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Any errors or inaccuracies that remain are the responsibility of JET.

May 2005
Jamaica Environment Trust
11 Waterloo Road
Kingston 10
JAMAICA
It Inna Di Law! is intended as a non-specialist guide to some of the central provisions of Jamaica’s environmental legislation.

The power of citizen action has been an important catalyst for increased enforcement of environmental laws in many countries around the world. However, while Jamaican citizens have a range of concerns about environmental issues, citizen action is not especially effective. The Jamaica Environment Trust (JET) believes that accessible information on environmental laws is a necessary first step in building a broad-based citizens’ movement to protect the natural environment.

Although not meant to be a textbook on law, It Inna di Law! includes some basic legal information that we hope will make the law easier to understand. We have included guidelines on how to read the law and how it can be used to ensure good environmental stewardship.

We hope this booklet will go some way towards increasing public knowledge about environmental laws and empowering communities to act.

Environmental law reform is underway at the time of this booklet’s publication, so although every effort has been made to ensure It Inna di Law! is accurate, some information may become outdated. We therefore plan to reprint within a year and invite the comments and suggestions of readers.
It Inna Di Law! can be used as a reference guide by non-governmental organisations (NGOs), community based organizations (CBOs), schools and other educational institutions to educate their members and students on Jamaica’s environmental laws. It is divided into two sections.

**Section I** offers a general introduction to the law; how it is created, its functions and how Jamaica’s legal system works. It also gives some information on how current legal remedies are relevant to environmental protection and how citizens can take environmental abuses to court. There are suggestions for what else can be done if legal action is not possible or desirable. Key contacts for Agencies, Ministries and NGOs related to the protection of the environment are summarised at the end.

**Section II** contains five sub-sections based on the environmental issues they cover. Each law has been written in a “Fact Sheet” format with questions and answers for easy reference. The five sub-sections are:

1. “Heavy Hitters” The most encompassing environmental laws of Jamaica
2. “What A Waste!” The law governing solid waste management
3. “From the Hills to Sea” Watersheds, forests and water resources
4. “Protecting Biological Diversity” Protection of wildlife and plants
5. “The Air We Breathe” Laws relating to air quality

Please bear in mind that, just like the natural environment, everything is inter-connected so there is overlap between laws and issues in the different categories.

A list of international laws and conventions relating to the environment, a glossary and a list of acronyms can also be found at the end of the book.
Section One

What you need to know
1. “Fi tek shame outta wi yeye”

Jamaicans are natural “show-offs.” Jamaica boasts a diverse and beautiful natural environment. Through tourism, our major foreign exchange earner, we invite the world to enjoy our island. A healthy tourist industry depends on healthy natural resources, so unless we maintain what we have, there will be nothing left for us to show-off about.

2. “Fi mek sure seh di pickney dem have wah fi show”

The legacy we want to leave for “di pickney dem” includes our plants and animals, our mountains, rivers, beaches, wetlands and coral reefs. The Government of Jamaica has expressed commitment to the principle of sustainable development. Sustainable development encourages an approach to management of our environment that focuses on preserving it for the use of future generations. It also recognizes that the state of the environment affects our economic and social well-being.

3. “Cause ah nuh only one time monkey want a wife”

Many of us have experienced water shortages at home and smaller fish at the market. These are symptoms of the deterioration of our natural resources. This makes the protection of the environment an important personal commitment for every Jamaican.

4. “It Inna di Law!”

Jamaica’s laws reflect an increasing awareness of the importance of protecting and conserving the environment. More than ever, we can find solutions in the law to address environmental abuses. Penalties are increasing, as are the powers of regulatory agencies. However, the role of individuals in helping to enforce the law is essential. Many of us don’t know what part we can play or what rights we have. Guidelines for citizens can be found right here in *It Inna di Law!*

*Why Care About THE ENVIRONMENT*
What is law and why do we need it?

Law refers to a body of rules that governs the way society functions. The law is dynamic and changes from time to time to reflect social values. Divorce laws provide a good example of this. Changes in the law have made it progressively easier to end a marriage, with an increasing acceptance of divorce as an ordinary part of human legal arrangements.

There have also been changes in the laws that govern the protection of the environment. At one time, there were no such laws. When they did appear, the reasons were often not to protect the environment, but to facilitate human activity such as forestry or fishing. Today, protection of the environment is regarded as more of a priority.

So, one definition of environmental law can be:

“...Law that governs the protection of the environment (air, space, waters, land, plants and wildlife) and places limits on human activities that harm the environment,”

Environmental law may be made on a national basis in order to regulate human activity that affects the environment within a country or state. There is also a growing body of international law that takes the form of agreements between countries about environmental activity that might have an effect outside of a country. For instance, sulphur dioxide emissions from factories can travel great distances by air and cause acid rain in an area separate from where it was originally emitted. Acid rain is rain that mixes with chemicals in the atmosphere and causes damage to the environment when it falls. Destruction of the ozone layer by the use of aerosols and refrigerants (in air conditioning units) is an example of an environmental issue that affects everyone, regardless of where in the world they live.

How are laws created?

The Jamaican Constitution establishes the procedures for creating law. Most of the laws that govern Jamaica are passed or created by Parliament. Parliament is divided into two Houses - a Lower House called the House of Representatives and an Upper House called the Senate. The House of Representatives consists of elected Members of Parliament (MPs), while the Senate consists of members appointed by the government. The Head of State forms the third arm of Parliament.

Members of either House may decide that a new law needs to be introduced or an existing one needs to be changed. Agencies and responsible ministries often seek comments on new laws from citizens and after responses are received they will then introduce the proposed law, called a Bill in either of the Houses of Parliament.

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The Bill goes through a procedure whereby it is debated upon by members of either House and amended. The public can make comments on it when a draft is ready.

When the final document is approved, it formally becomes law after receiving the assent of the Governor General (GG). The GG’s role is a historic one and in practice s/he will give approval to any Bill approved by Parliament. At this point, the law is called a Statute or an Act of Parliament. Most environmental laws are created in this way.

Acts or Statutes sometimes only give general guideline rules. More specific laws called Regulations are often created to give instructions as to how these rules are to be implemented. In some cases, it is difficult to enforce a law without Regulations, so the creation of Regulations can be very important.

**Why is this information important to you?**

First of all, MPs are elected by the general public. They are responsible for representing your needs. So, if you identify an area of (environmental) law that needs improvement, you can bring it to your MP’s attention. They have a duty to take action and you can demand that this is done. There is also an opportunity to comment on a proposed law before it is actually approved. The Jamaicans for Justice (JFJ), an organization that supports the protection of human rights in Jamaica, was successful in getting changes to the Access to Information Act 2002 before it became a part of the law.

**Who enforces the law?**

Good mechanisms for enforcing the law are essential to ensure that it is respected and obeyed. Once a law is broken, enforcement is ultimately the responsibility of the Jamaican court system that includes the judiciary, prosecutors, administrators and so on. Remedies can sometimes be obtained before enforcement action is taken. These remedies depend on the type and seriousness of the offence.

Law can be broadly divided into two areas: Criminal and Civil. Acts that are offensive to the basic rules of society as a whole - for example theft and murder - are criminal. Criminal law is an action taken by the state against the individual and in Jamaica it is the responsibility of the Office of the Director of Public Prosecutions (DPP) to prosecute if investigation by the police supports the charge(s) made. Some environmental abuses are criminal. Criminal offences generally attract custodial (prison) sentences and fines.

Civil law governs other legal actions between individuals that affect a citizen’s health, property or economic and social interests. An example of this is the duty not to make noise so that it becomes a nuisance to your neighbour. Citizens in Jamaica have taken legal action for negligence or nuisance against bauxite companies for damage caused to their roofs from toxic fumes; citizens have also assisted in civil actions to ensure the preservation of their access to the beach and have sought injunctions to stop the building of cellular towers near their houses.

Citizens can represent themselves in some actions in the lower courts (see Jamaican Court System below). More serious actions will require legal representation. The Government funds Legal Aid Clinics to provide legal advice to people who cannot afford lawyers.

The Office of the Public Defender was established for citizen complaints specifically about constitutional rights and abuse of process by the government. Your constitutional rights are set out in the Jamaican Constitution. This is the most important piece of law in Jamaica as it sets out the principles that guide the Government in running the country. It also sets out the personal rights that every citizen has, such as the right to a fair trial.

Special agencies are often established with the responsibility to protect against environmental abuses.

**How do legal remedies help the environment?**

Many traditional legal remedies, such as fines and custodial (prison) sentences, do not directly result in correction of environmental problems. Many fines are still too low and prison sentences for environmental abuses are rare. It is important that citizens demand that criminal actions are begun by the state and that citizens make themselves aware of what the law says.

We should all take the responsibility to find out how many criminal prosecutions are brought every year against complaints made and demand changes in the law to ensure that fines are high enough to provide a deterrent to
environmental abuses. If fines are not high enough, it is possible that offenders will find it less expensive to keep polluting the environment than to obey the law.

An **Injunction** is an order that can force someone to do something or to stop doing something as appropriate. Injunctive powers are useful because they can be used to stop activities that are harmful to the environment and order that remedial work is carried out.

**Structure of the Jamaican Court System**

![Structure of the Jamaican Court System](image)

How does the Jamaican Court System work?

The Jamaican court system is divided into levels in order of power and the importance of the matters they hear. Higher courts have greater power than lower ones and can overturn the decisions of lower courts in certain circumstances. Figure 1.0 gives some idea of this.

Most environmental offences are heard in the Resident Magistrate Court. It is thought that this is done to allow cases to be dealt with quickly. However, cases in these courts are not well recorded and this makes accessing information on environmental prosecutions more difficult. A request has to be made for a written judgement from the judge hearing the case for this to be given. Also, the Resident Magistrate Court has limited powers to be creative in sentencing; it cannot demand clean up of the environment or the use of fines for educational programmes and any decision with important implications made in this court would not bind future cases.

How can citizens help to take environmental abuses to court?

The first and most obvious thing would be to report any abuse to the police or the relevant government agency. Be willing to give a statement and tell what you have seen or know about. If you have a complaint about an environmental problem, make it to the relevant agency. Keep checking up on what the government has done, if anything, to deal with the matter. References to the relevant agencies and ministries can be found in this book.
What if the police or government agency fails to act?  
Can a citizen take a polluter to court?

It depends on the circumstance. For many activities that harm the environment only a government agency may take criminal action against the person(s) causing the damage. However a person may take civil action in two instances:

1. Where the government fails to carry out its duty under the law or
2. Where the activity that causes harm to the environment also causes harm to the citizens’ health or their private property or other economic or social interests.

In the first case, the appropriate action to be brought is one for judicial review. This is where the court will evaluate whether the government agency acted as it should have.

In the second case, the citizen may take action in court against the government, an individual or a company for either nuisance or negligence if it can be proven that the citizen has suffered harm AND the harm is caused by the specific issue complained about. This is also possible when citizens are all affected by one activity in their community e.g. air pollution from a factory.

Currently, legal restrictions make it very difficult for concerned people to personally intervene through the courts for environmental abuses, unless they can prove it affects them directly. The Jamaica Environment Trust (JET) is lobbying for an expansion in the categories of people and organizations that can bring certain environmental actions to court.

What else can You Do?

If the court system is not an option you wish to pursue, there are other ways you can play your part.

1. Do your homework: Stay updated on issues affecting your neighbourhood and the entire island. Find out more about the issues by making requests for information held by government. You can do this under the Access to Information Act, which gives you a right to receive information held by government agencies and ministries. This includes maps, pictures, audiotapes, memos, reports and minutes of meetings. The government must respond within 30 days and if you are refused, you can appeal the decision. Be prepared to be a witness.

2. Keep good records: Write down the date and time the abuse occurred. Take pictures. Make complaints over the phone and in writing about environmental issues that affect your community. If you call somewhere or talk to someone get their name and title, record dates of meetings and keep a file.

3. Look dem inna di eye: Meet with parish council representatives, environmental enforcement officers, Members of Parliament or Ministers of Government as often as you can. Let them know you are willing to work with them to ensure that the laws are implemented and enforced.

4. Put on the pressure: You can lobby with Members of Parliament for new laws. If you see a specific area of need, you can encourage your elected representatives to pass a law that will protect yours and Jamaica’s future.
International Environmental Law

WHY IT MATTERS

International law is the body of law that governs relationships between countries. International environmental law refers to agreements between countries that focus on environmental issues. These agreements are called Treaties, Protocols or Conventions and they are entered into by governments.

The recognition of the need for international cooperation on environmental matters grew as scientific knowledge of some of these problems increased. The discovery of a thinning in the layer of the atmosphere, the ozone layer, which helps to shield us from the more harmful effects of ultraviolet (UV) rays from the sun, was one such problem. Depletion of the ozone layer was found to be caused by a group of compounds called chlorofluorocarbons (CFC) found in refrigeration and air conditioning equipment. Today, the Montreal Protocol for the Protection of the Ozone Layer is one of the more successful international environmental agreements, it restricts the use of and trade in CFCs among countries.

There are other factors that encourage participation. Certain environmental matters have great political, cultural and economic significance for some countries. Whaling and the ivory trade (elephant tusks) are two very sensitive areas that have caused bitter debates. Since agreements are more powerful if more countries participate, pressure is sometimes exerted on less concerned countries to support or oppose a particular position. Unfortunately, environmental concerns are not always a priority and sometimes these agreements pose a burden to smaller, less financially stable countries.

A good example of a Jamaican case is the CITES (Convention on International Trade in Endangered Species of Wild Fauna and Flora) agreement. Trade in endangered plants and animals is a billion dollar industry worldwide and in Jamaica, trade in Queen conch (Strombus gigas) is restricted by CITES to ensure its preservation. In 1999 members of the conch industry made a successful legal challenge to the government-set quotas for conch export. This was partly on the basis that although the government had agreed to CITES, it had not passed the relevant law in the Jamaican Parliament to finish the process. The action disrupted the industry and even sparked demonstrations from out of work fishermen. A new law, the Endangered Species Act, was hurriedly passed to correct the mistake.

