

## CHAPTER 146

# THE MARINE PARKS AND RESERVES ACT

[PRINCIPAL LEGISLATION]

ARRANGEMENT OF SECTIONS

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## CHAPTER 146

### THE MARINE PARKS AND RESERVES ACT

An Act to provide for the establishment, management and monitoring of marine parks and reserves, to establish a Marine Park and Reserves Unit, and for related matters.

[1<sup>st</sup> May, 1995]

[GN. No. 314 of 1995]

Acts Nos.  
29 of 1994  
1 of 2008

#### PART I

#### PRELIMINARY PROVISIONS

Short title            1. This Act may be cited as the Marine Parks and Reserves Act.

Interpretation       2. In this Act, unless the context requires otherwise-  
“advisory committee” means the advisory committee of the  
marine parks appointed under section 5;

“animal” includes-

(a) any member of the animal kingdom, whether alive  
or dead, including fish, but shall not include human  
beings;

(b) all or part of the shell, feather, skin, egg, or any other  
part of an animal;

“aquaculture” means the propagation of fish seed or the  
raising of fish through husbandry during the whole or  
part of its lifecycle;

“aquatic flora” means all aquatic plants, seaweeds, water  
weeds and other members of the aquatic vegetable  
kingdom and includes mangroves;

“aquatic substrate” means any rock, stone, gravel, sand,  
shell, limestone, earth and other geological or submerged  
formation and includes dead coral, whether or not  
removed from its natural location;

“appeals authority” means-

- (a) on an appeal to the unit manager, the unit manager;
- (b) on an appeal to the Board, the Board; and
- (c) on an appeal to the Minister, the Minister;

“authorised officer” means-

- (a) the unit manager, warden or any other officer designated pursuant to Part XIII to enforce the provisions of this Act;
- (b) any police officer or other fisheries officer;

“Board” means the Board of trustees established under section 4;

“buffer zone” means any area outside of a marine park which is designated to be a buffer zone of a marine park pursuant to section 16;

“certificate” means a local resident user certificate described in section 19;

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“Director” means the Director of Fisheries appointed under the Fisheries Act;

“explosive” means dynamite, bomb, detonator, or any blasting agent or substance used in the manufacture of explosives;

“fish” means all forms of amphibious or aquatic animal life, including turtles, shellfish, marine mammals, and the young of any amphibious or aquatic animals; and the spat, brood, fry, spawn, ova and young of all such fish;

“fish product” means anything made, collected or obtained from fish or aquatic flora and includes fish meal, dried fish, fish manure offal, fish silage, canned fish, fish oil, pearl, mother of pearl, shell, bêche de mer, ambergris, larva and sponge;

“fishing industry” includes the collection, capture or gathering of fish, fish product, or aquatic flora and includes the collection of coral;

“general management plan” means a general management plan adopted pursuant to section 14;

- “local government authority” means district authority, urban authority or township authority;
- “local resident user” means a person who resides within the boundaries of a marine park or reserve or 800 metres outside those boundaries and includes any person who satisfies the warden that he has come to the area for the purpose of exploitation of the resources of the marine park or reserve;
- “marine park or marine reserve” means an area designated as a marine park or marine reserve pursuant to section 9;
- “Minister” means the Minister responsible for marine parks and reserves;
- “Permanent Secretary” means the Permanent Secretary of the ministry responsible for marine parks and reserves;
- “plant” means any member of the vegetable kingdom, including grass, weeds, trees, or shrubs whether growing on dry land or in fresh or salt water;
- “poison” means any natural or synthetic substance material or thing used to kill or injure animals or plants;
- “structure” means any marker, buoy, monument, fence, road, building, or other man-made item or item brought in from outside a marine park or reserve, that is intentionally built or placed within a marine park or reserve;
- “trap” means any mechanical or fixed device that kills, injures or captures marine mammals and turtles;
- “Unit” means the Marine Parks and Reserves Unit established under section 3;
- “unit manager” means a person designated as the unit manager pursuant to section 3;
- “vegetation” means any form of vegetable matter, alive or dead whether growing on dry land or in fresh or salt water;
- “Village Council” means the village council established under the (Local Government (District Authorities) Act;

- “weapon” means any device or instrument designed to be propelled or to propel any missile for the purpose of catching, impelling or killing animals and includes all firearms, bows, crossbows, spearguns and throwing spears;
- “zone” means a zone created by a zoning plan;
- “zoning plan” means a zoning provision of a general management plan as described in section 17.

## PART II

### ESTABLISHMENT OF MARINE PARKS AND RESERVES UNIT

Establishment  
and Functions of  
Marine Parks and  
Reserves Unit

3.-(1) There shall be established a unit to be known as the Marine Parks and Reserves Unit.

(2) The Unit under subsection (1) shall be within the Division of Fisheries and shall be established by the Director who shall, in consultation with the Board, appoint the unit manager to administer the Unit.

(3) The functions of the Unit shall include to-

- (a) establish and monitor, the control, management and administration of marine parks and reserves;
- (b) seek funds for the establishment and development of marine parks and reserves;
- (c) expend such funds in furtherance of the establishment and development of marine parks and reserves;
- (d) implement and enforce the provisions of this Act and subsidiary legislation pursuant to section 18 to 38 of this Act;
- (e) do all such other things which are necessary and within the powers of the Unit.

