subsection 14 (1) provides for laboratory analysis in line with accepted forensic procedures when a sample is collected under Section 13. Subsection 14 (2) provides for asserting information as a trade secret or confidential business information with adequate basis and with consideration for public interest, and Subsection 14 (3) asserts that any entry into premises must leave

the property as effectually secured.

**Section 15 Director may order**

When any contaminant or pollutant constitutes an immediate danger to life, health or property, Section 15 provides that the Director may issue an appropriate order to the person responsible to (1) discontinue such actions, or (2) take equipment and material measures that alleviate the effects.

**Section 16 Prohibition notice**

Section 16 provides that an inspector may issue a prohibition notice to an owner or facility operator given conditions that threaten health or the environment, as per Form 7 of Schedule VI. The person commits an offence if no appeal is made within seven days, and when actions are not taken to remediate the offence specified.

**Section 17 Power to compel and execute certain works**

Subsection 17 authorizes the Director to compel and execute certain works on a property for the protection or in the interest of the environment, the process for which is specified in Subsections (1) to (4), including provisions for a notice issued to the property owner and any appeals be given due consideration.

**Section 18 Acceptance of compensation for offences**

Section 18 authorized the Director or authorized officer to accept a sum of money to serve as settlement of offences outside of court, provided that the sum does not exceed the maximum fine for the offence..

**PART IV: ENVIRONMENTAL POLICIES AND PLANS****Section 19 National Environmental Policy Framework**

Subsection (1) provides for the development and implementation of a National Environmental Policy Framework to fulfill the objectives of the act. The Section also prescribes that there be collaboration with relevant authorities, departments and statutory bodies.

Subsection (2) lists the specific local realities that should influence the development of the Framework Policy. The Subsection also lists the minimum information that must be addressed in its authoring.

Subsection (3) lists the chapters that must be included in the Framework Policy. Some of the policies to be included will fulfill the requirements of several multilateral environmental agreements to which Antigua and Barbuda is party. Each chapter addresses a specific needs for provisions for several environmental issues inclusive of:

1. Protection of the Ozone Layer
  2. Reduction of Emissions from Greenhouse Gases
  3. Persistent Organic Pollutants and Toxic Chemicals Management
  4. Water Quality Management
  5. Air Quality Management
  6. Watershed and Wetland Management
  7. National Biodiversity Strategy and Action Plan
  8. Relevant Protected Area Plan
  9. National Beach and Coastal Area Protection and Management
  10. Any other plan the Minister may direct to be prepared.
- Subsections (4),(5),(6),(7), and (8) outline the process of the establishment of the Policy which includes the submission to the

Minister, submission for public comment, amendment and laying in Parliament.

**Section 20 Orders to implement Policy Framework**

The Minister may collaborate with the Minister responsible for the appropriate authority and prescribe that specific requirements be observed when implementing any aspects of the Policy Framework.

**Section 21 Amendment of Policy Framework**

Any amendments to the Policy Framework must be submitted to the public for review and comment via a newspaper in daily circulation. When the Minister is satisfied with the proposed amendment, a notice shall be published that the amendment is in effect.

**Section 22 Review of Policy Framework and Plans**

A review of the Framework Policy must be done within three years or as soon as practicable after its approval to ensure that any activities executed under the policy do not adversely affect the natural resources of Antigua and Barbuda. Subsection (2) provides for the resolution of any disputes between any policy or implementation plan or the policy framework. The Minister's decision on this matter shall be final.

**Section 23 Policy Framework to be consulted for EIAs**

Environmental Impact Assessments shall consult the Policy Framework for screening and evaluating development approvals.

**Section 24 Compliance with Policy Framework**

The Department, government entities and statutory bodies shall conduct their opportunities in compliance with the Policy Framework to the extent of their duties,

**PART V: POLLUTION CONTROL**

**Section 25 Pollution control regulations**

The Minister may, pursuant to Section 107, make regulations subject to a negative resolution of Parliament. Subsection (2) provides that the regulations made shall be Gazetted and come into force on the date on which it is published.

**Section 26 Register of sources of pollution**

Subsection (1) provides that within the Environment Registry, a list of sources of pollution shall be made. The data shall contain information on the quality, conditions and concentrations relevant to the identifications of each pollutant. Subsection (2) provides that this list shall be available for public access upon payment of a fee.

