

No. 10.] *Land Conservation and Improvement Act* [1992.

I ASSENT

STANISLAUS JAMES,
Governor-General.

15th April, 1992.

SAINT LUCIA

No. 10 of 1992

AN ACT to provide for the Conservation of land in Saint Lucia, for the establishment of a Board to be known as the Land Conservation Board, for conferring on that Board functions as to land, and for the purposes connected therewith or incidental thereto.

[18th April, 1992.]

BE IT ENACTED by the Queen's Most Excellent Majesty, by and with the advice and consent of the House of Assembly and the Senate of Saint Lucia, and by the authority of the same, as follows :

1. This Act may be cited as the Land Conservation and Short Title.
Improvement Act, 1992.

Interpretation.

2. In this Act —

“conservation area” means an area defined and declared to be a conservation area in respect of which measures may be taken under section 12;

“crop” means the produce of cultivated plants and any part of trees, bushes or plants which is cut or collected for any purpose;

“Crown Lands” includes —

- (a) the waste or vacant land of the Crown;
- (b) all lands vested and held in right of the Crown by the Government whether by forfeiture, escheat, purchase or exchange;

“daylight” means the interval between five o’clock in the morning and the succeeding six o’clock in the evening;

“drainage works” —

(a) means any work for the purpose of draining land or preventing or mitigating flooding, erosion or the effects of storm water to which land, property, transmission lines, culverts, bridges, pipelines, roads and other lines of communication are subject; and

(b) includes —

- (i) the construction, opening, cleaning, maintaining, scouring, deepening, widening, straightening, diverting, blocking or infilling of any watercourse, public drain or outfall of water;
- (ii) the construction, installation, alteration, repair or removal of any pump machinery or pump house;
- (iii) the removal of any obstruction, natural or artificial in any watercourse;
- (iv) the construction, repair, raising, lowering, widening, strengthening, altering or removal of any embankment, dam, barrier, sluice, weir, wall, bridge, culvert or groyne or of any structure or erection for the purpose of defence against water;
- (v) the construction, maintenance, improvement, alteration of fencing, walls, screens and barriers around drainage work;

“land” includes land covered by water;

- “livestock” includes cattle, horses, mules, asses, sheep, goats and swine ;
- “Minister” means the Minister responsible for Agriculture and Lands ;
- “occupier” in relation to any land includes a caretaker, any contractor or any other person authorised to undertake or engage in undertaking any works in relation to the land or any other person who has an interest in or is otherwise engaged in any activity whatsoever on the land ;
- “officer” means any person appointed to discharge any function of an officer under this Act or any rules or regulations made thereunder ;
- “owner” in relation to any land means a person in whom is vested the absolute interest of land ;
- “Protection Order” includes a General Protection Order or a Specific Protection Order ;
- “public drain” means any water course which runs through more than one parcel of land ;
- “storm water” means all flow of water directly due to rainfall, before such water forms a stream ;
- “vegetation” includes —
- (a) trees and all parts or produce of such trees, and to include palms, bamboos, stumps or brush wood ;
 - (b) plants not being trees and all parts or produce of such plants, including charcoal ; and
 - (c) trees when they have fallen, have been felled and all wood whether cut up or fashioned for any purpose or not ;
- “watercourse” includes water which is satisfactory for human consumption and meets the requirements of the Health Authority and the supply of water for industrial or commercial purposes.

3.—(1) For the purposes of the Act there is hereby established a board to be known as the Land Conservation Board (hereinafter referred to as the Board). Establishment of
Land
Conservation
Board.

(2) The provisions of the First Schedule shall have effect as to the constitution, operation and expenses of the Board.

4. The functions of the Board shall be —

- (a) to advise the Minister on matters relating to the general supervision of land and water resources ; Functions of
the Board.

- (b) to stimulate public interest in the conservation and improvement of land and water resources ;
- (c) to recommend to the Minister the nature of legislation deemed necessary for the proper conservation and improvement of land and water resources ;
- (d) to co-ordinate efforts of other Conservation Bodies including Government Agencies in relation to the conservation of land and water resources ;
- (e) to be responsible for implementing the provision of this Act or any Regulations made thereunder ;
- (f) to advise the Development Control Authority and any other agency involved in land use on matters concerning land conservation and improvement of land ;
- (g) to offer where the Board deems it necessary and in conjunction with Government agencies, technical advice in the field of land management to landowners and/or occupiers ;
- (h) to do all that is expedient and necessary for the purposes of this Act.

