

Regulations made under section 18(6), 19(7), 21 and 24.

MARINE NATURE RESERVE REGULATIONS 1995

Revoked by LN. 2014/182 as from 1.1.2015

(LN. 1995/143)

1.1.1996

Amending enactments	Relevant current provisions	Commencement date
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Title and Commencement.

1. (1) These regulations may be cited as the Marine Nature Reserve Regulations 1995 and, subject to sub-regulation (2), shall come into effect on the 1st day of January 1996.

(2) Where a person has carried on in accordance with the law in effect prior to the 1st day of January 1996 an activity which, by virtue of these regulations, on or after that date may be carried on only under a permit issued, or an approval or consent given, under these regulations, he may continue to carry on that activity without a permit having been issued or an approval or consent given, as the case may be, to him until such time as a permit has been issued or approval or consent has been given to him or he has been refused a permit, approval or consent, as the case may be, provided that he has applied for the relevant permit or sought the relevant approval or consent prior to the 1st day of March 1996.

Interpretation and Application.

2.(1) In these regulations and unless the context shall otherwise require-

“animal or plant” includes any marine or land vertebrate or invertebrate animal or animal product whether living or dead, any shell, and any marine or land plant or plant product whether living or dead;

“access lane” means any area designated as such by these regulations which vessels and vehicles (other than those specifically prohibited) shall use for their access and egress from the shore according to these regulations;

“artefact” includes carvings and drawings in or on rock, carved stone, pottery shards and any part thereof, from any vessel or deposit found under the sea within the boundaries of the marine nature reserve as well as any other human-made object on land or in the sea that is of any anthropological, historical, artistic or social value;

“Authority” means the Government or such person as may be appointed by the Government from time to time to be the Authority;

“charter vessel” means any vessel whether a sail vessel or a motor vessel or an engineless vessel capable of carrying one or more persons or cargo, whether or not for reward;

“dive operator” means a person providing snorkeling or scuba diving facilities for other persons, whether or not for reward, involving

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entry into, or exit from the water by means of a vessel or from the shore;

“dive vessel” means a vessel operated by a dive operator when such vessel is actually involved in dive work, including the transportation of snorkeldivers or divers to and from the dive site;

“diver” means a person using or going equipped to use—

- (a) self contained underwater breathing apparatus, or
- (b) any form of surface demand apparatus that supplies air to a person underwater;

“engineless vessel” includes canoes, kayaks, surfboards, dinghies which are not motor vessels and any sail vessel or sea-going apparatus not fitted with an in-board or outboard engine;

“marine nature reserve means the area designated by an order under section 18(2) of the Act as a marine nature area;

“motor vessel” means anything which is mechanically propelled and is constructed or used to carry, tow or pull persons or goods by or on water, and shall include jet-skis, and any reference to a motor vessel shall include a reference to the persons or goods being carried, towed or pulled, as the case may be;

“pleasure boat” has the meaning given to that expression in section 218 of the Public Health Act;

“sail vessel” includes a wind-surfer and any vessel intended to be propelled on the water by wind;

“shoreline” means that part of the marine nature reserve comprising the foreshore immediately adjacent to the sea;

“snorkeldiver” means a person who views underwater life while breathing surface air by means of a tube;

“special activity zone” means any area within the marine nature reserve so designated under regulation 3;

“vessel” means any vessel which travels on water and includes ships, boats, dinghies, engineless vessels, motor vessels and sail vessels,

“Warden” means a Wildlife Warden appointed in respect of the marine nature reserve under section 21.

“water-ski” means a ski or ski-like apparatus used in gliding behind a powered vessel on the surface of the water and “water-skiing” shall include the operation or use of any such apparatus whether by towing it, riding on it or howsoever.

- (2) Nothing in these regulations shall operate to—
- (a) restrict the movement of or activity from a vessel operated by or on behalf of the Royal Gibraltar Police, the Collector of Customs, the Services Police, the Fire Service or the Captain of the Port or to require that a permit, approval or consent have been applied for or issued or given, as the case may be.
 - (b) make unlawful anything done—
 - (i) for the purpose of securing the safety of any vessel, or preventing damage to any vessel or cargo, or saving life;
or
 - (ii) more than 30 metres below the sea bed.

Special Activity Zones.

