

THE PRAEDIAL LARCENY (PREVENTION) ACT

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SCHEDULES

THE PRAEDIAL LARCENY (PREVENTION) ACT

Acts
17 of 1982,
12 of 2000.

[28th February, 1983.]

1. This Act may be cited as the Praedial Larceny (Prevention) Act. Short title.

2. In this Act—

Interpreta-
tion.

“agricultural produce” means any article specified in the Schedule to the Unlawful Possession of Property Act and any other article which is the produce of agriculture;

“agricultural warden” means an agricultural warden appointed under this Act;

“Commissioner” means the Commissioner of Police;

“constable” means a constable of the Jamaica Constabulary Force constituted under the Constabulary Force Act;

“fish” includes crab, crayfish, lobster, oyster or turtle;

“livestock” includes dogs, birds and poultry;

“Officer” has the meaning given to it in section 2 of the Constabulary Force Act;

“praedial larceny” means the felony created by section 13 of the Larceny Act;

“Sub-Officer” has the meaning given to it by section 2 of the Constabulary Force Act.

3. The Governor-General may appoint such number of persons to be known as agricultural wardens as the Minister may from time to time approve. Agricultural
wardens.

4.—(1) Agricultural wardens shall be under the command of the Commissioner. Agricultural
wardens under
command of
Commissioner.

(2) The Commissioner may, if he thinks fit, assign an agricultural warden to any police station.

Subordina-
tion of
agricultural
wardens

5. Every agricultural warden shall be subject to the orders of the Officers and Sub-Officers of the Jamaica Constabulary Force and, when assigned to a police station pursuant to section 4 (2), shall also be subject to the orders of the member of the Force in charge of that police station.

Duties and
powers of
agricultural
wardens
First
Schedule

6.—(1) The duties of agricultural wardens under this Act shall be to detect the commission of any offence under this Act or the enactments specified in the First Schedule, to apprehend or summon before a Justice persons found committing any such offence or whom they reasonably suspect of having committed such offence or who may be charged with having committed the offence and to do and perform all duties appertaining to the office of an agricultural warden by virtue of this Act.

(2) Every agricultural warden shall exercise his office at all times when required to do so by any Officer or Sub-Officer to whom he is by this Act made subordinate and whenever in his judgment it is required in the interest of justice, public safety or welfare.

(3) For the purpose of carrying out his duties in relation to this Act and the Acts specified in the First Schedule, every agricultural warden shall have the same powers, authorities, privileges and immunities as a constable.

(4) An agricultural warden shall be deemed to be on duty in the capacity as an agricultural warden—

- (a) when investigating any offence under this Act or any enactment specified in the First Schedule;
- (b) while he is required to be on duty by the Commissioner or an Officer or Sub-Officer of the Constabulary Force.

7. An agricultural warden shall be enrolled in such form as may be prescribed. Mode of enrolment.

8.—(1) Every agricultural warden shall be engaged for a period of three years from the date of his enrolment as an agricultural warden. Period of service.

(2) Notwithstanding subsection (1), an agricultural warden—

- (a) may apply for his release during his period of service;
- (b) shall be released on attaining the prescribed age;
- (c) may be released from his engagement by the Commissioner if he does not perform the duties which he undertakes or is for any other reason considered unsuitable;
- (d) may be re-engaged for further periods not exceeding three years.

9. Every agricultural warden on being enrolled shall take an oath in the form set out in the Second Schedule or may make a solemn declaration and affirmation to the same effect. Swearing in and form of oath. Second Schedule.

10.—(1) The Minister may make regulations generally for giving effect to the provisions of this Act. Regulations.

(2) Without prejudice to the generality of the power conferred by subsection (1), regulations made under that subsection may provide for—

- (a) the organization of agricultural wardens;
- (b) the establishment of different grades and the precedence and command to be had or exercised by the holders of such grades;