Employment
of Staff.

5. The Board may after consultation with the Minister employ such agents and staff, retain solicitors, accountants and other professional services on such terms and conditions and for such remuneration as it determines.

Protection Order.

6.—(1) Subject to section 7 the Board may, where it deems it necessary for the conservation or improvement of land or water resources or to secure proper economic and efficient utilisation of all land, make Orders hereinafter called Protection Orders.

(2) It is hereby declared that a Protection Order shall apply in respect of the properties described in the Second Schedule.

(3) The Board may with the approval of the Minister renew, alter or revoke any Order made under this section.

(4) A Protection Order may —

- (a) prohibit, regulate and control the breaking up or clearing of land for cultivation or any other purpose ;
- (b) prohibit, regulate and control the grazing, depasturing and watering of livestock ;

- (c) prohibit or restrict the cultivation of crops specified in the Order ;
- (d) regulate the method of cultivation of land ;
- (e) require the uprooting or destruction without payment of any compensation thereof of any crop which has been planted in contravention of any of the provisions of this Act ;
- (f) prohibit, regulate, control and order the carrying out of drainage works ;
- (g) prohibit, regulate and control the lighting of fires and burning of vegetation ;
- (h) to prohibit or control the cutting of vegetation or parts thereof ;
- (i) prohibit, regulate and control any other matters connected with the foregoing ;

(5) Any person who fails to comply with the terms of a Protection Order made under this section shall be guilty of an offence against this Act.

7.—(1) For the purposes of this Act the Minister may, with the advice of the Board, make a General Protection Order. General Protection Order.

(2) A General Protection Order is any Protection Order which affects more than one parcel of land.

(3) A General Protection Order specifying the area to which it extends shall be published in two consecutive issues of the *Gazette* and in a local newspaper which is circulated in the area covered by the Order.

(4) Subject to section 9, a General Protection Order shall come into operation fourteen days after the second consecutive publication in the *Gazette*.

8.—(1) A Specific Protection Order shall specify the land to which it relates and shall be served upon the owner, occupier or both, as the Board may decide, of the land to which it relates. Specific Protection Order.

(2) A Specific Protection Order shall not affect more than one parcel of land.

(3) Subject to section 9, a Specific Protection Order shall come into operation in relation to any person affected by it ten days after service of the Order on that person.

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Appeals against
Protection
Order.

9.—(1) Any owner or occupier of any land affected by a General Protection Order may not later than fourteen days of the second publication of the Order in the Gazette, appeal in writing to the Minister stating the grounds on which an objection is made to any part of or all of the Order.

(2) Any person served with a Specific Protection Order may within ten days of such service appeal in writing to the Minister stating the grounds on which an objection is made to any or all of the Order.

(3) On any appeal against a Specific or General Protection Order the Minister may dismiss the appeal or may revoke or modify the Order as it affects the appellant.

Entry on land
affected by
Protection
Order.

10.—(1) Where the owner or occupier, as the case may be, refuses or fails to comply within such reasonable time as may be fixed by the Board with the terms of any Order issued under this section, or where the Board deems it necessary, the Executive Secretary of the Board or its agents, may enter upon the land having previously given at least twenty-four hours notice to the owner or occupier of the land and may carry out the works specified in the Order.

(2) Where the Executive Secretary of the Board or its agents carries out any works under subsection (1) the reasonable costs incurred by them in so doing may be recovered from the owner or occupier, as the case may, as a debt due to the Board.

(3) A certificate signed by the Executive Secretary stating the reasonable cost of the works shall be *prima facie* evidence of its contents.

Interim
Protection
Notice.

11.—(1) The Board may, where it considers the conditions for the conservation and improvement of land or water resources on any given land to be critical, issue a Notice (hereinafter called an Interim Protection Notice).

(2) An Interim Protection Notice shall be in writing under the hand of the Executive Secretary of the Board and shall be served on any owner or occupier of the land to which it relates.

(3) An Interim Protection Notice shall have the effect of causing all work of whatever nature pertaining to that land to cease from the date of such Notice except work which has been approved by the Board in writing.

