

PART B

(Regulation 14A)

Activities and Location Fee payable in respect of Research

The location fees referred to are:—

- | | | |
|-----|---|-------------|
| (a) | concerts, parties and any other
such activities | \$60,000.00 |
| (b) | the making of commercial films,
television, documentaries or
advertisements | \$75,000.00 |
| (c) | weddings and sporting events | \$30,000.00 |

Dated this 16th day of June, 2003.

DEAN PEART,
Minister of Land and Environment.

No. 701

THE NATURAL RESOURCES CONSERVATION AUTHORITY ACT

THE NATURAL RESOURCES CONSERVATION (MARINE PARKS)

(AMENDMENT) REGULATIONS, 2003

In exercise of the powers conferred upon the Minister by section 38 of the Natural Resources Conservation Authority Act, the following Regulations are hereby made:—

1. These regulations may be cited as the Natural Resources Conservation (Marine Parks) (Amendment) Regulations, 2003 and shall be read and construed as one with the Natural Resources Conservation (Marine Parks) Regulations, 1992 hereinafter referred to as the principal Regulations.
2. Regulation 3 of the principal Regulations is amended:—
 - (a) in paragraph (1):—
 - (i) by deleting the words "or except" and substituting therefor the word "and";
 - (ii) by inserting immediately after the word "licence" the words "or permit";
 - (b) in paragraph (2) by deleting the word "ten" and substituting therefor the word "forty".
3. Paragraph (2) of regulations 4, 5 and 6 of the principal Regulations is amended:—
 - (a) by deleting the word "twenty" wherever it appears and substituting therefor in each case the word "fifty"; and
 - (b) by deleting the word "two" wherever it appears and substituting therefor the word "three".

4. Paragraph (2) of regulation 7 of the principal Regulations is amended by deleting the word "five" and substituting therefor the word "forty".

5. Regulation 8 of the principal Regulations is amended:—

- (a) in paragraph (6) by deleting the word "ten" and substituting therefor the word "fifty";
- (b) in paragraph (7) by deleting the word "five" and substituting therefor the word "forty".

6. Regulation 9 of the principal Regulations is amended:—

(a) in paragraph (1):—

- (i) by inserting immediately after the word "may," the words "after consultation with the marine park manager and";
- (ii) by inserting immediately after the word "scientific" the word "commercial";

(b) in paragraph (2) by deleting the full stop at the end of subparagraph (iii) and substituting therefor a semicolon and by inserting next thereafter the following:—

"First Schedule (iv) be accompanied by the fee specified in the First Schedule.";

(c) by inserting next after paragraph (2) the following as paragraph (2A):—

"Second Schedule. (2A) the applicant shall, on the grant of a permit by the Authority, pay the fee specified in the Second Schedule.";

(d) in paragraph (4) by deleting the word "ten" and substituting therefor the word "forty".

7. The principal Regulations are amended by inserting next after regulation 9, the following:—

"Scuba diving. 9A.—(1) A marine park manager may, on such terms as he thinks fit:—

- (a) issue to a licensed scuba diving operator such number of permits for sale to persons who wish to scuba dive within a marine park; or
- (b) sell permits to certified divers who may wish to scuba dive within the marine park,

and the marine park manager shall issue with each permit sold, an identification tag that shall be worn by the person purchasing the permit while in the marine park.

"Second Schedule. (2) The fee specified in the Second Schedule shall be paid by persons who purchase permits.

(3) Subject to paragraph (4), a licensed scuba diving operator shall send to the marine park manager:—

- (a) a return of the fees collected for the permits sold;
- (b) all the counterfoils in respect to the permits sold and the identification tags issued.

within seven days of the end of each month in which the permits are sold and the identification tags issued.

(4) Where a licensed scuba diving operator is an all inclusive hotel, the return of the fees and the counterfoils shall be made within seven days of the end of the quarter during which the permits were sold and the identification tags issued.

(5) A licensed scuba diving operator who makes his return of fees prior to or within the period specified in paragraphs (3) and (4) shall be entitled to a commission equivalent to ten per cent of the total amount of sales made during the period.