(4) Without prejudice to the generality of subsection (3), in carrying out its functions and promoting the purposes of the Act, the Unit may undertake, within and with the consent of the Minister any of the following functions outside the marine parks and reserves-

- (a) establish, operate or manage office and service for the purpose of their duties and functions under this Act, in the publicizing of their activities, the promotion of interest in the conservation of fish, aquatic flora, animals, vegetation and other features and the assistance of visitors to the marine parks;
- (b) provide educational and informational services to local resident users of any marine park or reserve;
- (c) establish, operate, manage, grant concessions or licences to other persons to operate or manage on their behalf any rest camps, lodges, restaurants or other places for the accommodation of visitors travelling to or from any marine park or for the accommodation of visitors in any place of aesthetic, geological, prehistoric, archaeological, historic, or scientific interest, which may be operated in connection with any marine park; and
- (d) operate transport services for the conveyance of visitors to or from the marine parks or other places managed or operated by or on behalf of the Unit.

### PART III

#### ESTABLISHMENT AND FUNCTIONS OF THE BOARD

Appointment  
and Functions of  
Board

4. (1) There shall be a Board of Trustees for marine parks and reserves whose members shall within two months of the coming into effect of this Act, be appointed by the Minister upon the advice of the Permanent Secretary.

(2) The appointment, tenure, quorum, proceedings and meetings of the members of the Board, shall be as provided for in the First Schedule to this Act.

(3) The functions of the Board shall be to-

- (a) formulate policies on marine parks and related facilities and activities;
- (b) oversee the use of the marine parks and reserves revolving fund;

- (c) advise the Director on management of marine reserves; and
  - (d) advise the Minister on approval, revision and amendment of general management plan of any marine parks.
- (4) Without prejudice to the generality of subsection (3), the Board shall advise and direct the Unit Manager on-
- (a) the designation of specified marine and coastal areas as marine parks, marine reserves or buffer zones; and
  - (b) drafting and implementation of regulations, and other matters affecting marine parks and reserves.

Appointment and functions of Advisory Committee.

**5.**-(1) There shall be an advisory committee for each marine park whose members shall, within three months of the coming into effect of this Act, be appointed by the Permanent Secretary on approval of the Board.

(2) The appointment, tenure of office, quorum, proceedings and meetings of the Advisory Committee shall be as provided for in the Second Schedule to this Act.

(3) The functions of the advisory committee shall be to-

- (a) advise the Board on the management and regulations of marine parks;
- (b) oversee the operation of marine parks;
- (c) consult with the warden on technical, scientific and operational matters concerning the marine parks; and
- (d) propose names to the Board for the purposes of appointing a warden.

Appointment and functions of warden

**6.**-(1) There shall be appointed by the Board a warden for each marine park.

(2) The warden shall administer the park subject to the control and authority of the Board and the advice of the advisory committee.

(3) The warden shall, in consultation with the Board, appoint officers to administer the park.

**PART IV**  
**ESTABLISHMENT OF MARINE PARKS**  
**AND RESERVES REVOLVING FUND**

Establishment  
and sources of  
revolving fund

7.–(1) There is hereby established a fund to be known as marine parks and reserves revolving fund which shall serve as a repository for-

- (a) all funding received from the Government for use within or relating to the Unit or any marine park or reserve;
- (b) all voluntary subscriptions, donations or bequests received by the unit or any marine park or reserve from any source;
- (c) all proceeds from users and entry fees, tourism levies, proceeds from licensing fees and other charges imposed by the marine park or reserve in respect of the use or development of, or any other activities, in the marine park or reserve;
- (d) revenue from sustainable resource use or development activities conducted by the unit or any marine park or reserve; and
- (e) any other sum or property which may be vested in the unit or marine park or reserve as a result of the performance of its functions.

(2) The Board shall ensure that the unit manager and warden maintain such accounting records as are required in conformity with Government financial regulations.

(3) Each marine park shall have an account within the revolving fund where all revenues generated from within the marine park shall be retained and expended for pursuance of the objectives set forth in the general management plan of that marine park or reserve.

(4) The unit manager shall ensure that, where the donor of funds deposited in the revolving fund requested that, those funds be used at a particular marine park or reserve, or for particular activities or equipment, all such funds shall be used in accordance with the donor's request.

(5) The unit manager shall, with the approval of the Board, expend other funds from the account for the establishment and development of marine parks or reserves or for any purpose relating to the functions of the unit.

(6) The unit manager and the warden shall, with the approval of the Board expend such funds from the account referred to in subsection (2) as may be apportioned in the general management plan, for the benefit of the villages in the vicinity of marine parks and reserves in order to further the objectives of this Act as stated in section 10.

(7) The Board shall distribute a portion of the net revenues to local authorities in which the marine park is declared.

(8) The director shall submit an annual audited report on the sources and uses of funds under the revolving fund to the Board and the Minister.

## PART V

### INVOLVEMENT OF THE VILLAGE COUNCILS

Role of village  
councils

8.–(1) For each marine park or marine reserve, the unit manager or warden shall specify a list of villages in the vicinity of that marine park or reserve, which affects or is affected by the marine park or reserve.

(2) In preparation of the general management plan, the Minister may, by regulation specify a minimum distance from the boundaries of a marine park within which all villages shall be included.

(3) Any other villages whose population regularly uses or affects the marine park or reserve shall be listed under this section.