Currently, the Ministry of Foreign Affairs is working to streamline the process by which Jamaica participates in international agreements.

A list of Jamaica’s international treaty obligations is at the end of this book.

“Certain environmental matters have great political, cultural and economic significance for some countries. Whaling and the ivory trade (elephant tusks) are two very sensitive areas that have caused bitter debates.”
Many people who are not lawyers demonstrate some anxiety about reading and interpreting the law and other legal documents. To be fair, a lot of legal language, or legalese, can be confusing. However, not everything written for lawyers is a mystery. Laws are written to help govern the way we relate to each other and ignorance of the law is rarely, if ever, an excuse for breaking the law.

Here are a few things to help you understand the way in which the law is written.

**Dip Your Toe In**

**HOW TO READ THE LAW**

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THE ENDANGERED SPECIES (PROTECTION, CONSERVATION AND REGULATION OF TRADE) ACT 2000

s1 Short Title

This Act may be cited as the ENDANGERED SPECIES ACT

s2 Interpretation

In this Act-

“Animal” means any member of the animal kingdom other than man whether alive or dead...

s3 Objects of Act

The objects of this act are to facilitate Jamaica’s compliance with its obligations under the Convention and otherwise to further the protection, conservation and management of endangered species of wild fauna and flora...

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Long title: This is the full and formal title of the Act.

Short title: this is the version used most often when referring to the Act, often because it is easier.

One thing many Acts have in common is a section called “interpretation.” Words may have a different meaning than that used in everyday language.

Text: This is called the body of the Act. It contains the substantial portion of the law. The text is divided into Sections. A Section can be thought of as a mini-chapter in a book. It tells a particular part of the story and you can go to it and read what it says.
Many environmental laws are enforced by specific agencies, some of which were created for that purpose. These agencies usually fall under the responsibility of a Ministry of Government; each Minister has the responsibility to oversee the execution of the law and often hears appeals to decisions made by the agencies.

The Minister sometimes has the power to override the agencies decisions. Ministerial Orders are orders that the minister can make to give effect to some directive s/he wishes to give under the Act. Ministers have the power to have matters of great public importance and important policies decided by or given their personal consideration.

Therefore, the ministry can often exercise great power over the administration of the law if it so wishes. We believe that more independent agencies and greater restrictions on ministerial power is desirable.

**Key Ministries:**

**Ministry of Land & Environment**
16A Half Way Tree Road
Kingston 10
Tel: (876) 926-1590 or (876) 926-1325
E-mail: mle@cwjamaica.com
Web: www.mle.gov.jm

**Ministry of Local Government, Community Development and Sport**
85 Hagley Park Road
Kingston 10
Tel: (876) 754-0992-9; Fax: (876) 754-1007
E-mail: ascott@mlgcd.gov.jm
Web: www.mlgcd.gov.jm

**Ministry of Water & Housing**
6 St. Lucia Avenue
Kingston 5
Tel: (876) 754-0973; Fax: (876) 754-0975
E-mail: cthomas@n5.com.jm

**Ministry of Health**
2-4 King Street
Kingston
Tel: (876) 967-1100-1; Fax: (876) 967-7293
E-mail: diasv@moh.gov.jm
Web: www.moh.gov.jm

**Ministry of Agriculture**
Hope Gardens
Kingston 6
Tel: (876) 927-1731-50
E-mail: facilities@moa.gov.jm
Web: www.moa.gov.jm
Key Agencies for Environmental Protection:

National Environment and Planning Agency
10-11 Caledonia Avenue
Kingston 5
Tel: (876) 754-7540
Web: www.nrca.org

Fisheries Division
Marcus Garvey Drive
Kingston 13
Tel: (876) 923-8811-3

National Solid Waste Management Authority
61 Half Way Tree Road
Kingston 10
Tel: (876) 926-8559 or (876) 926-5170 or (876) 920-7939
E-mail: nswma@nswma.gov.jm
Web: www.nswma.gov.jm

Water Resources Authority
Hope Gardens
Kingston 7
Tel: (876) 977-0077; Fax: (876) 977-0179
Web: www.wra-ja.org

Public Health Authority
Marescaux Road
Kingston 4
Tel: (876) 926-1550-2

Forestry Department
173 Constant Spring Road
Kingston 8
Tel: (876) 924-2667-8 or (876) 924-2668 or (876) 924-2612
Web: www.forestry.gov.jm

Pesticides Control Authority
Ministry of Health
2 King Street, Kingston
Tel: (876) 967-1281 or (876) 967-1285

Key Legal Sources:

Office of the Public Defender
78 Harbour Street
Kingston
Tel: (876) 922-7089-90

Attorney-General's Chambers
Ministry of Justice
2 Oxford Road
Kingston 5
Tel: (876) 906-4923-31

Office of Chief
Parliamentary Counsel
Ministry of Justice
2 Oxford Road
Kingston 5
Tel: (876) 906-1717-21

Non-Governmental Organizations (by Parish)

(Kingston and St. Andrew)
Jamaica Conservation and Development Trust (JCDT)
29 Dumbarton Ave
Kingston 10
Tel: (876) 920-8278-9; Fax: (876) 960-2850
E-mail: jcdt@jcdt.org
Web: http://jcdt.org

Jamaica Environment Trust
11 Waterloo Road
Kingston 10
Tel: (876) 960-3693; Fax: (876) 926-0212
E-mail: jamentrust@cwjamaica.com
Web: http://jamentrust.org

National Environmental Education Committee (NEEC)
10 Caledonia Ave
Kingston 5
Tel: (876) 754-7540; Fax: (876) 754-7597
Non-Governmental Organizations (Continued)

**National Environment Societies Trust (NEST)**
Forest Department 173 Constant Spring Road
Kingston 8
Tel: (876) 969-6502; Fax: (876) 969-7987
E-mail: contact@nestjamaica.com
Web: www.nestjamaica.com

**Discovery Bay Marine Lab**
P.O. Box 35
Discovery Bay, St. Ann
Tel: (876) 973-2241; Fax: (876) 973-3091
E-mail: dbml@infochan.com

**St. Thomas Environmental Protection Association (STEA)**
C/O The RADA Office, Belfast
Morant Bay, St. Thomas
Tel: (876) 982-2205; Fax: (876) 706-4634

**South Trelawny Environmental Agency (STEFA)**
#3 Grants Office Complex
Albert Town P.O., Trelawny
Tel: (876) 610-0818; Fax: (876) 610-1676
E-mail: stea@cwjamaica.com
Web: www.steja.net

**Portland Environment Protection Association (PEPA)**
6 Allan Ave,
Port Antonio, Portland
Tel: (876) 993-9632; Fax: (876) 715-3705
E-mail: pepa@cwjamaica.com
Web: www.pepa-jamaica.com

**Dolphin Head Trust**
Hanover Museum
Lucea, Hanover
Tel: (876) 601-4044 or (876) 956-3544
E-mail: dolphinhead@anbell.net

**International School of Jamaica (ISJA)**
Port Maria Community Learning Centre
Palmers Park
Port Maria P.O., St. Mary
Tel: (876) 725-0060 or (876) 725-0933; Fax: (876) 725-0933
E-mail: isja1@yahoo.com

**Montego Bay Marine Park**
Pier 1 Howard Cooke Blvd.
Montego Bay, St. James
Tel: (876) 952-9709; Fax: (876) 940-0659
E-mail: admin@mbmp.org
Web: www.mbmp.org

**Northern Jamaica Conservation Association (NJCA)**
P.O. Box 212
Runaway Bay, St. Ann
Tel: (876) 973-4305; Fax: (876) 973-4305
E-mail: njca@cwjamaica.com

**Negril Area Environmental Protection Trust**
Negril Community Centre
Westmoreland
Tel: (876) 957-3736; Fax: (876) 957-3115
E-mail: nept@n5.com.jm

**Negril Coral Reef Protection Society (NCRPS)**
P.O. Box 2725
Negril, Westmoreland
Tel: (876) 957-3735; Fax: (876) 957-4626
E-mail: coralreef@cwjamaica.com
Section Two

Jamaica’s Environmental Laws
Land’ has been defined to include not just the earth but also anything on, under or above it. This can include trees, water, minerals, or even air space. The single greatest need for our ever-expanding human population is arguably land space on which to live and from which to obtain food.

The land-use planning system determines when and where building development takes place. It allocates land for houses, schools, shopping centres, manufacturing enterprises, agricultural areas and so on. Striking the balance between use of natural resources and their conservation is difficult. Most often the rate of use of these resources exceeds their ability to regenerate themselves, or removes that ability altogether.

In Jamaica, the primary law governing land-use planning is the Town and Country Planning (TCPA) Act 1990. The Town Planning Authority and local Parish Councils carry out its functions. The Natural Resources Conservation Authority (NRCA) Act 1991 is the overriding environmental statute in Jamaica. It created the NRCA, an Authority with broad powers to manage Jamaica’s physical environment to ensure its protection and conservation.

In 2001 the NRCA merged with the Town and Country Planning Department and the Land Development and Utilization Commission (LDUC). A new Agency called the National Environment and Planning Agency (NEPA) was formed. The NRCA was not repealed, however, and the NRCA continues to issue permits and licenses and adjudicates on environmental issues.

At the time of writing, NEPA is in the process of drafting a new environmental and planning law. One distinctive feature will be the merging of the environmental and permits systems, so that environmental and planning management issues will be considered together.

This presents an opportunity for the shortcomings of the existing Acts to be addressed and replaced with stronger legislation. In the meantime, these are the laws that prevail.
## Jamaica’s Environmental Laws
### The Natural Resources Conservation Authority Act 1991

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<th>What is the Natural Resources Conservation Authority Act?</th>
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<td>1.</td>
<td>The Natural Resources Conservation Authority (NRCA) Act 1991 requires special consideration because it is recognised as the overriding environmental law in Jamaica. The NRCA Act established the Natural Resources Conservation Authority to take such steps as are necessary for the effective management of the physical environment of Jamaica so as to ensure the conservation, protection and proper use of its natural resources.</td>
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<th>How does it work?</th>
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<td>2.</td>
<td>It is overseen by the Ministry of Land and Environment and administered by the National Environment and Planning Agency (NEPA).</td>
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<th>What is the Permit and Licencing System?</th>
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<td>3.</td>
<td>Section 9 forms the basis for the Permit and Licencing (P&amp;L) System established in 1996 by Regulations under the NRCA Act. Under this system, new developments in certain categories (called prescribed categories) ranging from housing schemes to ecotourism activities must apply to the Authority for a <strong>permit to build</strong> or a <strong>licence to discharge</strong> effluent. Prescribed categories include housing projects of 10 houses or more, hotel complexes of more than 12 rooms, new highways, mining and solid and hazardous waste treatment facilities. Broadly, the P&amp;L system allows the Authority to evaluate the potential environmental impacts of any development. The NRCA can refuse to issue a permit and/or order changes to the plans to reduce environmental damage. Activities that were in place before the Regulations are exempt if they have obtained all approvals, but operators must apply once there is any change or expansion of the operation.</td>
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<th>What is an Environmental Impact Assessment?</th>
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<td>4.</td>
<td>The Authority may ask that a potential developer prepare and submit an Environmental Impact Assessment (EIA) to assist in their evaluation of a permit or licence application. This is an exercise to gather scientific information about the potential impact of a project on natural resources and how damage to the environment can be minimized or eliminated.</td>
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<thead>
<tr>
<th></th>
<th>What about Building and the Environment?</th>
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<tr>
<td>5.</td>
<td>The Permit and Licensing system is a good indicator of some of the progress made in developing a body of effective environmental law in Jamaica. It clearly acknowledges the link between environmental protection and development and extends the Authority’s powers beyond the confines of environmental activities. Furthermore, the granting of an environmental permit is now linked to that of a planning permit, so that an application to the Town and Country Planning Authority is not completed until it has been determined whether an environmental permit/ licence is required. If it is, then it must be obtained in order for the planning permit to be considered.</td>
</tr>
</tbody>
</table>
### 6. What are Discretionary Powers?

Where the Act says that the Authority “may” do something is called the granting of a discretionary power. It means that the Authority is not obliged to take a particular course of action. For example, the Authority does not have to require an EIA for a new development. It also does not have to consult any communities that are potentially affected by any development before granting approval.

The giving of discretionary powers can be found throughout the Act. It is an area of concern as it allows room for ways to get around the law. It can also be argued that this flexibility is necessary, so that development is not unnecessarily hindered wherever the environmental impacts are not particularly harmful. However, where such discretionary powers are given it is essential that the agency has written policies that can be viewed by the public to explain how certain decisions are made.

### 7. How are Protected Areas created?

Section 5 of the Act gives the relevant minister the power to create protected areas and national and marine parks. These are areas that have restrictions on the activities that can take place within them (for example fishing, hunting, new building developments) in order to protect something inside the area that is of scientific, educational, aesthetic or historical interest.

### 8. What are some offences under the Act?

- **Section 9(7)** Failure to obtain a permit before beginning construction. **Penalty** on conviction is a fine of up to $50,000 and/or up to 2 years imprisonment. If fine is not paid, then up to 1 year imprisonment and if offence continues then $3000 per day.

- **Section 12 (3)** Discharging effluent or constructing anything to discharge effluent without a licence. **Penalty** is the same as for section 9(7) above.

### 9. What about Enforcement?

The Act and its corresponding Regulations, arguably, give the broadest powers relating to environmental protection to any single body in Jamaica. These include the power to serve an **enforcement notice** on anyone doing anything to harm the environment anywhere in Jamaica; power to **stop** any development continuing if it harms the environment; the power to compel a **clean up** of environmental damage caused and some power over new developments (see P&L system).

