

THE NATURAL RESOURCES CONSERVATION
AUTHORITY ACT

REGULATIONS
(under section 38)

THE NATURAL RESOURCES (MARINE PARKS) REGULATIONS, 1992

(Made by the Minister on the 5th day of June, 1992)

L.N. 41b/92

1. These Regulations may be cited as the Natural Resources (Marine Parks) Regulations, 1992. Citation.

2. In these Regulations—

Interpretation.

“authorized officer” means any officer employed to the Authority, any member of the Security Forces, any officer designated as a Fishery Inspector under the Fishing Industry Act and any other public officer designated as an authorized officer by the Authority;

“marine park” means an area designated as such under section 5 of the Natural Resources Conservation Authority Act;

“marine park manager” means a person appointed as such by the Authority under regulation 23;

“Security Forces” means—

- (a) the Jamaica Constabulary Force;
- (b) the Jamaica Defence Force to the extent that such Force has been assigned to act in aid of the police;
- (c) the Island Special Constabulary Force; and
- (d) the Rural Police.

Offences

3.—(1) A person shall not, except with the written permission of the Authority or except in accordance with the provisions of a licence granted under any other enactment, carry out any operation for the extraction or mining of minerals in a marine park.

Mining in
marine park.

(2) A person who contravenes paragraph (1) commits an offence and is liable on summary conviction before a Resident Magistrate to a fine not exceeding ten thousand dollars or to imprisonment with or without hard labour for a term not exceeding two years.

Removal or destruction of natural features and marine life.

4.—(1) A person shall not—

- (a) destroy, injure, deface, move, dig, harmfully disturb or remove from a marine park any sand, gravel or minerals, corals, sea fans, shells, shell fish, starfish or other marine invertebrates, seaweeds, grasses, or any soil, rock, artifacts, stones or other materials;
- (b) cut, carve, injure, mutilate, move, displace or break off any bottom formation or growth;
- (c) attach any rope, wire or other contrivance to any coral, rock or other formation, whether temporary or permanent in character or use;
- (d) use, sell or otherwise dispose of any seaweed, coral, mineral, gravel, sand or other substance or thing, knowing it to have been stolen or unlawfully removed from a marine park.

(2) A person who contravenes paragraph (1) commits an offence and is liable on summary conviction before a Resident Magistrate to a fine not exceeding twenty thousand dollars or to imprisonment with or without hard labour for a term not exceeding two years.

Dredging, filling, excavating and building activities.

5.—(1) A person shall not in a marine park—

- (a) dredge, excavate or carry out any filling operations or deposit any material in the waters thereof; or
- (b) erect any building or other structure or any public service facility,

without the written permission of the Authority.

(2) A person who contravenes paragraph (1) commits an offence and is liable on summary conviction before a Resident Magistrate to a fine not exceeding twenty thousand dollars or to imprisonment with or without hard labour for a term not exceeding two years.

Refuse and polluting substances.

6.—(1) A person shall not discharge or deposit in or on the waters of a marine park any refuse, oily liquids or wastes, acids or other deleterious chemicals or any toxic or polluting substance of any kind injurious to plant or animal life.

(2) A person who contravenes paragraph (1) commits an offence and is liable on summary conviction before a Resident Magistrate to a fine not exceeding twenty thousand dollars or to imprisonment with or without hard labour for a term not exceeding two years.

7.—(1) A person shall not wilfully mark, deface or injure in any way or remove or interfere with in any way any mooring, buoy, marine park sign, notice or placard, whether temporary or permanent or with any monument stake, post or other boundary marker in any marine park. Markers.

(2) A person who contravenes paragraph (1) commits an offence and is liable on summary conviction before a Resident Magistrate to a fine not exceeding five thousand dollars or to imprisonment with or without hard labour for a term not exceeding two years.

8.—(1) A person shall not fish in a marine park without the written permission of the park manager. Fishing.

(2) The Authority may declare in writing that an area of water in a marine park is an area where, at any time or for a period specified by the Authority in such declaration, fishing is prohibited.

(3) The Authority may declare in writing that an area of water in a marine park is an area in which fishing is allowed subject to conditions relating to—

- (a) the kind of fish which may be caught or, as the case may be, the kind of fish in respect of which fishing is prohibited;
- (b) the number of fish that may be caught by a person in a day;
- (c) the type of fishing equipment that may be used; or
- (d) the devices which may be used for fishing.