(4) The village council of each listed village shall be notified of the specification under subsection (1) and shall upon notifying the warden and the unit manager, be required to convene a meeting to deliberate on such specification.

(5) Each village council, either directly or through a designated committee or other representative, shall-

- (a) participate fully in all aspects of the development or any amendment of the regulations, zoning and general management plan for the marine park, whether by formal planning, regulation or amendment procedures or by informal decision or special order which shall have the effect of regulating or amending such matters;
- (b) advise the technical committee, unit manager and the warden concerning matters relevant to management and conservation of the marine park or reserve; and
- (c) serve as a liaison between the members of the village or community and the warden, unit manager, advisory committee and the Board.

(6) The advisory committee or the warden shall notify each listed village of all impending deliberations or decisions relating to matters described in paragraph (a) of subsection (5) by providing written notice to every district office within which a listed village is located, and to the village committee.

(7) The notice under subsection (6) shall solicit comments from the village inhabitants and shall specify the date of any meeting or the last date for receipt of comments and prior to the decision, the advisory committee shall consider and respond to all comments received.

(8) Except as provided under section 27, the Board shall invalidate any decision concerning a matter described in paragraph (a) of subsection (5) which does not comply with this section.

## PART VI

### DECLARATION OF MARINE PARKS AND RESERVES

Declaration of  
Marine parks and  
reserves

**9.**-(1) The Minister may, after consultation with the relevant local government authorities and by notice published in the *Gazette*, declare any area within territorial waters or exclusive

economic zone or any island or coastal area to be a marine park, or a marine reserve where-

- (a) he is of the opinion that its protection will further the objectives of this Act as set out in section 10;
- (b) the area is of natural scenic, scientific, historical or other importance or value; or
- (c) preservation or management of the area is necessary to properly protect, permit access to, or allow public viewing or enjoyment of an area described in paragraph (a) of this subsection.

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(2) Notwithstanding the provisions of subsection (1), the Minister responsible for national parks may, after consultation with the relevant local government authorities, declare any marine park or any part of a marine park to be a national park in accordance with the provisions of section 3 of the National Parks Act as long as that declaration provides specific assurance that-

- (a) all of the purposes of this Act specifically in section 10, shall continue to apply to an area so declared; and
- (b) the creation and review of regulations for such area shall be made in accordance with sections 8, 11 and 15 of this Act.

(3) A marine park or reserve shall, unless specifically provided to the contrary in the notice of declaration of such an area or general management plan of the area, include all submerged or dry land, waters, airspace, tideland and subsoil within the area described.

(4) The unit manager shall notify local authorities, regional and national planning agencies of the designation of a marine park or reserve under subsection (1).

Purposes of  
marine parks and  
reserves

**10.** The purposes of designation of a marine park or reserve shall be-

- (a) to protect, conserve and restore the species and genetic diversity of living and non-living marine resources and the ecosystem processes of marine and coastal areas;

- (b) to stimulate the rational development of underutilized natural resources;
- (c) to manage marine and coastal areas so as to promote sustainability of existing resource use, and the recovery of areas and resources that have been over exploited or otherwise damaged;
- (d) to ensure that villages and other local resident users in the vicinity of or dependent on a marine park or marine reserve are involved in all phases of the planning, development and management of that marine park or marine reserve, share in the benefits of the operation of the protected area and have priority in the resource use and economic opportunity afforded by the establishment of the marine park or reserve;
- (e) to promote community oriented education and dissemination of information concerning conservation and sustainable use of the marine parks and reserves; and
- (f) to facilitate research and to monitor resource conditions and uses within the marine park and reserves.

Amendment or  
revocation by  
resolution of  
Parliament  
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**11.** Notwithstanding anything contained in the Interpretation of Laws Act, no declaration made under subsection (1) of section 9 shall be amended or revoked except by the resolution of the Parliament.

Resolution of  
conflict

**12.**—(1) In case any right, title, interest, franchise, lease, claim, privilege, exemption or immunity of any person in an area declared to be a marine park or reserve gives rise to conflict, dispute or difference, the Board shall use its best effort to solve such conflict, dispute or difference and shall consult and negotiate in good faith and understanding of the mutual interest of the parties to reach a just and equitable solution.

(2) Where the Board does not reach a solution within ninety days, the conflict, dispute or difference shall be settled by a court of competent jurisdiction.

Restriction on  
grant of right,  
licence, title, etc

**13.**—(1) Except as specifically provided under this Act, no activity shall be permitted and no right, licence, title, interest, franchise, lease, claim, privilege, exemption, or immunity may be granted to any person or entity by any person, agent or entity, whether government or private, in any area that has been declared as a marine park or marine reserve pursuant to this Act, unless-

- (a) such grant is consistent with the general management plan and regulations; and
- (b) there is an express permission of the warden, unit manager, as the case may be.

(2) Where the Minister deems it necessary within a marine park and where it is consistent with the general management plan, the Minister may, in consultation with the Board authorise-

- (a) the construction of roads, bridges, aerodromes, parks, buildings and fences;
- (b) provision of water supplies and the carrying out of works necessary for the purposes of this Act;
- (c) taking of steps so as to ensure the conservation, security and sustainable use of fish, animals, vegetation, aquatic substrate and land;
- (d) setting aside of all or any portion of a marine park as breeding place for fish and other animals and as nurseries for aquatic flora and vegetation;
- (e) the making of recommendations of sites suitable for the erection and operation by persons of hotels and other buildings for the accommodation of visitors, shops or similar undertakings;
- (f) the control, operation, establishment or management of any hotel, shop, tourist service or similar undertaking or grant of concessions or licence to other persons to operate such services in any marine park or the building under the control of the marine park; and

- (g) the sale or exchange of any specimen of animal or vegetable life in a marine park and purchase of or exchange or otherwise the acquisition of any specimen of animal or vegetable life which he may consider desirable to introduce into a marine park.

