

Marine Conservation Law (1995 Revision)

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THE MARINE CONSERVATION LAW, 1978 (LAW 19 OF 1978)

(1995 Revision)

Consolidated with Laws 5 of 1985 and 5 of 1993 and the Interpretation Order, 1983.

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

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Law 19 of 1978-8th September, 1978
Law 5 of 1985-25th March, 1985
Law 5 of 1993-21st July, 1993

Originally made-
Interpretation Order, 1983-10th May, 1983

Consolidated and revised this 28th day of March, 1995.

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MARINE CONSERVATION LAW

(1995 Revision)

Part I-Preliminary

1. This Law may be cited as the Marine Conservation Law (1995 Revision). Short title

2. In this Law, unless the context otherwise requires- Definitions

“Board” means the Marine Conservation Board established by section 3;

“cape length” with reference to crustaceans means the measurement from between the horns to the trailing edge of the carapace;

“Cayman waters” means the territorial waters of the Islands and includes the inland waters thereof;

“Chairman” means the Chairman of the Board and any person acting under his direction as such;

“coral” includes all species of marine coral known as such whether alive or dead;

“day” means a period of twenty-four hours terminating at midnight;

“fisheries officer” means a person appointed as such under section 5;

“game warden” means a person appointed as such under the Animals Law, 1976; Law 8 of 1976

“Governor” means the Governor in Council;

“marine life” includes creatures and plants which exist mainly in water as well as coral, sponge and every class of crustacean and shellfish;

“marine park” means an area designated as such under section 11;

“master” in relation to a vessel means the person or persons having control thereof at any given time;

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“noxious substance” includes explosives and any substance by means of which any marine life may be killed, stupefied or otherwise harmed but does not include any device for catching fish used lawfully under this Law;

“restricted marine area” means an area designated as such under section 10;

“sell” includes disposal of as well as to offer for sale or disposal and any attempt so to do;

“tail length” with reference to crustaceans means the measurement from the leading edge of the first abdominal segment to the extremity of the extended tail fan;

“take”, “catch” and their cognates mean to take, kill or capture any marine life from its natural habitat and includes any attempt so to do; and

“vessel” includes ship, boat, raft, barge, float, lighter and hovercraft.

Part II-Administrative

Marine Conservation
Board

3. (1) There is hereby established a Board called the Marine Conservation Board consisting of a Chairman and eight other members to be appointed by the Governor to hold office at the pleasure of the Governor. Three of the members so appointed shall be residents of Cayman Brac or Little Cayman.

(2) The Governor may appoint a secretary and other officers to assist the Board with its duties who may or may not hold other offices in the civil service.

(3) The expenses of the Board shall be defrayed from funds voted for that purpose by the Legislative Assembly.

(4) Meetings of the Board shall be convened by the Chairman on at least two occasions in each year and on other occasions at the discretion of the Chairman.

(5) The Board shall reach its decisions by a majority vote of its members:

Provided that the Chairman shall not have an original vote but in the event of a tie shall have a casting vote.

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(6) Four members present within a quarter of an hour of the time fixed for a Board meeting shall constitute a quorum.

(7) In the absence of the Chairman at any meeting those present and forming a quorum shall elect a Chairman from among their number.

(8) The decisions of the Board shall be put into effect by directives issued under the hand of the Chairman and decisions generally affecting the public shall be gazetted.

(9) In all other respects the Board shall have control of its own procedure.

4. The functions of the Board are-

Functions of the Board

- (a) the general administration of this Law;
- (b) the control of fisheries officers;
- (c) the issue of licences under his Law; and
- (d) the collection of fees payable under this Law and the accounting therefor to the Treasury.

5. (1) The Board may appoint suitable persons to be fisheries officers and entrust them with such powers as may be considered necessary to enable them to assist in the enforcement of this Law and such fisheries officers shall hold office at the Board's pleasure and be *ex officio* members of the staff of the Board.

Fisheries officers

(2) All constables and game wardens are *ex officio* fisheries officers.