**Section 27 Prohibited pollutants**

Subsection (1) provides that no person may pollute any water or air or cause any noise pollution in a quantity, condition or concentration in violation of the applicable standard provided for in the Act. Subsection (2) speaks to the prohibition of any noise greater than that provided for in the Regulations. Subsection (3) provides the process by which a person must notify the Department of any continuous or intermittent pollution that can be attributed to them and how they intend to restore the environment.

**Section 28 Time allowed for compliance**

Subsection (1) allows for a reasonable time for a person to bring an activity or process into compliance with the pollution standard present in the Regulations. Favourable treatment may be extended to small or medium sized enterprises as per Subsection (2).

**Section 29 Pollution control permits**

Persons may only release pollutants on or into land, water or air in excess of the prescribed standards with a pollution control permit issued by the Department per Subsection (1). Such permit is subject to conditions determined by the Department pursuant to Subsection (2). Subsection (3) speaks to relevant ambient environmental standards and cumulative impacts that must be taken into consideration when the Department decides whether to grant a permit.

**Section 30 Notice of intention**

Per Subsection (1) prior to making an application for a pollution control permit, the applicant must publish in a daily newspaper of a notice of intent to make an application providing pertinent details to the nature and concentration of the pollutant and advising members of the public of their right to make objections. Subsection (2) provides that any member of the public whose interests are likely to be affected by the grant of the aforementioned permit may make an objection in writing to the Department within 21 days of publication of the notice.

**Section 31 Application for pollution control permits**

A person seeking to pollute the environment in excess of the standard prescribed by the Department must apply to the

Department for the grant of a pollution control permit per Subsection (1). Subsection (2) states the time in which an application must be made before the proposed date of which the polluting activity will take place and a description of the activity. In the event that any details must be withheld due to the fact that they are considered trade secrets, the Director may, upon satisfaction that this information must be considered confidential, withhold the information from the general public as per Subsection (4).

**Section 32      Determination of applications**

Subsection (1) identifies the relevant authorities that must consider applications for pollution control permits as (i) the Environment Department (ii) the Central Board of Health (iii) the Development Control Authority and (iv) any other relevant authority as the Department sees fit. Subsection (2) speaks to the factors that must be taken into consideration for the grant or renewal of a pollution control permit. Objections must also be taken into consideration per Subsection (3). The appeal for a rejected application must be made to the Minister within 28 days in the manner prescribed under Section 106 according to Subsection (4)

**Section 33      Term of permit**

A permit is valid for the specified period and for any period which it is renewed per Subsection (1). Application for renewal must not be made less than 90 days before its expiry pursuant to Subsection (2).

**Section 34      Transfer of permit**

Permits are non-transferable.

**Section 35      Modification, suspension etc. of permit**

Subsection (1) refers to the circumstances under which a permit may be modified. The Director may by notice in writing served on the permit holder modify it to the extent they deem appropriate. If the permit holder has incurred expenditure and suffers loss due to the modification of the permit, the holder is entitled to adequate compensation from the Crown in respect for the loss suffered pursuant to Subsection (2). Subsection (3) identifies the circumstances under which a permit may be revoked. Subsection (5) speaks to the requirements the Director must satisfy in order to revoke or suspend the permit. Subsection (6) speaks to the possibility of appeal by the permit holder to the Minister where a permit has been modified or revoked. The process for the surrender and cancellation of the permit is outlined in Subsection (7). Rights of the permit holder ceases upon the revocation or surrender of a pollution control permit, but the liability incurred shall not be affected and shall continue as if the permit had not been cancelled or revoked.

**Section 36      Pollution charges**

The holder of a pollution control permit shall be liable for the payment of any pollution charges in relation to the release of any pollutant into the environment per Subsection (1). Subsection (2) identifies the pollution charges payable. The amounts may be prescribed by Regulations. Subsection (3) prescribes that all revenues are payable to the SIRF Fund. Where the activities covered by the control permit result in some reduction to the release of pollutants to the environment, the permit holder may offset the costs of this benefit against the amount payable to the SIRF Fund. Subsection (5) requires that the Director give reason for rejection a claim for an offset allowance and provides that the permit holder may make an appeal to the Minister.

**Section 37 Liability for historical pollution**

The Department may require persons who have polluted the environment, before the enforcement of this Act, to rehabilitate the environment as dictated by Subsection (1). Per Subsection (2) if the Director finds more than one person is responsible for the pollution, the liability rests on all parties on a pro rata basis. Subsection (3) prescribes the process in the case where the responsible party refuses to take the necessary measures for environmental rehabilitation. A person who is found to be wholly or partly responsible for pollution under this Section may file an appeal as stated by Subsection (4).