- 4) An Interim Protection Notice shall remain in effect for a period of sixty days.
- 5) Notwithstanding the provisions of any other law to the contrary, an Interim Protection Notice shall take precedence.
- 6) Any person who fails to comply with the provisions of section (3) shall be guilty of an offence against this Act.

2.—(1) Without prejudice to the exercise of the powers retained in the other parts of this Act, it shall be lawful for the Board from time to time as the occasion may arise to declare any lands including Crown Lands to be a Conservation Area.

2) For the purposes of subsection (1) the Board may with the approval of the Minister make such Regulations as appears to be necessary for -

- (a) the protection against storms, storm waters, winds, rain, stones, floods, land slides, drought and airborne emissions;
 - (b) the preservation of soil and vegetation, ridges, valleys and hilly tracks;
 - (c) the prevention of land slides and the formation of ravines and torrents, and the protection of land against erosion or the deposition thereof of soil, sand, stones, gravel and noxious material;
 - (d) the maintenance of the water supply in springs, rivers, canals and any other source;
 - (e) the maintenance and carrying out of drainage works;
 - (f) the protection of transmission lines, pipelines, bridges, roads, culverts, hydraulic structures, and the protection of any other other property or lines of communication;
 - (g) the preservation of soil fertility, scenic beauty, cultural and other unique characteristics;
 - (h) the promotion of the most efficient and economic utilisation of land; and
 - (i) the preservation of public and environmental health.
- 3) Regulations made under subsection (2) may provide for —
- (a) the breaking up or clearing of lands for cultivation for any other purpose;
 - (b) the pasturing, depasturing and watering of livestock;

- (c) the method of cultivation of land ;
- (d) the firing, clearing or destruction of vegetation ;
- (e) any other land use activities in the Conservation Area.

(4) Any person who fails to comply with any Regulations made under this section shall be guilty of an offence against this Act.

(5) If the Board considers that any area should be declared a conservation area it shall publish a notice to that effect in at least one issue of the *Gazette* and in at least one issue of a local newspaper which is circulated in the proposed conservation area.

(6) As soon as any notice has been published in accordance with subsection (5), the Board shall prepare, or cause to be prepared, with such person as it may think fit, a proposal for the long term management of the area and regulations for its protection.

(7) During the preparation of such a proposal for a conservation area the Board must hold at least one public meeting within or in close proximity to the proposed area. At such a meeting the Board shall outline its objectives, proposals and likely consequences for the proposed conservation area and it must encourage public participation and pay due consideration to the submissions of all interested parties in the preparation of the proposals to be published in accordance with subsection (8).

(8) Where the Board has complied with the provisions of subsections (5), (6) and (7), it shall make or cause to be made available for public viewing, for a period of at least thirty days, its proposal for a conservation area.

(9) The Board shall issue a notice indicating the place and times when its proposal can be viewed by the public in two consecutive issues of the *Gazette* and in two consecutive issues of a local newspaper which is circulated in the proposed conservation area.

(10) Any owner, occupier or any interested person within a proposed conservation area may, within fourteen days after the last day of public viewing, make objections, comments or recommendations in writing to the Executive Secretary of the Board with regard to the proposed conservation area.

(11) The Board shall consider any objections, comments or recommendations made in accordance with subsection (10) in the

preparation of a final management and implementation plan for the conservation area.

(12) The Board shall make or cause to be made available for public scrutiny, for a period of at least fourteen days, the final management and implementation plan for a conservation area.

(13) The Board shall issue a notice indicating the place and times when the final management and implementation plan can be examined by the public in two consecutive issues of the Gazette and in two consecutive issues of a local newspaper which is circulated in the proposed conservation area.

(14) Any owner, occupier or any other person who is or is likely to be affected by the implementation of the final plan for a conservation area, may appeal in writing to the Minister within thirty days after the last day of public examination referred to in subsection (12), stating the grounds on which any objection to any part of the final management and implementation plan is made.

(15) The Minister shall, upon receipt of any appeal made under subsection (14) consider the objection and may if the Minister deems it necessary, appoint an independent Inspector to hold a public enquiry regarding the final management and implementation plan and any objection raised thereon.