### 10. Some regulations under the Act

- **Natural Resources Conservation Authority Act**
  - The Natural Resources (Marine Parks) Regulations, 1992
  - The Natural Resources (National Parks) Regulations, 1993
  - The Natural Resources Conservation (Ambient Air Quality Standards) Regulations, 1996
  - The Natural Resources Conservation (Permits and Licences) (Amendments) Regulations, 2004
11. Commentary

In 2001 the NRCA merged with the Town and Country Planning Department (TPD) and the Land Development and Utilization Commission (LDUC). A new agency called the National Environment and Planning Agency (NEPA) was formed. The NRCA Act was not repealed, however, and the Natural Resources Conservation Authority continues to issue permits and licenses and adjudicate on environmental issues.

At the time of writing, NEPA is in the process of drafting a new environmental and planning law. One distinctive feature will be the merging of the environmental and building permits system, so that environmental and planning management issues will be considered together.

This presents an opportunity for the shortcomings of the existing Act to be addressed and replaced with stronger legislation.

12. Where can I get additional information?

**National Environment and Planning Agency**  
10-11 Caledonia Avenue, Kingston 5  
Tel: (876) 754-7540  
Web: www.nepa.gov.jm

**Ministry of Land & Environment**  
16A Half Way Tree Road  
Kingston 10  
Tel: (876) 926-1590 or (876) 926-1325  
Email: mle@cwjamaica.com  
Web: www.mle.gov.jm

* See “Key Contacts” on page 15 for your local NGO
### Jamaica’s Environmental Laws
#### The Town and Country Planning Act 1958

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<table>
<thead>
<tr>
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<tbody>
<tr>
<td><strong>1.</strong> What is the Town and Country Planning Act?</td>
<td>The Town and Country Planning Act (TCPA) is the primary law governing land use in Jamaica. It has existed since 1958 and largely determines where and how development takes place.</td>
</tr>
<tr>
<td><strong>2.</strong> How does it work?</td>
<td>It is overseen by the Ministry of Land and Environment and administered by the Town and Country Planning Authority and the National Environment and Planning Agency (NEPA).</td>
</tr>
<tr>
<td><strong>3.</strong> What is “Development” under the Act?</td>
<td>Development has a very wide meaning under the Act and is defined in section 5 as the “carrying out of building, engineering, mining or other operations in, on, over or under land or the making of any material change in the use of any buildings or other land.” It does not include changes to the inside of any building, road or sewage works by a local authority, the use of buildings within a dwelling-house for any purpose incidental to its enjoyment, or the use of land for agriculture or forestry.</td>
</tr>
<tr>
<td><strong>4.</strong> What are Development Orders (DOs)?</td>
<td>These are plans that outline what type of development may take place in an area over a certain period of time. The Development Order (DO) must specify the area it relates to and may itself grant planning permission to certain developments beforehand so that no application for planning permission is needed (section 10).</td>
</tr>
<tr>
<td><strong>5.</strong> What is meant by “Planning permission” and who gives it?</td>
<td>Planning permission means the grant of approval for any development that requires it. Some do not, such as those that have been pre-approved by the DO. The relevant Parish Council ordinarily grants planning permission. If the proposed development is not of a type allowed by the DO, the application must be made to the Town and Country Planning Authority (TPA) instead. The TPA may also “call in” certain applications to consider itself.</td>
</tr>
<tr>
<td><strong>6.</strong> If Parish Councils are still granting planning permission, then what does NEPA do?</td>
<td>The merger of the 3 bodies that make up NEPA has not been completed. So, the Natural Resources Conservation Authority (NRCA) still makes separate considerations on environmental permits, while the Parish Councils/Town Planning Authority make their own decisions on planning permission. Section 11(1A) of the TCPA says that if an NRCA permit is required for any development, it must be granted before planning permission is given. Therefore, NEPA provides technical, administrative and legal support to the NRCA, Town Planning Authority and the Land Development and Utilization Commission.</td>
</tr>
<tr>
<td><strong>7.</strong> Is the government exempt from planning permission?</td>
<td>Yes. The TCPA does not bind the Crown. This means that developments that originate from government do not require planning permission.</td>
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<tr>
<td><strong>8.</strong> Can planning permission be revoked?</td>
<td>Yes. Section 22 says that planning permission can be revoked or modified under certain circumstances. Compensation will be payable in some instances.</td>
</tr>
<tr>
<td><strong>9.</strong> What are Tree Preservation Orders?</td>
<td>Section 25, A local authority can make provisions for the preservation of trees or woodlands in their area by forbidding their cutting down or securing replanting. The Minister must confirm these orders for them to take effect.</td>
</tr>
</tbody>
</table>
10. **How does Enforcement work?**

Section 22A, Where a development takes place without planning permission or in breach of a term of the permission and is hazardous or dangerous to public health then a **Stop Order** can be served. This lasts for up to 10 days.

An **Enforcement Notice** may be served within 14 days that can state what steps are to be taken to restore the premises, including demolition. Where the notice refers to change of use of the land, it takes effect 28 days after service. In any other case, it takes effect after 3 days. Enforcement Notices can only be served within **12 years** of the unauthorized development taking place.

An application to the court for an **Injunction** can be made where an Enforcement Notice is disobeyed or in order to restrain any breach of planning control.

11. **Are there any powers to enter and inspect land?**

Yes. Section 29 says that any authorized person can enter land to observe a breach of any development order, serve an enforcement notice, survey the land and other reasons. If the land is occupied 24 hours notice must be given.

12. **What are some offences under the Act?**

Section 22A(7), Disobeying a Stop Order. **Penalty** on summary conviction in a Resident Magistrate court is fine $25,000-$1,000,000 or in default of payment 6 months imprisonment.

Section 23(5), Disobeying a Tree Preservation Order. **Penalty** on conviction up to $100,000 fine or in default up to 3 months hard labour. Continuing offence $4 per day.

Section 29(3), Wilfully obstructing an authorized person from entering land to perform some duty under the Act. **Penalty** is the same as section 27(3).

Section 29(4), Disclosure of a trade secret by anyone admitted to entry on any premises for performing their duty under this Act. **Penalty** is the same as section 27(3).

13. **Is there a right of appeal?**

Yes. An applicant can appeal a decision denying planning permission (section 13). Appeal is to the Minister and at least 28 days must be given to do so. The Minister has 90 days to decide and that decision is final.

Under certain circumstances the Authority must pay compensation where the denial of planning permission leads to a reduction in the value of the land compared to its value if development were allowed to proceed (sections 17 and 18).

Appeal against an Enforcement Notice (section 23A) may be made within 14 days of the notice to the Minister. The Minister has 90 days to decide and that decision is not final. A further appeal can be made to the Court of Appeal against the Minister’s decision (section 23A(5)).

14. **Some Regulations under the Act**

The Town and Country Planning (Tree Preservation) Regulations, 1967

The Town and Country Planning (Control of Advertisements) Regulations, 1978
### 15. Commentary

Use of the Enforcement provisions under this Act are generally weak and the exemption of government building projects from requiring planning permission creates a huge loophole that can undermine efforts towards cohesive land-use practices.

Further, there is no third party right of appeal. That is, only the applicant and no other concerned parties can appeal a decision on planning permission for a development.

### 16. Where can I get additional information?

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<thead>
<tr>
<th>National Environment and Planning Agency</th>
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<tr>
<td>10-11 Caledonia Avenue, Kingston 5</td>
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<tr>
<td>Tel: (876) 754-7540</td>
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<tr>
<td>Web: <a href="http://www.nepa.gov.jm">www.nepa.gov.jm</a></td>
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<tr>
<th>Ministry of Land and Environment</th>
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<tbody>
<tr>
<td>16A Half Way Tree Road</td>
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<tr>
<td>Kingston 10</td>
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<tr>
<td>Tel: (876) 926-1590 or (876) 926-1325</td>
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<tr>
<td>Email: <a href="mailto:mle@cwjamaica.com">mle@cwjamaica.com</a></td>
</tr>
<tr>
<td>Web: <a href="http://www.mle.gov.jm">www.mle.gov.jm</a></td>
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* See “Key Contacts” on page 15 for your local NGO
What a Waste!

Often, when we think about what to do with our waste, we think of throwing it away. But in fact, there is no 'away.' Our solid waste often ends up on roads, in open lots and in drains, gullies, rivers and beaches.

The term known as 'Solid Waste' has a wide definition and includes any garbage, refuse, or sludge in a solid, gaseous or liquid state that comes from industrial, commercial, mining or domestic activities. There are three general types of solid waste: Municipal (household), Industrial and Medical Waste.

In Jamaica, household waste makes up approximately 55% of all waste generated. Fortunately, this type of waste is also the easiest to reduce and we can achieve this by reusing containers where possible and by recycling. We can also buy food with less packaging at the supermarkets, make compost heaps and dispose of our garbage more responsibly in bins and not through our car windows.

Remember, Jamaica is small and its resources are precious. How much of our island home do we want to fill up with garbage?
# Jamaica’s Environmental Laws

## The National Solid Waste Management Act 2001

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<tbody>
<tr>
<td><strong>1.</strong></td>
<td><strong>What is the National Solid Waste Management Act (NSWMA)?</strong></td>
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<td>The National Solid Waste Management Act (NSWMA) became law in 2001. Its purpose is to provide for the regulation and management of solid waste in Jamaica. The Act created the National Solid Waste Management Authority (NSWMA) to carry out its functions and is overseen by the Ministry of Land &amp; Environment.</td>
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<tr>
<td><strong>2.</strong></td>
<td><strong>What is ‘Solid Waste’ under the Act?</strong></td>
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<td>Solid waste has a wide definition under the Act and includes:</td>
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<td>- Refuse or sludge from a waste treatment facility, water supply plant, air pollution facility and garbage;</td>
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<tr>
<td></td>
<td>- Solid, semi-solid or contained gaseous or liquid matter from industrial, commercial, mining or agricultural operations or domestic activities; and</td>
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<td>- Medical and hazardous waste.</td>
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<td><strong>3.</strong></td>
<td><strong>What are the functions of the National Solid Waste Management Authority (NSWMA)?</strong></td>
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<td>The NSWMA must take the necessary steps to achieve effective solid waste management in Jamaica. In doing so, it must:</td>
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<td>- Ensure that waste is dealt with from collection to disposal in an environmentally sound manner and in order to protect the public health.</td>
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<td>- Promote public awareness about the importance of efficient solid waste management.</td>
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<td>- Advise the Minister on general policy matters relating to waste management.</td>
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<td><strong>4.</strong></td>
<td><strong>What else does the NSWMA do?</strong></td>
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<td>It can develop new landfill sites, provide training or formulate guidelines and codes of practice. A list is found in section 4 of the Act. There is also a licensing scheme (see section 23) for operators of solid waste disposal or management facilities.</td>
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<td><strong>5.</strong></td>
<td><strong>Can it delegate its functions to anyone else?</strong></td>
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<td></td>
<td>Yes. Section 6 of the Act allows the NSWMA to delegate almost any of its functions to its members, officers or agents or to a local authority.</td>
</tr>
<tr>
<td><strong>6.</strong></td>
<td><strong>What are some offences under the Act?</strong></td>
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<td>- Section 44, Unlawfully removing solid waste from or tampering with the operation of a solid waste disposal facility. The <strong>penalty</strong> on conviction is a fine up to $500,000 and/or up to 6 months imprisonment.</td>
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<td></td>
<td>- Section 45, Disposing of solid waste in an unauthorised area; operating without a licence; impeding the collection and disposal of solid waste. The <strong>penalty</strong> on conviction is a fine up to $1,000,000 and/or up to 9 months imprisonment.</td>
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<td></td>
<td>- Section 46, Littering in a public place or defacing a public place or building without authorization. The <strong>penalty</strong> will be a fixed payment set out in a notice to the offender. If no payment is made after 21 days (or by another time specified) criminal proceedings may follow.</td>
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<td></td>
<td>- Section 47, Littering in a private place without the consent of the owner or occupier. The <strong>penalty</strong> is the same as in section 46.</td>
</tr>
</tbody>
</table>
| 6. **...Continued** | o Section 48, Wilfully breaking any glass article in or on any public place without permission or reasonable excuse. The **penalty** is the same as in section 46.  

o Section 49, Providing false information to obtain a licence. The **penalty** on conviction is a fine up to $1,000,000 and/or up to 1 year imprisonment.  

o Section 50, Wilfully hindering an authorized officer from executing his duties; assaulting, threatening, or intimidating an officer. The **penalty** on conviction is a fine up to $500,000 and/or up to 6 months imprisonment.  

o Section 55(5), Failure to obey written notice to remove litter and restore premises. The **penalty** on conviction is a fine up to $100,000.  

o Section 58(3), Failure to obey notice to give information about performance of sewage or other waste treatment facility. The **penalty** on conviction is up to $500,000 in fines and in default of payment, up to 6 months on conviction. |
| 7. **How does enforcement work under the Act?** | The NSWMA may enforce the removal of litter via **written notice**. Its officers can enter premises in breach of the Act and restore it to a satisfactory condition and is then entitled to **recover the expense** of doing so from the offender.  

Where a facility or service provider operates without a licence a **stop order** may be issued. Authorized officers can enter premises to enforce it. Alternatively, an injunction may be issued.  

An **enforcement notice** may be served where a facility seriously threatens natural resources or public health. The notice will require steps to be taken to improve the effects, restore conditions or to stop activities.  

Enforcement provisions can be found in sections 55-59 of the Act. |
| 8. **What powers do Inspectors have?** | Inspectors can inspect facilities pending the granting of a licence or afterwards to monitor that conditions are being met. Inspectors and certain other authorized officers may obtain a resident magistrate’s warrant to search and seize equipment (including vehicles and aircraft) reasonably believed to be or have been used for any illegal act (section 64). |
| 9. **Can NEPA help with enforcement?** | Yes. The NSWMA may refer matters to NEPA where it appears that a solid waste disposal operation has, or is likely to have an adverse effect on the environment or public health (section 56).  

After consultation with NEPA, the NSWMA may also require information on pollution control on a waste treatment facility (see section 58). |
| 10. **Are there special provisions for litter?** | Yes. Section 43 of the Act says that the NSWMA may provide receptacles for litter, specify certain areas as litter collection areas (including time of collection and the type of litter to be deposited) and may designate litter wardens. |
11. Does the Act address recycling at all? | Yes. Section 42 says that the NSWMA may provide receptacles for recyclable waste on request and may charge for this service. Receptacles cannot be placed on the road without the permission of the local authority. Failure to obey instructions for use and placement may result in conviction and a fine of up to $100,000.