**PART VI: ENVIRONMENTAL MANAGEMENT AND  
MONITORING****Section 38 Strategic environmental impact assessment**

The Director may require an environmental impact assessment when an action proposed by a Government entity may have a significant negative impact on the environment.

**Section 39 Environmental Management Systems**

Subsection (1) promotes the adoption and implementation of internationally recognized environmental management, certification and auditing standards, and supports the Bureau of Standards in this regard. Subsection (2) provides that all Ministries, Departments of Government, Statutory authorities and Government-owned or controlled corporations shall attain environmental management certificates, including ISO 14001.

**Section 40 Environmental Management Plans for commercial or industrial facilities**

Subsection (1) provides for an electronic, publicly available inventory of industrial and commercial facilities, and Subsection (2) requires certain facilities to complete a site Environmental Management Plan within two years of the Act's commencement - the contents and process of which are stipulated in Subsections (3), (4), (5) and (6).

**Section 41 Code of Environmental Practice**

Section 41 requires the commercial or industrial facility owner to declare a Code of Environmental Practice in writing to the Director, as part of the Environmental Management Plan in Section 40. Subsections (2) to (7) provide for a consultative roadmap for Plan adoption and implementation.

**Section 42 Self-monitoring and audit**

Subsection (1) provides for the industrial or commercial facility owner to finance agreed monitoring and reporting. If in non-compliance with the Act, Subsection (2) provides for non-persecution measures if the facility owner takes corrective measures, given that conditions of Subsection (3) are met.

**Section 43 Inspection of facility**

Section 43 (1) permits inspections of commercial and industrial facilities to verify the Plan, and where the facility has not complied with the Plan, Subsection (2) provides for actions to be taken by the Government against the facility and (3) for additional monitoring at the expense of the facility.

**Section 44 Standards, procedures and guidelines**

The Department shall consult with Government authorities and collaborate with the Bureau of Standards to establish standards,

guidelines and procedures to accomplish the reporting and monitoring required in Sections 38 to 44, including supporting human and institutional capacity.

## **PART VII: NATIONAL RESOURCES MANAGEMENT**

### **Watersheds and Wetlands**

#### **Section 45 Establishment of Watershed and Wetland Management Committee**

Section 45 establishes a representative Committee of Government representatives and relevant stakeholders for the management of protected watersheds and wetlands (areas designated in Schedule X and XI), to make *inter alia* management recommendations to the Minister.

#### **Section 46 Declaration of critical watersheds**

Section 46 declares watersheds in Schedule X as protected, and provides for criteria and a consultative process for proposals of additional watershed areas to be added to Schedule X and protected under the Act.

#### **Section 47 Watersheds on private lands**

Where a protected watershed area includes private land, Section 47 provides for the Minister to enter into an agreement with the landowner, or acquire such land in accordance with the Lands Acquisition Act.

#### **Section 48 Declaration of important wetlands**

Section 48 declares important wetland areas designated in Schedule XI as protected and requiring management for

specified ecological services. Subsections (2), (3) and (4) provide for the criteria and consultative process for additional wetlands to be added to Schedule XI.

**Section 49 Wetlands on private land**

Where an important wetland area includes private land, Section 49 provides for an agreement between the Minister and landowner. Acquiring such land in accordance with the Lands Acquisition Act is a last resort.

**Section 50 Conversion of wetlands**

Section 50 prohibits the alteration or backfilling of any wetland without permission, where violators are liable to penalties under Schedule XIII.

**Section 51 Conservation enforcement notice**

Section 51 applies to violations of a lease agreement with respect to conservation or the protection of soil, water or agricultural resources, including lease agreements with a Ministry, Department, body or person, and provides for a conservation enforcement notice, corrective measures and cost provisions (Subsection (4)).

**Section 52 Conservation of resources in accordance with Plan**

Section 52 ensures that activities connected to soil, agriculture, water, energy or mineral resources are in accordance with the National Resources Management Plan (section 21 (2) (j)) and the conservation, economic and social interests outlined in Subsection (2).

**Protected Areas****Section 53 Management principles for a protected area**

Further to Schedule IX on Protected Areas Categories, the Subsections to Section 53 provide for special management principles for closed protected areas (1), ecotourism areas (2), foreshore reserves (3), forest reserves (4), nature reserves (5), water catchment reserves (6), wetlands (7), and carbon sinks (8) that takes into the special ecological functioning and values of these areas.