(4) A person shall not fish in an area of water in a period during which fishing is prohibited under paragraph (2).

(5) A person shall not use in a marine park any poisonous substance, electrical charges or any other similar device for the catching or killing of fish.

(6) A person who contravenes paragraph (1), (4) or (5) commits an offence and is liable on summary conviction before a Resident Magistrate to a fine not exceeding ten thousand dollars or to imprisonment with or without hard labour for a term not exceeding two years.

(7) A person who contravenes any conditions imposed by the Authority under paragraph (2) commits an offence and is liable on summary conviction before a Resident Magistrate to a fine not exceeding five thousand dollars or to imprisonment with or without hard labour for a term not exceeding two years.

Research
and collection
of objects and
specimens.

9.—(1) The Authority may, on such terms as it thinks fit, grant a permit for—

- (a) the carrying out of research; or
- (b) the collection of natural objects or specimens of marine life or both,

in a marine park for educational, scientific or industrial purposes.

(2) An application for a permit under paragraph (1) shall be in writing and shall—

- (a) be transmitted through the marine park manager; and
- (b) contain information as to—
 - (i) the type of research and the natural objects or specimens to which the application relates;
 - (ii) the methods to be employed in carrying out the research and in collecting objects and specimens;
 - (iii) the estimated cost of such research.

(3) Where the Authority refuses to grant a permit under this regulation, it shall inform the applicant of the reasons for the refusal and of the right of appeal conferred by regulation 28.

(4) A person who carries out any form of research or collects any objects or specimens in a marine park without a permit issued under this regulation commits an offence and is liable on summary conviction before a Resident Magistrate to a fine not exceeding ten thousand dollars or to imprisonment with or without hard labour for a term not exceeding two years.

Litter.

10.—(1) A person shall not, in a marine park—

- (a) deposit or leave any litter, bottle, broken glass, china, pottery, plastic articles, rubbish, refuse or other waste material, except in an area or receptacle designated or provided for that purpose;
- (b) deposit or leave any noxious, noisome, offensive substance, matter or thing;
- (c) deposit or leave any offal, dead animal, dung or other filth;
- (d) deposit in any receptacle provided for litter any domestic garbage;

(e) wilfully break any article of glass, china, pottery, plastic or other similar material.

(2) A person who contravenes paragraph (1) commits an offence and is liable on summary conviction before a Resident Magistrate to a fine not exceeding five thousand dollars or to imprisonment with or without hard labour for a term of exceeding twelve months.

11.—(1) A person shall not, except with the written permission of the Authority, erect, display or cause to be displayed in a marine park any sign, slogan or marker containing any advertising or other kind of message. Advertising signs, etc.

(2) A person who contravenes paragraph (1) commits an offence and is liable on summary conviction before a Resident Magistrate to a fine not exceeding five thousand dollars or to imprisonment with or without hard labour for a term not exceeding twelve months.

12.—(1) A person shall not discharge or have in his possession in a marine park any air rifle or other firearm, spring gun, sling, bang sticks, spear guns, harpoons, or any other weapon which is potentially harmful to fish or wild life or to the reef structure and dangerous to human safety. Explosives and dangerous weapons.

(2) A person shall not use or have in his possession, any explosives in a marine park.

(3) A person who contravenes paragraph (1) or (2) commits an offence and is liable on summary conviction before a Resident Magistrate to a fine not exceeding ten thousand dollars or to imprisonment with or without hard labour for a term not exceeding twelve months.

13.—(1) A person shall not behave in a disorderly, offensive or indecent manner or use any offensive or indecent language or create any disturbance in a marine park. Disorderly behaviour.

(2) A person shall not obstruct, disturb, interrupt or annoy any other person engaged in the proper use of a marine park, nor behave in a manner likely to create any disturbance.

(3) A person shall not deface, paint, write, cut names or letters, or otherwise make marks or affix bills on trees, rocks, gates, fences, buildings, signs or other property in a marine park.