(3) Construction or other activity within a marine park or reserve, including the activities authorised under this section shall not be undertaken without conducting an assessment of the environmental impact of such activities pursuant to legal policy, practical requirements or pursuant to the general management plan or regulations under this Act or any general management plan for the area of the marine park or reserve.

## PART VII GENERAL MANAGEMENT PLAN

Adoption  
of general  
management plan

**14.**-(1) The Minister shall adopt a general management plan for each marine park and by regulation, state the requirements for the adoption of the general management plan.

(2) The general management plan shall contain-

- (a) a full description of the nature and location of the marine park;
- (b) a description of the biological, environmental, geological and cultural resources of the area and use of the area by local residents;
- (c) detailed statements of its proposed objectives in accordance with section 10;
- (d) a detailed account of the means and methods by which those objectives will be harmonised and carried out including proposed activities, development and zoning pursuant to section 17;
- (e) description of local resident users and other elements which distinguish between classes and categories to which the description apply; and

(f) description of buffer zones surrounding a marine park which may include terrestrial area, tideland waters, submerged lands, airspace and subsoil.

(3) Not later than six months after the declaration of a marine park under section 9, the advisory committee, and the village councils shall prepare and recommend to the Board a proposed general management plan for that marine park, and the Board shall consider such plan and shall recommend for its adoption to the Minister.

Collaboration in preparation of general management plan

**15.** The Minister, the Board, the advisory committee, and village councils shall, in the preparation of the general management plan, work closely with the planning commission or any regional planning body comprehensive general management plan for the park and surrounding lands.

Notification on adoption and restriction on allocation in buffer zones

**16.**—(1) Where the general management plan is adopted, the Minister shall notify local authorities, regional and national planning agencies of the adoption.

(2) Subject to subsection (1), no authority shall allocate land and put to new use any area within a buffer zone unless—

(a) an assessment of the environmental impact of the proposed activity is conducted pursuant to legal requirements, policy, practice or pursuant to any applicable general management plan or regulations made under this Act; and

(b) written notification of the proposed allocation of land or new use is submitted to the warden or unit manager not less than thirty days prior to preparation of the environmental impact assessment.

(3) Where it is apparent that, the proposed activity has negative effects on fish, animals, water, aquatic flora, vegetation or aquatic substrate, the advice of the Board shall be sought.

## PART VIII

### ZONES WITHIN MARINE PARKS

- Plan of zones and contents
- 17.**—(1) The Advisory Committee shall prepare and submit a plan of zones as part of the general management plan for a marine park.
- (2) A plan of zones shall contain-
- (a) a specific map showing the zones and boundaries of the marine park;
  - (b) description of zones and activities permitted within each zone; and
  - (c) any other matter or description necessary for identifying components in the zones.

## PART IX

### REGULATIONS CONCERNING ENTRY, RESIDENCE AND SETTLEMENT IN A MARINE PARK OR RESERVE

- Regulations restricting entry, residence, and settlement in marine park or reserve
- 18.**—(1) The Minister may, after consultation with the Board, upon advice of the Advisory Committee, and in consultation with village councils, make regulations prohibiting, restricting and controlling entry into, and residence within, any marine park or reserve.
- (2) The regulations made under subsection (1) shall be published in the *Gazette*.
- (3) Nothing in any regulations made under subsection (1) of this section shall operate so as to prohibit-
- (a) the entry into, or residence within any marine park or reserve, or any part thereof, of the warden, the unit manager, members of the Board, members of the advisory committee, persons authorised by authorised officers within the scope of their authorised activities;

- (b) the entry, into the marine park or reserve upon any public highway, of persons travelling through the marine park or marine reserve along such highway, or upon any water way or water of travellers who are unable to avoid such entry;
- (c) the entry into the marine park or reserve of any local resident users of that marine park or reserve;
- (d) the entry into, or residence within, the marine park or reserve of the spouses, dependants and servants of a person specified in paragraphs (a) and (c) of this subsection to the extent of that person's right of access or residence; or
- (e) the continued residence within a marine park or reserve of any person whose original residence was within such area at the establishment of such marine park or reserve.

(4) Nothing in this section shall be construed as exempting any person from complying with any other provision of this Act or any subsidiary legislation including provisions which restrict or control means or places of entry or occupancy.

(5) Regulations under this section may require the payment of fees upon the issue of a permit to enter into the area, according to a schedule specifying different classes of persons or different purposes of entry.

Regulations in relation to local resident users

**19.**—(1) The Minister may, after consultation with the Board, make regulations requiring—

- (a) village councils to keep a list of local resident users from that village to whom access to the marine park or reserve is granted pursuant to the general management plan; or
- (b) persons described in paragraphs (c) and (d) of subsection (2) of section 18 or any class thereof, who reside in or seek a continuing right to enter the marine park or marine reserve to apply for a local resident user certificate.

