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GRENADA

ACT NO. 24 OF 2015



I assent,

CÉCILE E. F. LA GRENADE
Governor-General

5th August, 2015.

AN ACT to make better provision for the control and punishment of depositing of litter in public places and other related matters.

[By Order].

BE IT ENACTED by the Queen's Most Excellent Majesty, by and with the advice and consent of the Senate and the House of Representatives of Grenada, and by the Authority of same as follows—

PART I

PRELIMINARY

1.—(1) This Act may be cited as the

ABATEMENT OF LITTER ACT, 2015.

Short title and
commencement.

(2) This Act shall come into force on such a day as the Minister may appoint by Order in the *Gazette*.

Interpretation.

2. In this Act—

“approved site” means a site established by the Minister, or by a public authority in accordance with the provisions of any other enactment, as a site for the deposit or disposal of litter;

“Criminal Code” means the Criminal Code, Chapter 72A;

“Criminal Procedure Code” means the Criminal Procedure Code, Chapter 72B;

“fixed penalty notice” means a notice in the form set out in the First Schedule, offering the opportunity of the discharge of any liability to conviction of the offence to which the notice relates, by payments of a fixed penalty under this Act;

“litter” means any solid or liquid material or product or combination of solid or liquid materials or products including any bottles, tins, logs, sawdust, derelict vehicles, cartons, packages, packing materials, paper, glass, food, animal remains, garbage, debris, sand, gravel, stone, aggregate, dirt, waste (including any human and animal waste) or any other refuse or rubbish or waste material, and any other material or product that is designated as litter by the Minister by notice published in the *Gazette*;

“litter prevention warden” means a person appointed under section 12;

“Minister” means the minister responsible for environment;

“Permanent Secretary” means the permanent secretary of the ministry responsible for environment;

“person” includes a body corporate and an unincorporated association and a partnership;

“premises” means land, other than any buildings thereon, whether vested in the State or not, and includes vacant private land, a natural water course, and a drain dividing lots in any private layout;

“receptacle” means any bin or container of any sort provided in any public place or any motor vehicle, pursuant to this Act or any other enactment, for the purpose of litter being temporarily deposited therein by members of the public;

“rental vehicle” means a motor vehicle registered for the purposes of the operation of car rental services pursuant to the Road Traffic Act, Chapter 289A;

“renter” means a person who rents a rental vehicle;

“vehicle for hire” means a motor vehicle that is used for the carriage of persons for hire or reward;

“waste” includes—

- (a) any substance which constitutes a scrap material or any other unwanted surplus substance arising from the application of any process;
- (b) any substance or article which requires to be disposed of as being broken down, worn out, contaminated or otherwise spoilt; and
- (c) anything which is discarded or otherwise dealt with as if it were waste.

PART II

OFFENCES RELATING TO LITTERING

Prohibition of
littering.

3.—(1) A person who throws down, drops, leaves, or otherwise deposits any litter in or on any public place other than—

- (a) in a receptacle placed for the purpose of collecting litter; or
- (b) in or at an approved site,

commits an offence.

(2) Where a person has reason to believe that, whether inadvertently or otherwise, a second person is committing or has committed an offence under subsection (1), the former person may direct the latter person to place the litter in the nearest receptacle or at the nearest approved site.

(3) A person who commits an offence under subsection (1) is liable—

- (a) on service of a fixed penalty notice by a litter prevention warden in the case of a natural person and if the natural person so chooses, to a fixed penalty of one hundred dollars;
- (b) on service of a fixed penalty notice by a litter prevention warden in the case of a body corporate and if the body corporate so chooses, to a fixed penalty of five hundred dollars;
- (c) on summary conviction in the case of a natural person, to a fine not less than three hundred dollars but not exceeding one thousand five hundred dollars or to a term of imprisonment not exceeding six months or to both;
- (d) on summary conviction in the case of a body corporate, to a fine not less than one thousand dollars but not exceeding four thousand five hundred dollars.

(4) Where a body corporate commits an offence under this Act, every director, manager, or secretary of the body corporate, and any person purporting to act in any such capacity, is liable to be convicted of the offence, unless the officer of the body corporate proves that the act or omission constituting the offence occurred without his or her knowledge.

(5) A body corporate may, within fourteen days of being served with a fixed penalty notice, apply to the Magistrate's Court for a hearing to determine whether the alleged conduct constituting the offence was committed by the body corporate or a natural person.

(6) Where a person is convicted of a second or subsequent offence under this section within twelve months of being convicted of the first offence, the person is liable to penalty that is twice the value of the fine, or imprisonment for a term twice the length of time, prescribed under subsection (1).

