



*EXTRAORDINARY*

**OFFICIAL GAZETTE**

**THE BAHAMAS**

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**ANTIQUITIES, MONUMENTS AND MUSEUM (UNDERWATER  
CULTURAL HERITAGE) REGULATIONS, 2012**

**Arrangement of Regulations**

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**MINISTRY OF YOUTH, SPORTS AND CULTURE**



S.I. No. 23 of 2012

**ANTIQUITIES, MONUMENTS AND MUSEUM ACT  
(Chapter 51)**

**ANTIQUITIES, MONUMENTS AND MUSEUM (UNDERWATER  
CULTURAL HERITAGE) REGULATIONS, 2012**

**The Minister, in exercise of the powers conferred by section 37 of the Antiquities, Monuments and Museum Act, makes the following regulations**

**1. Citation.**

These regulations may be cited as the Antiquities, Monuments and Museum (Underwater Cultural Heritage) Regulations, 2012.

**2. Interpretation.**

- (1) In these Regulations —  
“Act” means the Antiquities, Monuments and Museum Act (*Ch. 51*);
- (2) Words and phrases not defined in these Regulations shall, unless the context otherwise requires, have the meaning ascribed to them in the Act.

**3. Exploration and recovery licences.**

- (1) The Minister may issue exploration licences and recovery licences in respect of underwater cultural heritage in the forms set out in the First Schedule.
- (2) An exploration licence is a licence to survey for underwater cultural heritage and —
  - (a) allows the licensee to collect remote sensing and visual information on potential historic shipwreck sites without excavation or bottom disturbance;

- 
- (b) may be modified in writing to allow bottom disturbance and test excavation for purposes of attempting to determine the presence or absence and the nature of potential historic shipwreck sites; and
  - (c) any modification of such licence pursuant to sub-paragraph (b), shall specify the number, location, extent and type of all proposed test excavations.
- (3) A recovery licence is a licence to recover underwater cultural heritage and —
- (a) may be issued only after the existence and nature of a historic shipwreck site has been documented by exploration licence activities and mutually agreed upon by the Minister and the licensee;
  - (b) allows the licensee to conduct more extensive excavations and recover archaeological materials;
  - (c) shall specify the number, location, extent and type of test excavations and recovery operations; and
  - (d) may provide for the transfer of title to the licensee of objects recovered in accordance with section 13 of the Act.
- (2) The Minister shall not issue multiple licences for —
- (a) an active licence area; or
  - (b) an historic shipwreck site that is within an active licence area.

#### **4. Maximum allowable number of licences.**

- (1) The Minister shall not issue more licences than can be properly supervised, monitored and administered.
- (2) The Minister shall determine the maximum allowable number of concurrent licences based on the —
  - (a) number and types of licences already in effect;
  - (b) anticipated termination date of licences already in effect;
  - (c) number of applications under review or anticipated to result in licences; and
  - (d) number of staff assigned to supervise, monitor and administer licences.

#### **5. Duration and renewal of licences.**

- (1) A licence shall be granted for a maximum period of twelve months.

- (2) A licence may be renewed upon application in writing to the Minister a minimum of ninety days prior to the date upon which the licence is due to expire.

#### **6. Licence area.**

- (1) The maximum size area for an exploration licence shall be five nautical miles.
- (2) The maximum size area for a recovery licence shall be limited to the size required to encompass the archaeological remains from which recovery is licensed.
- (3) A licence area shall be separated from any other licence areas by a buffer zone of one nautical mile.

#### **7. Prohibited practices and penalties.**

A person who —

- (a) knowingly **makes** a false statement to the Minister or to a designated person, whether or not in an application for a licence, as to the situation or circumstances of the discovery of an antiquity;
- (b) discovers, or knows of the discovery of, an antiquity or supposed antiquity and fails to report the discovery to the Minister;
- (c) excavates, recovers or surveys for antiquities otherwise than in accordance with a licence granted to him;
- (d) collects or removes any object which he supposes to be an artifact from the site of its discovery otherwise than for the purpose of protecting the same or in accordance with a licence granted to him;
- (e) makes a report of discovery of antiquities to the Minister and, upon request by the Minister, fails to identify to the Minister or to a designated person the supposed antiquity and its exact location;
- (f) wilfully obstructs the Minister in the entry upon and inspection of the site of the discovery of an antiquity or supposed antiquity; or
- (g) fails to report a discovery within a reasonable time,

commits an offence and shall, on summary conviction, be liable to a fine not exceeding five hundred dollars, or to imprisonment for a term not exceeding six months, or to both such fine and imprisonment.