12. Is there a right of appeal? | Yes. Appeal can be made to the Appeals Tribunal against enforcement notices or to the minister against the granting, revocation, suspension or terms of licences (section 62).

13. Regulations under the Act | There are no regulations that deal with Recycling or Enforcement.

14. Commentary | The Solid Waste Act is relatively new and has some of the highest fines in any environmental law. It replaced the Litter Act and merged different bodies responsible for solid waste management.

Public education campaigns are used to raise awareness of the Authority’s functions and some of the new provisions in the law.

15. Where can I get additional information? | **Ministry of Land and Environment**
16A Half Way Tree Road
Kingston 10
Tel: (876) 926-1590 or (876) 926-1325
Email: mle@cwjamaica.com
Web: www.mle.gov.jm

**National Solid Waste Management Authority**
61 Half Way Tree Road, Kingston 10
Tel: (876) 926-8559 or (876) 926-5170 or (876) 920-7939
E-mail: nswma@nswma.gov.jm
Web: www.nswma.gov.jm

**Ministry of Local Government & Community Development and Sport**
85 Hagley Park Road
Kingston 10
Tel: (876) 754-0992-9; Fax: (876) 754-1007
E-mail: ascott@mlgcd.gov.jm
Web: www.mlgcd.gov.jm

* See “Key Contacts” on page 15 for your local NGO
From the hills to the sea

“There is a water crisis today. But the crisis is not about having too little water to satisfy our needs. It is a crisis of managing water so badly that billions of people - and the environment - suffer badly.”

World Water Council, 2000

Watersheds are defined as geographical areas where the collection and drainage of rainfall occurs. They need special protection because they are a major source of our water supply. Source water is the one percent of all the earth’s water that is available for drinking. Source water is untreated water from streams, rivers, lakes, or underground aquifers, which is used to supply private wells and public drinking water. By focusing on watersheds as a means to control pollution, the sources of pollutants are easier to identify and can be corrected over a wide geographical area.

Everyone needs freshwater. We use it at home for drinking, cooking, bathing and cleaning. Farmers need it to grow the food we eat, and industry needs it to make the products we use every day. Although it is a precious and finite resource, humans have mismanaged freshwater for years. If present trends in water consumption and management continue, two thirds of the world’s population could experience water shortages by 2025. In addition, many sources of water are polluted by human, industrial and agricultural waste.
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<thead>
<tr>
<th></th>
<th>Question</th>
<th>Answer</th>
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<tbody>
<tr>
<td>1.</td>
<td>What is The Watersheds Protection Act?</td>
<td>The Watersheds Protection Act is the law governing watersheds since 1963. Its purpose is to provide for the protection of watersheds and adjoining areas and to promote the conservation of water resources. The entire island of Jamaica is considered to be one watershed, which is divided into smaller units for easier management.</td>
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<tr>
<td>2.</td>
<td>How does it work?</td>
<td>It is overseen by the Ministry of Land &amp; Environment and is enforced by the Natural Resources Conservation Authority (NRCA).</td>
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<tr>
<td>3.</td>
<td>What is a “Watershed” under the Act?</td>
<td>A watershed is not defined under the Act. There are 26 watershed management units throughout the island including the Hope River and Wag Water Watershed Areas.</td>
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</tbody>
</table>
| 4. | What are some offences under the Act?       | o Section 7, Setting a fire in a watershed area without a permit from a forest officer. **Penalty** is from the Country Fires Act and is $2000 or up to 3 months with or without hard labour.  
   o Section 28(a), Assaulting or obstructing an agent of the Authority. The **penalty** is a fine up to $200, or if there is a default in payment up to 12 months imprisonment.  
   o Section 28(b), Wilfully destroying, damaging or obstructing any improvement works. The **penalty** is a fine up to $400, with a default in payment resulting in imprisonment up to 12 months.  
   o **Greater penalties** than the one ones listed above can be prescribed by the Regulations (Section 29), up to $5000 or 12 months imprisonment. |
| 5. | What responsibilities does the NRCA have?   | The NRCA has the duty to promote the conservation of water resources and recommend programmes to the minister that would protect watersheds and adjoining areas. Its powers to make regulations for watershed areas are very wide: land use can be restricted for conservation purposes, including the planting of crops, the destruction or felling of trees, or the clearing of vegetation.  
   Further, NRCA can enter into agreements with landowners to carry out work to improve the land or to secure the water resources (assisted improvement agreements).  
   There are also other powers that are detailed throughout the Act.                                                                 |   |
| 6. | How does enforcement work under the Act?    | Inspectors must give 3 days notice to enter land. They can do so to inspect the condition of the land; to determine what crops are being cultivated or to take soil samples. Conviction for offences is in the Resident Magistrate court. |
| 7. | Is there a right of Appeal?                 | Yes. If an improvement scheme affects the value of the land, the owner is entitled to compensation. An appeal about the value determined can be made to the Court of Appeal.                                           |   |
| 8. | Regulations under the Act                   | The only regulations that exist are to declare the boundaries of watershed areas, but no definition of watersheds is included and there are no details on how to manage them.                           |   |
### 9. Commentary

The Act relies heavily on prohibition and regulation to protect the declared watersheds and lacks provisions for incentives, public education and the involvement of local communities.

Fines are very low and do not act as a deterrent.

Regarding water resources, there appears to be an overlap between the NRCA's functions under this Act and the Water Resources Authority that also protects water resources (see Water Resources Act).

### 10. Where can I get additional information?

**National Environment and Planning Agency**
10-11 Caledonia Avenue, Kingston 5
Tel: (876) 754-7540
Web: www.nepa.gov.jm

**Forestry Department**
173 Constant Spring Road, Kingston 8
Tel: (876) 924-2667-8 or 924-2626
Web: www.forestry.gov.jm

**Ministry of Land and Environment**
16A Half Way Tree Road
Kingston 10
Tel: (876) 926-1590 or (876) 926-1325
Email: mle@cwjamaica.com
Web: www.mle.gov.jm

* See “Key Contacts” on page 15 for your local NGO
# Jamaica’s Environmental Laws

## The Forest Act 1996

<table>
<thead>
<tr>
<th>Question</th>
<th>Answer</th>
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</thead>
<tbody>
<tr>
<td>1. What is the Forest Act?</td>
<td>The Forest Act was passed in 1996 as part of the government’s new approach to forest policy. It was to represent an improved strategy for the management and preservation of forests.</td>
</tr>
<tr>
<td>2. How does it work?</td>
<td>The Act is supervised by the Ministry of Agriculture and enforced by the Forestry Department, which is headed by the Conservator of Forests.</td>
</tr>
<tr>
<td>3. What does the Forestry Department do?</td>
<td>Section 4 of the Act lists 18 functions of the Department. Some of them are to:</td>
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<td>o Sustainably manage forests and forest reserves</td>
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<td>o Grant licences and permits</td>
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<td></td>
<td>o Protect and preserve watershed areas in forest reserves and protected areas</td>
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<td></td>
<td>o Prepare and implement a national forest management and conservation plan (every 5 years).</td>
</tr>
<tr>
<td>4. What are the minister’s powers?</td>
<td>The minister can:</td>
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<tr>
<td></td>
<td>o Declare new forest reserves, forest management areas and protected areas. Both private and Crown lands can be declared protected areas under certain circumstances</td>
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<tr>
<td></td>
<td>o Provide interim (6 months) measures to protect existing or proposed forest reserves and management areas</td>
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<tr>
<td></td>
<td>o Prohibit or regulate activities within protected areas and may acquire private land (section 9) for the sake of forest reserves</td>
</tr>
<tr>
<td></td>
<td>o Appoint forest management committees for declared areas.</td>
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<tr>
<td>5. What is a forest reserve?</td>
<td>An area declared to:</td>
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<td></td>
<td>o Conserve existing natural forests or</td>
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<td></td>
<td>o Develop forest resources or</td>
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<td></td>
<td>o Conserve soil and water resources or</td>
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<td></td>
<td>o Protect endemic (unique) plants or animals in that area.</td>
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<tr>
<td></td>
<td>Section 6 lists other purposes.</td>
</tr>
<tr>
<td>6. What does a forest management committee do?</td>
<td>o Monitors the natural conditions of relevant forest areas</td>
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<tr>
<td></td>
<td>o Holds public meetings and similar activities relating to natural resources and</td>
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<td>o Designs conservation projects in certain areas.</td>
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<tr>
<td></td>
<td>Section 13 lists other functions.</td>
</tr>
</tbody>
</table>
### Jamaica’s Environmental Laws

#### The Forest Act 1996

**7. What are offences under the Act?**

<table>
<thead>
<tr>
<th>Section</th>
<th>Description</th>
</tr>
</thead>
<tbody>
<tr>
<td>27</td>
<td>Assaulting or obstructing an authorized officer acting in execution of his duty. The <strong>penalty</strong> is a fine up to $100,000 or up to 12 months.</td>
</tr>
<tr>
<td>30(2)</td>
<td>Cutting trees in non-private forest reserves without a licence. The <strong>penalty</strong> is a fine up to $500,000 and/or up to 2 years imprisonment.</td>
</tr>
</tbody>
</table>

**Section 31, offences all relate to activities in forest reserves, protected areas or forest management areas.** The **penalty** is the same unless otherwise stated and is a fine of up to $200,000, and if default up to 2 years imprisonment.

<table>
<thead>
<tr>
<th>Section</th>
<th>Description</th>
</tr>
</thead>
<tbody>
<tr>
<td>1(a)-(b)</td>
<td>Includes cutting, felling or damaging trees; causing damage in felling or dragging timber.</td>
</tr>
<tr>
<td>1(c)-(d)</td>
<td>Includes kindling, keeping or carrying any fire, lighting or dropping any match or lighted inflammable material.</td>
</tr>
<tr>
<td>1(e)</td>
<td>Clearing, cultivating or breaking up any land for cultivation or any other purpose.</td>
</tr>
<tr>
<td>1(f)</td>
<td>Establishing or carrying on any forest industry.</td>
</tr>
<tr>
<td>1(g)</td>
<td>Carrying any saw, axe, adze, auger or cutlass.</td>
</tr>
<tr>
<td>1(h)</td>
<td>Removing soil, sand or gravel.</td>
</tr>
<tr>
<td>1(i)</td>
<td>Killing, wounding or capturing any wild birds or animals.</td>
</tr>
<tr>
<td>2(a)</td>
<td>Erecting any building or shelter; removing forest produce or carrying a firearm without permission or according to a licence requirement. The <strong>penalty</strong> is a fine up to $100,000 or if in default of payment up to 12 months.</td>
</tr>
<tr>
<td>2(b)-(d)</td>
<td>Counterfeiting marks on trees so that they may be felled; fraudulently affixing marks; tampering with marks placed by forest officer. The <strong>penalty</strong> is a fine up to $100,000 or if in default of payment up to 12 months.</td>
</tr>
<tr>
<td>2(e)</td>
<td>Pasturing cattle or permitting cattle to trespass. The <strong>penalty</strong> is the same as for section 31(2)(b).</td>
</tr>
<tr>
<td>2(f)</td>
<td>Damaging, altering or removing notice board, land mark, wall, fence, ditch, embankment, hedge or railing. The <strong>penalty</strong> is the same as for section 31(2)(b).</td>
</tr>
<tr>
<td>2(g)</td>
<td>Assaulting or obstructing a forest officer, constable or authorized person in execution of his duties. The <strong>penalty</strong> is the same as for section 31(2)(b).</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Section</th>
<th>Description</th>
</tr>
</thead>
<tbody>
<tr>
<td>2(h)</td>
<td>For complete list read “The Forest Act 1996.”</td>
</tr>
</tbody>
</table>

**8. How does enforcement work?**

Forest and other authorized officers may enter premises for surveys and inspections (sections 24, 29). Entry for inspection may be with the landowner’s consent or 3 days notice to an occupier or by posting a notice on the land if the occupier cannot be found (section 27).

Forest officers or constables can make arrests without a warrant (section 32). The officer can also seize any tools used or suspected in committing the offence. Prosecution is in the Resident Magistrate court.
### Jamaica’s Environmental Laws

**The Forest Act 1996**

<table>
<thead>
<tr>
<th>9. Are there incentives for compliance?</th>
<th>Yes. Landowners of protected areas or forestry management areas that obey directions for the use of that land are entitled to a property tax break for that financial year (section 25).</th>
</tr>
</thead>
<tbody>
<tr>
<td>10. Is there a right of appeal?</td>
<td>Yes. You can appeal to an Appeals Tribunal if you are refused a licence or permit or if you already hold a licence and object to a decision about it.</td>
</tr>
<tr>
<td>12. Commentary</td>
<td>Detailed regulations have been written to outline how the Act must be enforced. This makes it easier to carry out the law. The use of incentives to encourage private land owners to voluntarily declare their land as forest reserves/management areas is also a positive development.</td>
</tr>
</tbody>
</table>
| 13. Where can I get further information? | **Ministry of Agriculture**  
Hope Gardens, Kingston 6  
Tel: (876) 927-1731 or (876) 927-1733  

**Forestry Department**  
173 Constant Spring Road, Kingston 10  
Tel: (876) 924-2667 or (876) 924-2668 or (876) 924-2612  
Web: www.forestry.gov.jm  

* See “Key Contacts” on page 15 for your local NGO |
### 1. What is The Water Resources Act?

The Water Resources Act became law in 1996 and established the Water Resources Authority (WRA). It focuses heavily on the use and protection of underground water resources such as aquifers, since they are an important source of surface waters such as rivers and streams.

### 2. What are the functions of the Water Resources Authority?

The WRA has the overall duty to regulate, allocate, conserve and otherwise manage the water resources of Jamaica. It does this by carrying out several activities including the following:

- Issues licences for the abstraction and use of water, the construction or alteration of water works, use of reserved water supplies and consents for drilling of wells
- Guides the abstraction and use of water from aquifers
- Obtains, stores and distributes data concerning Jamaica’s water resources
- Allocates water resources
- Prepares and submits a draft National Water Resources Master Plan for Jamaica to the Minister.

