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MARINE CONSERVATION LAW

(1995 Revision)

THE MARINE CONSERVATION DIRECTIVES

(1998 Revision)

Revised under the authority of the Law Revision Law (19 of 1975).

Consolidating the -

Marine Conservation (Licensing of Spear Guns) Directives, 1986 made the 4th February, 1986.

Marine Conservation (Licensing of Seine Nets) Directives, 1986 made the 4th February, 1986.

Marine Conservation (Commercial Vehicles in the Bloody Bay-Jackson Point Marine Park, Little Cayman) Directives, 1995 (sic) made the 1st December, 1994.

Consolidated and revised this 16th day of June , 1998.

MARINE CONSERVATION DIRECTIVES

(1998 Revision)

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MARINE CONSERVATION DIRECTIVES

(1998 Revision)

PART I-Introductory

Citation

1. These directives may be cited as the Marine Conservation Directives (1998 Revision).

PART II-Licensing of Spear Guns

Definitions in this Part

2. In this Part-

"species" means a group, having certain common and permanent characteristics which clearly distinguish it from other groups, the members of which are able to interbreed;

"spear gun" means any device whereby a harpoon, rod, spear or other projectile may be impelled through water;

"retail licence" has the meaning assigned by directive 4(2); and

"user's licence" has the meaning assigned by directive 4(3).

Limitations upon issue

3. (1) The Board shall not issue any licence to any person who -

(a) at the time of making application for a licence is less than eighteen years of age; or

(b) does not possess Caymanian status, unless such person has been ordinarily resident in the Islands for five years or more immediately prior to the time of making application for a licence.

(2) In considering applications for licences from persons other than those disqualified under paragraph (1), the Board shall have regard to all the circumstances of the case, and in particular to whether the applicant has been convicted of any offence against the Law or any regulations thereunder, or of any offence involving violence or the threat of violence.

Type of licence

4. (1) The Board shall issue two types of licences, namely retail licences and user's licences.

(2) A retail licence will license the holder to possess the number of spear guns stated therein for the purpose of retail to members of the public, and for that purpose only.

(3) A user's licence will license the holder to possess the number of spear guns stated therein and to take marine life with them.

Retail licence: conditions

5. (1) The Board, when granting a retail licence, shall-

(a) fix the maximum number of spear guns that may be possessed under the licence, which maximum will not exceed the number of spear guns held by the applicant at the time of making his application;
(b) stipulate the place or places at which spear guns, the possession of which is permitted by the licence, may be kept; and
(c) require that the licence holder only sell spear guns to individuals duly licensed to possess them under a user's licence, and to no other persons.

(2) Possession of a spear gun by a retail licence holder in excess of the number permitted under paragraph 1(a) or at any place not stipulated under paragraph (1)(b) will not be possession licensed by the Board, and will constitute an offence under the Law.

User's licence: conditions

6. (1) The Board, when granting a user's licence, shall-

(a) fix the number of spear guns that may be possessed under the licence, which number will normally be limited to one;
(b) limit the number of fish that may be taken in any one period of twenty-four hours beginning at midnight to a maximum of six fish of which no more than three may be taken from any one species;
(c) prohibit the use of any spear gun in any replenishment, marine park or environmental zone;
(d) prohibit the use of any spear gun within two hundred yards of any dive or snorkel boat flying a dive flag indicating that there are divers in the water; and
(e) prohibit the use of any spear gun in any designated grouper spawning area.

(2) Possession of a spear gun by a user's licence holder in excess of the number permitted under paragraph 1(a) will not be possession licensed by the Board, and will constitute an offence under the Law.

General conditions

7. Every licence issued by the Board is subject to the following conditions -

(a) it will be for a period of one year, after which the licence holder must reapply to the Board;
(b) it will not be transferable;
(c) it will prohibit the licence holder from importing or causing to be imported into the Islands any spear gun or any component part for any spear gun; and
(d) it may be revoked by the Board acting in its absolute discretion.

Revocation

8. (1) The Board may revoke a licence if it appears to the Board that-

(a) any material particular on the application for the licence was false;
(b) the licence holder is convicted of any offence under the Law or any regulations thereunder;
(c) the licence holder is convicted of any offence involving violence or the threat of violence; or
(d) the licence holder contravenes any condition or restriction of the licence, whether or not the licence holder is prosecuted or convicted of any offence in relation to such contravention.

(2) Any revocation of a licence will be notified to the licence holder and to the police by a notice in writing and such notice will be expressed to terminate the licence fourteen days after service of the notice on the licence holder, and thereafter he will no longer be licensed by the Board.

PART III-Licensing of Seine Nets

Definitions in this Part

9. In this Part-

"seine net" means a net which is buoyed at the top and weighted at the bottom, and which is manipulated to surround schools of fish.

Eligibility

10. Only persons with Caymanian status are eligible for a seine licence.

Conditions

11. (1) The use of seine nets in any area which is designated as a Marine Park Zone, Replenishment Zone or Environmental Zone is not permitted.

(2) The use of seine nets in any part of Little Cayman is not permitted.

(3) The use of seine nets in any designated grouper spawning area is not permitted.

(4) Seine nets may be used only to take jacks and goggle eyes (*carangidae family*). The use of seine nets to take any other type of fish is not permitted.