(3) Fisheries officers, subject to the directions of the Board, have, for the purpose of performing their duties under this Law, all the rights and immunities of constables acting generally in the ordinary course of their duty.

(4) Any fisheries officer may, in any public place, Crown lands, restricted marine area or marine park or in any animal sanctuary established under the Animals Law, 1976, search any person whom he may have reasonable cause to suspect of having contravened this Law or any regulations and may stop and search any vehicle, boat or other conveyance in or upon which he has reasonable cause to suspect that there is any marine life in respect of which any offence against this Law or any regulations has been committed or in or upon which he has reasonable cause to suspect that there is any noxious substance, spear gun, trap, net or other instrument used in the commission of any such offence.

Law 8 of 1976

Part III-Protection of Certain Species

Absolute protection of certain lobsters

6. Any person who, in Cayman waters, takes, injures or has in his possession-
- (a) any spiny lobster (*Panulirus argus*) below 3 1/2 inches cape length or 6 inches tail length; or
 - (b) any member of any species of lobster other than the spiny lobster aforesaid,
- is guilty of an offence.

Closed season for lobsters

7. Any person who takes from Cayman waters or receives or has in his possession any lobsters at all taken from Cayman waters during the months of February to July inclusive is guilty of an offence.

Limit of lobster catch

8. (1) Any person who takes from Cayman waters in any one day more than five spiny lobsters (*Panulirus argus*) of or exceeding 3 1/2 inches cape length or 6 inches tail length is guilty of an offence.
- (2) Any person who permits or causes to be caught from or loaded onto any one vessel in any one day-
- (a) more than five lobsters of the kind referred to in subsection (1) for each person on board such vessel; or
 - (b) fifteen such lobsters,
- whichever be the lesser number, is guilty of an offence.

Restriction on taking and receiving conch

9. (1) Any person who takes from Cayman waters in any one day more than fifteen conch is guilty of an offence:

Provided, however, that the Board may by notice in the Gazette suspend the operation of this sub-section from time to time in such area or areas as it may specify in such notice.

- (2) Any person who causes or permits to be loaded onto any vessel in Cayman waters more than twenty conch in any one day is guilty of an offence.

- (3) Any person who, in any one day, purchases or receives more than twenty conch taken from Cayman waters is guilty of an offence.

Part IV-Restricted Marine Areas and Marine Parks

10. (1) The Governor may designate areas of Cayman waters to be restricted marine areas under the management of the Board for the purpose of marine research and development, and such areas shall be clearly demarcated and shall be closed to all members of the public save licensees of the Board. Restricted marine areas

(2) Any person who, not being licensed in that behalf, enters upon a restricted marine area is guilty of an offence.

11. (1) The Governor may designate certain areas of Cayman waters to be marine parks and such areas shall be clearly demarcated and subject to such restrictions of user by the public as the Governor may prescribe in each case. Marine parks

(2) Any person who, in a marine park, fails to comply with any restriction imposed with respect thereof is guilty of an offence.

Part V-Restriction on Fishing Methods

12. Any person who uses any noxious substance for the purpose of taking marine life in Cayman waters is guilty of an offence. Use of noxious substances prohibited

13. Subject to section 16, any person who, while equipped with any kind of underwater breathing apparatus, takes any marine life in Cayman waters is guilty of an offence. Fishing by divers prohibited

14. Any person who has a speargun in his possession in the Islands or takes any marine life with the aid of a spear gun in Cayman waters is guilty of an offence unless licensed by the Board who may, in granting such licence, make such conditions as to possession and use as it may think fit. Use of spear guns prohibited

15. Any person who uses or attempts to use any seine or gill net for the purpose of taking marine life in Cayman waters is guilty of an offence: Use of seine or gill nets prohibited

Provided that the Board may, in exceptional circumstances, grant licences for the use of seine nets and in granting such licences may make such conditions as to possession and use as it may think fit.

