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CHAPTER 224

NATIONAL PARKS

Act 7 of 1993

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NATIONAL PARKS

An Act to make provision for the declaration of national parks and nature reserves, for the protection and preservation of such areas, and for matters connected therewith.

1. Interpretation

In this Act, unless the context otherwise requires –

"appointed member" means any member of the Board appointed under subsection (1)(g) of section 4;

"authorized officers" means officers appointed under section 16;

"Board" means the National Parks Board established under section 3;

"committee" means the local management committee appointed under section 13;

"Fund" means the Conservation Fund established under section 18;

"local authority" means a Municipal Council established under the Municipal Council Act [Cap. 126], or a Local Government Council established under the Decentralization Act [Cap. 230];

"management plan" means a plan made under section 10(1);

"Minister" means the Minister for the time being responsible for environment and conservation;

"National Parks Board" means the National Parks Board established under section 3;

"nature reserve" means an area declared as a nature reserve under section 2;

"park" means a national park;

"reserve" means a nature reserve.

2. Declaration of national parks and nature reserves

(1) The provisions of this Act shall have effect for the purpose of protecting and preserving in their natural state, as national parks or nature reserves, areas of Vanuatu, which –

(a) have unique ecosystems, genetic resources or physical and biological formation; or

(b) constitute the habitat of threatened species of animals and plants of outstanding value from the point of view of science and conservation; or

(c) have outstanding natural beauty; or

(d) have any archaeological or other scientific or environmental significance;

and for promotion of scientific study and enjoyment thereof by the public.

(2) The Minister may, for the purposes specified in subsection (1) of this section, on the recommendation of the National Parks Board, declare by order any area as a national park or nature reserve.

(3) The order referred to in subsection (2) shall define the area to be declared as a national park or nature reserve by reference to a map which shall specify the location of the area and the boundaries thereof.

3. Establishment of the National Parks Board

There is hereby established a Board to be known as the "National Parks Board".

4. Constitution of the Board

(1) The Board shall consist of –

(a) the Director of Forestry;

(b) the Director of Lands;

(c) the Director of Geology and Mines;

(d) the Director of Fisheries;

(e) the Principal Environmental Officer;

(f) the Chairman of the National Council of Chiefs; and

(g) not more than three other persons appointed by the Minister.

(2) The Chairman and the Vice-Chairman shall be appointed by the Minister from among the members referred to in subsection (1)(a) to (e).

(3) Any of the officers mentioned in subsection (1)(a) to (f) who is unable to attend any meeting of the Board may authorize any other officer of his department, office or council as the case may be, to be present on his behalf at such meeting, and the officer so authorized shall de deemed for the purposes of such meeting to be a member of the Board.

(4) Every appointed member shall hold office for a period of 3 years unless he earlier vacates office by death, resignation or removal.

(5) The Minister may, if he considers it expedient to do so remove by order published in the Gazette, any member of the Board.

(6) Any appointed member who vacates office other than by removal, shall be eligible for reappointment.

(7) Any appointed member may resign his office by notice in writing addressed to the Minister.

5. Meetings of the Board

(1) Meetings of the Board shall be held at such times and places as the Chairman may from time to time appoint.

(2) The quorum for any meeting of the Board shall be five members and the Board may regulate the procedure in regard to the meetings of the Board and the transaction of business at such meetings.

(3) The Chairman of the Board shall, if present, preside at all meetings of the Board. In the absence of the Chairman from any such meeting, the Deputy Chairman shall preside at such meeting.

6. Powers of the Board

The Board shall have all such powers as are reasonably necessary or expedient to enable it to carry out its functions and duties.

7. Power of Minister to give directions to the Board

The Minister may from time to time give the Board such directions, general or special not inconsistent with the provisions of this Act as to the performance and discharge of its functions and duties under this Act, and the Board shall comply with such directions.

8. General duties of the Board

(1) It shall be the duty of the Board, as soon as may be after the commencement of this Act, and thereafter from time to time, to consider what areas in Vanuatu fall within paragraphs (a), (b), (c) or (d) of subsection (1) of section 2 and determine under what category of parks and reserves and in what order they should be declared under subsection (2) of section 2 and subject to subsections (2), (3) and (4) make recommendation to the Minister as to the declaration of such areas as national parks or nature reserves.

(2) Before making any recommendation under subsection (1) of this section, the Board shall consult with the custom owners, every local authority whose area includes any land in the area to be declared and the chief or chiefs whose areas include any part of the area to be declared and shall not less than three months before making such recommendation cause a notice in the prescribed form to be exhibited in the prescribed manner in some conspicuous place in that area.