(4) A person who contravenes paragraph (1), (2) or (3) commits an offence and is liable on summary conviction before a Resident Magistrate to a fine not exceeding five thousand dollars or to imprisonment with or without hard labour for a term not exceeding twelve months.

Other offences.

14. A person who commits an offence against these Regulations for which no penalty is provided in these Regulations is liable on summary conviction—

- (a) where the offence is committed by an individual, to a fine not exceeding five thousand dollars or to imprisonment with or without hard labour for a term not exceeding twelve months;
- (b) where the offence is committed by a corporation, to a fine not exceeding five thousand dollars.

Refusal to comply with orders.

15. A person who—

- (a) refuses, neglects or fails to comply with any direction given to him by an authorized officer;
- (b) refuses or fails to produce any licence or permit that he is required to produce by an authorized officer;
- (c) assaults, resists or obstructs an authorized officer in the execution of his duty;
- (d) uses threatening language or behaves in a threatening manner towards an authorized officer in the execution of his duty;
- (e) refuses to leave a marine park when ordered to do so by an authorized officer; or
- (f) removes, alters or interferes with any article seized under these Regulations without the authority of an authorized officer; or
- (g) impersonates an authorized officer,

commits an offence and is liable on summary conviction before a Resident Magistrate to a fine not exceeding five thousand dollars or to imprisonment with or without hard labour for a term not exceeding twelve months.

Court may order payment.

16. Where a person is convicted of an offence of removing any property from or causing any damage to, a marine park or any plant or animal therein, the Court before which he is convicted may, in addition to any penalty for which he may be liable under these Regulations, order him to pay to the Crown the full market value of the

property removed or of the damage done to the marine park or any plant or animal therein and such value or damage or cost shall be assessed by that Court.

17.—(1) A person shall not, in a marine park—

- (a) park a conveyance in any place other than a parking lot or a place designated for the purpose by the Authority;
- (b) park a conveyance in such manner as to obstruct or be a danger to persons in the marine park;
- (c) abandon a conveyance or vessel or leave it in a position, condition or in circumstances so that it appears to be abandoned.

Parking, etc.
of conveyances
or vessels.

(2) A conveyance or vessel shall be deemed to have been abandoned if it is left unattended for a period of forty-eight hours or more.

18.—(1) If any authorized officer has reasonable cause to suspect that any conveyance, vessel, article or thing is being used or has been used in the commission of an offence under these Regulations, he may seize and detain such article or thing and may—

Seizure and
forfeiture.

- (a) without a warrant, search such conveyance or vessel; and
- (b) if such search reveals evidence that the conveyance or vessel is being used or has been used for the commission of any offence as aforesaid, seize and detain such conveyance or vessel.

(2) Where any conveyance, vessel, article or thing is seized pursuant to this regulation and—

- (a) any person is convicted of an offence against these Regulations; and
- (b) the Court is satisfied that—
 - (i) the person owns the conveyance, vessel, article or thing used in the commission of the offence; or
 - (ii) the owner thereof permitted it to be so used; or
 - (iii) the circumstances are otherwise such that it is just so to do,

the Court shall, upon the application of the prosecution, order the forfeiture of the conveyance, vessel, article or thing.

(3) On the application of the Director of Public Prosecutions before a Resident Magistrate's Court having jurisdiction in the area where a conveyance, vessel, article or thing is seized pursuant to paragraph (1), the Court may, notwithstanding that the conditions mentioned in paragraph (2) have not been satisfied, order the forfeiture of the conveyance, vessel, article or thing if the Court is satisfied that—

- (a) the conveyance, vessel, article or thing has been abandoned; or
- (b) the circumstances in which it was seized give reasonable cause to suspect that it was being used or has been used in the commission of an offence against these Regulations,

and that it is otherwise just to do so.

(4) Where the Director of Public Prosecutions proposes to apply the forfeiture of a conveyance, vessel, article or thing under paragraph (3), he shall, subject to paragraph (5), give to any person who, to his knowledge, was at the time of the seizure the owner thereof, notice of the seizure and of the intention, after the expiration of thirty days from the date of the notice, to apply for forfeiture thereof and of the grounds therefor.

(5) Notice shall not be required under paragraph (4) if the seizure was made in the presence of the owner or any of the owners of the conveyance, vessel, article or thing seized or any servant or agent of the owner.