#### **8. Inspection.**

The Minister or a designated person may, prior to or after issuance of a licence, without notice inspect the licence area to —

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- (a) evaluate statements made in the application for a licence;
  - (b) determine the nature of any antiquities or supposed antiquities present;
  - (c) determine whether any areas or sites within the proposed licence area should be exempt from licensing;
  - (d) examine all work already done or being done under the terms of the licence; and
  - (e) make a determination of compliance with the terms of the licence, and the conditions specified in these Regulations.

**9. Assignment and subcontracting.**

- (1) A licence shall not be transferable in whole or in part.
- (2) Subject to paragraph (3) and the prior written approval of the Minister, a licensee may enter into a subcontract agreement with respect to his licence.
- (3) Compliance with all terms and conditions of a licence remains the sole responsibility of the licensee whether or not licensed activities are subcontracted to a third party.

**10. Project archaeologist's qualifications.**

- (1) Every licence granted shall require the participation of a professional underwater archaeologist who shall serve as the project archaeologist.
- (2) An applicant for a licence shall submit with the application the resume of the proposed project archaeologist.
- (3) A proposed project archaeologist must meet minimum qualifications of training, knowledge, experience and skills with an emphasis on underwater sites, water-saturated archaeological materials and preservation methods, as evidenced by —
  - (a) a graduate degree in archaeology, anthropology, or closely related field;
  - (b) a minimum of one year of full-time professional experience or equivalent specialized training in archaeological research, administration or management;
  - (c) a minimum of four months of supervised field and analytic experience in general archaeology;
  - (d) demonstrated ability to carry research to completion;

- (e) a minimum of twelve weeks of supervised underwater archaeological fieldwork and ten weeks of supervisory underwater archaeological fieldwork;
- (f) a minimum of two weeks field experience and training in underwater survey technique and familiarity with the general theory and application of varied remote sensing technology;
- (g) experience or training in the recovery and interpretation of both archaeological and archival data and familiarity with the history and technology of navigation and ship building;
- (h) demonstrated ability to design and execute an underwater archaeological study, either pursuant to a Master of Arts thesis or by a published report of equivalent scope and quality;
- (i) in the case of an application for an exploration licence —
  - (i) at least one month of experience in the operation of remote sensing devices in a marine environment for the purpose of discovery and evaluation of archaeological resources supervised by a specialist in the use of such devices;
  - (ii) at least three months of experience in a supervisory or independent role; and
- (j) in the case of an application for a recovery licence involving recovery of archaeological materials, at least eight weeks of supervised training in the general theory and application of stabilization and conservation methods as they pertain to waterlogged materials.

#### **11. Project archaeologist's responsibilities.**

The project archaeologist shall —

- (a) ensure that professional archaeological standards are maintained throughout the course of the project;
- (b) develop a research design and appropriate procedures for its implementation;
- (c) review remote sensing data and provide a written interpretation of the results to the Minister;
- (d) based on his professional judgement, personally be present and visually inspect excavations when significant archaeological material clusters and or areas of articulated ship's structure are being excavated —
  - (i) at such times as may be necessary to properly interpret the historic shipwreck site;

- (ii) as needed in order to prepare any reports required under the licence;
- (c) ensure that adequate records are maintained during all remote sensing, testing, excavation, recovery, conservation and stabilization of recovered artifacts as needed in order to prepare an interim or final reports required under the licence; and
- (f) maintain regular contact with the Minister providing electronic, facsimile or paper copy reports of all significant developments, including discoveries of historic shipwreck sites and historical resources.