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- (c) the conditions of service, enrolment, promotion, demotion, resignation, dismissal or suspension of agricultural wardens;
- (d) the training of agricultural wardens;
- (e) the discipline and guidance of agricultural wardens;
- (f) the setting up of Disciplinary Boards to investigate breaches of discipline and to award punishment if necessary and the powers and duties of such Disciplinary Boards;
- (g) the appointment of Boards of Enquiry and the powers and duties of such Boards of Enquiry;
- (h) ensuring the compulsory attendance of witnesses and the production of documents before any Disciplinary Board or Board of Enquiry;
- (i) the payment of wages and of subsistence allowances, travelling allowances and out of pocket expenses to agricultural wardens and the rates at which and conditions upon which such wages or allowances or both shall be paid to different grades of agricultural wardens;
- (j) medical attention and examination of any agricultural warden who sustains injury while on duty;
- (k) the grant to agricultural wardens who are injured in the execution of their duty as agricultural wardens of sick benefits and the conditions upon which and the rates at which such benefit shall be payable to agricultural wardens of different grades;
- (l) the grant to agricultural wardens who, consequent upon injuries received in the course of their duty as such are permanently incapacitated, of pensions or gratuities and the conditions upon which and the rates at which such pensions or gratuities may

be granted to different grades of agricultural wardens;

(*m*) the grant, subject to the following conditions and such other conditions as may be prescribed, at such rates as may be prescribed, of a pension or gratuity to the widow and child or children, or mother, of any agricultural warden who dies as a result of injuries received—

(i) in the execution of his duty as an agricultural warden; and

(ii) without his own default; and

(iii) on account of circumstances specifically attributable to the nature of his duty;

(*n*) supplies, accommodation and uniform of agricultural wardens;

(*o*) controlling the use of transport for the carrying out of duties of agricultural wardens.

(3) For the purpose of this section the word “child” includes a posthumous child.

(4) Regulations made under paragraphs (*i*), (*k*), (*l*) and (*m*) of subsection (2) shall be subject to affirmative resolution of the House of Representatives.

11.—(1) If any member of the Constabulary Force of or above the rank of corporal is satisfied that there is reasonable cause to believe that any stolen agricultural produce, livestock or fish is concealed in any house, premises, land or building he may give directions in writing to an agricultural warden or a constable to enter and search such house, premises, land or building, and any person who refuses to permit such entry or search shall be guilty of an offence and shall be liable on summary conviction in a Resident Magistrate’s Court to a fine not exceeding forty thousand dollars and in default of payment thereof to imprisonment for a term not exceeding three years.

Powers of
search.

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S. 2.

(2) Where an agricultural warden or a constable carries out any directions issued in accordance with subsection (1), he shall produce the instrument containing the same to the owner or occupier of the house, premises, land or building identified pursuant to such directions, if required by such owner or occupier to do so, and permit a copy thereof to be taken by or on behalf of such owner or occupier either at the time of the entering and search or at any time afterwards while the instrument remains in the custody of the agricultural warden or constable.

(3) Any agricultural warden or constable may, without warrant, stop any person or vehicle suspected to be carrying stolen agricultural produce, livestock or fish and search such person or vehicle and the driver or any person conveyed therein, and any person who refuses to permit such a search shall be guilty of an offence and shall be liable on summary conviction in a Resident Magistrate's Court to a fine not exceeding forty thousand dollars and in default of payment thereof to imprisonment for a term not exceeding three years.

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S 2

Forfeiture
of property
used for
commission
of offence
First
Schedule

12.—(1) Where a person convicted of an offence under this Act or any offence listed in the First Schedule punishable, on indictment or summarily, with imprisonment for a term of two years or more and the court before which he is convicted is satisfied that any property which was in his possession or under his control at the time of his apprehension—

(a) has been used for the purpose of committing, or facilitating the commission of the offence; or

(b) was intended by him to be used for that purpose,

the court may make an order of forfeiture of the property to the Crown.

(2) In this section “facilitating the commission of an offence” shall include the taking of any steps after the offence has been committed for the purpose of disposing of any property to which it relates or of avoiding apprehension or detection; and the reference to an offence “punishable on indictment or summarily, with imprisonment” shall be construed without regard to any prohibition or restriction imposed by law on the imprisonment of an offender under the age of eighteen years.

(3) An order under this section shall operate to deprive the offender of his rights, if any, in the property to which it relates, and the property shall (if not already in the custody of the police) be taken into custody by the police.

(4) Where any property is forfeited by an order under this section, any claimant may within a period of six months from the date of the determination of the case make an application before the court which made such order, and thereupon the court, if satisfied that—

(a) he is the lawful owner; and

(b) he had not consented to the offender having possession or did not know or had no reason to believe or suspect that the property was likely to be used for the commission of such offence,

may upon such terms and conditions (if any) as it deems just, order that the property be restored to the claimant.

13. Every person who assaults, obstructs or threatens an agricultural warden in the execution of his duty as an agricultural warden or incites or encourages any other person to do so, shall be punishable as assaulting, obstructing or threatening a constable in the execution of his duty is or may be punishable.