**Section 54 Establishment of protected areas**

The Minister may designate an area of land or territorial sea as a protected area, without prejudice to the provisions of the Physical Planning Act, to achieve scientific, educational, ecological, recreational, secondary, and economic benefits. Under Subsection (2), such areas shall be categorized according to Schedule IX and (3) shall be managed according to the plan developed for each area.

**Section 55 Protected areas on Crown lands**

Section 55 provides for the designation any area of Crown land as a protected area, and the delineation of boundaries and categories of the proposed protected area. Subsections (2) and (3) require relevant Government consultation, and a public comment period of at least thirty days following publication in the daily newspaper twice and the Gazette.

**Section 56 Protected areas on private lands**

Section 56 provides for the Department to enter into consultations with private landowners or non-governmental

organizations with a view to securing an area as protected. Subsections (2) through (7) provide for required consultations, public commentary, responsibilities and written agreements. Subsection (6)(a) requires the Government to acquire such land under the Land Acquisition Act, and Subsection (8) provides that Section 56 does not preclude private conservancy areas.

### **Wildlife protection and trade**

#### **Section 57 Protected wildlife**

Section 57 protects wildlife specified in Schedule VIII.

#### **Section 58 Offence to pick, etc.**

Section 58 prohibits the hunting, picking or removing of wildlife without the permission of the owner, in the case of private lands, and the permission of the Department, in the case of Crown lands.

#### **Section 59 Designation of closed areas**

Section 59 provides that the Minister may by Order designate closed areas, within or outside of protected areas, when deemed necessary for the survival of any biological resource, genetic material, ecosystem or endangered specie. Subsection (2) and (3) require closed site signage, and Subsection (4) authorizes control of the area to be closed when on private land through the Land Acquisition Act. Subsection (5) provides for offenders that contravene Section 59 to be liable on conviction to the penalties in paragraph (b) of Schedule XIII.

#### **Section 60 Importation, sale, etc. of foreign organisms**

Section 60 (1) defines “foreign organism”, and references

legislated exceptions. Subsections (2) to (9) require that a permit be obtained in order to import, sell, transport, or store a foreign organism and provides for fees and measures to apply for and grant such a permit. The application process includes departmental consultations, a detailed public notice published twice in the newspaper and a public commentary period of thirty days. Subsection (10) stipulates that offenders are liable on conviction to penalties in paragraph (c) of Schedule XIII.

**Section 61      Designation of CITES**

Section 61 designates specified Government agencies as CITES Scientific Authorities, with a responsibility to ensure that CITES activities align with this Act and the CITES Convention, and to conduct research and disseminate information related to endangered, threatened and exploited plants and animals.

**Section 62      Importation, exportation, trade in endangered species**

Section 62 establishes provisions under which the import, export or trade of an endangered plant or animal may be authorized, the application consisting of Form 5 and fee in Schedule VI. No permits shall be issued when the action is deemed detrimental to the survival of the species. Offenders, including persons who supply false or misleading information, are liable on conviction to paragraph (b) of Schedule XIII.

**Section 63      General condition as to permits**

Section 63 stipulates that permits are relevant only for the species and time period declared, which is not more than six months from date of issuance. Subsection (3) and (4) state that permits shall not be transferred, and shall be presented at Customs. Offenders as per Subsection (5) are liable on

conviction to penalties in paragraph (c) in Schedule XIV.

**Section 64      Obligation to declare specimen**

Section 64 requires a person on arrival or departure in possession of an endangered specie specimen to declare the item. If a valid permit is not produced, the Customs or Quarantine officer, under Subsection (2), is authorized to confiscate the item. Offenders under (1) and persons who refuse (2) are liable on conviction to penalties under paragraph (c) in Schedule XIV.

**Section 65      Detention of endangered or protected species**

Section 65 authorizes a Government representative who may come across a person in possession of an endangered species or protected wildlife to detain the person and specimen, and notify the Director, who may take actions stipulated in Subsections (2) to (6).

**Section 66      Return of specimen**

In the prosecution of an offence involving a wild or endangered plant or animal, Section 66 (1) provides that the burden of proof lies with the party against whom the proceedings were brought. Subsections (2) and (3) provide for release of the specimen, and Subsection (4) stipulates that a person liable on conviction is subject to penalties in paragraph (b) of Schedule XIII.

**PART VIII: ACCESS TO GENETIC RESOURCES AND  
THE SHARING OF BENEFITS**

**Section 67      Sovereign Rights over Biodiversity**

The Government of Antigua and Barbuda along with its people

recognizes its sovereign rights over all biological resources in the country. This recognizance is backed by the Convention on Biological Diversity, specifically Article 15 and Article 8 (j).