### 3. What are the functions of the Water Resources Advisory Committee?

To advise the Minister on policy relating to water resources management and conservation and on the Master Plan and Water Quality Control Plans.

### 4. What are some offences under the Act?

- **Section 19(1)**, Abstracting or using water or constructing or altering any works for that purpose without a licence. The **penalty** is a fine of up to $50,000 or if in default up to 2 years. Continued offence (after conviction) is a fine up to $10,000.

- **Section 34**, Sinking, constructing, enlarging or altering a well without a licence. The **penalty** is the same as in section 19(1).

- **Section 35(1)**, Practicing as a well driller without a licence. The **penalty** is the same as in section 19(1).

- **Section 35(2)**, Holding a well-driller's licence and contracting to do work for someone else without ensuring that that person has a licence to abstract and use water or has permission to do so; The **penalty** is a fine of up to $20,000, or if in default of payment imprisonment up to 1 year. Continued offences attract a fine of up to $10,000.

- **Section 36**, Constructing any new boring or changing an existing one to search for or extract minerals without taking measures required by the Authority for conserving underground water. The **penalty** is the same as Section 35(2).

- **Section 37(1)**, Causing or allowing underground water to run to waste from any well or other work except for specified purposes. The **penalty** is the same as in section 35(2) with additional penalty that suspends or revokes a license to abstract or use water, or to practice as a well-driller.

- **Section 42**, Not obeying enforcement notice. The **penalty** is the same as in section 37(1).
### Jamaica’s Environmental Laws

#### The Water Resources Act 1996

<table>
<thead>
<tr>
<th>5. What is NOT an offence under the Act?</th>
</tr>
</thead>
<tbody>
<tr>
<td>o Section 19(2), Abstracting and using water if the person has a right of access to the water source and the water is required only for domestic use.</td>
</tr>
<tr>
<td>o Section 37(2), Causing or allowing water to run to waste where underground water interferes or threatens to interfere with any underground works.</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>6. How does enforcement work under the Act?</th>
</tr>
</thead>
<tbody>
<tr>
<td>Any person who commits an offence under the Act may be liable to <strong>conviction</strong> in a Resident Magistrate’s Court and subject to the penalties above. Where water is being used or abstracted without a licence or borings have been made for the purpose of searching for underground water, an <strong>enforcement notice</strong> may be served by the Authority.</td>
</tr>
<tr>
<td>It can include directions for restoration of land and water or a <strong>cessation order</strong>. If the notice is ignored, the Authority can enter to take the directed steps and can recover costs.</td>
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</tbody>
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<tr>
<th>7. Is there a right of appeal?</th>
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<tbody>
<tr>
<td>Yes. A right of appeal can be made to the Resident Magistrate’s Court with respect to enforcement notices. A right of appeal can also be made to the minister by any aggrieved person against a decision of the Authority in relation to his application for a licence or consent under the Act.</td>
</tr>
</tbody>
</table>

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<tr>
<th>8. Regulations under the Act</th>
</tr>
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<tbody>
<tr>
<td>There are no regulations.</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>9. Commentary</th>
</tr>
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<tbody>
<tr>
<td>The Act gives the WRA overlapping responsibility with other agencies like NEPA that also work to protect water resources. No indication is given of how the agencies are to cooperate efficiently with each other. For example, no cross reference is made to the NRCA Act where a licence to abstract water is required and where effluent will also be discharged by the operation, thereby requiring an NRCA permit.</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>10. Where can I get additional information?</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Water Resources Authority</strong></td>
</tr>
<tr>
<td>Hope Gardens, P.O. Box 91, Kingston 7</td>
</tr>
<tr>
<td>Tel: (876) 927-0077; Fax: (876) 977-0179</td>
</tr>
<tr>
<td>Web: <a href="http://www.wra-ja.org">www.wra-ja.org</a></td>
</tr>
</tbody>
</table>

| **National Environment and Planning Agency** |
| 10-11 Caledonia Avenue, Kingston 5 |
| Tel: (876) 754-7540 |
| Web: [www.nepa.gov.jm](http://www.nepa.gov.jm) |

*See “Key Contacts” on page 15 for your local NGO*
### Jamaica’s Environmental Laws
#### The Beach Control Act 1956

| **1. What is the Beach Control Act?** | The Beach Control Act provides for management and protection of the sea floor and the foreshore [shore that the tide flows over]. It became law in 1956 and is enforced by the Natural Resources Conservation Authority (NRCA). |
| **2. What are some interesting features of the Act?** | It gives all rights to the sea floor and foreshore to the crown i.e. to be held by the government on behalf of the Jamaican people (Section 3). There are limited exceptions to this, mostly preserving rights held before the existence of the Act and some belonging to fishermen. The minister responsible for beach control can declare defined areas (foreshore and sea floor) as **protected areas** and limit their use for: fishing, boats (except wind or oar boats), waste disposal, waterskiing, dredging or otherwise disturbing the seafloor, treasure searches, destruction or removal of coral, sea fans and sedentary marine animals (section 7). Protected areas can be declared by the minister. S/he may likewise grant licences for prohibited activities in them (section 7(4)). The Beach Control Act is responsible for the requirements relating to lifeguards and life-saving equipment on commercial and public recreational beaches (those beaches that have licences granted under section 11 of the Act, see below). |
| **3. What about beach access?** | There is no general right of access to the beach by the public. Specific groups of people that retain rights to beach access regardless of land ownership include fishermen on traditional fishing grounds. Owners of land adjacent to the beach can use the land for recreation but must be licensed for commercial activities. The Act gives a group of 5 or more people the right to ask the NRCA to petition on their behalf in disputed cases of access. At minimum, there is a need for the law to clearly state the criteria to be applied in balancing the competing interests of private land owners, the beach going public and traditional beach users such as fishermen. |
| **4. Does the NRCA require licenses?** | Yes. A licence is required for the erection or maintenance of any dock, wharf, pier, jetty or related structure on the foreshore or floor of the sea and the public interest must be considered. The Minister responsible for harbours grants the licence and that decision is final (Section 9 of the Act). NRCA can grant licences for the use of the foreshore or the floor of the sea for any public or other purpose. It must consider the public interest when doing so and include terms in the licence to protect it (See section 11). Appeal may be made to the Minister for grant or refusal of a licence by the Authority (section 55). |
| **5. What are the NRCA's other functions?** | NRCA has the discretion to maintain, use or develop any beach or land vested in it or make provisions for such. It has no obligation to do this (Section 13). The NRCA can also lodge a complaint to the appropriate court regarding any petition by 5 or more people disputing the right to use any beach, land, road, track or pathway to gain access to a beach. The court will determine who has the right in dispute (Section 14). The NRCA acts as if it is the complainant. |
### Jamaica’s Environmental Laws

#### The Beach Control Act 1956

<table>
<thead>
<tr>
<th>5.</th>
<th>... Continued</th>
<th>It can also declare a publicly used beach as a public recreational beach and fix fees for admission. Planning must be undertaken in consultation with the owner and the local authority (Section 52).</th>
</tr>
</thead>
</table>
| 6. | What are the offences under the Act? | o Section 5, Using the foreshore or seashore for public, business or commercial purposes without a licence. **Penalty** after conviction can lead to 12 months imprisonment or a fine of $50,000/day while the offence continues. Default of payment may result in up to 12 months imprisonment.  
   o Section 7, Carrying out prohibited activities in a protected area or without a licence. The **penalty** is a fine of up to $50,000.  
   o Section 52(4)(a), Hindering or obstructing a member of the public using a public recreational beach. The **penalty** is a fine up to $50,000 or imprisonment up to 6 months.  
   o Section 52(4)(b), Demanding a fee in excess of fee set for admission to the beach. The **penalty** is the same as in 52(4)(a).  
   o Section 52(4)(c), Ejecting or attempting to eject a member of the public from the beach for any reason other than misconduct. The **penalty** is the same as in 52(4)(a).  
   o Section 52(4)(d), Wilfully causing a paying member of the public to leave a public beach because of an act of annoyance. The **penalty** is the same as in 52(4)(a). |
| 7. | What is NOT an offence under the Act? | o Section 3(3), Except in protected areas, fishing by fishermen as a trade prior to the passing of the Act.  
   o Section 4, Using the foreshore for domestic or recreational purposes by owners or occupiers of land adjoining the foreshore. |
| 8. | Some Regulations under the Act | The Beach Control Authority (Licensing) Regulations, 1956  
The Beach Control (Hotel, Commercial and Public Recreational Beaches) Regulations, 1978 |
| 9. | Commentary | This Act does not definitively address the controversial issue of access by the public to the beach across privately owned lands that adjoin the beach. It is a strong public interest issue that should be addressed by Parliament. |
| 10. | Where can I get additional information? | The Beach Control Authority (Licensing) Regulations, 1956  
The Beach Control (Hotel, Commercial and Public Recreational Beaches) Regulations, 1978 |
| 11. | Where can I get additional information? | National Environment and Planning Agency  
10-11 Caledonia Avenue, Kingston 5  
Tel: (876) 754-7540  
Web: www.nepa.gov.jm  
* See “Key Contacts” on page 15 for your local NGO |
Can you imagine going to the country and not hearing birds singing in the trees, or tree frogs at night or seeing peenie-wallasies or wildflowers by the side of the road? Our plants and wildlife make Jamaica a more interesting and beautiful place. More importantly, all living species, including people, depend on other species for survival.

For the environment to be healthy, we need a variety of plants and animals. This is called 'biological diversity.' Losing one species may mean losing others because the species depend on each other.

We all depend upon plants and animals. From studying them, we have learned new ways of growing foods, making clothing, and building houses. Scientists have discovered how to use certain plants and animals as sources of medicines. If we fail to protect threatened or endangered species, we will never know how they might have improved our lives.

People can cause the extinction of plants and animals by destroying the places where they live (called habitats). People can also endanger plants and animals by moving or introducing new species into areas where they do not naturally live. Some of these species do so well in their new habitat that they endanger those species already living there, called native species. For example, when new fish are introduced into a lake or stream, they may prey upon, or eat the food of, the native fish. The native species may then have to find a new source of food or a new home, or face becoming endangered or extinct.
# Jamaica’s Environmental Laws
## The Fishing Industry Act 1976

<table>
<thead>
<tr>
<th>1. What is the Fishing Industry Act?</th>
<th>It is the law governing the operation of the fisheries industry in Jamaica and has been in existence since 1976.</th>
</tr>
</thead>
<tbody>
<tr>
<td>2. How does it work?</td>
<td>It works by governing the licensing of fishers in Jamaican waters. It is administered by the Ministry of Agriculture and enforced by a licensing authority (the Fisheries Division) that also sets up a registration system for fishermen and their vessels.</td>
</tr>
</tbody>
</table>
| 3. What are some offences under the Act? | o Section 3(1), Fishing without a licence or contrary to the terms of one. The penalty is a fine up to $1,000, if in default then up to 12 months imprisonment.  
   o Section 8(1), Fishing in a boat not registered or licensed to do so. The penalty is a fine up to $200, if in default then up to 6 months imprisonment.  
   o Section 11(5), Not displaying registered marks on a boat being used for fishing and failing to produce the boat’s licence on request by a Fishery Inspector. The penalty is a fine of up to $20, with a default in payment being imprisonment up to 1 month.  
   o Section 18(1), Fishing or attempting to fish in a fish sanctuary. The penalty is a fine of up to $500, with a default in payment being imprisonment up to 1 month.  
   o Section 19(2), Taking fish during its closed season. The penalty is a fine of up to $500, with a default in payment being imprisonment up to 6 months.  
   o Section 23, Knowingly landing, selling, buying or having in their possession any fish taken, killed or injured illegally. The penalty is the same as in 22(1). |
| 4. What is NOT an offence under the Act? | Section 19(3), Accidentally taking fish during closed season and returning it to the water with the least possible delay.  
Selling fish during closed season |
| 5. Closed and Open Fishing Seasons | Closed and open seasons are also established to regulate the times when certain fishing activity can take place.  
Lobster has a closed season from April 1-June 30 of each year.  
Conch is also regulated by a closed season that varies each year, because it is dependent on conch surveys done to establish the population before fishing is allowed. |
<p>| 6. How does enforcement work under the Act? | Fisheries inspectors can enter boats, examine equipment and view licences. Equipment used for illegal purposes can be seized without warrant. Conviction for offences resides in the Resident Magistrate Court. |
| 7. Is there a right of appeal? | Yes. If an applicant is refused a licence or objects to the terms of it s/he can appeal to the minister (section 16). |</p>
<table>
<thead>
<tr>
<th>9. <strong>Commentary</strong></th>
<th>Regulations exist for fishing management areas, close seasons, conservation of conch and fishing licences. However, the law provides no incentives to encourage compliance and does not take a cooperative approach to fisheries management, relying instead on sanctions that are outdated and unrealistic. Fines are too low to act as a deterrent. A new fisheries management policy and law is being developed that should herald a significant change in the management of the fisheries sector in Jamaica. Comments on the proposed law and policy can be directed to the Fisheries Department.</th>
</tr>
</thead>
</table>
| 10. **Where can I get additional information?** | **Ministry of Agriculture**  
Hope Gardens, Kingston 6  
Tel: (876) 927-1731 or (876) 927-1733  

**Fisheries Division**  
Marcus Garvey Drive, Kingston 13  
Tel: (876) 923-8811 or (876) 923-8813  

**National Environment and Planning Agency**  
10-11 Caledonia Avenue, Kingston 5  
Tel: (876) 754-7540  
Web: www.nepa.gov.jm  

* See “Key Contacts” on page 15 for your local NGO |
1. **What is the Wildlife Protection Act?**

This law relates mainly to the regulation of hunting and has existed since 1945. It gives the power to create game sanctuaries or reserves where hunting activity is limited and declares protected animals that can only be hunted to a limited extent or not at all. It also creates open and closed seasons for hunting.