(3) The notice referred to in subsection (2) of this section shall be in Bislama, English and French languages and shall –

(a) describe the area which is proposed to be declared as a park or reserve and be accompanied by a sketch plan:

(b) state that the Board proposes to submit to the Minister recommendation for declaration of the said area as a national park or nature reserve;

(c) state that the custom owners or other persons having an interest in the said area who wish to make representations with regard to the proposed recommendation may do so by forwarding their representations in writing to the authority specified in the notice, before a date specified therein, which date shall not be earlier that thirty days after the date when the notice is first exhibited.

(4) Together with such recommendation referred to in subsection (1), the Board shall forward to the Minister any observations or objections made by any local authority and by any chief consulted in pursuance of subsection (2) of this section and any representations duly made under subsection (3) of this section by the custom owners or persons having an interest in the area.

9. Minister to consider representation

(1) Before making a decision on the recommendation made by the Board under subsection (1) of section 8, the Minister shall consider the observations, objections and representations duly made, and forwarded to him under subsection (4) of that section.

(2) The Minister may, if he deems it expedient, appoint a person other than a member of the Board to hold a public inquiry into the objections and representations made and take into consideration such objections and representations together with the report thereon of the person holding such public inquiry.

(3) After consideration the report of the person appointed to hold the inquiry under subsection (2), the Minister may decide to make an order under subsection (2) of section 2, declaring any area as a national park or nature reserve.

10. Management plan

(1) As soon as may be after the coming into operation of an order under subsection (2) of section 2, the Board shall prepare for the approval of the Minister a management plan in respect of the park or reserve to which the order relates.

(2) The Board may, in the course of preparing a management plan relating to any park or reserve, or preparing proposals for alterations or additions to such plan, consult –

(a) the custom owners or the lessors, as the case may be whose land includes part of that park or reserve;

(b) the chief or chiefs whose area includes part of that park or reserve;

(c) every local authority whose area includes any part of that park or reserve;

(d) any other person whom the Board thinks fit.

(3) In preparing the management plan under subsection (1), the Board shall take into consideration –

(a) any observations or objections made by the persons referred to in paragraphs (a), (b), (c) and (d) of subsection (2);

(b) the conservation and preservation of native plants and animals;

(c) the prevention of introduction of noxious plants and animals and the removal of them;

(d) the protection of the area against soil erosion;

(e) the protection of the area against pollution or physical damage;

(f) the provision for facilities and services for the enjoyment or convenience of the public;

(g) the conservation of natural beauty and amenity;

(h) the provision, where appropriate, for customary use including hunting and gathering;

(i) any other matter, which the Board thinks necessary, for the control, regulation and management of the park or reserve in respect of which such plan is prepared.

(4) Together with the management plan, the Board shall submit to the Minister any objections or representations made by the persons consulted in pursuance of subsection (2).

11. Approval of the management plan

(1) Where any objections or representations made by any persons are submitted together with the management plan or proposal for alterations or additions to such plan in accordance with subsection (4) of section 10, the Minister shall appoint a person to hold a public inquiry into the objections or representations and the Minister shall before approving that plan or proposal take into consideration such objections or representations together with the report thereon of the person holding the public inquiry.

(2) The approval of the management plan, or of proposals for alterations or additions to such plan, by the Minister shall be published in the Gazette and such plan or amendment of such plan shall become operative on the date on which its approval by the Minister is published in the Gazette or on such date as the Minister may determine.

12. Alterations or additions to the management plan

(1) At least once in every 2 years after the date on which a management plan for any park or reserve is approved by the Minister, the Board shall carry out a fresh review of that park or reserve, and submit to the Minister a report of the review, together with proposals for any alterations or additions to the plans that appears to the Board necessary, having regard to the review.

(2) Notwithstanding subsection (1), the Board may at any time submit to the Minister proposals for such alterations or additions to any management plan as appear to the Board to be expedient.

13. Local management committee

(1) The Minister may appoint for every park or reserve a local management committee which shall consist of –

(a) a representative of the Board;

(b) a representative of the Vanuatu National Council of Women for the area;

(c) one representative of the custom owners whose lands include part of that park or reserve;

(d) one representative of the chiefs whose area includes part of that park or reserve.

(2) Every committee shall subject to the provisions of this Act be responsible for the control and management of the park or reserve in relation to which it is appointed and in association with the Board, for the implementation of the respective management plan.

(3) The Minister shall appoint one of the members of the committee to be the chairman of the committee.

(4) Every committee shall determine the quorum for, and the procedure to be followed at, the meetings of such committee.

14. Duties of the local management committee

Every local management committee shall, in relation to the park or reserve in respect of which it is appointed, be charged with the duty of –

(a) advising the Minister or Board, as the case may be, with regard to the management of the park or reserve in respect of which such committee is appointed;

(b) advising the Board with regard to any provision in, or any alteration in the provisions in the management plan, and to investigate any defects and delays in the execution of such plan;

(c) performing any functions assigned or delegated to it under the provisions of this Act.