(2) Where local resident user certificates are granted under subsection (1), the general management plan may-

- (a) itemise qualifications, including place, time and purpose of residence, by which a local resident user may qualify for certificate under subsection (1);
- (b) authorise or require the village council of user certificate to any members of the village who may apply thereof and who qualify under those rules, and to submit to the warden a list of certificates issued; or
- (c) authorise or require the warden to issue local resident user certificates to persons not members of a village who qualify as local resident users.

(3) A person aggrieved by the refusal of grant of a local resident users certificate by the warden, unit manager, village councils or other authorised person, or by the imposition of any condition in a certificate issued to him, may appeal in accordance with the provisions of Part XII of this Act.

Regulations  
under sections  
16,17, 18 and 19

**20.** In so far as it is not inconsistent with a general management plan that applies to an area, regulations under sections 16, 17, 18 and 19 may-

- (a) be made in respect of all or any of the marine park, reserve or buffer zone or any part or parts thereof;
- (b) restrict, regulate, control, prohibit the entry or residence of any person who does not possess a permit or local resident users certificate issued under this Act;
- (c) impose such terms or conditions upon permits or local resident user certificates as shall be deemed appropriate including limits on the place or manner of entry or residence within the marine park;
- (d) require any person within a marine park or reserve, when requested by an authorised officer to produce any certificate or permit issued to him or to prove that he is a person to whom such regulation apply;
- (e) require any holder to surrender a permit or certificate upon demand of an authorised officer or upon departure from the area;

- (f) authorise the removal, by any authorised officer, any person found within a marine park or marine reserve in contravention of regulations made under this Act;
- (g) empower the warden to erect barriers on public roads into or within the marine park or reserve for the control of entry into an area to which the regulations apply;
- (h) set penalties not exceeding those provided in subsections (1), (2), (3) and (4) of section 32 for the breach of any regulations made under paragraphs (d), (e) or (f) of this section or any term or conditions of a licence or certificate or the breach of any regulation made under section 18; and
- (i) provide generally for all matters or things necessary or incidental to the foregoing.

Prohibition, restriction or control of residency or settlement in marine parks

**21.**—(1) The Minister may, by order published in the *Gazette*, and in so far as it is not inconsistent with the general management plan, prohibit, restrict, or control residence or settlement in any part of the marine park for the time and in such manner as he thinks fit.

- (2) Orders made under this section may-
  - (a) be made in respect of any category of residents or settlements;
  - (b) provide for exemption subject to such conditions as the warden may think fit after receiving advice from the advisory committee;
  - (c) authorise the removal of any person who takes up or continues residence or makes or continues any settlement in contravention of such order; and
  - (d) authorise entry into any land within the marine park other than a dwelling house for purposes of determining the need for measures for the conservation or improvement of any area of the marine park or the taking of such measures, or constructing, inspecting or repairing any authorised works.

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(3) An order made under this section shall not be construed as imposing a duty to any person to destroy, demolish, alter or remove any building, works, road or truck of a permanent nature or any part of that structure which were constructed prior to the enactment of this Act except in accordance with the Land Acquisition Act.

## PART X OTHER REGULATIONS

Restriction of certain activities in marine parks or reserves

**22.**—(1) A person within a marine park or reserve shall not, except in accordance with the terms and conditions specified in the regulations or the provisions of this Act—

- (a) fish, hunt, kill or capture any fish or animal or disturb any egg, nest, roe or spawn within the marine park or reserve;
- (b) gather, collect or remove any fish, animal, aquatic flora, or vegetation, whether live or dead, or any sand, minerals or aquatic substrate;
- (c) sell or transport any fish, animal, aquatic flora, vegetation, or the products thereof or any sand, minerals, or aquatic substrate;
- (d) be in possession of any weapon, explosive, trap or poison;
- (e) engage in aquaculture;
- (f) make salt;
- (g) conduct any sport fishing, tourism or other commercial activity;
- (h) operate any vessel or vehicle within any marine park or reserve;
- (i) clear or cultivate land for any agricultural use, or use or operate agricultural implements or machinery;
- (j) construct or extend any buildings, road or any other work; or
- (k) destroy, deface or remove any object within a marine park or reserve.

(2) A person who contravenes the provision of this section, commits an offence.

(3) Paragraphs (a), (b) and (c) of subsection (1) shall not apply to any domesticated animal or egg lawfully introduced into any marine park or reserve.

## PART XI

### GENERAL POWERS OF THE MINISTER TO MAKE REGULATIONS

General powers of  
Minister

**23.**—(1) The Minister may make regulations for the implementation of this Act, so far as it is not inconsistent with the general management plan of any marine park or reserve and the regulations may—

- (a) allow the introduction of grazing animals, or agricultural crops;
- (b) prescribe the periods or time during which a park or reserve shall be open to the public;
- (c) prescribe the conditions under which all or any species of animal may be photographed in a marine park or reserve;
- (d) prohibit or regulate lighting of fires in a marine park;
- (e) prohibit or regulate lighting of fires in reserve;
- (f) prohibit, control or regulate the introduction of any wild or domestic fish, animal, aquatic flora or vegetation into marine park or reserve;
- (g) prohibit, restrict or control the grading of any lands or the construction, maintenance or repair of artificial or natural drains, gullies, contour banks, and terraces and the protection of slopes and closed areas;
- (h) restrict or control the collection, conservation or use of wells, bore holes, water holes, streams, storm water, rivers, lakes or other waters;
- (i) prescribe the conditions and regulate the manner in which any person shall be granted any right, title, interest, authority, concession or licence to operate hotels, shops or other facilities for the use of visitors to a marine park;