(6) Where a licensed scuba diving operator fails to make a return of the fees collected and the counterfoils of the identification tags, the marine park manager may refuse to issue to that licensed scuba diving operator any permits and identification tags until the return of the fees is made and the counterfoils received.

(7) Any:—

- (a) person who scuba dives without a permit or identification tag sold to him by a licensed scuba diving operator or a marine park manager; or
- (b) person in charge of a vessel who knowingly transports another person who has no permit or identification tag to any place in a marine park for the purpose of scuba diving,

commits an offence and is liable on summary conviction before a Resident Magistrate to a fine not exceeding thirty thousand dollars or to imprisonment for a term not exceeding three months.

(8) For the purposes of this regulation:—

- (a) "certified diver" has the same meaning as in regulation 15 of the Tourist Board (Water Sports) Regulations, 1985;
- (b) "licensed scuba diving operator" means a person licensed under the Tourist Board Act to operate a tourism enterprise which is a scuba diving operation as defined in regulation 15 of the Tourist Board (Water Sports) Regulations.

Snorkelling
facility

9B.—(1) The marine park manager may, on such terms as he thinks fit, grant a permit for the operation of a snorkelling facility in a marine park.

(2) An application for a permit under paragraph (1) shall be in writing and shall contain information as to the:—

- (a) name and address of the applicant;
- (b) name and registration number of the vessel;
- (c) number of snorkellers expected to use the facility in the year for which the permit is sought;
- (d) number of snorkelling trips that the applicant expects to take per day;
- (e) location of any snorkelling activity.

Second
Schedule

(3) The applicant shall, on the grant of a permit by the marine park manager, pay the fee specified in the Second Schedule.

(4) A permit issued pursuant to this regulation shall be valid for the period of one year.

(5) An application for the renewal of a permit granted under this regulation, shall be made one month prior to the expiration of the existing permit.

(6) Where a person to whom a permit is granted for the operation of a snorkelling facility had:—

- (a) underestimated the number of snorkellers pursuant to the paragraph (2) (c), that person shall, at the end of the year pay to the marine park manager the difference in fees;
- (b) overestimated the number of snorkellers pursuant to paragraph (2) (c), that person shall be credited with the amount overpaid at the time of payment of the renewal fee.

(7) A person granted a permit for the operation of a snorkelling facility shall:—

- (a) display that permit at all times in the facility;
- (b) maintain a snorkelling log book containing:—
 - (i) the name and signature of all persons taken on each trip;
 - (ii) the name of the captain of the vessel;
 - (iii) the name of the vessel.

(8) The marine park manager may refuse to grant or revoke a permit granted:—

- (a) for reasons relating to the safety of a tour;
- (b) where there is the likelihood of environmental damage;
- (c) because of the manner in which a tour is conducted;
- (d) where the appropriate records are not being kept by the person operating the snorkelling facility;
- (e) for a breach of any term or condition of the permit as granted.

(9) A person who operates a snorkelling facility without a permit issued by the marine park manager under this regulation or falsifies a logbook commits an offence and is liable on summary conviction before a Resident Magistrate to a fine not exceeding thirty thousand dollars or to imprisonment for a term not exceeding six months.

(10) For the purposes of this regulation, "snorkelling facility" means a facility offering snorkelling as a commercial activity to any person in a marine park either from a vessel, conveyance, building, wharf, pier, jetty, marina or terrestrial type of base for profit or reward.

Mooring

9C—(1) The marine park manager may, on such terms as he thinks fit, issue a permit to any person to moor a conveyance or vessel on a mooring buoy within the marine park.

Second
Schedule

(2) The fee specified in the Second Schedule shall be paid by persons who purchase a permit.

(3) A licensed scuba diving operator and a person operating a snorkelling facility shall be exempt from the requirement to pay the mooring fee specified in the Second Schedule.

Use of film or
video
equipment for
commercial
purposes

9D.—(1) The marine park manager after consultation with the Authority may, on such terms as he thinks fit, grant a permit to film or videotape any natural resource, object or specimen in a marine park for commercial purposes.

(2) An application for a permit under paragraph (1) shall be in writing and shall contain information as to:—

- (a) the proposed areas within the marine park to be filmed or videotaped;
- (b) the proposed natural resource, object or specimen to be filmed or videotaped;
- (c) the proposed time schedule.