Litter deposited
from motor
vehicle.

4.—(1) Where litter is thrown, dropped, or otherwise deposited contrary to section 3 (1) from a motor vehicle and it cannot be determined which occupant of the motor vehicle deposited the litter, the driver of the motor vehicle shall be liable to be convicted of the offence.

(2) Where litter is thrown, dropped, or otherwise deposited contrary to section 3 (1) from a motor vehicle other than a rental vehicle and it cannot be determined which occupant of the motor vehicle deposited the litter or who is the driver of the motor vehicle pursuant to subsection (1), the owner of the motor vehicle shall be liable to be convicted of the offence.

(3) Where litter is thrown, dropped, or otherwise deposited contrary to section 3 (1) from a rental vehicle and it cannot be determined which occupant of the motor vehicle deposited the litter or who is the driver of the motor vehicle pursuant to subsection (1), the renter or owner of the motor vehicle shall be liable to be convicted of the offence.

Owner of
vehicle
for hire to
provide
receptacle.

5.—(1) The owner of every vehicle for hire shall provide in a convenient place therein one or more receptacles for the deposit of litter while the vehicle is plying for hire.

(2) A person who contravenes subsection (1) commits an offence and is liable on summary conviction to a fine of five hundred dollars.

6. In sentencing a person convicted of an offence under section 3, the Court— Sentencing.

- (a) shall take into consideration the purpose of this Act;
- (b) shall take into consideration the nature of the litter and any resulting injury to persons or animals or damage to property; and
- (c) may, in addition to imposing a penalty, order the person convicted to pay by way of compensation to the public authority having control or management of the place, premises or Government land where the offence was committed such sum as it considers reasonable to cover the cost of the removal of the litter, and the amount so awarded shall be a civil debt due to the said public authority from the offender and may be recovered in any Court of competent jurisdiction.

PART III

FIXED PENALTY

7.—(1) Where a litter prevention warden has reason to believe that a person has committed an offence under section 3, the litter prevention warden may direct the person to state his or her true name and place of residence and serve upon the person a fixed penalty notice. Fixed penalty notice.

(2) A person who refuses to comply under subsection (1) commits an offence under section 166 of the Criminal Code.

(3) Where a litter prevention warden has served a fixed penalty notice upon a person, the litter prevention warden shall—

- (a) charge the person with the commission of an offence; and
- (b) notify the person that, if he or she does not wish to be prosecuted for the alleged offence in court, he or she may pay to the clerk of the Magistrate's Court in the district in which the offence was committed the fixed penalty prescribed for the offence in the fixed penalty notice within the time specified.

(4) A person upon whom a fixed penalty notice is served may decline to be dealt with under this Part and where he or she fails to pay the fixed penalty within the time specified in the fixed penalty notice, or within such further time as may be allowed in a particular case, his or her conduct constitutes a declination to be dealt with under this Part.

(5) A litter prevention warden shall serve a fixed penalty notice personally upon a person alleged to have committed an offence under section 3 and shall send a duplicate of the fixed penalty notice to the Magistrate's Court of the district in which the offence is alleged to have been committed.

(6) Where the fixed penalty is not paid within the time specified in accordance with section 9 (2), the duplicate sent to the Magistrate's Court under subsection (5) shall constitute a complaint laid before the Magistrate to institute proceedings in accordance with the Criminal Procedure Code.

(7) A fixed penalty notice shall be signed by the litter prevention warden and shall be in the manner specified under the First Schedule, specifying the following—

- (a) the date, time and place of service of the fixed penalty notice;
- (b) the section of the Act creating the offence alleged, and such particulars of the offence as are required under this Act;
- (c) the amount of the fixed penalty;
- (d) the time within which the fixed penalty may be paid in accordance with section 9 (2); and
- (e) the clerk of the Magistrate's Court to whom, and the address at or to which, the fixed penalty may be paid or remitted.

8.—(1) Payment of the fixed penalty shall be made to the clerk of the Magistrate's Court as stated in the fixed penalty notice, and shall be dealt with in the same manner as payment of a fine imposed for an offence under the Criminal Procedure Code.

Payment of
fixed penalty.

(2) Payment of the fixed penalty shall be accompanied by the fixed penalty notice which shall be completed by the person in the manner prescribed.

9.—(1) A person upon whom a fixed penalty notice is served may pay the fixed penalty in accordance with the fixed penalty notice.

Compliance
with fixed
penalty notice
precludes
prosecution.

(2) The time within which a fixed penalty is payable is thirty days from the date of the fixed penalty notice.