- (j) provide for the manner in which a person may exercise the rights granted under these regulations and provide for economic opportunity for local residents and the employment and training of local residents in these activities;
  - (k) prescribe the forms to be used and the fees to be paid in respect of any application or request described; and
  - (l) prescribe the procedure to be followed in consulting village councils under section 8 of this Act.
- (2) The regulations may provide specific limitations or regulate activities based upon-
- (a) the species of fish, animals, vegetation or aquatic flora;
  - (b) the methods employed in fishing, hunting, capturing and gathering of fish and aquatic flora;
  - (c) the type of nets, gear and other equipment permitted in the Marine park or reserve;
  - (d) the type of vessels and vehicles permitted in the marine park or reserve;
  - (e) the geographical location in which activities may be conducted;
  - (f) the district or village of residence of the applicant for licence or other authorisation;
  - (g) the size of the fish, animal, vegetation, or aquatic flora; or
  - (h) the size of the catch of any fish, animal, vegetation or aquatic flora.
- (3) The regulations may close down or limit such activities seasonally or for any period of time.
- (4) The regulations described in subsections (1) and (2) may-
- (a) prescribe fees for licences and for permissions and set the terms and conditions for the issue and the manner and form of application;
  - (b) provide for exemptions or conditional exemptions in accordance with specified conditions, or for limitation of any provision or requirement to certain period of seasons of the year or to certain times or at certain intervals;

- (c) make provision for the qualification of authorised co-operatives and associations of local residents and the licensing of such associations; and
- (d) prescribe penalties not exceeding the amount set forth in subsection (1), (2) and (3) of section 32 for breach of the condition of any licence, failure to obtain licence, giving false information or other contravention or violation of the regulations.

(5) Upon the recommendation of the unit manager or warden and where it is necessary or expedient for the conservation of soil, the prevention of erosion, the minimization of sedimentation, or for the protection and preservation of natural resources within a marine park or marine reserve, the Minister may, by order in the *Gazette*, provide or prescribe for any of the matters set forth in subsection (4) of this section.

(6) An order made under subsection (5) shall be of temporary effect, unless consistent with the general management plan, and subject to approval by the advisory committee and village councils.

(7) The Minister may, by an order published in the *Gazette* order the application of some or all of the regulations under the Forest Act, the Wildlife Conservation Act, or the Antiquities Act to be applicable within a marine parks and reserve, and may delegate all or part of the enforcement of such regulations to the officers authorised under such laws.

(8) The regulation applied in accordance with subsection (7) of this section shall not be effective where it is inconsistent with the general management plan of any marine park or reserve to which it is applied.

**24.-(1)** A person shall not-

- (a) engage in any commercial activity within a marine park or reserve, unless that activity is specifically permitted under the general management plan or regulations adopted for that marine park or reserve;

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Cap. 283  
Cap. 333

Restriction on  
commercial  
activities, mining,  
etc., in park or  
reserve

- (b) mine or install any heavy industry within a marine park or reserve;
- (c) mine or install any heavy industry outside the boundaries of a marine park or reserve in a manner that causes negative effects on that marine park or reserve;
- (d) deposit or discharge any oil, chemicals, or other hazardous substance within any marine park or reserve or buffer zone or adjacent areas having an impact on the marine park or reserve;
- (e) deposit or discharge any sewage, litter, rubbish, or other article or substance within any marine park or reserve, buffer zone or adjacent areas having an impact on a marine park or reserve, except in accordance with specific permission from the warden, and consistent with the general management plan of the marine park;
- (f) transfer any permit, licence or certificate required under this Act or subsidiary legislation, or forge or otherwise obtain such document by misrepresentation or other illegal means; or
- (g) contravene this Act or any subsidiary legislation made under this Act or any direction given by an authorised officer.

(2) A person who contravenes any of the provisions of this section commits an offence under this Act.

Acts in defence of human life, property, etc., not to constitute offences under this Act

**25.**—(1) Nothing in this Act shall make it an offence to take all reasonable measures extending to killing or injury of any non-domesticated animal, in defence of human life or in defence of property unless such act is done as a result of molestation or deliberate provocation by or with the knowledge and consent of the person concerned.

(2) A person who, in any circumstance, kills or wounds non-domesticated animal in a marine park shall report that event at the earliest possible moment to the nearest authorised officer.

(3) Failure to report the killing or the wounding under subsection(1) shall constitute an offence under this Act.

Orders under this Act to be published and submitted to village councils

**26.** Orders made under this Act shall be in writing and shall be published in the manner required by law, and shall be delivered to the village councils of all listed villages under section 8 for any marine park or reserve to which such orders apply.

## PART XII APPEALS

Appeals to lie to Board and Minister

**27.** A person aggrieved by-

- (a) the refusal of the warden, village council or any other person authorised in that behalf, to issue or grant to him any permit or certificate which may be issued or granted under this Act or any subsidiary legislation made under this Act; and
- (b) any condition or term annexed to a permit, or certificate, may appeal to the Board and further to the Minister and the decision of the Minister shall be final.