**Section 68 Interpretation**

Defines the access to biological resources and community rights.

**Section 69 Application of Part**

Subsection (1) defines what matter the Part refers as biological resources, traditional knowledge and technologies as well as their derivatives that exist in the national jurisdiction. This Part does not refer to sharing of information or resources between local communities per Subsection (2).

**Section 70 Guidance for ABS**

Subsection (1) defines the principles by which access to biological resources and traditional knowledge be guided. Subsection (2) requires that the Department work with the relevant authorities as necessary to carry out the prescribed requirements and conditions. Subsection (4) lists the minimum requirements that must be in any agreement between the Department and the Collector. Subsection (4) requires that there must be prior informed consent before any import or export of biological resources takes place. The Department may terminate its agreement with a collector at any given time when it is apparent that the collector has violated any of the terms of agreement or public interest. The Department shall ensure a guarantee has been obtained from the jurisdiction of the Collector's operation, any rights that seek to be derived upon ill-gotten biological resources shall not be recognised nor held to be valid, and the Department may introduce restrictions where

they deem it necessary to do so.

**Section 71 Community Rights**

This legislation and the Government of Antigua and Barbuda recognise and safeguard the rights of local communities to collectively benefit from traditional knowledge and receive compensation for it as defined by Subsection (1). Local communities are the sole custodians for traditional knowledge and biological resources per Subsection (2). Neither traditional knowledge nor biological resources may be sold or transferred without prior informed knowledge of the community pursuant to Subsection (3). At least 10 percent of the benefits derived from traditional knowledge or biological resources must be reserved for local communities per Subsection (4). The Government shall take measures to establish a system of community rights for local communities. The methodology is described in Subsection (5). Technical institutions shall be identified to assist the Government in characterizing community innovations as provided for in Subsection (6). Per Subsection (7), the Government must ensure that communities have the backing to both allow and deny access to traditional knowledge and biological resources.

**Section 72 Appeals**

Appeals must be made through the measure provided for in Section 106 of this Act.

**Section 73 Offences and penalties**

Subsection (1) states that persons guilty of committing an offence are subject to penalties laid out in Part XIII of this Act. Subsection (2) provides a list of additional sanctions. Subsection (3) declares that any violation under this Part shall be publicized

nationally and internationally.

**PART IX: ENVIRONMENTAL INFORMATION**

**Section 74 National Environmental Information Management and Advisory System (EIMAS)**

Section 74 provides for the establishment and maintenance of the EIMAS as a centralised information resource, in a manner deemed fit by the Director, and provides that Government agencies authorize technical assistance and information as requested by the GIS Unit.

**Section 75 Environmental information Management and Advisory Systems (GIS) Unit**

Section 75 establishes a GIS Unit with responsibilities under Subsection (2), including up keeping a National Resources Inventory, liaising with the public, businesses and non-governmental organizations, and to collect, store, manage and disseminate information.

**Section 76 Natural Resources Inventory**

Section 76 (1) details the information that is to be compiled for the Natural Resources Inventory, and Subsection (2) provides for the Inventory to be presented on a system for public access, consultation during environmental impact assessments, and other uses.

**Section 77 Environmental Registry**

Section 77 (1) provides that the Department establish and operate the Environment Registry to support the Department's responsibilities. Subsections (2) and (3) specify the information

that is to be produced, collected or submitted to the Department for the Registry, and Subsection (4) requires Government agencies to fulfill requests for information by the Department for inclusion in the Registry.

**Section 78 Public access to Registry**

Section 78 (1) provides for public access to the Register during working hours and on payment of a fee, provided that a document is not restricted according to Subsection (2), in which case (3) requires the Director to provide a written explanation for refusing the request.

**Section 79 State of the Environment Report**

Section 79 (1) provides that within three months of the closing of the calendar year, the Director prepare and submit a report concerning the state of the environment, activities, reports, and effectiveness of coordination, to the Minister. Subsection (2) provides that the report is laid in Parliament and available to the public for a fee.

**PART X: MULTILATERAL ENVIRONMENTAL AGREEMENTS**

**Section 80 National Coordinating Mechanism**

Subsection (1) establishes a National Coordinating Mechanism Committee responsible for the implementation of multilateral environmental agreements and the settlement of any environment related disputes. Subsection (2) speaks to the composition of the Committee. Subsection (3) states that it is the duty of the Committee to advise Cabinet on any international environmental agreements or any disputes that need to be settled. Upon enforcement of this Act this Committee shall

review the ratification process of any multilateral environmental agreement not yet ratified per Subsection (4).