(6) Without prejudice to any other form of service, a notice under paragraph (4) may be published in a daily newspaper printed and circulating in the Island.

(7) Any person having a claim to any conveyance, vessel, article or thing seized under this regulation may appear before the Court on the hearing of the application and show cause why an order for forfeiture should not be made.

(8) Where, on the hearing of an application pursuant to paragraph (3), no person appears before the Court to show cause why an order for forfeiture should not be made the Court shall presume that the conveyance, vessel, article or thing has been abandoned.

(9) If, upon the application of any person prejudiced by an order made by the Court under paragraph (2) or (3), the Court is satisfied that it is just to revoke such order, the Court may revoke that order upon such terms and conditions as it deems appropriate,

and without prejudice to the generality of the foregoing, shall require that person, to pay in respect of storage, maintenance, administrative expenses, security and insurance of the conveyance, vessel, article or thing such charges as may be charged by the appropriate government agency and approved by the Court, not exceeding one and a half times the value thereof as determined by the Court.

(10) An application to the Court under paragraph (9) for the revocation of an order shall be made within thirty days of the date of the order or within such greater time as the Court may allow, not exceeding six months after the date of the order.

Enforcement

19.—(1) An authorized officer may, without warrant, arrest any person in a marine park, where the authorized officer reasonably believes that—

Arrest without warrant.

(a) the person has committed an offence against these Regulations; and

(b) proceedings against the person by summons would not be effective.

(2) Where an authorized officer arrests a person under paragraph (1), he shall produce his identity card for inspection by that person unless it is not reasonably practicable to do so.

(3) Where a person is arrested under paragraph (1), an authorized officer shall immediately bring the person, or cause that person to be brought to the nearest police station.

20.—(1) A conveyance or vessel which is parked, left or abandoned, as the case may be, in contravention of regulation 17, may be removed to an impoundment area by an authorized officer.

Removal and disposal of abandoned conveyances and vessels.

(2) In paragraph (1) "impoundment area" means an area designated by the Authority for the temporary custody of conveyances or vessels.

(3) A conveyance or vessel removed to an impoundment area shall not be kept in that area for more than seven days, unless the period is extended by the Authority or the vehicle is sooner claimed by the owner.

(4) A conveyance or vessel which is unclaimed at the end of the period referred to in paragraph (3), shall be removed to a place designated by the Authority for safe keeping.

(5) The Authority shall ensure that a conveyance or vessel or its contents (if any) are protected from damage or loss while being removed under paragraph (1) or (4) and while it remains in the custody of the Authority.

(6) Where a conveyance or vessel is removed pursuant to this regulation, the authorized officer responsible for such removal shall make a report in a log provided for the purpose, which shall state—

- (a) the time of removal;
- (b) the location from which it is being removed;
- (c) while applicable, the licence number, type, model and registered owner of the conveyance or vessel.

(7) The owner of a conveyance or vessel shall pay a fee of one thousand dollars for the recovery thereof and in addition a fee of one hundred dollars for each day that the conveyance or vessel remains unclaimed or until such time as it is disposed of by the Authority pursuant to regulation 21.

Disposal of
abandoned
conveyances,
or vessels.

21.—(1) Subject to regulation 18 and paragraph (2) of this regulation, the Authority may, if it appears to it that a conveyance or vessel is abandoned as mentioned in regulation 17 (1) (c), sell or otherwise dispose of it and its contents (if any) and may apply the proceeds of any such sale in or towards satisfaction of any costs incurred in connection with the disposal thereof.

(2) A power of disposal conferred by paragraph (1) shall not be exercisable in the case of a conveyance or vessel unless the Authority has taken all reasonable and necessary steps for enabling the conveyance or vessel to be claimed by the owner thereof.

Zones

Zones.

22. The Authority may, as it thinks fit, zone areas of a marine park and may—

- (a) assign a name or other designation for each zone;
- (b) make provision with respect to the purposes for which each zone may be used; and
- (c) attach conditions with regard to the use of each zone.

Administration

23.—(1) Subject to paragraph (2), the Authority may appoint a marine park manager for each marine park who shall be responsible for the day to day management of the marine park subject to the direction of the Authority.

Appointment of marine park manager.