Orders of general application not to be appealable

**28.** A person aggrieved by any order made under this Act which adversely affects that person may appeal against such order to the Minister, provided that no, appeal under this section shall lie concerning an order of general application, which has been subject of advance notice and solicitation of comments to section 8 of this Act.

Appeal authority may vary, affirm or set aside decision, etc.

**29.**-(1) On appeal under sections 27 and 28, the appeal authority may affirm, vary or set aside the decision, order, term or condition subject of an appeal and may give directions in respect of anything previously done or suffered pursuant to the varied decision of order, term or condition.

(2) Subject to any further appeal provided for by this Act, the decision of the appeals authority and any direction given by it shall be binding upon all the parties concerned.

- Minister to make rules of procedure on appeal
- 30.** The Minister may, by rules prescribe-
- (a) the procedure upon appeal under sections 27 and 28 of this Act;
  - (b) the fee to be paid upon lodging any appeal; and
  - (c) the time within which an appeal may be instituted.

### PART XIII ENFORCEMENT

Repealed **31.** [Repealed by Act No. 1 of 2008 section 34.]

- Penalties **32.**-(1) A person who contravenes the provisions of section 25 of this Act commits an offence and on conviction shall be liable in case of a first offence to a fine not exceeding two hundred thousand shillings or to imprisonment for a term not exceeding two years or to both, in case of a subsequent offence, to a fine not exceeding four hundred thousand shillings or imprisonment for a term not exceeding four years or to both.
- (2) Where it is specified in this Act that, an act or omission constitutes an offence, the penalty for that offence in case of first offence shall be a fine not exceeding one hundred thousand shillings or a term of imprisonment not exceeding twelve months and for every subsequent offence shall be a fine not exceeding one hundred and fifty thousand shillings or a term of imprisonment not exceeding eighteen months.
- (3) All other contravention and where any subsidiary legislation made under this Act makes no specific provisions as to penalty, a person contravening such provisions shall be liable in case of a first offence, to a fine not exceeding fifty thousand and a term of imprisonment not exceeding six months and for every subsequent offence, to a fine not exceeding one hundred thousand shillings or a term of imprisonment not exceeding twelve months.
- (4) In addition to a fine and term of imprisonment, where a person commits an offence under paragraphs (i), (j), (k) of subsection (1) of section 22; paragraph (d) of subsection (2) of

section 23; and paragraphs (b), (c), (d) and (e) of subsection (1) of section 24, or under any subsidiary legislation made under this Act, that person shall be required to clean up all substance and articles discharged or to remove all structures built or placed within a marine park or reserve, or buffer zone.

(5) Where a person causes damage to any fish, animal, aquatic flora, subsurface formation or mineral in addition to fine and term of imprisonment, that person may be required to pay for the value of or to restore the resources so damaged.

(6) In subsection (5), the value of a resource includes its biological, scientific and aesthetic value and the value to the continued integrity of the ecosystem of which it is a part.

(7) Where the restoration of the value of a resource is not possible, appraisal by other methods may be used as evidence of the restoration of the resource.

(8) The court may, in addition to any other penalty, order the person convicted of an offence under this section to forfeit to the Government-

- (a) any weapon, explosive, trap, poison, vehicle or any other instrument used by that person in the course of committing the offence;
- (b) any article or thing illegally possessed within a marine park or reserve; and
- (c) any animal, fish, aquatic flora, vegetation, sand, mineral, aquatic substrate or any other thing taken from a marine park or reserve or any product of that thing.

(9) Any domesticated animal, agricultural implements or machinery, found within a marine park or reserve, except if lawfully present, and any vegetation that has been introduced in the marine park or reserve without express permission, shall be the property of the marine parks or reserves unit and may be forfeited to the Government or lawfully destroyed by an authorised officer.

Powers of seizure  
and forfeiture,  
etc.,

**33.**—(1) Any authorised officer may, when he has reasonable grounds to suspect that an offence has been committed—

- (a) arrest any person found committing an offence under this Act or any subsidiary legislation made under this Act or whom he reasonably suspects or believes of having committed such an offence, or is about to commit such an offence;
- (b) board and search any vehicle, vessel, or any part of the vehicle or vessel; and
- (c) enter into any premises, building, land or any part thereof, to seize, remove, and retain—
  - (i) any animal, fish, aquatic flora, vegetation, sand, mineral, aquatic substrate of any other thing; and
  - (ii) any thing or product of that thing, illegally possessed, used or obtained in contravention of this Act or taken from a marine park or reserve or which appears to him to constitute evidence of any offences.

(2) The power of seizure, removal and retention under subsection (1) of this section, shall be construed to include powers—

- (a) to seize, retain and remove—
  - (i) any receptacle other than a vessel or vehicle, in which such item is contained;
  - (ii) any machinery, other than propellant machinery of a vessel or vehicle, implement, utensil, material or substance used for the commission of any offence under this Act or subsidiary legislation made under this Act; and
  - (iii) any book of account or other document which appears to him to contain evidence which proves the commission of the offence under this Act or any subsidiary legislation made under this Act; or
- (b) to direct any vessel or vehicle seized to proceed to such port or place in Tanzania as the officer shall direct for unloading the fish, fish product, aquatic flora, product

of aquatic flora, mineral or other thing, after which the officer may detain the vessel or vehicle for a reasonable time necessary to effect the unloading.

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(3) Where a court is satisfied that an offence under this Act or subsidiary legislation has been committed in respect of which any item has been seized under subsection (2) of this section, the court may order such seized items to be forfeited to the Government and it may be dealt with as provided for in the Fisheries Act.