**Section 81      Multilateral environmental instruments**

Per Subsection (1), evidence of the contents of any multilateral environmental agreements must be published. The Minister of Foreign Affairs may edit Schedule VIII at any time as he sees fit according to Subsection (2).

**Section 82      Negotiation and access to agreements**

The Minister shall, per his duties listed in Section 5, ensure that Antigua and Barbuda cooperates with regional and international states with regards to environmental agreements.

**Section 83      Incorporation of international obligations into national law**

Multilateral environmental agreements in Schedule VIII have force into law.

**PART XI: FINANCIAL PROVISIONS**

**Section 84      Establishment of Sustainable Island Resources Framework Fund (SIRFF)**

Section 84 establishes the SIRF Fund, as provided under Section 6(1) of the Finance and Audit Act, with management authority vested in a General Board as per the provisions of Schedule XIII.

**Section 85      Establishment of thematic funds**

Section 85(1) provides for operational procedures, and (2) establishes three thematic funding windows: Caribbean

Biodiversity, non-governmental and community-based organizations, and the private sector window.

**Section 86 Accounts of Board and thematic Funds**

Section 86 provides for proper record keeping for accounts and financial statement preparation.

**Section 87 Audit of General Board and thematic Windows**

Section 87 provides for the independent audit, on an annual basis, of the accounts of the SIRFF.

**Section 88 Annual Report of Board**

Section 88 requires that the Board prepare and submit an annual report on the work and activities of the Board to Cabinet, accompanied by the annual audit, within three months of the close of the year, and Cabinet is to provide this to Parliament within one month of receiving the report.

**Section 89 Appeal**

Section 89 provides that a person aggrieved by the allocation of SIRFF funding can appeal to the Board, and then appeal to the Minister if not satisfied with decision, as prescribed in Section 105.

**Section 90 Exemption from taxes**

The Fund and the Board are exempt from the payment of any tax on any income expenditure or asset.

**Section 91 Rules for operating the fund**

The Board may make rules for operating and controlling the

Fund, including the bank into which funds are paid, payment method, and for general upkeep and control of the Fund.

**PART XII: COMPLIANCE AND ENFORCEMENT**

**Section 92 Notice of violation**

Section 92 provides for the Department to serve a written notice of violation to the person who has committed an offence under this Act, which may (1)(a) require the person to make modifications, or (1)(b) to make representations to the Director. The Department may dismiss the notice or enter into a consent agreement under Subsection (2).

**Section 93 Issue of administrative order**

Where a person fails to make representations under Section 92 (1) (b) or is unable to resolve all matters in the notice, Section 93 authorizes the Department to issue an administrative order.

**Section 94 Contents of Administrative order**

Subsection 94(1) specifies the contents of the administrative order, and Subsection 94(2) provides for an aggrieved person to appeal to the Minister within twenty-one days, as per Section 105.

**Section 95 Other actions by Department**

When a person is in violation of the Act's provisions, Section 95 provides for the Department to take the alternative or additional actions which include a restraining order or injunction, a seek order or prohibition of any process or equipment, or any other remedy provided by law.

**Section 96 Prosecution of offences**

Section 96 provides for the Director or authorized officer to summon and prosecute, with provisions to be represented by an Attorney at Law, any person suspected of an offence of the Act.

**Section 97 Private party actions**

Section 97 authorizes an aggrieved person to institute proceedings against the person that they reasonably suspect is responsible. The court may grant leave to institute proceedings when justifiable in the public interest, and the burden of proof falls on the person instituting the proceedings.

**Section 98 Liability of company officers**

Section 98 provides that, for a company incorporated under the Companies Act, liability for an offence falls in addition or in substitution to the company's liability, on the director or officer of the company when committed with the knowledge, consent, acquiescence, or without the due diligence of that person.

**Section 99 Reservation of civil remedies**

Nothing in this Act takes away or interferes with the right of the Crown under common law.

**PART XIII: OFFENCES AND PENALTIES**

**Section 100 Discharge to Watercourse**

Subsection (2) identifies the evidence to prove that a person has polluted a watercourse. The commission of any of these acts is considered an offence with penalties prescribed in Schedule XIII.

**Section 101 Discharge into atmosphere**

Subsection (2) outlines activities that are considered to be discharge to the atmosphere. Any person who is in commission of any of the acts prescribed in Subsection (2) is guilty of an offence and liable to the penalties in Schedule XIII.