(5) Holders of seine net licences shall allow Government officers to collect catch data at all reasonable times.

Revocation

12. (1) The Board may revoke a licence at any time if it appears to the Board, in its sole discretion, that-

(a) any material particular on the application form was false;
(b) the licensee is convicted of any offence under the Law; or
(c) the licensee contravenes any condition or restriction of the licence, whether or not the licensee is prosecuted or convicted of any offence related to such contravention.

(2) Any revocation of a license will be notified to the licence holder and to the police in writing and such notice will be expressed to terminate the licence fourteen days after the service of the notice on the licence holder, and thereafter he will no longer be licensed by the Board.

PART IV-Commercial Vessels in the Bloody Bay-Jackson Point Marine Park, Little Cayman

Definitions in this Part

13. In this Part-

"commercial vessel" means a vessel which is for hire for the carriage of passengers or which is carrying passengers as part of a charter or other commercial venture;

"Law"' means the Law and regulations made thereunder;

"licence" means a licence granted by the Board under directive 15 or 16;

"live-aboard vessel" means a commercial vessel equipped with berths and cooking and sanitary facilities and used for the overnight accommodation of passengers;

"Park" means the Bloody Bay-Jackson Point Marine Park, Little Cayman, designated as such in the Second Schedule to the Marine Conservation (Marine Parks) Regulations (1996 Revision);

"watersports operator" means a person holding a current trade and business licence issued under section 4 of the Trade and Business Licensing Law (1997 Revision) for the trade or business of watersports or water-related recreational activities however so described in the licence.

1997 Revision

Restriction on entry

14. No commercial vessel will be allowed in the Park without a licence from the Board.

Licence for existing operators

15. Licences will be granted to all watersports operators who have entered the Park with commercial vessels operators at any time in the six months immediately preceding the 1st December, 1994 provided an application was made to the Board on or before 1st May, 1995.

Licence for others

16. Licences will be granted on application to other persons who-

(a) are watersports operators; and
(b) do not employ any person on commercial vessels who has been convicted within a period of two years immediately preceding the date of the application for a licence of any offence under the Law.

Licence conditions

17. Licences will be granted subject to the following conditions -

(a) no commercial vessel exceeding one hundred and ten feet in overall length shall enter the Park or be used to discharge divers or snorkellers in the Park; and
(b) a licensee shall not permit-
    (i) a total of more than four commercial vessels from its operation to discharge divers or snorkellers in the Park during any one day; or
    (ii) a total of more than fourteen commercial vessels from its operation to discharge divers or snorkellers in the Park in any week.

For the purpose of this condition a week is deemed to start on a Sunday.

(3) A licensee shall not permit any of its commercial vessels to enter the Park unless there are fewer than nineteen commercial vessels in the Park at the time. Licensees must liaise between themselves to agree a schedule and ensure that this limit is not exceeded.

(4) The maximum number of divers and snorkellers on any one vessel shall be twenty.

(5) No commercial vessel shall anchor in the Park.

(6) Commercial vessels other than live-aboard vessels shall not use any of the moorings in the Park for a continuous period exceeding two hours and shall not return to the same mooring within one hour of leaving. Live-aboard vessels shall not use any of the moorings in the Park for a continuous period exceeding

four hours, between 8 a.m. and 5 p.m. on any one day and shall not return to the same mooring within two hours of leaving.

(7) There shall be a divemaster on board every commercial vessel who shall ensure that every diver and snorkeller is aware of the provisions of the Law before he or she enters the waters of the Park.

(8) A licensee shall not, without the prior consent of the Board, engage any new employee on any commercial vessel used for carrying passengers to the Park who has been convicted, on or after 1st January, 1993, of any offence under the Law. This prohibition does not extend to the employment of such a person in an emergency provided he or she is employed for the duration of the emergency only and the circumstances are reported to the Board within the following two working days.

(9) Every licensee shall keep a weekly log of all trips to the Park specifying the date, the vessel, the number of divers and snorkellers and the times spent at each site visited. A copy of the log shall be delivered to the Sister Islands Marine Enforcement Officer or, in his absence the District Officer of Little Cayman within seven days of the end of the month to which the log relates.

(10) Any dispute arising from these conditions shall be referred to the Sister Islands Marine Enforcement Officer or, in his absence, to the District Officer of Little Cayman whose decision shall be final, subject only to an appeal to the Board. The decision of the Officer shall remain effective pending the outcome of any appeal.

(11) Any breach of these conditions shall entitle the Board to suspend or revoke the licence.

(12) Any person whose licence has been revoked shall not be entitled to apply for a new licence within a period of six months or, in the case of a second or subsequent revocation, within a period of five years from the date of revocation.

(13) These conditions may be amended, from time to time, by the Board. The Board shall give written notice of any amendments to the licensee at the address specified in the licence.

Penalty

18. Whoever enters the Park with a commercial vessel without a licence is guilty an offence under section 25 and liable on summary conviction to a fine of five hundred-thousand dollars and to imprisonment for six months.

Publication in consolidated and revised form authorised by the Governor in Council this 16th day of June , 1998.

Carmena H. Parsons
Clerk of Executive Council