Second
Schedule

(3) The applicant shall, on the grant of the permit by the marine park manager; pay the fee specified in the Second Schedule.

(4) A person who films or videotapes any natural resource, object or specimen in a marine park for commercial purposes without a permit issued by the marine park manager under this regulation commits an offence and is liable on summary conviction before a Resident Magistrate to a fine not exceeding thirty thousand dollars or to imprisonment for a term not exceeding three months.

(5) For the purposes of this regulation, "commercial purposes" includes all commercials, documentaries, film or television programmes.

Exemption

9E. The Authority and the marine park manager may grant an exemption from the requirement to obtain a permit if the Authority and the marine park manager are satisfied that it is in the interest of the better management of the marine park.

Minister may
appoint date
on which
regulations to
apply

9F. Regulations 9A, 9B, 9C and 9D shall apply to each marine park on such date as the Minister may appoint by notice published in the *Gazette*."

8. Paragraph (2) of regulation 10 of the principal Regulations is amended by deleting the word "five" and substituting therefor the word "forty".

9. Paragraph (2) of regulation 11 of the principal Regulations is amended by deleting the word "five" and substituting therefor the word "thirty".

10. Paragraph (3) of regulation 12 of the principal Regulations is amended by deleting the word "ten" and substituting therefor the word "fifty".

11. Paragraph (4) of regulation 13 of the principal Regulations is amended by deleting the word "five" and substituting therefor the word "twenty".

12. Regulation 14 of the principal Regulations is amended:—

(a) in paragraph (a) by deleting the word "five" and substituting therefor the word "twenty"; and

(b) in paragraph (b) by deleting the word "five" and substituting therefor the word "forty".

13. Regulation 15 of the principal Regulations is amended by deleting the word "five" and substituting therefor the word "forty".

14. The principal Regulations is amended by deleting regulation 16 and substituting therefor the following:—

"Court may
order
payment

16. Where a person is convicted of an offence of removing any property from, or causing any danger 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:—

- (a) order him to pay to the Crown or Authority the full market value of the property removed or of the damage done to the marine park or any plant or animal therein including the rehabilitation or restoration cost;
- (b) order him to pay to the marine park manager and Authority, such costs resulting from any activities by the marine park manager and Authority to minimize environmental damage to the park and rehabilitate any damage that may have been caused.

15. The principal Regulations is amended by deleting regulation 17 and substituting therefor the following:—

"Anchoring
etc. of
conveyances
or vessels.

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

- (a) anchor or moor a conveyance or vessel in any place other than a designated mooring facility or anchorage zone or other place designated for the purpose by the Authority;
- (b) anchor or moor a conveyance or vessel in such a 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.

(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.

(3) Where a conveyance or vessel has been abandoned the marine park manager:—

- (a) may remove that conveyance or vessel from the place it is abandoned and store it at another location; and
- (b) shall not be liable for any damage to the conveyance or vessel as a result of its removal or storage.

(4) Where a person seeks to anchor or moor a conveyance or vessel in a marine park, that person shall use the designated mooring buoys or anchoring areas."

16. The principal Regulations is amended by deleting regulation 18 and substituting therefore the following:—

"Search,
seizure and
forfeiture.

18.—(1) An authorized officer may, without warrant, if he has reasonable cause to suspect that any conveyance, vessel, equipment article or thing is being or has been used in the commission of an offence under these Regulations, search that conveyance, vessel, equipment, article or thing.

(2) Where a search pursuant to paragraph (1) reveals that the conveyance, vessel, equipment, article or thing has been or is being used for the commission of an offence under these Regulations, the authorized officer may seize and detain such conveyance, vessel, equipment, article or thing.

(3) The Resident Magistrate, upon an application by the Clerk of Court, may:—

- (a) where a conveyance, vessel, equipment, article or thing is seized pursuant to this regulation;
- (b) where a person is convicted of an offence against these Regulations, in which the seized conveyance, vessel, equipment, article or thing was used; and
- (c) if it is just to do so in the circumstances.

order the forfeiture of that conveyance, vessel, equipment, article or thing.