(3) Where the fixed penalty is paid in accordance with the fixed penalty notice, no person shall then be liable to be convicted for the offence for which the fixed penalty notice was served and the complaint laid before the Magistrate shall be null and void.

Certificate of payment or non-payment of fixed penalty.

10. In any proceedings for an offence under section 3, a certificate that payment of the fixed penalty was or was not made to the clerk of the Magistrate's Court by the date specified in the certificate shall, if the certificate purports to be signed by such clerk, be sufficient evidence of the facts stated, unless the contrary is proved.

Consequence of failure to pay.

11. Where a fixed penalty is not paid within the time specified in accordance with section 9 (2), proceedings in respect of the offence specified in the fixed penalty notice shall thereafter proceed in the manner prescribed by the Criminal Procedure Code.

PART IV

ADMINISTRATIVE POWERS

Litter prevention wardens.

12.—(1) The following persons shall, by virtue of their office, be litter prevention wardens for the purposes of this Act—

- (a) every member of the Police Force holding the rank of Constable or a rank above that of Constable;
- (b) every Public Health Inspector while he or she is acting in exercise of his or her powers or the discharge of his or her duties under the Public Health Act, Chapter 263; and

(c) every Forest Officer while he or she is acting in exercise of his or her powers or the discharge of his or her duties under the Forest, Soil and Water Conservation Act, Chapter 116.

(2) The Minister may, from time to time, by notice published in the *Gazette*, appoint persons to be litter prevention wardens for specified locations for the purposes of this Act.

(3) Subject to subsection (4), every appointment under subsection (2) shall be on such terms as to remuneration and other conditions of employment as the Minister may determine.

(4) Any litter prevention warden appointed under this section may be appointed to exercise his or her duties in respect of any particular public place or places or generally in respect of public places throughout the state of Grenada.

(5) Every litter prevention warden appointed under subsection (2) shall hold office during the pleasure of the Minister or for such specified term as the Minister thinks fit and any such litter prevention warden may at any time be removed from office by the Minister, and may at any time resign his or her office by notice in writing addressed to the Permanent Secretary.

(6) The Permanent Secretary shall supply to every litter prevention warden appointed under subsection (2) a certificate in the manner specified under the Second Schedule and signed by the Permanent Secretary, or a person acting under his or her authority, as evidence of the appointment, and the production of the certificate shall be sufficient proof of the appointment.

(7) Any litter prevention warden appointed under subsection (2) shall, on the expiration of the term of his or her appointment, or on the sooner expiration of his or her appointment by removal from office or resignation, surrender to the Permanent Secretary his or her certificate of appointment and any uniform and badge of office that may have been issued to him or her in respect of his or her appointment.

Power to
enforce
removal of
litter.

13.—(1) Without prejudice to any proceedings for an offence committed under section 3, where a person throws down, drops, leaves, or otherwise deposits any litter specified under the Third Schedule as litter likely to cause risk to health and safety, a litter prevention warden may give notice to the person or to the owner or occupier of such Government land, place or premises in the manner specified under the Fourth Schedule, directing the person to remove the litter.

(2) Service of a notice under subsection (1) shall be effected—

- (a) by serving the notice personally; or
- (b) by sending the notice by post to the last known business or private address; or
- (c) by posting up the notice in a conspicuous position on the place or premises at which the litter has been left.

(3) It is presumed that service of a notice in accordance with paragraph (c) of subsection (2) is effective—

- (a) in the case of persons resident in Grenada, not later than fifteen days after the posting; or
- (b) in the case of persons not resident in Grenada, not later than forty-two days after the posting,

unless the contrary is shown.

(4) A person who fails to comply with the requirements of a notice under subsection (1) commits an offence and is liable on summary conviction to a fine of one thousand five hundred dollars and to a further fine of three hundred dollars for every day during which the offence is continued after conviction.

(5) Where the Court imposes a fine with respect to a continuing offence under subsection (4), the Court may fix a reasonable period from the date of conviction within which the convicted person shall comply with any direction given by the Court and the fine shall not be imposed with respect to any day before the expiration of the period.

(6) Without prejudice to the right of a litter prevention warden to commence proceedings under subsection (4), a litter prevention warden may enter the premises and remove the litter left or caused to be left and may recover summarily as a civil debt the expenses reasonably incurred as a result.

14.—(1) Subject to the provisions of this section any litter prevention warden may enter any premises at all reasonable hours for the purposes of section 13.

Power to enter premises.

(2) Admission to any premises shall not be demanded as of right unless twenty-four hours' notice of the intended entry has been given to the owner or occupier of the premises.