**Section 102 Hunting of specified animals**

Subsection (1) refers to the Wildlife and Forestry Act and lists the offences against any animal listed in Schedule VII of this Act. Subsection (2) lists hunting related offences regarding the animals found in Schedule X of the Fisheries Act and Schedule VII of this Act. Subsection (3) speaks to offences against protected birds and endangered species. Any person who wishes to sell, harvest or keep a protected biological resource must make an application to the Direction using Form 1 in Schedule VI per Subsection (4). The Minister may, through a Gazetted notice, restrict the usage of any plant or animal where he considers it necessary pursuant to Subsection (5).

**Section 103 Killing or accidental injury to animal or plant**

Any person responsible for accidental injury to an endangered plant or animal must as soon as is reasonably possible write a report to the Department. The Department, upon receipt of said report must investigate the outlined circumstances. Persons in contravention of this Section has committed an offence and is liable to the fines outlined in Schedule XIII.

**Section 104 Offence to undertake commercial logging**

It is considered an offence to undertake commercial logging on any lands unless permission has been granted by the Director. Any person in contravention of this has committed an offence

and is liable to the fines prescribed in Schedule XIII.

**PART XIV: MISCELLANEOUS**

**Section 105 Scientific evidence**

Section 105 designates at least one scientific laboratory, a certificate of analysis stating that the results are admissible in any proceeding under the Act, but that this is not valid unless the certificate is accompanied with a notice of intention to produce the certificate as evidence in proceedings. The defendant has fourteen days to notify the prosecutor in writing of an intent to adduce rebuttal evidence.

**Section 106 Service of documents**

Section 106 provides for the acceptable delivery of any instrument in writing served under this Act. Acceptable delivery methods include personal delivery, registered mail, in compliance with the Companies Act for incorporated companies, or in the case of land with an unknown owner, conspicuously affixed to the premises.

**Section 107 Procedure on appeal to Minister**

Section 107 provides that, on receipt of an appeal, the Minister shall establish a non-public sector expert Appeals Committee, which has twenty-eight days to report to the Minister on its findings. The proposed developer must be notified within fourteen days of the decision on the findings, which in final but may be appealed in the High Court.

**Section 108 Public comments and procedures**

Section 108 provides for public comment procedures, which

include publication of the proposed action in the Gazetted and at least one daily newspaper of national circulation. Subsection 108(2) requires that a record be established and available to the public, and (3) gives opportunity for public comment for not less than thirty days from date of notice in the Gazette.

**Section 109 Regulations**

Section 109 authorizes the Minister to make regulations for effecting the provisions of this Act. Subsection 109 (3) provides that any regulations under this Act come into force on the date of publication in the Gazette.

**Section 110 Amendments, savings and repeal**

Section 110 repeals the Wild Bird Protection Act, and transitions responsibility to this Act.

**PART XV: ENVIRONMENTAL INFORMATION,  
RESEARCH, EDUCATION AND TRAINING**

**Section 111 Information gathering**

Section 111 authorizes the Minister to collect information through voluntary surveys, questionnaires, inquiries and such means, information to support the provisions of this Act.

**Section 112 National laboratory program**

Section 112 provides for environmental laboratory services required to implement this Act, taking into account international obligations, capacity needs, related laboratory services, and the possibility for private analytical services to provide some or all of the required services provided this is done so in a cost

effective manner.

**Section 113 Scientific, technical and management research**

Section 113 (1) provides for the Director to establish sound scientific, technical and management research programs on environmental issues. Subsection (2) establishes that the Director may provide such training and capacity building for relevant agencies, sectors, non-governmental and community-based organizations, and (3) provides that the Minister may seek information from qualified experts.

**Section 114 Public information, education and training**

Section 114 provides that the Director develop programs to promote basic understanding, awareness of and compliance with this Act.

**SCHEDULES**

**SCHEDULE Controlled Substances**

**I**

Schedule I establishes a list of controlled substances, indicating the chemical formula, substance or common name, and ozone depleting potential. Part I controls compounds of chlorofluorocarbons (Group I), bromofluorocarbon or “halon” (Group II), carbon tetrachloride (Group III), and methyl chloroform (Group IV) - whether new, recycled, or in a mixture.

Part II controls hydrochlorofluorocarbons (Group I), and methyl bromide (Group II) - whether new, recycled, or in a mixture.