3. (1) Subject to the provisions of sub-regulation (2), where the Authority is of the opinion after consultation with the Nature Conservancy Council that any part of the marine nature reserve should be reserved for one or more special activity or activities, which term may include but is not confined to—

- (a) bathing;
- (b) access lanes;
- (c) aquatic sports either generally or by reference to a particular sport;
- (d) water-skiing; or
- (e) the anchoring or mooring of vessels,

then the Authority may, by notice in the Gazette designate such area as is specified in the notice as a Special Activity Zone for the activity or activities so specified and no person shall carry on in that Zone any activity except in accordance with the terms of any designation in operation in respect of that Zone from time to time.

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(2) No designation shall be made under this regulation by the Authority in respect of any land being part of Crown Lands held in right of the Government of the United Kingdom without the consent first obtained of the Secretary of State.

Access to the marine nature reserve.

4.(1) Notwithstanding the provisions of regulation 3, the Authority may, in its discretion and for the purpose of the good management of the marine nature reserve, close or restrict access to any part of the marine nature reserve, restrict the carrying on of any activity in any part of the marine nature reserve or restrict the use of any access lanes:

Provided that such closure or restriction shall not prohibit or restrict the exercise of the right of passage of any vessel other than a pleasure boat.

(2) Where in exercise of its powers under this regulation the Authority has closed or restricted access to any part of the marine nature reserve or to any access lane or restricted the carrying on of any activity in any part of the marine nature reserve, the Authority shall give adequate notice of that closure or restriction whether by signs, buoys or otherwise, and such notice shall indicate—

- (a) the area to which the closure or restriction applies;
- (b) whether or not the area is closed or if access is restricted or the carrying on of a particular activity or particular activities is restricted, the nature of the restriction; and
- (c) the period of time for which the closure or restriction is in operation.

(3) Where, in accordance with the provisions of this regulation, the Authority has closed or restricted access to any area or access lane in the marine nature reserve or restricted the carrying on of any activity in any part of the marine nature reserve, no person shall enter in that area or into that access lane or carry on an activity, as the case may be, in contravention of the restriction, except in the exercise of the right of passage by a vessel, other than a vessel which is a pleasure boat.

Wildlife Wardens.

5.(1) Any person appointed as a Wildlife Warden in accordance with section 21 of the Act shall carry out such duties in the marine nature reserve as the Authority shall specify and shall have the power, in the marine nature reserve, to require to stop any vessel or person who it appears to the Warden has failed to comply with these regulations and to require—

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- (a) where a vessel is stopped, the person who appears to the Warden to be in charge of that vessel to provide to the Warden details of the vessel including details of its ownership and registration and of the persons, including the person in charge, on board the vessel, diving from the vessel or being towed by the vessel;
- (b) in any other case, that person to give to the Warden details of the person's name and address,

evidenced by, in the case of a vessel, the relevant registration documents, and in the case of any person falling within paragraph (a) or (b) the production of an identity card or passport.

(2) A Warden shall have in the marine nature reserve the powers specified in section 16 of the Act.

Prohibition in relation to diving etc.

6.(1) No person shall in the marine nature reserve carry on business as a dive operator except in accordance with a permit issued in advance to him by the Authority and "carry on business as a dive operator" shall include permitting or facilitating another person to dive or snorkel and navigating a vessel with the intention of permitting or facilitating another person to dive or snorkel.

(2) Prior to issuing any permit under this regulation, the Authority shall satisfy itself that the applicant has experience and equipment suitable for the purpose of carrying on the permitted activity in the marine nature reserve.

(3) Where a permit is issued under this regulation to a person other than an individual the permit shall specify the individuals who may carry on the business on behalf of the person and any permit shall be personal to the person and to any specified individual to whom or in respect of whom it is issued and shall not be in any respect transferable.

Dive and Charter Vessels.

7.(1) No person shall operate or be in charge of a dive vessel or a charter vessel in the marine nature reserve except in accordance with a permit issued in advance by the Authority.

(2) Prior to issuing any permit under this regulation, the Authority shall satisfy itself that the applicant has experience and equipment suitable for the purpose of operating a dive vessel or, as the case may be, a charter vessel in the marine nature reserve.

(3) Where a permit is issued under this regulation to a person Other than an individual the permit shall specify the individuals who may carry on the business on behalf of the person and any permit shall be personal to the person and to any specified individual to whom or in respect of whom it is issued and shall not be in any respect transferable.

(4) A person who—

- (a) moors a dive vessel or charter vessel on anything not approved for the purpose by the Authority, or
- (b) anchors such a vessel on anything other than a clear sandy seabed,

shall be guilty of an offence.