Assaulting,
obstructing
or
threatening
an agricul-
tural
warden.

Disposal of
perishable
agricultural
produce,
livestock
and fish.
First
Schedule.

14.—(1) Where as a result of the commission or suspected commission of any offence under this Act or the enactments specified in the First Schedule any perishable agricultural produce, livestock or fish (hereinafter in this section referred to as “perishable goods”) are in the custody of an agricultural warden or a constable, the agricultural warden or constable, shall, notwithstanding anything contained in the Unlawful Possession of Property Act, forthwith apply to a Justice for a written record of the perishable goods.

(2) Upon receipt of an application pursuant to subsection (1) the Justice shall—

- (a) examine the perishable goods (where practicable) and prepare in the prescribed form a written record of such goods; and
- (b) carry out such summary investigation as he thinks fit to indentify the person who appears to him to be the rightful owner of the goods; and—
 - (i) if he is able to identify such a person, make an order for the return of the goods to that person; or
 - (ii) if he is not able to identify such a person, make an order for the sale of the goods.

(3) In any proceedings against any person for an offence in relation to such goods the written record prepared by a Justice pursuant to this section shall, in lieu of such goods, be sufficient evidence of all the matters stated therein and such a written record—

- (a) shall be admitted in evidence and received as such, without the Justice being called upon to attend and to give evidence on oath;
- (b) if purporting to be such a written record signed by the Justice, shall be deemed to be such a record, unless the contrary is proved.

(4) Upon receipt of an order for the sale of perishable goods the warden or constable shall take the perishable goods before the Officer or Sub-Officer of the most convenient police station and such Officer or Sub-Officer shall forthwith—

- (a) sell such perishable goods in such manner as he thinks suitable with a view to obtaining the best price that can reasonably be obtained therefor; and
- (b) endorse upon the written record all relevant details with respect to the price obtained for the perishable goods specified in the order.

(5) For the purposes of a trial steps shall be taken, in such manner and subject to such terms and conditions (if any) as may be prescribed, to make available to the accused or his attorney-at-law a copy of the written record.

(6) The proceeds of any sale under subsection (4) shall be placed in the custody of the Officer in charge of the parish in which the police station is situated and such Officer shall—

- (a) where the owner of the perishable goods is ascertained within three months of the sale thereof, pay the sum to that person; or
- (b) where, at the expiration of a period of three months after the sale, the owner of the perishable goods cannot be ascertained, pay the sum to the Accountant-General.

(7) No order for the return of goods under subsection (2) (b) (i) or payment of the proceeds of sale under subsection (6) (b) shall prevent a claimant bringing an action within twelve months from the date of such order or payment, against the person in receipt of the goods or the proceeds of sale.

(8) Any person who falsely claims ownership over any perishable goods or wilfully misleads or attempts to mislead any Justice as to the ownership of such goods shall be guilty of an offence and shall be liable on summary conviction in a Resident Magistrate's Court to a fine not exceeding forty thousand dollars or three times the value of the goods claimed whichever is greater, and in default of payment thereof to imprisonment for a term not exceeding three years.

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S 2

(9) Nothing in this section shall affect the provisions in respect of the disposal of stolen non-perishable agricultural produce, livestock or fish as provided in sections 44 to 47 of the Constabulary Force Act

Penalty on
possession
of clothing,
etc. by
persons not
agricultural
wardens

15. Any person who—

- (a) has in his possession any clothing, accoutrement or other appointments furnished for the use of agricultural wardens and cannot satisfactorily account for his possession thereof; or
- (b) puts on, or assumes the dress, name, designation, or description of, and assumes to act as, or to personate an agricultural warden,

shall be guilty of an offence and shall be liable on summary conviction in a Resident Magistrate's Court to a penalty not exceeding twenty thousand dollars or to imprisonment for a term not exceeding one year.

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Penalty on
unauthor-
ized use of
agricultural
warden
uniform

16. Any person who, not being an agricultural warden, wears without the permission of the Commissioner the uniform of an agricultural warden, or any dress having the appearance or bearing any distinctive marks of that uniform shall be guilty of an offence and shall be liable on summary conviction in a Resident Magistrate's Court to a fine not exceeding twenty thousand dollars and in default of payment to imprisonment for a term not exceeding one year.

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S 3

17.—(1) Where any person is convicted of any offence under this Act or any offence listed in the First Schedule, the court before which such person is convicted may order him to be placed under special police supervision for a period to be specified in the order not exceeding one year and may in addition, require that such person remain within his residence from sunset until sunrise during each night of the period or such portion thereof as the court may specify in the order.