## 12. Application procedures.

- (1) An application for an exploration or recovery licence shall be made in the form prescribed in the First Schedule.
- (2) Applicants may make requests for application forms to the Director of The National Museum of The Bahamas.
- (3) An applicant shall submit to the Director one copy of the completed application form bearing an original signature of the applicant and two additional copies with facsimile signatures.
- (4) An applicant for renewal of a licence shall in the application form specifically explain any difference from the previous application and insert "No Change" in sections that are unchanged.
- (5) The Director —
  - (a) may request in writing to the applicant additional information or clarification;
  - (b) shall indicate in a request pursuant to sub-paragraph (a) the date by which the information or clarification is required to be submitted.
- (6) An application shall not be considered complete and ready to review until all required information has been submitted to the Director.
- (7) An application for renewal must be submitted a minimum of ninety days prior to the expiry date of a licence and shall not be considered complete and ready to review until all —
  - (a) requirements of the current licence have been satisfied;
  - (b) errors or omissions in the application have been corrected; and
  - (c) additional information requested has been received.
- (8) A duplicate application for the same licence area shall not be considered ready for review until the initial application for such area has been fully processed and made subject to a final order by the Minister.



- (9) An application for a licence or renewal of a licence shall be accompanied by a non-refundable application fee as set out in the Second Schedule.

### **13. Application review.**

The Minister shall, in the decision to approve or deny a licence application, consider all relevant information and criteria including —

- (a) the fact that the public policy of The National Museum of The Bahamas is to preserve and protect archaeological sites and objects of antiquity for the public benefit and to limit exploration, excavation and collection of such matters to qualified persons and educational institutions with the requisite skills and purpose of adding to the general store of knowledge concerning history, archaeology, and anthropology;
- (b) conflicts with other licence areas and non-licensable areas and sites;
- (c) the date of submission of the application in relation to other applications for the same location;
- (d) the applicant's experience, ability and plans to comply with safety and security requirements as demonstrated in the application;
- (e) the applicant's experience, ability and plans to collect and supply data and records as demonstrated in the application;
- (f) the applicant's ability to supervise and administer the licence in addition to any licences already issued;
- (g) results of the inspection of the requested licence area, if any;
- (h) the applicant's financial ability to conduct the licensed activities as described in the application;
- (i) the qualifications, experience and ability of the proposed project archaeologist;
- (j) the suitability of the proposed research design and methodology;
- (k) the applicant's experience, ability and plans for data collection, security, inventory, and curation, of recovered archaeological materials and records as demonstrated in the application;
- (l) the qualifications, experience and ability of the applicant to complete the proposed activities;
- (m) access to necessary equipment and qualified operators;
- (n) size of the licence area;
- (o) compliance with requirements of any previous licences or permits issued by the government of The Bahamas; and

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- (p) comments requested by the Minister from other relevant agencies, national or international, with relevant knowledge or authority.

#### **14. Granting a licence**

- (1) The Minister shall not grant a licence unless the Minister is satisfied that the applicant —
  - (a) has had sufficient scientific training or experience to enable him to carry out the survey and recovery;
  - (b) has at his disposal sufficient staff and financial or other resources to enable him to carry out the proposed survey and recoveries satisfactorily;
  - (c) is able to conduct or arrange for a proper scientific study of any antiquities discovered or recovered as a result of the licence;
  - (d) is able to conduct or arrange for the proper preservation, conservation, restoration, analysis, documentation and presentation of antiquities as required by the licence, and
  - (e) has deposited a performance bond as prescribed by the Act in the amount set out in the Second Schedule.
- (2) The Minister may include conditions in a licence as he considers appropriate, including but not limited to conditions in respect of the —
  - (a) conduct of any survey or recovery;
  - (b) reporting, mapping and documenting of any survey or recovery;
  - (c) preservation, conservation and restoration of materials discovered;
  - (d) removal, examination, presentation and return of materials discovered;
  - (e) making and delivery of casts, rubbings, squeezes and other reproductions;
  - (f) training of Bahamians in relevant areas;
  - (g) fees and performance bonds to be paid to the Minister upon the granting or renewal of the licence.

#### **15. Notice of approval or denial.**

- (1) The Minister shall, within ninety days after receipt of a completed application for a licence or renewal of a licence, notify the applicant of the Minister's approval or intended denial of the application at the address provided in the application or as specified in any notice of change of address.

- (2) Subject to paragraph (3), the Director shall where an application is approved by the Minister issue to the applicant a licence to be signed by the applicant.
- (3) A licence becomes effective upon —
  - (a) the signature of the applicant certifying the applicant's agreement with the terms and conditions of the licence;
  - (b) the return by the applicant, within fifteen days of receipt, of the signed licence to the Minister or the Minister's authorized representative;
  - (c) payment by the applicant of the prescribed licence fee as set out in the Second Schedule; and
  - (d) the appending of the signature of the Minister to the licence.
- (2) The Minister shall, where the Minister intends to deny an application, list those criteria on which the intended denial is based and inform the applicant in writing, within ninety days, of the options available.