Buoys.

8. (1) No mooring or buoy, permanent or otherwise, shall be installed in the marine nature reserve except in accordance with the approval of the Authority, which approval shall be in writing and issued in advance of the installation or the taking of any steps in the marine nature reserve in preparation for such installation.

(2) A mooring or buoy the installation of which has not been approved by the Authority in accordance with sub-regulation (1) shall be removed by the person by whom it was installed or by such other person as the Authority shall have identified as having an interest in the mooring or buoy within 28 days of the Authority requiring that person to do so, in default of which—

- (a) the Authority may at the expense of that person remove the mooring or buoy;
- (b) the person shall be guilty of an offence.

(3) Where—

- (a) in exercise of its powers under sub-regulation (2)(a) the Authority removes a mooring or buoy, or
- (b) a person is convicted of an offence under sub-regulation (2)(b),

the mooring or buoy which the Authority has removed or in respect of which the person has been convicted, as the case may, shall be forfeit to the Authority and shall be dealt with in such manner as the Authority may in its discretion determine.

- (4) Where at the effective date of these regulations a mooring or buoy is installed in the marine nature reserve and—
- (a) no application for approval has been made to the Authority by the 1st day of June 1996, or
 - (b) an application having been made, it has been refused, the owner or such other person as the Authority shall have identified by as having an interest in the mooring or buoy shall forthwith remove the mooring or buoy and in default of that person having done so the Authority may at the expense of the owner or other person required to remove the mooring or buoy remove the mooring or buoy and where in the event of the disposal by the Authority of the mooring or buoy any proceeds of sale are recovered and after having deducted therefrom its costs in connection with the removal and disposal the Authority shall account to the owner for the remaining proceeds of sale, if any.

Protection of sea-life.

9.(1) Except in accordance

- (a) with an approval given under regulation 11,
- (b) the terms of a permit issued in advance, by the Authority—

no person shall—

- (c) in the marine nature reserve—
 - (i) hunt, shoot or capture any sea-living creature by any means;
 - (ii) collect or use anything spontaneously produced by wild-life; or
 - (iii) introduce any animal or plant which is of a kind not ordinarily resident or which is not a regular visitor to Gibraltar, as the case may be; or
- (d) subject to sub-regulation (2), take into or use in the marine nature reserve any type of firearm, air gun, spear gun, cross bow, bow and arrow or any type of weapon intended to project a missile or harpoon.

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(2) Nothing in paragraph (d) of sub-regulation (1) shall affect the exercise of the right of passage by a vessel so long as any firearm, air gun, spear gun, cross bow, bow and arrow or other weapon intended to project a missile or harpoon present on a vessel exercising the right of passage shall not be used in or from the marine nature reserve.

Protection of Natural Heritage.

10. No person shall, except in accordance with a permit issued by the Authority, in the marine nature reserve—

- (a) take by any method any plant, or plant product;
- (b) damage, destroy or remove any deposit, artificial reef groyne, reverment wall or beach, or any part thereof that makes up the shoreline or sea-bed or is situated under the surface of the water whether in contact with the shore or offshore;
- (c) damage, destroy or remove any artefact of historic, scientific or cultural interest;
- (d) destroy, damage or injure any animal, plant or marine product;
- (e) remove sand on a regular basis or in significant quantities Or for a commercial purpose;
- (f) remove rock, coral, coral rag or any other calcareous substance;
- (g) cause anchor-damage to coral and marine structures, living or dead, and associated marine, plant and animal life;
- (h) anchor vessels greater than 60 feet in length other than in an area designated for that use under regulation 3;
- (j) engage in water-skiing in any capacity other than in an area designated for the purpose under regulation 3;
- (k) dump or deposit litter or refuse;
- (l) abandon any vehicle (including, but not limited to, a pedal cycle or a motor cycle), vessel or other object;
- (m) deposit any waste, whether toxic or otherwise;
- (n) deposit any item harmful to the natural environment or any unsightly item.

Conduct of Research.

11. Scientific study may be undertaken in the marine nature reserve only with the prior approval in writing of the Authority and subject—

- (a) to such conditions as the Authority may impose for the purpose of protecting the marine nature reserve;
- (b) to the requirement that—
 - (i) the results of such research shall be presented to the Authority; and
 - (ii) specimens may be collected only with the prior written consent of the Authority and in accordance with the terms of such consent.

Erection of Structures.