Power of court to order special police supervision First Schedule.

(2) An order placing a person under special police supervision under the provisions of this section may be made in addition to any other punishment to which such person may be liable and when such an order is made in addition to any sentence of imprisonment placed upon such person, the period during which he shall be under special police supervision shall commence immediately after the expiration of such sentence.

18.—(1) A person ordered in accordance with the provisions of section 17 to be placed under special police supervision, shall, during the period specified in such order, comply with the following provisions—

Duties of persons ordered to be placed under special police supervision.

- (a) he shall forthwith upon the commencement of such period notify the Officer or Sub-Officer in charge of the police station nearest to his residence of the house or place in which he resides;
- (b) he shall, when called upon so to do by the Officer or Sub-Officer in charge of the police station nearest to his residence, present himself at such police station;
- (c) he shall not transfer his residence without the written authority of the Officer or Sub-Officer in charge of such police station;
- (d) if the court so orders, he shall remain within his residence from sunset until sunrise during each night in accordance with the order of the court unless

excused from so doing on any particular occasion by the Officer or Sub-Officer in charge of the police station nearest to his residence.

(2) Where such person is authorized in accordance with the provisions of paragraph (c) of subsection (1) to transfer his residence, he shall notify the Officer or Sub-Officer in charge of the police station nearest to the place in which he will reside of the house or place in which he will reside.

(3) A person ordered in accordance with the provisions of section 17 to be placed under special police supervision may be visited at his residence by the police from time to time during the period specified in such order.

Penalty.

19. Any person subject to restrictions specified in subsection (1) of section 18 who fails to comply with the provisions of that section shall be guilty of an offence and on summary conviction in a Resident Magistrate's Court shall be liable to a fine not exceeding twenty thousand dollars and in default of payment thereof to imprisonment for a term not exceeding one year.

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S. 3.

Actions
against
agricultural
warden to
be in tort.

20. Every action to be brought against any agricultural warden for any act done by him in the execution of his office, shall be an action on the case as for a tort; and in the declaration it shall be expressly alleged that such act was done either maliciously or without reasonable or probable cause; and if at the trial of any such action the plaintiff fails to prove such allegation he shall be non-suited or a verdict shall be given for the defendant.

<u>Enactments</u>	<u>FIRST SCHEDULE</u> <u>Short Indication of Offences</u>
The Country Fires Act sections 3, 4, 5, 8, 11, 12 and 13	Setting fire to crop. Setting fire to trash. Fire during night or unattended. Setting fire contrary to order or permit. Occupier to extinguish fire. Carrying lighted torch insufficiently guarded. Negligent use of fire.
The Larceny Act sections 5, 6, 7, 8, 13, 48, 49, 50 and 51	Simple larceny. Larceny of cattle. Killing animals with intent to steal. Larceny etc., of dogs. Praedial larceny. Larceny etc., of dogs etc., punishable summarily. Taking or destroying fish. Taking animal without consent of owner. Stealing, rooting up, breaking etc., fences, posts, gates etc.
The Malicious Injuries to Property Act sections 20, 21, 22, 23, 24, 25, 30, 31, 32, 42 and 43	Destroying or damaging trees in garden etc. Destroying or damaging trees elsewhere than in garden. Destroying or damaging trees where injury done amounts to at least one dollar. Destroying or damaging plants in garden etc. Injury to cultivated roots or plants. Injuries to fences, walls etc. Killing or wounding cattle. Killing or wounding animals other than cattle. Administering drugs to animals in certain cases. Injury to property to amount exceeding ten dollars. Injury to property for which no punishment yet provided.
The Trespass Act sections 2, 4, 5, 6 and 10	Trespassers on enclosed or cultivated land. Trespassers may be required to quit premises, etc. Trespass for the purpose of destroying trees etc. Passing along private road during night with a gun without consent of owner. Entering on land with firearms for purpose of hunting etc.

PRAEDIAL LARCENY (PREVENTION) ACT

FIRST SCHEDULE (Section 6)

<u>Enactments</u>	<u>Short Indication of Offences</u>
The Unlawful Possession of Property Act sections 2, 5, 6 and 13	Being a suspected person liable to be brought before a Resident Magistrate. Refusal or neglect to disclose or permit inspection of articles. Assaulting etc., constables, authorized persons and their assistants.

SECOND SCHEDULE (Section 9)

I
do swear that I will well and truly serve as an agricultural warden. So help me God.

A.B.