**SCHEDULE List of Prohibited Wastes and Other Matter**

**II**

Schedule II establishes a list of prohibited waste and other

matter.

**SCHEDULE III Waste and Other Matter Requiring Special Permit for Dumping**

Schedule III establishes a list of waste for which dumping is prohibited unless a special permit is obtained.

**SCHEDULE IV Water Quality Management Criteria and Guidelines (to be revised extensively)**

Schedule IV provides for water quality policy (Part I); water use classification and criteria (Part II), including classifications for coastal water, fresh water, and groundwater; and water quality standards (Part III), including for general water quality in addition to more refined water uses. Part III includes a table, Table 1, which provides for water quality standards to protect human health, aquatic life and aesthetic qualities.

**SCHEDULE V Air Quality Criteria**

The air quality criteria defined in Schedule V provide for general air quality (Part 1), classification of substances and emission guidelines and standards (Part 2), air quality guidelines (Part 3), air quality standards (Part 4), and emissions standards (Part 5). Specific values of air quality guidelines are provided for solid substances (Table 1), and values of scent limit and air quality guidelines are established for gas, vapour and/or haze substances (Table 2).

**SCHEDULE VI Forms**

Schedule VI provides for the following forms:

- Form 1: Application for a permit to sell, harvest or keep a protected biological resource or genetic material

- Form 2: Permit to sell, harvest or keep a protected biological resource or genetic material
- Form 3: Application for a permit to import, transport, store or sell a foreign organism
- Form 4: Permit to import, transport, store or sell a foreign organism
- Form 5: Application for a permit to trade in endangered species
- Form 6: Permit to trade in an endangered species
- Form 7: Activity stop notice
- Form 8: Prohibition notice
- Form 9: Confiscation notice
- Form 10: Waste dumping permit application
- Form 11: Permit to dump waste or restricted material

**SCHEDULE VII**      **Categories of Hazardous Substances**

Schedule VII categorizes hazardous substances into two annexes, waste streams including wastes with constituents (Annex I), and a list of hazardous characteristics, such as explosive, flammable, poisonous, etc. (Annex II).

**SCHEDULE VIII**      **List of Protected Wildlife**

Schedule VIII lists protected wildlife classified under three parts. Part I is animals, including mammals, bats, birds, reptiles, marine life, etc.. Part II is plants, including ferns, orchids, mangroves, cacti, IUCN protected species, etc. Part III lists six forest reserves: Christian Valley, Body Ponds, Redonda, Sugar Loaf, Black Ghaut Gaynors, and Wallings.

**SCHEDULE IX**      **List of Multilateral Environment Instruments and Environment Conventions**

Table A in Schedule IX lists sixteen multilateral environmental

conventions to which Antigua & Barbuda has ratified or acceded. Table B lists multilateral environmental instruments.

**SCHEDULE List of Protected Areas Category**

**X**

Schedule X lists and defines seven categories of protected areas: strict nature reserve; wilderness area; national park; natural monument; habitat/species management area; protected landscape/seascape; and managed resource protected area.

**SCHEDULE List of Protected Watersheds**

**XI**

Schedule XI lists six protected watershed areas: Potworks; Body Ponds; Christian Valley; Parham; Fitches Creek; and Bethesda.

**SCHEDULE List of Important Wetlands**

**XII**

Schedule XII lists fourteen important wetlands: McKinnons Salt Pond; Hanson's Bay Flashes; Valley Church; Fitches Creek Bay- Parham Harbour; Potworks Dam; Christian Cove; Bethesda; Pinching Bay in Five Islands Harbour; and Willoughby Bay. In Barbuda: Bull Hole and Fresh Water Pond; Spanish Point Flash; Welches' Flashes; Castle Hill; and Two Foot Bay.

**SCHEDULE Sustainable Island Resources Framework Fund (SIRFF)**

**XIII**

Schedule XIII provides for the establishment of the General Board of Directors of the SIRF Fund, including representatives and rules of procedure. Subsection (B) provides for thematic and hybrid windows of the Fund

**SCHEDULE Penalties**

**XIV**

Schedule XIV establishes a tiered system of penalties from (a)

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to (e) and ranging from the lower end of a fine not less than two thousand dollars, up to a fine of not less than fifteen thousand dollars and five years imprisonment. Where the offender is a body corporate, the offender shall be liable up to twice prescribed amounts.

**SCHEDULE Amendment and Repeal**

**XV**

Schedule XV repeals the Wild Birds Act, amends Section 23 of the Physical Planning Act, and amends the Forestry Act.