**16. Licence cancellation.**

- (1) The Minister may at any time cancel a licence, either by its revocation or suspension.
- (2) The Minister shall, in considering the revocation or suspension of a licence, take into account all relevant criteria including but not limited to —
  - (a) any violation of the Act or regulations made under the Act;
  - (b) any violation of terms or conditions of the licence;
  - (c) any misrepresentation or failure to disclose all relevant facts in making application for the licence;
  - (d) whether the applicant knowingly made false statements in the application for the licence or in a report or other document submitted to the Minister under these Regulations;
  - (e) the licensee's failure to meet minimum standards of diligence as specified in the licence;
  - (f) whether the licence was granted based on incorrect information, mistaken belief, or clerical error;
  - (g) any non-licensed activities that jeopardize archaeological or environmentally sensitive areas; and
  - (h) changes in financial support, key personnel, or equipment.
- (3) The revocation or suspension of a licence shall not relieve the licensee of any obligations of the licensee to —

- 
- (a) protect the archaeological materials exposed or recovered by the licensee; or
  - (b) provide reports or information as required by the licence.
- (4) The Minister shall, before revoking or suspending a licence, give the licensee reasonable opportunity to make representations to the Minister as to why the licence should not be revoked or suspended, as the case may be.
  - (5) The Minister shall, as soon as possible after the revocation or suspension of a licence, by notice in writing inform the licensee of such revocation or suspension and of the reasons thereof.
  - (6) A licensee shall, where a licence is revoked or suspended for illegal activities, forfeit the licensee's share of artifacts recovered.
  - (7) The decision of the Minister to grant, renew, revoke or suspend a licence shall be final unless it can be shown to the satisfaction of the Supreme Court by the party aggrieved that the Minister was acting *ultra vires* the Act or regulations made under the Act.

**17. Transfer of recovered materials.**

The Minister may transfer ownership of archaeological materials recovered under the terms of a recovery licence solely in accordance with section 13 of the Act as amended.

**FIRST SCHEDULE (Regulations 3 and 12)**

**FORM 1**

**APPLICATION FOR EXPLORATION AND RECOVERY LICENCES**

Application No.....

**TO: The Minister responsible for Antiquities, Monuments and Museum**

**Full Name:**

**Address:**

**Telephone number:**

**Date of Birth:**

**Nationality:**

**Passport No.:**

**Occupation:**

Address where correspondence and notices in writing from the Minister may be served on you:

If applying as a representative/member attach evidence of the organization's consent/authorization to you submitting the application.

Describe the area for which a licence is requested. Use decimal degrees of longitude and latitude to describe corners of a polygon or center of a circle.

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What is the size of the requested licence area in nautical square miles? [Attach a copy of a nautical chart with the application area boundaries clearly marked (in red) and listing longitude and latitude of corners or center].

List the number(s) and effective dates of any previous or current licences or permits issued by the government of The Bahamas for survey or recovery of shipwreck remains.

List the number(s) and effective dates of any previous or current licences or permits issued by any other government for survey or recovery of shipwreck remains along with contact information for the relevant government administrator.

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Who is the project archaeologist? [Attach a letter of commitment from project archaeologist stating willingness to participate in the project and carry out the necessary responsibilities under the licence, the Act, regulations and guidelines.]

Describe the applicant's experience, ability and plans to comply with safety and security requirements.

Describe the applicant's experience, ability and plans to collect and supply data and records.

Describe the applicant's financial ability to conduct the proposed activity to completion.

Describe the research design and methodology for the proposed activity prepared by the project archaeologist.

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Describe the plan for the conservation and/or stabilization, analysis, and curation of all underwater cultural heritage recovered, including records resulting from the licensed activities. Describe conservation facilities if appropriate.

List name, date of birth, place of birth and National Insurance numbers of all Bahamians proposed to be involved in the project.

Name and Date of Birth	Place of Birth	National Insurance Number




[continue on separate sheet if necessary]

List name, date of birth, place of birth, passport number and nationality of all non-Bahamians proposed to be involved in the project.

Name and Date of Birth	Place of Birth	Passport Number and Nationality

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[continue on separate sheet if necessary]

Has any of the project personnel been convicted of a crime? Yes/No

If yes, describe below.