12.(1) No person shall erect whether permanently or otherwise any structure which may obstruct the visibility of the marine nature reserve or change the appearance of the marine nature reserve except with the prior written consent of the Authority and subject to such conditions as the Authority may impose for the protection of the marine nature reserve.

(2) No person shall damage or deface any structure including any natural structure in the marine nature reserve.

General powers in relation to permits etc..

13.(1) Where in these regulations the Authority has the power to issue any permit or give any approval or consent, the Authority shall also be taken to have the power to withdraw, vary or cancel such a permit, approval or consent, as the case may be.

(2) Where the Authority issues a permit or gives an approval or consent it may impose, either at the time the permit, approval or consent is issued or given, as the case may be, or during the period during which the permit, approval or consent shall be in effect or at the time of renewal of the permit, approval or consent, such conditions as it deems fit, including the payment of any fees to be paid either at the time of issue or renewal or periodically or on the happening of a specified event, and any such conditions shall be endorsed on the permit or be contained in the approval or consent.

(3) A permit may be issued by the Authority or by such person as the Authority may determine and shall be in accordance with these regulations and with such terms of general application as may from time to time be

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prescribed by the Authority for the purpose of protecting the marine nature reserve.

(4) A permit issued by the Authority shall be obtainable on payment of the fee determined by the Authority in respect of the issue of that permit to such persons as may be authorised by the Authority to collect such fees.

Duty to carry permit.

14. Every person to whom the Authority has issued a permit or given approval or consent, as the case may be, shall when in the marine nature reserve and carrying out or preparing to carry out or concluding the activity in respect of which the permit, approval or consent has been issued or given, carry the permit or evidence of the approval or consent, as the case may be, and shall, on being required so to do by a police officer, a Warden or an officer of the Authority, and whether or not in the marine nature reserve, produce the permit or the evidence, as the case may be, and in default of compliance with either requirement shall be guilty of an offence.

Forging of permits etc..

15. It shall be an offence fraudulently to imitate, alter or use or fraudulently lend or allow to be used by any other person any permit, approval or consent issued or given under these regulations.

Application for permits etc..

16.(1) Applications for any permit, approval or consent, as the case may be, provided for in these regulations shall be made to the Authority or to such person as the Authority may determine, in the form prescribed by the Authority for an initial permit, approval or consent, for any variation either by way of addition thereto, deletion therefrom or change in the terms or conditions and for renewal.

(2) The Authority may require from any person making application for a permit, approval or consent such information additional to that contained in the form of application as in the opinion of the Authority it may properly require to consider and determine the application and in the absence of such information being provided the Authority shall not be required to consider or determine the application.

Duplicate permits.

17. If a valid permit is lost or damaged the holder of that permit shall apply in writing for a duplicate permit and such permit shall be issued on payment by the holder of such fee as the Authority may deem appropriate.

Duration of permits etc..

18. (1) A permit, approval or consent shall be issued or given for and in respect of such period as the Authority shall see fit.

(2) No fee or part thereof shall be refunded in respect of any permit issued or approval or consent given whether or not the permit or the approval or consent is surrendered, revoked or suspended.

Power to delegate.

19. Nothing in these regulations shall prevent the Authority from delegating to such persons as they shall see fit such powers and duties as are conferred on the Authority by these regulations for such times and under such conditions as the Authority shall see fit.

Recovery of money

20. (1) All lees and any other charges payable under these regulations may be recovered by the Authority as a civil debtor or as a simple, contract debt in any court of competent jurisdiction.

(2) Without prejudice to the generality of subregulation (1), where any fee, or other charge payable under these regulations remains owing and unpaid, the Authority may levy distress on any article belonging to or in the possession, in the market, of the person by whom such money is payable.

(3) Where a lee or other charge, or part thereof, payable under these regulations remains unpaid 28 days after it shall have been due to be paid, any permit issued or approval or consent given and to which that fee or other charge relates shall cease without more to be valid and if any person seeks thereafter to rely on that permit, approval or consent it shall be necessary in order that he may do so for him to obtain agreement from the Authority, on payment of the moneys outstanding and such further amount, if any, as the Authority may determine, to restore the permit, approval or consent, such decision being at the discretion of the Authority.

Penalties.

21. Any person who offends against any of the provisions of these regulations shall be guilty of an offence and liable-

- (a) on summary conviction to a fine at level 4 on the standard scale and a period of imprisonment not exceeding three months; and

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- (b) on conviction on indictment for a period of imprisonment not exceeding 2 years and a fine.

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