2. **How does it work?**

It became law in 1945 and is administered by the Ministry of Land and Environment. The National Environment and Planning Agency enforces the Act.

3. **What are some offences under the Act?**

- **Section 4(1)(a)**, Hunting an animal or bird in a Game Sanctuary. The **penalty** is a fine of up to $100,000 or a maximum of 6 months in default (section 20). All offences have the same penalty unless otherwise stated.

- **Section 4(1)(b)**, Taking the nest or egg of any bird in a Game Sanctuary.

- **Section 4(1)(d)**, Knowingly permitting any dog into the Game Sanctuary.

- **Section 4(1)(e)**, Carrying any weapon capable of being used to hunt wildlife within the Game Sanctuary.

- **Section 6(1)**, Hunting any protected animal or protected bird.

- **Section 6A(a)**, Having in possession any whole or part of protected wildlife.

- **Section 7(2)(a)**, Hunting any game bird during closed season or any other prohibited period.

- **Section 7(2)(b)**, Taking and having in possession any game bird for the purposes of sale, offering for sale, or commercial storage.

- **Section 8**, Taking or attempting to take turtle eggs, selling or having in possession turtle eggs for the purpose of sale.

- **Section 9**, Attempting to or actually injuring, killing or taking or buying or selling or possessing immature fish.

- **Section 10(b)**, Placing or causing to be placed any poison, lime, or noxious material in any water with the intent to take, kill, or injure fish.

- **Section 10(d)**, Using or causing to be used an unauthorized trap in any river, stream or canal.

- **Section 11**, Introducing in any way or causing to be introduced any trade effluent or industrial waste or polluting matter into any harbour, river, stream, canal, lagoon or estuary containing fish. The **penalty** is a fine up to $100,000 or up to 1 year imprisonment.

- **Section 12**, Knowingly buying, selling, or possessing fish taken, killed, or injured unlawfully. The **penalty** is the same as in 4(1)(a).

- **Section 15(3)**, Refusing to admit or obstructing the duty of any Fishery Inspector, Game Warden, or Constable in the exercise of any powers conferred by this Act. The **penalty** is the same as in 4(1)(a).
### Jamaica’s Environmental Laws

#### The Wildlife Protection Act 1945

<table>
<thead>
<tr>
<th>Section</th>
<th>Description</th>
</tr>
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</table>
| 3. ...continued | Section 18, Refusing to give name or address. The **penalty** is the same as 4(1)(a)  
Section 23, FORFEITURE: where there is a conviction, any wildlife or weapon relating to the conviction shall be forfeited to the crown. |
| 4. **How does Enforcement work under the Act?** | Enforcement officers include game wardens, Fishery Inspectors, Constables, and any other officers appointed by the Governor General (Section 13). Officers may enter premises to inspect or search and can make arrests without warrants (Sections 15-17). Offences are prosecuted in the Resident Magistrate’s Court. |
| 5. **What are other provisions under this Act?** | Landowners may write to the minister asking for their land to be declared as game reserves (section 5).  
The minister may grant exemptions to this Act for purposes of conservation, science, history or education (section 22).  
Regulations can be made under the Act to (a) amend the list of protected wildlife, (b) control fish stocks and takes, (c) establish fish sanctuaries and hatcheries and for the stocking of water with fish (d) dictate how wildlife may be trapped or taken (e) dictate how wildlife may be kept in captivity (f) set quotas for how many fish or birds may be taken (g) set reporting requirements, and (h) prescribe licences and fees.  
There are 3 Schedules to the Act, which are lists of Game Sanctuaries, protected birds and protected animals. Some of these animals are also protected under the Endangered Species Act 2000.  
A fish is widely defined in the Act as “any creature that lives wholly or mainly in water”. So, a crocodile can be a fish under the WPA! |
| 6. **Some Regulations under the Act** | The Wild Life Protection (Hunters’ Licences) Regulations, 1973 (Regulation 4)  
The Wild Life Protection (Game Bird Hunting Limit) Regulations, 2004 |
| 7. **Commentary** | One of the main causes of wildlife decline is habitat destruction, which is not addressed in this law.  
Protected animals include iguanas, the Jamaican yellow snake and the Giant Swallowtail butterfly. All birds are protected except 23 species listed in the Second Schedule of the Act. Birds named in Part I of the Schedule are game birds and may be hunted in their respective open seasons. |
<table>
<thead>
<tr>
<th>Question</th>
<th>Ministry of Land and Environment</th>
<th>National Environment and Planning Agency</th>
</tr>
</thead>
<tbody>
<tr>
<td>Where can I get additional information?</td>
<td>16A Half Way Tree Road</td>
<td>10-11 Caledonia Avenue, Kingston 5</td>
</tr>
<tr>
<td></td>
<td>Kingston 10</td>
<td>Tel: (876) 754-7540</td>
</tr>
<tr>
<td></td>
<td>Tel: (876) 926-1590 or (876) 926-1325</td>
<td>Web: <a href="http://www.mle.gov.jm">www.mle.gov.jm</a></td>
</tr>
<tr>
<td></td>
<td>Email: <a href="mailto:mle@cjwamaima.com">mle@cjwamaima.com</a></td>
<td>Web: <a href="http://www.nepa.gov.jm">www.nepa.gov.jm</a></td>
</tr>
<tr>
<td></td>
<td>Web: <a href="http://www.mle.gov.jm">www.mle.gov.jm</a></td>
<td>* See “Key Contacts” on page 15 for your local NGO</td>
</tr>
</tbody>
</table>

* See “Key Contacts” on page 15 for your local NGO
### Jamaica’s Environmental Laws

The Endangered Species Protection, Conservation & Regulation of Trade Act 2000

<table>
<thead>
<tr>
<th></th>
<th>1. What is the Endangered Species Act?</th>
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<tr>
<td></td>
<td>The Endangered Species Protection, Conservation &amp; Regulation of Trade Act 2000 protects endangered animals and plants (those in danger of extinction) by controlling their trade in and out of the island. It was passed in 2000 to help the government fulfill its obligations under the Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES). CITES is an international agreement between governments to help countries regulate trade in endangered plants and animals.</td>
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<tr>
<th></th>
<th>2. What else does it do?</th>
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<tr>
<td></td>
<td>The Act also certifies animals bred in captivity and plants that were artificially propagated. These certificates act as import/export permits. It also protects indigenous species (those unique to a country or region) and species that may be threatened by the introduction of invasive species (non-native plant or animals that may adversely affect local ones).</td>
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<th>3. Are all endangered plants and animals treated alike?</th>
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<td>No. The ESA follows CITES by dividing species into three categories based on how likely they are to be harmed by trade. Appendix or Schedule 1 species are generally not traded because any trade might be very harmful to their existence. Appendix or Schedule 2 species are less endangered and controlled trade is generally allowed. Appendix 3 species are protected by special requests of certain countries where the animal may not be endangered worldwide, but is endangered in that particular region. Animals may be moved between categories by agreement.</td>
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<th>4. Are plant or animal parts included?</th>
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<td>Yes. Animals are killed for trade in their parts, for example ivory from elephant tusks. Therefore, the Act defines animals to include skin, scales, feathers, bones, blood and other animal parts. The same goes for plants. Plants do not have to be alive or whole to be protected.</td>
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<th>5. How does it work?</th>
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<td>Trade is controlled by setting up a complex system of import and export permits. Appendix 1 species, a trader must get an export permit from the originating country in order to get an import permit in the receiving country. Other documents called certificates of origin may also be required to prove where the animal comes from. Veterinary reports and other authentication as necessary must be given. Appendix 2 species, a trader must get an export permit from the originating country. CITES allows countries to decide themselves whether to grant an import permit for Appendix 2 species. Jamaica requires import permits.</td>
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<th>6. Who grants CITES permits?</th>
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<td>Each country must set up a CITaES Management Authority (MA) and a Scientific Authority (SA). NEPA acts as the MA for Jamaica. It grants permits and certificates and must generally act to protect, conserve and manage endangered species including making management plans. It should also promote public awareness about the importance of endangered species and their conservation and make proposals for amendments to the list of endangered species. The Management Authority also makes an annual report that the Minister tables in Parliament. The Scientific Authority advises the Management Authority on the status of species, the impact of trade on a specific species, and the setting of quotas. It also carries out research, monitors the permitting process and the actual exports of endangered species. The SA also makes annual reports that are submitted to both the Management Authority and the Minister.</td>
</tr>
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## Jamaica’s Environmental Laws

The Endangered Species Protection, Conservation & Regulation of Trade Act 2000

### 7. Are there exceptions to the Act?

Yes. Excepted specimens include those in transit through Jamaica; wildlife not intended for sale; Non-commercial loans, donations, or exchanges for scientific purposes; and specimens proven to be acquired before the implementation of CITES. A complete list is found in (Section 5).

### 8. What are offences under the Endangered Species Act?

- **Section 40**, Trading without a permit or certificate. Penalty imposed by the Resident Magistrate’s Court is a fine of up to $2,000,000 and/or imprisonment up to 10 years. In Circuit Court, the **penalty** is a fine and/or imprisonment up to 10 years.

- **Section 41**, Using the postal service for transport of an endangered species. Penalty in the Resident Magistrate’s (RM) Court is a fine up to $1,000,000 and/or imprisonment up to 1 year for the first offence; $2,000,000 and/or imprisonment up to 2 years for the second offence. In Circuit Court, the **penalty** is a fine and/or imprisonment up to 10 years.

- **Section 42(a)**, Making false or misleading statements for the purposes of obtaining a permit or certificate. **Penalty** in Resident Magistrate’s (RM) Court is a fine up to $1,000,000 and/or imprisonment up to 1 year.

- **Section 42(b)**, Knowingly providing false or misleading documents to an authorized officer performing any duty under this Act. The **penalty** is the same as in 42(a).

- **Section 42(c)**, Knowingly making a false declaration or statement or producing a document containing a false declaration or statement. The **penalty** is the same as in 42(a).

- **Section 42(d)**, Falsifying or unlawfully amending any information contained in a permit or certificate. The **penalty** is the same as 42(a).

- **Section 43**, Threatening, assaulting or obstructing the duty of an authorized officer acting in the execution of his duties. The **penalty** is a fine up to $500,000 and/or imprisonment up to 12 months.

- **Section 44**, Having a permit or certificate and failing to keep required records or documents or having no reasonable excuse for not providing them on request by an authorized officer. In RM Court, the **penalty** is a fine of up to $200,000 and/or 3 months imprisonment.

### 9. How is this Act enforced?

Authorized officers have the power to enter premises at all reasonable times to inspect, search, seize any implements, specimens or vehicles or equipment, and to take samples. This can be done without a warrant if there is reasonable cause.

### 10. Is there a right of appeal?

Yes. An appeal to the suspension of a permit may be made to the Minister. In that case, the MA must provide the reasons for its decision.

### 11. Some Regulations under the Act

- The Endangered Species Protection, Conservation & Regulation of Trade Act 2000 Regulations 2000

- The Endangered Species Protection, Conservation & Regulation of Trade Act 2000 (Conch, Strombus Gigas) Regulations 2000
### 12. Commentary

In Jamaica, the Management Authority does not have to follow the advice of the Scientific Authority when deciding to grant an import/export permit. This undermines the effectiveness of the Act because it is the SA that can better determine whether trade is harmful. Under CITES, the SA must agree before a permit is granted.

It is not an offence under this Act to actually possess an endangered species even if its trade is forbidden. Reliance must be placed on the Wildlife Protection Act.

It also does not address habitat protection, which is one of the greatest threats to endangered species. There are other laws that ought to address this. Can you think what they might be?

A particularly good feature of this Act is the high level of fines it imposes. It also provides for offences to be tried in the Circuit Court, reflecting their seriousness.

### 13. Where can I get additional information?

**National Environment and Planning Agency**

10-11 Caledonia Avenue, Kingston 5  
Tel: (876) 754-7540  
Web: [www.nepa.gov.jm](http://www.nepa.gov.jm)

**Ministry of Land & Environment**

16A Half Way Tree Road  
Kingston 10  
Tel: (876) 926-1590 or (876) 926-1325  
Email: mle@cwjamaica.com  
Web: [www.mle.gov.jm](http://www.mle.gov.jm)

* See “Key Contacts” on page 15 for your local NGO
Often, we don’t think about the air we breathe, we just take it for granted. We expect to wake up every morning, breathe, and live to see another day. However, air pollution affects people, animals and plants across the globe. Every time we inhale, we carry air pollutants into our bodies, which can cause short-term effects, such as eye and throat irritation. More alarming are the long-term effects, such as cancer and damage to the body’s immune, neurological, reproductive and respiratory systems. Children, due to their small size and the fact that they are in the process of developing, experience greater health risks from poor air quality.

Kingston and Montego Bay are sometimes so dense with air pollutants that residents suffer from asthma, allergies or other ailments, and people mistakenly feel that air pollution is a “city problem”.

Many air pollutants are dispersed over areas hundreds of miles from their source where they affect different ecosystems. These pollutants often remain toxic in the environment for a very long time where they continue to affect ponds, streams, fields and forests in rural areas.

The main sources of air pollution are generally electricity plants, followed by motor vehicles. Smoke from fires is another big problem in Jamaica, both in urban and rural areas, as citizens burn their waste either as a matter of choice, or because garbage collection is ineffective or non-existent. Also, most of our garbage dumps are burned from time to time.