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List the registration number and country of registration of all vessels proposed to be used in the project.

For applications involving recovery of underwater cultural heritage, describe the results of previous remote sensing surveys and supply such results as remote sensing output, photographs, video and other information to demonstrate the nature and distribution of shipwreck remains.

State the proposed date of commencement of the proposed operations.

Estimated duration in 8 working-hour days.

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Will a report concerning the proposed operations be published? Yes/No. If yes, give details

I ..... certify that to the best of my knowledge and belief the information supplied by me herein is correct. In the event that I am granted a licence I acknowledge that as licensee I will be personally in charge of the [state proposed operations] and accept full responsibility for the manner in which the [state proposed operations] is conducted and agree that any act or omission committed or performed by any participant in the [state proposed operations] shall be deemed to have been committed or performed by myself as licensee.

Dated this                      day of                      , 201

**Signature of Applicant**

**Note:**      **An applicant is required to enclose with this application –**

- (a) the prescribed performance bond;
- (b) a plan in duplicate showing the location, boundaries and general features of the area in respect of which the permit is sought, and the particular site, if any, of the proposed operations;
- (c) a photograph or photographs sufficient to identify and describe the area under application to the satisfaction of the Minister; and
- (d) the prescribed application fee.

**FORM 2**

**EXPLORATION LICENCE**

Licence No.

**THIS LICENCE** is granted under section 13 of the Antiquities, Monuments and Museum Act (*Ch. 51*) to:

*(insert name and address)*

.....  
.....  
.....

to survey for underwater cultural heritage within the area of:

*(insert area description using longitude and latitude of corners or center(s) in decimal degrees)*

.....  
.....  
.....  
.....

as shown in the attached nautical chart and edged in red.

PURSUANT to section 13(7) of the Act, this Licence incorporates and is subject to the Antiquities, Monuments and Museum (Underwater Cultural Heritage) Regulations and to the conditions, if any, set out below:

.....  
.....

.....  
.....  
.....

Signed \_\_\_\_\_  
Minister responsible for Antiquities,  
Monuments and Museums

Dated \_\_\_\_\_

*(name of licensee)*

I,.....hereby certify my agreement to the terms and conditions of this Licence:

Signed \_\_\_\_\_  
*(name of licensee)*

NOTES:

This Licence is valid for a period of twelve months and may be renewed upon application to the Minister a minimum of ninety days prior to the date upon which it is due to expire.

The Licensee is advised to become familiar with the provisions of the Act and the relevant regulations.

**FORM 3**

**RECOVERY LICENCE**

Licence No.....

**THIS LICENCE** is granted under section 13 of the Antiquities, Monuments and Museum Act (*Ch. 51*) to:

*(insert name and address)*

.....  
.....  
.....

to recover underwater cultural heritage within the area of:

*(insert area description using longitude and latitude of corners or center(s) in decimal degrees)*

.....  
.....  
.....  
.....

as shown in the attached nautical chart and edged in red.

PURSUANT to section 13(7) of the Act, this Licence incorporates and is subject to the Antiquities, Monuments and Museum (Underwater Cultural Heritage) Regulations and to the conditions, if any, set out below:

.....  
.....

.....  
.....  
.....

Signed \_\_\_\_\_  
Minister responsible for Antiquities,  
Monuments and Museums

Dated \_\_\_\_\_

*(name of licensee)*

I,.....hereby certify my agreement to the terms and conditions of this Licence:

Signed \_\_\_\_\_  
*(name of licensee)*

NOTES:

This Licence is valid for a period of twelve months and may be renewed upon application to the Minister a minimum of ninety days prior to the date upon which it is due to expire.

The Licensee is advised to become familiar with the provisions of the Act and the relevant regulations.



**SECOND SCHEDULE (Regulation 14)**

**FEEES FOR EXPLORATION AND RECOVERY LICENCES**

Application fee (non-refundable) .....	\$.....1,000
Application fee (renewal) (non-refundable).....	\$.....1,000
Licence fee (payable upon grant of application).....	\$.....5,000
<b>PERFORMANCE BOND.....</b>	<b>\$100,000</b>

**Made this 14<sup>th</sup> day of February, 2012.**

**Signed**  
**CHARLES T. MAYNARD**  
**Minister responsible for Antiquities, Monuments and Museums**