(4) Where the Clerk of Court proposes to apply for forfeiture of a conveyance, vessel, equipment, article or thing seized pursuant to this regulation, he shall give notice of the application:—

- (a) to the owner, where the owner is known; or
- (b) if the owner is not known, by publication of the notice in a daily newspaper in circulation in Jamaica.

(5) Any person who, may have a claim to any conveyance, vessel, equipment, article or thing the subject of an application for forfeiture pursuant to this regulation, shall be entitled to show cause why an order for forfeiture should not be made.

(6) Where, on the hearing of an application for forfeiture pursuant to this regulation, no person appears to show cause, the Court may treat the conveyance, vessel, equipment, article or thing as abandoned and order its forfeiture.

(7) If, upon an application of any person prejudiced by an order under paragraph (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.

(8) An application to the Court under paragraph (7) for the revocation of an order shall be made within six months after the date of the order."

17. The principal Regulations is amended by inserting next after regulation 19, the following as 19A:—

"Powers of an
authorized
officer.

19A. An authorized officer may:—

- (a) require the holder or distributor of any permit to provide them for inspection on request;

- (b) with a warrant, enter and search any land or property of a person reasonably believed to have committed an offence;
- (c) inspect any documentation, records or log books in relation to the grant or sale of permits required to be kept by persons to comply with these Regulations;
- (d) seize any plant, animal or product or any part thereof which appear to have been taken in contravention of these Regulations."

18. Regulations 20 of the principal Regulations is amended:—

- (a) in paragraph (1) by deleting the word "parked" and substituting therefor the word "anchored";
- (b) in paragraph (5):—
 - (i) by inserting immediately after the word "Authority" wherever it appears the words "or marine park manager";
 - (ii) by inserting immediately after the word "shall" the words "use reasonable efforts to";
- (c) in paragraph (7):—
 - (i) by deleting the word "one" and substituting therefor the word "ten";
 - (ii) by deleting the word "hundred" and substituting therefor the word "thousand".

19. The principal Regulations is amended by deleting regulation 22 and substituting therefor the following:—

"Zones. 22.—(1) The Authority may, in consultation with the marine park manager, zone areas for the following purposes:—

- (a) fishing;
- (b) fish sanctuary;
- (c) swimming;
- (d) snorkelling;
- (e) scuba diving;
- (f) anchoring of conveyances or vessels and moorings;
- (g) use of motorized craft;
- (h) use of non-motorized craft;
- (i) environmental restoration or "No Use";
- (j) scientific research;
- (k) harbour as designated by the Port Authority;
- (l) no wake as designated by the Port Authority.

(2) The Authority may, in consultation with the marine park manager, create additional zones for the orderly management of the marine park.

(3) The Authority or the marine park manager, shall place in the marine park conspicuous signs, buoys or other materials to designate the assigned zones.

(4) The Authority:—

- (a) may consult with such Government departments and private individuals as it thinks fit prior to the formulation of the zone plan;
- (b) shall publish in the *Gazette* and a daily newspaper in circulation in Jamaica, once every three years, the zone plan for each marine park.

(5) A person who uses an area zoned for a particular purpose, in any manner contrary to that assigned to that zone, commits an offence and is liable on summary conviction before a Resident Magistrate to a fine not exceeding ten thousand dollars or to imprisonment for a term not exceeding three months."

20. The principal Regulations is amended by inserting immediately after regulation 22, the following as 22A:—

MANAGEMENT PLANS

Management
plans

22A.—(1) As soon as is reasonably practicable after a marine park has been declared, the Authority shall prepare or cause to be prepared, a plan of management in respect of such marine park.

(2) A plan of management prepared pursuant to paragraph (1) may include provisions in relation to any area that is proposed to be added to such marine park so, however, that such provisions shall not have effect until such area is added to the marine park."

21. The principal Regulations are amended by inserting immediately after regulation 26, the following as 26A, 26B and 26C:—

"Destruction,
loss or injury
of natural
resources

26A.—(1) The marine park manager shall, in the event of threatened or actual destruction of or loss of or injury to, or impairment in quality of any natural resource in the marine park, inform the Authority of such activity.