Let us examine some of the laws that specifically relate to the air we breathe.
# Jamaica’s Environmental Laws
## The Clean Air Act 1961

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<tr>
<td>1. <strong>What is the Clean Air Act?</strong></td>
<td>The Clean Air Act is over 40 years old (since 1961) and regulates the discharge of smoke, fumes, gas and dust from premises where industrial work takes place. Regulations have never been made to guide how the law must operate and no air quality standards exist at law.</td>
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<tr>
<td>2. <strong>How does it work?</strong></td>
<td>It is enforced by the Central Board of Health (see the Public Health Act) and falls under the responsibility of the Ministry of Health.</td>
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<td>3. <strong>What are industrial works?</strong></td>
<td>Any still, melting pot or similar plant whether or not used for any trade or industrial purposes and also any incinerator used.</td>
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<td>4. <strong>Duties of owners</strong></td>
<td>Owners of premises from which noxious gases or fumes are discharged have a duty to use the best possible means of preventing discharge or escape of the gas, or to treat it so that it is not offensive.</td>
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<td>5. <strong>What are the offences under the Act?</strong></td>
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<td>o Section 5(3), Not providing information to inspectors as required or obstructing them in carrying out their duties.</td>
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<td></td>
<td>o Section 6(5), Failure to obey an order given by notice to limit the escape of noxious or harmful gases from premises or to treat it to make it inoffensive or harmless.</td>
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<td>Conviction is in the Resident Magistrate court. Maximum fine is $200 or in default 3 months hard labour; $10 per day for continuing offence or in default 2 months imprisonment.</td>
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<tr>
<td>6. <strong>How does enforcement work?</strong></td>
<td>Inspectors are appointed by the Minister and may enter any premises (upon showing authority to do so) that is causing or is likely to cause a discharge into the air. They can request information, inspect, sample and test as required in carrying out their duties.</td>
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<td>A notice can be served on the owner of premises giving at least 6 weeks notice to prevent discharge or escape of gas, to require treatment of the gas or to limit the amount of gas released. The notice will come from the Board.</td>
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<tr>
<td>7. <strong>Is there a right of appeal?</strong></td>
<td>Yes. An appeal against notice by the Board can be made to a judge in chambers, whose decision will be final. No proceedings can be taken against someone who is waiting on the outcome of an appeal.</td>
</tr>
<tr>
<td>8. <strong>Regulations under the Act</strong></td>
<td>There are no regulations.</td>
</tr>
<tr>
<td>9. <strong>Commentary</strong></td>
<td>The Clean Air Act has little effectiveness without Regulations, air quality standards or serious fines. It has not been updated since its inception and reflects the general weakness and lack of attention paid to laws on air quality.</td>
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### Jamaica’s Environmental Laws
#### The Clean Air Act 1961

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<th>10. Where can I get additional information?</th>
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<tr>
<td><strong>Ministry of Health</strong>&lt;br&gt;2-4 King Street, Kingston&lt;br&gt;Tel: (876) 967-1100 or (876) 967-1092&lt;br&gt;Web: <a href="http://www.moh.gov.jm">www.moh.gov.jm</a></td>
</tr>
<tr>
<td><strong>Public Health Authority</strong>&lt;br&gt;Marescaux Road, Kingston&lt;br&gt;Tel: (876) 926-1550 or (876) 926-1552</td>
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*See “Key Contacts” on page 15 for your local NGO*
## Jamaica’s Environmental Laws

### The Public Health Act 1985

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<tr>
<td><strong>1.</strong> What is the Public Health Act?</td>
<td>The Public Health Act was passed in 1985 and established bodies whose duties are to take steps as necessary to secure the health of the public. It covers a wide range of activities including the sanitary operation of barbershops, beauty salons, food handlers, butchers, garbage collection, swimming pools and immunizations.</td>
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<td><strong>2.</strong> How does it work?</td>
<td>There is one Central Health Committee and each parish has its own Local Board of Health. Overall supervision is by the Ministry of Health. The Committee stands in between the Minister and the Local Boards and advises them both on any matter as it sees fit.</td>
<td></td>
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<tr>
<td><strong>3.</strong> What is the role of the Parish Councils?</td>
<td>Parish councils act as local health boards and can divide their parishes into different districts if necessary to operate more efficiently. It is their responsibility to make and enforce the regulations under the Act. Section 7 lists the areas that regulations can be made for.</td>
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<td><strong>4.</strong> What are the Minister's general powers?</td>
<td>The Minister has wide powers. These include the ability to: o Direct local boards to investigate diseases and to act to prevent them from spreading (Section 8); o Order that any actions be taken that s/he thinks the local board should take but has not (section 12); o Prevent people assembling in areas where there is a health epidemic or close schools and public places in order to contain the spread of the disease (sections 18 &amp; 19). o Make regulations (subject to section 7, power of local boards to do so) particularly in respect of measures targeted at preventing the spread of disease, such as vaccinations and inoculations, air and soil pollution; importation and distribution of food for human consumption and pest control (mosquitoes, rodents, insects and so on).</td>
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<td><strong>5.</strong> My neighbour, the nuisance</td>
<td>The Nuisance Regulations (1995) were made specifically to address people whose enjoyment of their property is affected by their neighbours’ actions. Specific things are considered as nuisances. These include defective structures; insanitary conditions; deposit of solid, human or animal waste; dust, smoke, fumes or other discharge; bush, trees or structures that interfere with air flow or sunlight; vermin (including flies, mosquitoes, rats) infestation; industrial, sewage or other discharge of noxious matter into the sea, a river or other watercourse or land; and offensive smells. The local board may serve a notice to discontinue or remedy the activity within a certain time frame. Failure to do so may result in a fine of up to $50,000 or up to 12 months imprisonment.</td>
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<tr>
<td><strong>6.</strong> Can you be made to pay for a nuisance you have caused?</td>
<td>Yes. If a Local board has to stop a nuisance itself it may recover the costs of having to do so from the person causing it.</td>
<td></td>
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</table>
### 7. What are some offences under the Act?

- **Section 16(4), Disobeying an order to control disease.** The **penalty** is a fine up to $500; upon default up to 3 months imprisonment; $100 per day for continuing offence, default of payment result in up to 2 months imprisonment.

- **Section 18(2), Participating in, being present at, or promoting a prohibited assembly.** The **penalty** is a fine up to $2,500; upon default, up to 3 months imprisonment.

- **Section 18(3), Failure to disperse from a prohibited assembly when required by a constable.** The **penalty** is a fine up to $2,500; upon default, up to 3 months imprisonment.

- **Section 19(2), Failure to comply with direction to close a public place or school.** The **penalty** is a fine of up to $50,000; upon default up to 6 months imprisonment; continuing offence is up to $12,500 per day, if in default then up to 6 months imprisonment.

- **Section 22(a), Assaulting or obstructing a medical officer or authorized person acting in execution of his duty.** The **penalty** is a fine up to $25,000 and/or imprisonment up to 12 months.

- **Section 22(b), Failure to provide information or providing false information.** The **penalty** is a fine up to $1,000 and/or imprisonment up to 12 months.

### 8. How does enforcement work?

Health or other authorized officers can enter private premises at any reasonable time to ensure compliance with the law. They must provide proof of authority for their actions. If more than one person is responsible for any offence, action can be taken against any one of them.

Note that prosecution is not the first step for all offences. Sometimes, when a nuisance is caused, notice may be served asking the offender to take certain actions. If this is not carried out, then prosecution is the next step. Prosecution must start within 6 months after the offence has been committed.

### 9. Is there a right of appeal?

Any person affected by a decision made against them by a local board or anyone acting under similar powers can appeal to the Minister. The Minister can deny or allow the appeal and can make a new decision if s/he wishes. The person whose decision is being appealed must be informed.

### 10. Can members of the local health board be held personally responsible?

No. Members are protected from being personally held responsible if they have acted in a manner consistent with their duties. However, the board may be held responsible. The protection against personal liability is removed for acts that are shown to be done maliciously or without good cause.
## Jamaica’s Environmental Laws
### The Public Health Act 1985

| 11. Some Regulations under the Act | The Public Health (Nuisance) Regulations, 1995  
The Public Health (Tourists Establishments) Regulations, 2000 |
|-----------------------------------|--------------------------------------------------------------------------------------------------|
| 12. Commentary                    | The Act has had many regulations covering different areas. Fines were updated to make them more effective.  
The Nuisance Regulations make it easier to bring claims for some environmental abuses, especially those that affect peoples’ enjoyment of their properties. This is a positive development in the law, however, its use is not widely known. |
| 13. Where can I get additional information? | **Ministry of Health**  
2-4 King Street, Kingston  
Tel: (876) 967-1100 or (876) 967-1092  
Web: www.moh.gov.jm  

**Public Health Authority**  
Marescaux Road, Kingston  
Tel: (876) 926-1550 or (876) 926-1552  

* See “Key Contacts” on page 15 for your local NGO |
| 1. What is The Country Fires Act? | The Country Fires Act was passed into law in 1955 and aims to prevent the lighting of arbitrary fires. As its name suggests, the Act only restricts fires lit by persons outside of the urban and suburban corporate area. |
| 2. How does it work? | It is administered by the Ministry of Local Government, Community Development and Sport and enforced by forest officers, agricultural officers of the Rural Agricultural Development Agency (RADA officers), agricultural wardens, and police officers and sub-officers. |
| 3. What are the offences under the Act? | - Section 3, Setting fire to any crop (other than to sugarcane for the purpose of ridding it of any vine or other pest).  
- Section 4, Setting fire to trash without giving three-days notice to the nearest police station and occupiers of adjoining lands; and clearing an open space of at least fifteen feet.  
- Section 5, Setting fire to trash between 6pm - 6am, or leaving a fire unattended before it is thoroughly extinguished.  
- Section 7(5), Knowingly give false information for the purpose of obtaining a permit.  
- Section 8, Setting fire to any trash contrary to the provisions of any Ministerial Order or permit.  
- Section 11, Failing to take reasonable steps to extinguish any fire on one's land, or contravening this provision.  
- Section 12, Carrying a lighted torch upon a plantation or road adjoining a plantation, insufficiently guarded so as to prevent danger from fire.  
- Section 13, Endangering any buildings, fences, lands, cultivated plants, or other property by negligent use or management of fire; or by smoking in any plantation.  
- Section 14, Able-bodied males between 14 - 60 years called on by enforcement officers to assist in extinguishing or preventing further spread of fire who refuse or omit to render assistance without some reasonable excuse.  
  
The same **penalty** applies for all offences i.e. a fine up to $2,000 or up to 3 months with or without hard labour on conviction in a Resident Magistrate’s Court. |
| 4. What is NOT an offence under the Act? | - Section 9(a), Setting fire to any plant or trash for the purpose of eradicating or preventing the spread of any disease (subject to giving notice and clearing 15ft around).  
- Section 9(b), Setting fire to any lime or charcoal kiln. |
| 5. What are crops under the Act? | The definition of crops under the Act is not limited to food crops. It includes any crop, tree, wood, or underwood or other produce of the soil, whether cultivated or not, which is grown in or upon any land. If you set fire to any of these you have committed an offence under the Act. |
| 6. | What does the Act empower ministers to do? | A Minister may, by order, prohibit the setting of a fire to any trash without a permit, within the parts of the island and for the duration specified in the Ministerial Order. Where a fire has been started without the consent of the owner and is not in accordance with the provisions of the Act, any officer or sub-officer of the police, forest officer or agricultural warden may enter upon the land where the fire is in order to do all they reasonably can to put the fire out. |
| 7. | How do the Authorities prove an offence has been committed? | Section 10 of the Act says that proof that any crop or trash on any land was or has been on fire will be sufficient to conclude that the fire was set with the occupier's consent. |
| 8. | What do you do if you suspect illegal trash burning? | If you suspect illegal burning you can contact the National Solid Waste Management Authority (NSWMA), the National Environment and Planning Agency (NEPA) or the nearest police station. Forest and Agricultural officers can also investigate. |
| 9. | Some Regulations under the Act | There are no regulations. |
| 10. | Commentary | Fines are very low. The Act does not refer at all to how burning affects air quality and human health, and burning in Kingston is not an offence. See the Clean Air and Public Health Acts in this booklet to assess for yourself whether the law adequately addresses this problem. |
| 11. | Where can I get additional information? | Ministry of Local Government, Community Development and Sport 85 Hagley Park Road, Kingston 10 Tel: (876) 754-0992 or (876) 754-0999  
Forestry Department 173 Constant Spring Road, Kingston 10  Tel: (876) 924-2667 or (876) 924-2668 or (876) 924-2612  Web: www.forestry.gov.jm  
National Environment and Planning Agency 10-11 Caledonia Avenue, Kingston 5  Tel: (876) 754-7540  Web: www.nepa.gov.jm  
National Solid Waste Management Authority 61 Half Way Tree Road, Kingston 10  Tel: (876) 926-8559 or (876) 926-5170 or (876) 920-7939  E-mail: nswma@nswma.gov.jm  Web: www.nswma.gov.jm  
* See “Key Contacts” on page 15 for your local NGO |
### Jamaica’s Environmental Laws
#### The Pesticides Act 1987

| 1. **What is the Pesticides Act?** | The Pesticides Act became law in 1987. It is administered by the Ministry of Health and enforced by the Pesticides Control Authority. It regulates the manufacture, use, sale and importation of pesticides in Jamaica. |
| 2. **What are the functions of the Pesticides Control Authority (PCA)?** | To register pesticides and premises where restricted pesticides are sold; to license pest control operators and persons to import or manufacture registered pesticides; to determine applications for importation, manufacture, use and sale of pesticides. |
| 3. **How can I find out about which pesticides are used in Jamaica?** | The PCA must keep a Register of Pesticides that contains all pesticides registered in Jamaica and everyone licensed as a pest control operator, to manufacture, import or sell pesticides. The register is a public one and must be open to inspection at all reasonable times. |
| 4. **The definition of a pesticide under the Act** | A pesticide has a wide meaning under the Act, including almost anything that is used for controlling, preventing, destroying, mitigating, attracting or repelling any pest. It also includes any active ingredient of any pesticide. |
| 5. **What are some offences under the Act?** | o Section 7, the manufacturing, importing, advertising, or selling of any pesticide unless registered in the prescribed manner.  
   o Section 8, the manufacturing or importation of pesticide without a licence.  
   o Section 9, selling a restricted pesticide without authorization or on unregistered premises or not in accordance with prescribed requirements.  
   o Section 10(1), engaging in extermination for reward without a licence.  
   o Section 10(2), serving as an employee of a pest control operator and failing to comply with regulations.  
   o Section 15, packaging, labeling or advertising pesticide in a false, misleading or deceptive manner.  
   o Section 20(1)(b)(i), forging, using or lending certificate.  
   o Section 20(1)(b)(ii), making or having in possession documents resembling a licence or certificate.  
   o Section 20(1)(c), assaulting or obstructing an inspector or other officer while performing duties.  
   o Section 20(1)(d), interfering with or disposing of seized or detained article without authority.  
   o Section 20(1)(e), bribing or attempting to bribe inspector or other officer.  
   o Section 20(1)(f), knowingly giving false or misleading information to inspector or other officer.  
   o Section 20(1)(g), accepting or soliciting bribes as an Inspector or other officer. |
### Jamaica’s Environmental Laws