(16) An appointed Inspector under subsection (15) shall submit to the Minister a report in writing within thirty days of the conclusion of the public enquiry. Such a report shall include recommendations for amendments, rejection or complete acceptance of the final management and implementation plan.

(17) A copy of the report made under subsection (16) shall be sent directly to the Board by the Inspector.

(18) The Minister shall submit to Cabinet, the final management and implementation plan together with any recommendations of an Inspector from a public enquiry, for its consideration.

13. The Board may at any time alter, revise or change the final management and implementation plans for a conservation area. Such alterations, revisions or plans shall come into operation and be subject to appeal in like manner as the original final management and implementation plan.

Alteration
plans for a
conservation area.

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Conservation
Officers.

14.—(1) The Board may, with the approval of the Minister appoint Conservation Officers who shall assist the Board in supervising the use of and encouraging conservation and improvement of land and water resources.

(2) A Conservation Officer shall, subject to subsection (3), have the right at any time in daylight to enter upon any land —

(a) for the purpose of ascertaining whether the lands are being used in accordance with the provisions of any Order, Notice or Regulations made under this Act;

(b) for the purpose of ascertaining whether works ordered under the provisions of section 6 are or have been carried out on the land.

(3) A Conservation Officer or other person authorised by the Board may carry out in or upon any area covered by a Protection Order such works as may be determined by that Order.

(4) Any person who hinders, obstructs, molests or assaults a Conservation Officer in the exercise of the Officer's powers under this section shall be guilty of an offence against this Act.

Compulsory
acquisition
and vesting
of lands.

15.—(1) In any case in which the Government decides that any land including land with buildings thereon should be acquired to enable the purposes of this Act to be more readily carried out, the Governor-General may acquire by public treaty or compulsory acquisition under the provisions of the Land Acquisition Ordinance any lands in a conservation area and may exercise all powers under the Ordinance in relation to any acquisition or intended acquisitions of such land and in relation to such acquisition the purpose aforesaid shall be deemed to be a public purpose.

(2) The Governor-General may, upon such terms and conditions as he may determine, vest any lands acquired in a conservation area in any authority or body of persons charged with executing the provisions of this Act by Order declaring that such lands shall vest in the authority or body of persons as from the date thereof. Any such Order shall be published in the Gazette and shall vest the lands absolutely in the authority or body of persons designated by the Governor-General as from the date thereof, free from all encumbrances.

(3) Nothing herein contained shall prejudice the right of any person having any interest in any lands acquired as aforesaid

within the provisions of the Land Ch. 109 Acquisition Ordinance: Ch. 109.
 except that compensation for any lands acquired under this section
 shall be determined in accordance with the provisions of section
 9 of the Land Acquisition Ordinance save that the date at which
 such compensation is to be assessed is the date from which the
 Declaration pursuant to section 3 of the said Ordinance shall be
 published.

16.—(1) Any person who is the owner or who has an interest Compensation
 in any land situated within an area affected by a Protection Order claims for
 and who suffers any damage or loss as a result of any action of the damage or
 Board may apply to the Board for compensation in accordance injuries.
 with subsection (2).

(2) Every person who desires to claim compensation under this
 section shall give notice in writing to the Board within twelve
 months after the execution of the works out of which such claim
 has arisen or may hereinafter arise.

(3) Every person shall set out in a claim —

- (a) particulars specifying the claimant's name and address;
- (b) the description of land, immovable property or a chattel house in respect of which the claim is made;
- (c) where the person is the owner of the land, immovable property or of a chattel house, the nature of any encumbrance lease or servitude pertaining thereto and whether any other person has an interest therein;
- (d) the manner in which the land, immovable property or chattel house in respect of which the claim has been made has been damaged or injuriously affected;
- (e) any other matter in which compensation is claimed with full particulars in respect of claim; and
- (f) the total amount of the claim.

(4) For the purposes of subsection (2) the term "execution of the works" means the completion of the construction of any portion of work where such portion in itself (and without reference to any part of the work) causes the damage or injuries affected. Such portion of the work shall be deemed to be completed when anything further that may be required to be done herein to complete the same will have no effect either to increase or lessen damage.

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Award. **17.—**(1) The Board shall consider any claim for compensation from any interested person who submits a claim in accordance with section 16.

(2) After due consideration of the claims the Board may dismiss, modify or accept the claim.