(2) The Authority and the marine park manager shall coordinate the appropriate action for the purpose of taking action to prevent, respond to or investigate the harm.

**Marine Park
Account**

26B.—(1) The marine park manager shall establish an account for each marine park into which all funds collected by the marine park manager for scuba diving, mooring fees, snorkelling facility permits and fees for filming for commercial purposes shall be deposited.

(2) The marine park manager shall within three months of the end of each calendar year, present to the Authority an audited report of the account.

(3) The Authority shall publish the report in the *Gazette*.

**Recovery
of debt**

26C. Without prejudice to any other method of recovery, all debts due to the Authority may be recovered in a Resident Magistrate's Court as a civil debt notwithstanding any limitation as to the amount recoverable under the Judicature (Resident Magistrates) Act.

22. Regulation 27 of the principal Regulations is amended:—

- (a) in paragraph 2 by deleting sub-paragraphs (d) and (e) and substituting therefor the following:—

- "(d) a representative from the University of the West Indies;
- (e) one person who is qualified in marine biology;
- (f) one representative from the Ministry of Tourism;
- (g) one representative from the Maritime Authority; and
- (h) one representative from the Fisherman's Association in the area.";

- (b) in paragraph 8(b) by deleting the word "prepare" and substituting therefor the word "review".

23. Regulation 28 of the principal Regulations is amended:—

- (a) in paragraph (1) by inserting immediately after the word "Authority" the words a "marine park manager";
- (b) by deleting paragraph (4) and substituting therefor the following:—

" (4) A decision of the Minister pursuant to these Regulations shall be final."

24. The principal Regulations is amended by inserting immediately after regulation 30, the following:—

FIRST SCHEDULE**(Regulation 9)***Application Fee for Permit*

- | | | | | |
|--|-----|-----|-----|------------|
| I. Application fee for permit to conduct research or collect specimens for purpose other than commercial or industrial | ... | ... | ... | \$1,000.00 |
|--|-----|-----|-----|------------|

FIRST SCHEDULE, *contd.*

- | | | | |
|----|---|--------|------------|
| 2. | Application fee for a permit to conduct research or collect specimen for purposes that are commercial or industrial | | \$2,000.00 |
|----|---|--------|------------|

"

SECOND SCHEDULE

(Regulations 9, 9A, 9B, 9C and 9D)

Fees payable in respect of Permits

Type of Permit			Fee
1.	Research or collection of specimen for purposes other than commercial or industrial	... ..	\$3,000.00
2.	Research or collection of specimen for purposes that are commercial or industrial	... ..	\$6,000.00
3.	Scuba Diving:—		
	(a) Daily—Non-Resident	... ..	\$3.00 (US) or the equivalent in Jamaican currency.
	(b) Annual (one park)— Non-Resident and Resident	... ..	\$20.00 (US) or the equivalent in Jamaican currency.
	(c) Annual (All Parks)— Non-Resident and Resident	... ..	\$40.00 (US) or the equivalent in Jamaican Dollars.
4.	Snorkelling Facility:—		
	(a) 500 persons or less per annum	... ..	\$100.00 (US) or the equivalent in Jamaican Dollars.
	(b) More than 500 persons but less than 1,000 per annum	... ..	\$200.00 (US) or the equivalent in Jamaican Dollars.

SECOND SCHEDULE, *contd.*

(c) 1,000 persons or less than 3,000 per annum	...	...	...	\$400.00 (US) or the equivalent in Jamaican dollars.
(d) 3,000 persons or more per annum	...	...	...	\$800.00 (US) or the equivalent in Jamaican dollars.
5. For mooring:—				
(a) Daily	...	...	...	\$20.00
(b) Annual	...	...	...	\$5,000.00
6. Video or Film Site:—				
Non-commercial/Commercial	...	...	...	\$5,000.00
(a) Filming or video taping	...	...	...	\$15,000.00
(b) Television/advertisement	...	...	...	\$10,000.00
(c) Documentary	...	...	...	\$5,000.00."

Dated this 16th day of June, 2003.

DEAN PEART,
Minister of Land and Environment.