16. Any person who, not being licensed in that behalf by the Board, takes any- Restriction on taking certain marine life
(a) coral;
(b) algae;

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- (c) sponge;
- (d) turtle egg; or
- (e) hermit crab (save in reasonable quantities for fish bait or human consumption),

is guilty of an offence.

Restriction on certain exports 17. Any person who, not being licensed in that behalf by the Board, exports or attempts to export any live fish or other free moving marine creature or hermit crab is guilty of an offence.

Control of effluents
Law 6 of 1981 18. Any person who directly or indirectly causes or permits to flow or to be put into Cayman waters any harmful effluents or raw sewage, unless specifically permitted in that behalf under the Public Health Law, 1981 or any other law, is guilty of an offence.

Protection of submerged features 19. Any person who, unless licensed in that behalf, in connection with any buildings, dredging or construction work or licensed by the Governor for any purpose or being permitted or required so to do by any other law, intentionally cuts, carves, injures, mutilates, removes, displaces or breaks any underwater coral or plant growth or formation in Cayman waters is guilty of an offence.

Constable's power of arrest 20. A constable may arrest any person whom upon reasonable grounds he suspects of being in contravention of this Law or any regulations controlling the taking of marine life and may stop and search any vessel or vehicle which he reasonably suspects is being used in effecting the purpose of such contravention.

Forfeiture 21. Where any person is convicted of an offence under this Law or any regulations relating to the taking of marine life, the court, on conviction, may order the forfeiture of any trap, net, diving equipment or other paraphernalia used or intended to be used in the commission of the offence and may order the forfeiture of any vessel or vehicle so used:

Provided that in the case of forfeiture of a vessel or vehicle the owners thereof may be permitted to recover the same on payment of six thousand dollars or such lesser sum and upon such other terms as the court may order.

Application 22. (1) This Law shall not apply to the Crown.

(2) This Law shall not apply to such scientific bodies or persons as the Board may from time to time specifically exempt in writing upon such conditions as the Board may prescribe in each case.

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23. (1) Any person aggrieved by any decision of the Board may, within ten days of the receipt of notification of that decision, appeal against it to the Governor whose decision shall be final and binding on the appellant.

Appeals against
decisions of the Board

(2) A decision of the Governor under subsection (1) shall be deemed to be an administrative and not a judicial decision. No person shall be required to give any reason for such decision nor shall it be questioned in any court of law.

24. The Governor may make Regulations-

Regulations

- (a) prescribing the powers of fisheries officers;
- (b) prescribing marine parks;
- (c) prescribing restricted marine areas and conditions applicable to each such area;
- (d) varying the limits and numbers of marine creatures which may, from time to time, be taken or exported;
- (e) prescribing insignia and badges which may be displayed or worn exclusively by fisheries officers;
- (f) for the protection of marine life from damage by anchor and similar contrivances;
- (g) prescribing forms to be used in the application for and granting of licences;
- (h) prescribing fees to be charged by the Board for receiving applications and granting licences;
- (i) controlling the taking of black coral (*Antipathes sp*);
- (j) prescribing forms of seines and nets which may and may not be used in Cayman waters;
- (k) for the stocking of restricted marine areas and marine parks with marine life and the protection of such stock;
- (l) prescribing minimum sizes below which marine creatures may not be taken;
- (m) prescribing closed seasons within which marine creature may not be taken;
- (n) prescribing areas within which marine creatures may not be taken;
- (o) prescribing areas within which fishing by certain methods only is permissible;
- (p) prescribing limits to the number of fish traps, seines or other nets which may be used by any person within any prescribed area; and
- (q) prescribing anything required by this Law to be prescribed.

25. Whoever contravenes this Law or any regulations made hereunder is guilty

Offences and penalties

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of an offence and liable on summary conviction to a fine of five hundred thousand dollars and to imprisonment for twelve months and in addition thereto the court so convicting may order the confiscation of any vessel or equipment that it is satisfied has been used for the purpose of committing or facilitating the commission of such offence or was intended to be used for such purpose.

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Mona N. Banks-Jackson
Clerk of Executive Council

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