(3) Where appropriate, the Board may make an award to the claimant. Such an award shall be signed by the Executive Secretary after approval by the Board. The award may include monetary payments, remission of land tax, exchange of land or any other award which the Board deems appropriate.

appeal against an Order. **18.—**(1) An appeal in respect of any award made by an Order of the Board shall be lodged in writing with the Minister.

(2) The Minister may appoint an independent arbitrator to consider and decide an appeal made under subsection (1) where the Minister deems it necessary.

(3) The decision of the independent arbitrator shall be final and binding upon the parties involved in the appeal.

Funds and resources of the Board. **19.—**(1) The funds and resources of the Board shall consist of —

- (a) an initial capital allocation of an amount adequate for the commencement of the Board's activities to be provided by Government ;
- (b) such sums as may be provided by Parliament for the purpose ;
- (c) any loan or grant made to the Board by the Government or, with the approval of the Minister, by any person or body or international organisation ;
- (d) all monies paid to the Board by way of subsidies, gifts, fees, subscriptions, rent, interest and royalties as well as any other sum or any property which may in any manner become payable to or vested in the Board in respect of the performance of its functions; and
- (e) any sums or property which may be donated to the Board.

Borrowing powers. **20.—**(1) The Board may, from time to time, with the approval of the Minister, borrow by way of overdraft or otherwise from any

bank, financial institution or any other agency, such sums as may be necessary for carrying out its functions under this Act.

(2) Any borrowing made under subsection (1), may be made under whatever terms and conditions deemed appropriate by the Minister responsible for finance.

- 21.—(1) The funds of the Board shall be applied towards —
- (a) meeting the obligations and discharging any of the functions of the Board under this Act and any matter incidental thereto;
 - (b) making loans or grants to owners, occupiers or other responsible agencies for carrying out the provisions of this Act ;
 - (c) the creation of a reserve fund of such amount as the Board deems necessary.
- Application
of funds of
the Board.

22.—(1) All decisions, orders, rules and regulations relating to the financial operations of the Board and authorised by this Act shall be made by resolution of the Board at a meeting thereof and shall be recorded in the minutes of the Board.

Accounting of
the Board.

(2) The Board shall keep a proper record of its accounts showing, under appropriate heads —

- (a) the outstanding accounts of any loans received by the Board for the acquisition of or the construction of any premises, facilities or works by the Board;
- (b) all monies received by the Board including appropriations by Parliament, donations and gifts received by the Board without being designated for any capital acquisitions or construction;
- (c) the outstanding accounts of any loans and grants made by the Board; and
- (d) all monies expended by the Board, in carrying out its activities.

(3) The accounts of the Board shall be audited by the auditors to be appointed annually by the Board with the approval of the Minister.

(4) The Board shall, before the commencement of each financial year, submit to the Minister a copy of its income and expenditure budget in relation to such year.

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(5) After the end of each financial year, the Board shall, as soon as the accounts of the Board have been audited, cause a copy of the statement of accounts and summary of activities performed to be transmitted to the Minister together with a copy of any report made by the auditors on that statement or the accounts of the Board. The Minister shall cause a copy of every statement and report to be laid before Parliament.

Cash deposits
and payments.

23.—(1) All monies received by the Board shall be paid into a bank account or accounts determined by resolution of the Board which is approved by the Minister.

(2) All payments out of the Funds of the Board except petty disbursement not exceeding a sum to be fixed by rules made under section 24 shall be signed by the Executive Secretary and countersigned by the Chairman or any other officer appointed by the Board to act on their behalf.

Power to make
rules.

24. The Board shall by resolution make rules in respect of all matters necessary for the proper keeping and control of the accounts and books and the control of the finances of the Board.

Power to vary
Schedule by Order.

25. The Minister may, on the advice of the Board, by Order published in the Gazette, vary or amend any provision of the Schedule.

Offences.

26.—(1) Any person who contravenes any section of this Act, or fails to comply with any Rule, Regulation, Order or Notice made under this Act, is guilty of an offence and is liable on summary conviction to a fine not exceeding five hundred dollars or six months imprisonment on the first offence.