15. Delegations of powers, functions and duties by the Board

The Board may delegate to the local management committees such of its powers, functions and duties as may be determined by the Board.

16. Authorized officers to be appointed

For the purpose of enforcing this Act, the Minister may appoint authorized officers, in the manner, with such powers and for such purposes as may be prescribed.

17. Agreements with the Board

(1) Where for the purposes of this Act, it appears to the Board expedient in the public interest to do so, the Board may, in relation to any land, enter into an agreement with the custom owners of that land, or other person having an interest in that land, any Local Authority whose area includes that land, and the chiefs whose area of authority includes that land and such agreement may impose such restrictions on the exercise of rights over land by the persons who can be bound by that agreement.

(2) Any such agreement referred to in subsection (1) –

(a) may provide for the carrying out on the land of such work and the doing thereon of such other things as may be expedient for the purposes of such agreement;

(b) may provide for any of the matters mentioned in paragraph (a) above being carried out, or for the cost thereof being defrayed, either by the custom owner or other persons, or by the Board, or partly in one way and partly in another; and

(c) may contain such other provisions as to the making of payments by the Board as may be specified in the agreement.

(3) Where any custom owner or other person having an interest in any land, by the agreement referred to in subsection (1) grants or agrees to grant any right in respect of that land, the grant or agreement shall be binding upon any person deriving title or otherwise claiming under the grantor, to the same extent as it is binding upon the grantor, notwithstanding that it would not have been binding upon that person apart from the provisions of this subsection.

18. Conservation Fund

(1) There shall be a Fund which shall be called the Conservation Fund established for the financial purposes of the Board.

(2) There shall be credited to the Fund –

(a) all monies from time to time allocated and paid to the Board, out of monies appropriated by Parliament for the purposes of this Act;

(b) all fees, charges, and penalties levied by the Board under the regulations made under the provisions of this Act;

(c) all monies received by the Board in the exercise and performance of its powers, functions and duties;

(d) all monies received by the Board by way of loans, donations, gifts or grants from any service whatsoever, within or outside Vanuatu.

(3) There shall be paid out of the Fund all such monies as may be required to defray any expenditure incurred by the Board in the exercise and performance of its powers, function and duties.

(4) The net surplus monies for any year of the Fund, if any, may be invested in such manner as the Board may determine.

19. Accounts of the Board

(1) The Board shall keep proper accounts and other records in respect of its receipts and expenditure and shall cause to be prepared an annual statement of accounts in respect of each financial year.

(2) The accounts of the Board shall be made up to 30^{h} September in each financial year and shall be audited by an independent and properly qualified auditor approved by the Minister and appointed by the Board.

(3) Fees payable to the auditor appointed under subsection (2) shall be paid out of the Fund of the Board.

(4) The Board shall provide the Minister and the Auditor-General each with a copy of the audited accounts and report thereon by the auditor referred to in subsection (2).

20. Annual report of the Board

The Board shall at the end of each year submit to the Minister a report relating to the activities of the Board and the Minister shall cause such report to be laid before Parliament.

21. Minister's power to make regulations

(1) The Minister may make regulations not inconsistent with this Act, prescribing matters–

(a) required or permitted by this Act to be prescribed; or

(b) necessary or convenient to be prescribed for carrying out or giving effect to this Act.

(2) Without limiting the generality of subsection (1), the regulations may provide for –

(a) the administration and management of the parks and reserves;

(b) the implementation of the management plans prepared in respect of the parks and reserves;

(c) fees, duties or charges in respect of any matter, associated with the administration and management of the parks and reserves;

(d) the exemption of any person or class of persons, from being subject to its application;

(e) the prohibition or restriction of the doing of any act or thing in the parks or reserves.

(3) Where the exercise of any right vested in a person, whether by reason of his being entitled to any interest in land or by virtue of a licence or agreement, is prevented or hindered by the coming into operation of the regulations under this section, such person shall be entitled to receive from the Board compensation in respect thereof.

22. Offences and penalties

Any person who contravenes any provision of this Act or any regulations made thereunder shall be guilty of an offence and shall be liable on conviction to a fine not exceeding VT 1,000,000 or to imprisonment for a term not exceeding 3 years, or to both such fine and imprisonment.

23. This Act to prevail over other written law

The provisions of this Act shall have effect notwithstanding anything to the contrary in the provisions of any other written law other than the Constitution and accordingly, in the event of any conflict or inconsistency between the provisions of this Act and the provisions of such other written law, the provisions of this Act shall prevail over the provisions of such other written law.