(2) The Authority may appoint any other person to assist the marine park manager in the performance of his functions under these Regulations.

24.—(1) The Authority may, from time to time where it considers it expedient to do so, designate as marine park rangers for the purpose of these Regulations and on such terms and conditions as it thinks fit—

Marine park rangers.

- (a) a member of the staff of the Authority;
- (b) any other person who by training or experience is qualified to be so designated.

(2) The designation of a person as a marine park ranger under this regulation shall be notified in the *Gazette*.

25.—(1) The chairman shall issue to each marine park ranger an identity card signed by the chairman and containing a photograph of the marine park ranger and his signature.

Identity card.

(2) A person to whom an identity card is issued under paragraph (1), shall return that card to the chairman of the Authority on the termination of his employment as a marine park ranger.

(3) A member of the Security Forces, by virtue of his office, shall be deemed to be a marine park ranger under these Regulations.

26.—(1) The functions of a marine park ranger shall be to patrol the area of each marine park, to protect the resources of that park and without prejudice to the generality of the foregoing, to—

Functions of marine park ranger.

- (a) patrol and monitor the various zones of the marine park;
- (b) enforce these Regulations;
- (c) maintain patrol vehicles, marking facilities and underwater trails;
- (d) provide first-aid, emergency or rescue assistance to park users in the event of accident or injury;

(e) assist in the conduct of environmental monitoring programmes.

(2) In the exercise of his functions within the marine park, a marine park ranger may—

(a) require any person to refrain from any unlawful act or any act which in his opinion appears likely to result in the damage or destruction of any property, real or personal, which is owned by, in the possession of, or under the management of the marine park or any user of the marine park;

(b) require any person whom he finds committing or whom he reasonably suspects of having committed any such act to state his full name and true place of residence or leave the marine park immediately.

Advisory
Board.

27.—(1) The Authority may by notice in the *Gazette* appoint an Advisory Board (hereinafter referred to as the Board) for a marine park.

(2) A Board appointed under paragraph (1) shall consist of—

(a) the manager of the marine park;

(b) the chairman of the Authority or his nominee;

(c) a representative of the Fisheries Division of the Ministry of Agriculture;

(d) a director of the Discovery Bay Marine Laboratory; and

(e) four other persons of whom one shall be qualified in marine biology.

(3) The members of the Board shall hold office for such period not exceeding two years as the Minister may determine and shall be eligible for reappointment.

(4) The Authority may appoint any person to act in place of the chairman or any other member of the Board in the case of the absence or inability to act of the chairman or other member.

(5) The meetings of the Board shall be held at such time and such places as the chairman may from time to time appoint.

(6) Four members of the Board shall form a quorum at any meeting.

(7) The decision of the Board shall be by a majority of the

members, and in addition to an original vote, the chairman shall have a casting vote in any case in which the voting is equal.

(8) The functions of the Board shall be to make recommendations to the Authority on the preservation of the ecological system in the marine park and, without prejudice to the generality of the foregoing, to—

- (a) advise the Authority on matters relating to the administration, control and preservation of the resources of the marine park;
- (b) prepare a management plan for the proper operation and management of the park and to review that plan annually;
- (c) monitor management strategies to see whether they are achieving their desired effects; and
- (d) institute programmes to raise revenue for the park.

(9) In performing the functions specified in paragraph (1) the Board may—

- (a) recommend to the Authority persons to be designated as marine park rangers;
- (b) prescribe the conditions for the disposal or retention of specimens and other scientific material;
- (c) co-ordinate education programmes to ensure community involvement in the preservation of the park;
- (d) advise the Authority on zoning and the establishment of boundaries in the marine park.

28.—(1) A person aggrieved by a refusal of the Authority to grant a permit under regulation 9 may within sixty days of such refusal, appeal to the Minister. Appeal.

(2) Any person making an appeal under these Regulations may either in person or by his representative make oral or written submission to the Minister.

(3) The Minister shall within one month of the hearing of an appeal deliver his decision in writing.

(4) Any person aggrieved by a decision of the Minister may appeal to the Court of Appeal which shall make such order as it thinks fit.

29. A certificate by the chairman that an area is within a marine park shall be *prima facie* evidence of that fact. Certificate.