(2) Any person summarily convicted for a second or subsequent offence against this Act is liable to a fine of not less than five hundred dollars and not exceeding three thousand five hundred dollars or to imprisonment for a period of not less than six months and not exceeding one year or both; provided that where any conviction is made under section 14(4) of the Act and such hindering, obstruction, molestation or assault is by use of weapons such as knives, cutlasses, firearms or other instruments the penalty shall be imprisonment with hard labour for a period not less than one year.

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) In addition to any legal penalties imposed under this Act or Regulations made thereunder, the Court may order any person convicted to pay such compensation to cover the cost of the statement of the said area, as the Court may determine.

) Any monies received under subsection (3) shall be paid a sundry account to be operated by the Board.

. The Minister may make Regulations - Regulations.

(a) for avoiding fragmentation or uneconomic partition of land within a Conservation Area or within the area described in a Protection Order and such Regulations may include —

- (i) payment of compensation where in respect of such land there are several heirs and owners ;
- (ii) the orderly transfer of such land whether by way of succession or otherwise.

(b) for the better administration of the provisions of this Act.

ed in the House of Assembly this 3rd day of April, 1992.

W. ST. CLAIR-DANIEL,
Speaker

ed in the Senate this 7th day of April, 1992.

E. HENRY GIRAUDY,
President

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FIRST SCHEDULE (section 3(2))

Composition of
the Board.

1. The Board shall consist of —

- (a) the Permanent Secretary of the Ministry of Agriculture (Chairperson);
- (b) the Director of Agricultural Services of the Ministry of Agriculture;
- (c) the Chief Engineer of the Water and Sewerage Authority;
- (d) the Chief Technical Officer, Physical Planning;
- (e) the Chief Engineer, Ministry of Communications, Works and Transport;
- (f) the Chief Forest and Land Officer of the Ministry of Agriculture;
- (g) the Senior Agricultural Engineer of the Agricultural Engineering Services Division who will be the Executive Secretary of the Board with voting rights;
- (h) four other members not being government officials shall be appointed by the Minister. They shall have an active interest in land conservation and at least two of them shall be from the out districts.

Vacancy.

2.—(a) The Minister may, with the advice of the Board, appoint a suitable person to act in the place of any member of the Board in the case of the absence, or inability of such member to act.

(b) A member who is appointed by the Minister with the advice of the Board to fill a vacancy created by the death, resignation or removal from office for cause of such a member mentioned shall hold office for the unexpired portion of the term of such member.

Tenure of
office.

3.—(a) A member of the Board mentioned in paragraph (1), shall hold office for three years unless that member resigns or is removed from office by the Minister for cause before the end of the first term.

(b) Any person appointed under paragraph (1) is eligible for reappointment for a further term.

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4. A member of the Board mentioned in paragraph (1) of the Schedule may resign his office by instrument in writing addressed to the Minister transmitted through the Chairperson and from the date of the receipt of such instrument by the Minister such member shall cease to be a member of the Board. Resignation.

5. Six members of the Board shall constitute a quorum at any meeting of the Board. Quorum.

6. The decision of the Board shall be by a majority of votes. In any case in which the voting is equal, the Chairperson presiding at the meeting shall have a single casting vote only. Voting.

7. The Board shall meet at such times as may be necessary or expedient for the transaction of business and such meetings shall be held at such places and times and on such days as the Board determines. Meetings.

8. The Board may incur at such times as may be necessary or expedient for the transaction of its business expenses pertaining to the payment of honorarium, travel, or other expenses approved by the Chairperson and these may be charged to the Board's account. Expenses.

9. The Board may appoint a committee for any of the purposes of the Board which in its opinion would be better regulated or managed by a committee and may delegate any of its powers to a committee as it thinks fit. Appointment of committee.

10. The Chairperson shall preside at meetings of the Board and where the Chairperson is absent from any meeting the members present may elect one of their members to act as Chairperson for that meeting. Chairperson.

11. The Executive Secretary shall be responsible for carrying out the policy and supervising the activities undertaken by the Board. Executive Secretary.

12. All documents made by and all decisions of the Board may be signified under the hand of the Chairperson, or the Executive Secretary or any member of the Board authorised by the Chairperson to act on their behalf. Execution of documents.

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SECOND SCHEDULE (section 6 (2))
Lands known as —

(1) Model Farms Lands.

(2) Mabouya Valley Development Project Lands.