#### The Pesticides Act 1987

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<td><strong>6.</strong> <strong>Powers and duties of Inspectors</strong></td>
<td>At all reasonable times, an Inspector can enter any premises or vehicle where pesticides are manufactured, stored, kept for sale, disposed of or transported in, or where an extermination is being carried out s/he may also seize or detain any article s/he reasonably believes may be connected to a breach under the Act. The Inspector must have a certificate of designation that must be shown on request.</td>
</tr>
<tr>
<td><strong>7.</strong> <strong>How does enforcement work under the Act?</strong></td>
<td>Any person who commits an offence under the Act may be liable to conviction in a Resident Magistrate’s Court. The maximum <strong>penalty</strong> is $50,000 or imprisonment up to 6 months. Prosecution for the offences set out in sections 20(1)(d) and 20(1)(f) must be sanctioned by the Director of Public Prosecutions.</td>
</tr>
<tr>
<td><strong>8.</strong> <strong>Is there a right of appeal?</strong></td>
<td>Yes. Persons aggrieved by a decision of the Pesticides Control Authority may appeal to the Minister.</td>
</tr>
<tr>
<td><strong>9.</strong> <strong>What are the Minister’s powers?</strong></td>
<td>The Minister gives general policy direction to the Authority and may hear appeals made to any of its decisions. The Minister also gives approval to the Authority for Regulations to be made under the Act.</td>
</tr>
<tr>
<td><strong>10.</strong> <strong>Regulations under the Act</strong></td>
<td>Regulations were passed in 1996 to detail the procedures for administration of the Act, i.e. how to regulate importation, manufacture, use, sale of pesticides, pest control operations and so on.</td>
</tr>
<tr>
<td><strong>11.</strong> <strong>Some Regulations under the Act</strong></td>
<td>The Pesticides Regulations, 1996</td>
</tr>
<tr>
<td><strong>12.</strong> <strong>Commentary</strong></td>
<td>There are no provisions for monitoring pesticide contamination of air, water, vegetable residues or dealing with occupational health issues for workers.</td>
</tr>
</tbody>
</table>
| **13.** **Where can I get additional information?** | **Ministry of Health**  
2 King Street, Kingston  
Tel: 1-888-991-3142 or (867) 922-6084 or (867) 922-4877  
Web: www.moh.gov.jm  

**Pesticides Control Authority**  
2 King Street, Kingston  
Tel: (876) 967-1281 or (876) 967-1285  

**National Environment and Planning Agency**  
10-11 Caledonia Avenue, Kingston 5  
Tel: (876) 754-7540  
Web: www.nepa.gov.jm  

* See “Key Contacts” on page 15 for your local NGO |
The Access to Information Act 2002

The Access to Information Act 2002 gives the public a right to official documents held by public authorities – including government ministries, agencies, parish councils and wholly owned government companies and companies that the government holds 50% shares in. Before this law was passed, persons had no enforceable right to government-held information or even a right to receive a response. Access to information laws therefore, play an important role in ensuring that citizens are informed and knowledgeable about issues that affect them and increasing their ability to demand greater accountability from Government. In addition, accurate credible environmental information is critical to an understanding of the state of the Jamaican environment, to inform advocacy and to understand how environmental management decisions are made.

Requests can be made by letter, e-mail, telephone, facsimile or by a prescribed form. Persons can have access to information in any form including letters, diskettes, photographs, graphs, plans, tapes and so on. There is no charge for access to the documents, but charges may be payable for the cost of reproducing (e.g. photocopying) them. The public authority has 30 days to respond to a request for information. If the information is difficult to find or to compile, an extension can be requested for a maximum of 30 additional days. If the application is made to an authority that does not have the document in its possession, it must be transferred to the appropriate one. The public authority is not required to create a document that does not already exist to fulfill your request but they could be required to collate information they have in their possession. If a request is refused or deferred the authority must give reasons for this and inform the applicant of their right to internal review by the responsible Minister or Permanent Secretary of the authority to which the request was made and/or to appeal to an Appeals Tribunal. If all appeal processes are exhausted and the information is not forthcoming, there is a right to seek judicial review of the decision in the Supreme Court.

It is an offence to destroy or conceal an official document that the public has a right of access to with the intention of preventing its disclosure. The penalty is a maximum of five hundred thousand dollars (\$500,000.00) or six (6) months imprisonment or both.
The Mining Act

Operative date was October 13, 1947 and it regulates mining and prospecting of land, with specific reference to bauxite mining. It sets a maximum time-frame of twenty-five years for a mining lease, and minimum amounts that must be extracted to maintain the lease. No specific reference is made to sand mining or the rehabilitation of lands that have been mined for a number of years. Certain areas are off limits for mining activities, such as areas near any buildings, cemeteries, etc. However, no reference is made to rehabilitation for damage caused by mining activities, e.g. damage to roads, pathways or forests. Although the damage takes place several miles from the actual mining site, during the rainy season in certain sections of the island, the soil from mining sites is washed away and blocks and damages roads and pathways on a regular basis. Offences under this Act incur minimal fines.
Jamaica is a party to a number of international treaties and conventions addressing environmental concerns. In the following list are also noted dates showing the present status of these treaties, using these codes:

- **EF** Entry into force - when all the negotiating states have agreed and the treaty provisions begin to apply.
- **A** Accession - when a state not previously a party to a treaty expresses a wish to enter it and to be bound by its provisions.
- **Acc** Acceptance - when a state expresses its intention to consent to a treaty, subject to ratification.
- **R** Ratification - the formal confirmation and approval of the treaty instrument, often through parliamentary decision.


**Protocol Concerning Cooperation Combating Oil Spills in the Wider Caribbean Region**. EF 1 May 1987.


## Important Environmental Treaties and Protocols
to which Jamaica is a Party or Signatory

<table>
<thead>
<tr>
<th>Name of Treaty</th>
<th>Date of Accession For Jamaica</th>
<th>Entry into Force For Jamaica</th>
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<tr>
<td>International Plant Protection Convention, Rome, 1951</td>
<td>November 24, 1969</td>
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<td>Convention concerning the Protection of the World Cultural and Natural Heritage, Paris, 1972</td>
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<td>Cartagena Protocol on Biosafety to the Convention on Biological Diversity, Montreal, 2000</td>
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<td>Stockholm Convention on Persistent Organic Pollutants, Stockholm, 2001</td>
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Ministry of Land and Environment
February 2005
Acronyms

CFCs - Chlorofluorocarbons

CITES - Convention on International Trade in Endangered Species of Wild Flora and Fauna

EIA - Environmental Impact Assessment

ISJA - International School of Jamaica

JCDT - Jamaica Conservation and Development Trust

JET - Jamaica Environment Trust

LDUC - Land Development and Utilization Commission

MA - Management Authority of CITES

NCRPS - Negril Coral Reef Preservation Society

NEEC - National Environmental Education Committee

NEPA - National Environmental and Planning Agency

NEPT - Negril Area Environmental Protection Trust

NEST - National Environmental Societies Trust

NGO - Non-Governmental Organization

NJCA - Northern Jamaica Conservation Association

NRCA - Natural Resources Conservation Authority

NSWMA - National Solid Waste Management Authority

PEPA - Portland Environmental Protection Association

SA - Scientific Authority of CITES

STEA - Southern Trelawny Environmental Association

STEPA - St. Thomas Environment Protection Association

TPA - Town and Country Planning Authority

WRA - Water Resources Authority
**Acid Rain** - Rainfall that has become more acidic than usual due to contamination from pollutants in the air, e.g. Sulphur Dioxide.

**Act of Parliament** - A law passed in Parliament and approved by the Governor General.

**Administration** - The government ministry or agency with the responsibility and authority to implement a particular legislation.

**Bill** - A law that is not yet brought into force; a proposed law.

**Biodiversity**: The variety of life on earth: the different plants, animals and micro-organisms, their genes and the ecosystems of which they are a part. From: http://www.deh.gov.au/biodiversity/about-biodiversity.html Australia's Dept. of Environment and Heritage

**Chlorofluorocarbons (CFCs)** - Chemical compounds commonly used as spray propellants or refrigerants. When released into the air, CFCs tend to accumulate in the upper atmosphere, where they break down and trigger chemical reactions that can destroy ozone. The ozone of the upper atmosphere is important for filtering out harmful ultraviolet radiation.

**Conventions** - Also called Treaties and Protocols. Conventions are agreements between countries to comply with certain rules or obligations contained in the conventions.

**Court of Appeal** - A court where appeals are made against decisions made by lower courts. Further appeals can be made against decisions of this court (see Privy Council).

**Crown** - The Head of State; the Government.

**Director of Public Prosecutions (DPP)** - Appointed under the Jamaican Constitution, the DPP is the person in charge of all prosecutions in the Jamaican legal system. The DPP is an independent office and is not answerable to anyone. The Director of Public Prosecutions (DPP) can start or end any prosecution against anyone including the Prime Minister.

**Effluent** - Sewage or industrial waste discharged into a river, the sea, etc.

**Enforcement** - The act or process of compelling compliance with a law.

**Environment** - All external, physical, biotic and social conditions, directly or indirectly affecting the development, life and activities of organisms and populations, over periods of time.

**Environmental Impact Assessment (EIA)**: A study that looks at a proposed development and the effects it would have on the environment. An EIA analyzes the proposed project's positive and negative effects on the environment and suggest ways to minimize the negative ones. At times, it is requested by government agencies as a requirement of project approval.

**Habitat** - A place where an animal or plant is most likely to be found.

**Injunction** - An order by a court to do or not to do a particular thing.

**Joint Select Committee** - Special committee set up to discuss key areas of a proposed law or Bill during its passage through Parliament.

**Judicial Review** - The process by which the exercise of power by a public body is scrutinized. It can be done on the basis that the public body acted unreasonably, irrationally or outside of its powers.

**Judiciary** - The collective judges of a State.

**Law** - The enforceable body of rules that govern any society. Some laws are made in Parliament while others are made by the interpretation of judicial decisions.

**Legislation** - A collective term used to refer to a body of law.

**Negligence** - The failure to use such care as a reasonable and prudent person would use under similar circumstances; or doing some act that a reasonable person would not do under similar circumstances.
Nuisance - Nuisance can be divided into private or public nuisance. Private Nuisance is a substantial and unreasonable interference with an individual's use and enjoyment of land. Your neighbour does something on his property that interferes with your use or enjoyment of your property. A public nuisance is an unreasonable interference with a right common to the public - engaging in conduct that threatens the community’s safety and well-being.

Operative Date - Being or having force or effect. In this instance, the term refers to the date when the particular law comes into effect and all persons become bound by that law.

Ozone (O₃) - A form of Oxygen (O₂). Low level ozone, the main ingredient in smog, is found near ground level and is produced when sunlight stimulates a reaction between pollutants. The ozone layer is a protective layer of ozone high in the earth's atmosphere that filters out much of the sun's harmful ultraviolet radiation.

Parliament - The primary law-making body of the country. It consists of 2 sections or Houses, the House of Representatives - that contains elected Members of Parliament - and the Senate - appointed members of the government. It is headed by the Prime Minister.

Petty Sessions - Another name for the Resident Magistrate Court, which is the lowest court in the land.

Privy Council - It is the final court of appeal for court cases in Jamaica and is located in the United Kingdom. Its full title is the Judicial Committee of the Privy Council.

Protected Areas - An area on land or in the sea where activity is restricted in order to protect something inside the area that is of scientific, educational, aesthetic, or historical interest.

Protocols - See Conventions.

Public Defender - Legal office established to defend the rights of the people of Jamaica. Any hardship or injustice, or constitutional violation suffered by anyone at the hands of a government agency or statutory body falls under the jurisdiction of the Office of the Public Defender and a formal complaint can be lodged with this office to investigate and seek redress for the victim of harm.

Regulations - Regulations often clarify specific details only mentioned in general terms in the main Act to which they apply (see Subsidiary Legislation).

Resident Magistrate Court - The lowest court in Jamaica. Offences tried in the Resident Magistrate court are usually short and simple and do not have a jury present.

Source Water - Untreated water from streams, rivers, lakes, or underground aquifers that is used to supply private wells and public drinking water.

Statute - A law made by Parliament. It is also called an Act of Parliament.

Subsidiary Legislation - Laws often don't include all the details. For example, the Road Traffic Act may not tell you what the speed limit is in front of your house. In order to make laws work on a day-to-day basis, Parliament authorizes certain government agencies to create regulations, orders, bylaws, notices, rules, etc. to take care of detailed application. These regulations are known as subsidiary legislation (see regulations).

Sulphur Dioxide (SO₂) - A colourless, irritating gas, formed when sulphur burns in the air. It dissolves in water to form sulphuric acid.

Sustainable Development - Described as activities that help meet the needs of present generations without compromising the ability of future generations to meet their own needs.

Treaties - See Conventions.

Tort - An area of law that aims to compensate persons harmed by the wrongful conduct of others. A tort involves the breach of a duty by a person(s) that leads to the harm of others. Remedies are provided by way of damages, that is, a monetary payment.

Watershed: The land area where water flows across or through, on its way to a stream, river or sea; a defined geographical area or location where the collection and drainage of rainfall occurs in a particular region. (NEPA - Pamphlet entitled “Sustainable Watersheds Branch”)
References


Maboney, C. (2001) The Development of Environmental Law, Status and Application in Jamaica...


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