(3) If it is shown to the satisfaction of a Magistrate on sworn information in writing—

- (a) that admission to any premises has been refused, or that refusal is apprehended, or that the premises are unoccupied or that the owner or occupier is temporarily absent, or that the case is one of urgency, or that a notice of intended entry would defeat the object of the entry; and

(b) that there is reasonable ground for entry for the purpose of section 13,

the Magistrate may by warrant under his or her hand authorize a litter prevention warden to enter the premises, if need be by force, except that such a warrant shall not be issued.

(4) A litter prevention warden entering any premises by virtue of this section, or of a warrant issued under subsection (3), may take with him or her such other persons as may be necessary, and on leaving any unoccupied premises which he or she has entered by virtue of such a warrant shall leave them as effectually secured against trespassers as he or she found them.

(5) Every warrant granted under subsection (3) shall continue in force until the purpose for which the entry is necessary has been satisfied.

(6) Every person who hinders or molests or interferes with any person doing anything that he or she is authorized to do or who prevents or attempts to prevent any person from doing any such thing is guilty of an offence and liable, on summary conviction, to a fine of one thousand five hundred dollars and to imprisonment for six months.

PART V

GENERAL PROVISIONS

Regulations. **15.** The Minister may make regulations for the purpose of carrying into effect any provision of this Act.

Power to amend schedules. **16.** The Minister may, from time to time, by Order, amend any schedule to this Act.

Repeal. **17.** The Abatement of Litter Act, Chapter 1 is hereby repealed.

FIRST SCHEDULE

ABATEMENT OF LITTER ACT

**Notice of Opportunity to Pay Fixed Penalty
[Section 7.]**

Note.—(It is an offence for anyone, other than the person liable for the under-mentioned offence, to remove or interfere with this notice without authority).

Take Notice that, I,
(name of litter prevention warden)

have reason to believe that an offence, particulars of which are given overleaf, has been committed. The fixed penalty for the offence is
(penalty in words and figures)

If this amount is paid to the Clerk of the Magistrate’s Court within thirty-one (31) days from the date of this notice, that is to say, not later than no proceedings will be taken and any liability to conviction of the offence will be discharged. The offence carries a maximum fine of \$

..... In paying the fixed penalty, the following conditions shall be observed—

- (1) The fixed penalty shall be accompanied by this notice.
- (2) Where payment of the fixed penalty is made otherwise than in conformity with the Abatement of Litter Act made thereunder, the Clerk shall as soon as practicable after payment return the amount paid to the sender, and thereafter proceedings in respect of the alleged offence shall begin.
- (3) Payment of the fixed penalty shall be made or remitted to—

“The Clerk of the Magistrate’s Court” at the following address—
.....
.....
(State name and address of court)

This notice was given at
(state location)

on, 20, at a.m./p.m.
(state date) (state time)

PARTICULARS OF OFFENCE

At a.m./p.m. on the day of, 20
at
you

Contrary to
(state section/regulation contravened)
of the
(state Act/regulation)

.....
Signature of litter prevention warden

SECOND SCHEDULE

ABATEMENT OF LITTER ACT

Certificate of Appointment of Litter Prevention Warden
[Section 12.]

This is to certify thatof
(name of litter prevention warden)
.....is appointed by the Minister of Environment
(address of litter prevention warden)
as a litter prevention warden for
(designated area)
pursuant to the Abatement of Litter Act.

Dated thisday of, 20

.....
Minister of Environment

THIRD SCHEDULE

ABATEMENT OF LITTER ACT

Litter likely to cause serious risk to health and safety
[Section 13.]

Carcasses of animals

Derelict vehicles

Abandoned machinery

Abandoned white goods as defined pursuant to the Environmental Levy Act, Chapter 90B

Used tyres

FOURTH SCHEDULE

ABATEMENT OF LITTER ACT

Notice of Order to Remove Litter
[Section 13.]

To,
of

TAKE NOTICE that pursuant to section 13 of the Abatement of Litter Act, the premises situated at is considered to be unsightly by reason of litter thereon.

Your are hereby ordered to remedy the unsightly condition of the above premises by

If the above requirements are not met within days of the service upon you, the work may be done by government workers and the costs of the work done will be a debt due to the State by you.

Dated thisday of, 20

.....
Signature of litter prevention warden

Passed by the House of Representatives this 19th day of June, 2015.

WILLAN THOMPSON
Clerk to the House of Representatives.

Passed by the Senate this 9th day of July, 2015.

WILLAN THOMPSON
Clerk to the Senate.

GRENADA