(4) Where, upon conviction of an offence under this Act or any subsidiary legislation, the court is satisfied that, any vessel or vehicle was used in the commission of the offence, the court may order such vessel or vehicle to be forfeited to the Government, unless the owner of the vehicle proves to the court that, the vessel or vehicle was so used without his knowledge or consent.

Proof and  
admissibility of  
documents and  
signature

**34.** In any proceedings for an offence under this section, a certificate signed by the authorised officer stating the value of any illegally obtained fish, animal, vegetation, aquatic flora, sand, mineral, aquatic substrate or other thing or product that the thing or any damage to the resources of marine park reserve shall be admissible in evidence and shall be *prima facie* evidence of the matters stated in that certificate including the fact that the signature in the certificate is that of the person holding the office specified in the certificate.

Liability under  
other laws

**35.** Nothing in this Act shall be deemed to prevent any person from being prosecuted under any other law for any act or omission which also constitutes an offence against this Act or from being liable under such other law which provides for punishment or penalty greater than twice the punishment or penalty for the same offence under this Act.

Compensation  
for damages or  
injuries

**36.** Nothing in this Act shall affect the right of the Government or of any person to sue for and recover compensation for or in respect of damage or injury caused by an offence against this Act.

Award for information leading to conviction of offender

**37.** The court may award any amount not exceeding one half of any fine imposed for an offence under this Act to the person, other than a person in the service of the Government, who has supplied information leading to the conviction of an offender.

Detention of offender pending arrival of authorised officer

**38.** An authorised officer may, orally or in writing, authorise any person to detain or remove a person whom the authorised officer reasonably believes to be an offender or intends to contravene the provisions of sections 22(1)(a), (b), (c), (d) and (g), 22(2)(f), (g) and (h) and or the regulations made under this Act, pending the arrival of authorised officers.

## PART XIV MISCELLANEOUS PROVISIONS

Preference to local resident user in granting licences, etc.

**39.** In granting of licences, concessions and other rights under this Act, preference shall be had, where appropriate, to local resident users and to the use of resources within the area of the marine park or reserve to which such licence, concession or right apply.

Permit, etc., not to be granted to disqualified persons  
Cap. 283  
Cap. 282

**40.** A permit, licence or certificate shall not be issued under this Act to any person who has been disqualified because of past contravention or suspension for breach of terms and conditions under the Wildlife Conservation Act or the National Parks Act or any written law of any country relating to the protection of wildlife, until the authorised officer specifically lifts such disqualification.

Land acquisition and its effects  
Cap. 118

**41.**—(1) The Minister may, if he considers necessary for the furtherance of the objectives of this Act, recommend the acquisition of land structure or any part of the land or structure by the President under the Land Acquisition Act.

(2) Where the President acquires land, structure or place under subsection (1), the assessment of the amount of compensation payable under the Land Acquisition Act, shall not take into account paleontological, archaeological,

historical, ecological or scientific value, unless the person to be compensated paid any sum for that characteristic when he acquired that land, structure or any part of the land or structure.

(3) Notwithstanding subsection (2), compensation shall not be payable to an owner of land or of any interest upon which works have been constructed, developed or improved after the publication of a notice of intention to declare an area to be a marine park or reserve or after submission of general management plan, unless such construction development or improvement has been done in reliance upon an express permission from the unit or planning agency.

Unit to be body corporate

**42.** Where the President considers that, marine parks and reserve may be conducted on a permanent and more coordinated basis, he may, by order published in the *Gazette*, declare the unit to be a body corporate.

Applicability of other laws to this Act  
Cap. 279  
Cap. 283

**43.** Unless otherwise provided for in this Act or any subsidiary legislation, or the general management plan, acts or omission contrary to this Act, the Fisheries Act, the Fisheries Principal Regulations, other Fisheries Regulations, the Wildlife Conservation Act, or any other Act or provision governing the conservation of natural resources shall apply to a marine park or reserve.

Liability of authorised officer, etc.

**44.** No matter or thing done by the Director, an authorised officer or any other person empowered to perform any function under this Act, shall, if done in good faith in execution of his function under this Act, render that person personally liable for the matter or thing concerned.

## PART XV

### REPEALS, SAVINGS AND TRANSITIONAL PROVISIONS

Omitted

**45.–48.** [Omitted.]

- Provisions of this Act to supersede others
- 49.** Where any by law made by a local authority is inconsistent with any provision of this Act or any subsidiary legislation or general management plan, the provision of this Act or of the other subsidiary legislation or general management plan shall be construed so as to revoke, to the extent of the inconsistency, the provision of such by law.
- Amendment of Schedules
- 50.** The Minister may, by order published in the *Gazette*, add to, amend, vary or replace the First and Second Schedules to this Act.

## FIRST SCHEDULE

(Made under section 4(2))

### THE BOARD

- Composition of Board
- 1.** The Board shall consist of members whose numbers shall not be less than seven and not more than eleven including-
- (a) the Permanent Secretary or his representative;
  - (b) the Director of Fisheries;
  - (c) an eminent marine scientist;
  - (d) a member of Parliament whose constituency includes the area of a marine park;
  - (e) a representative from the Planning Commission or any other agency dealing with national planning;
  - (f) a member from a Non-Governmental Organisation (NGO) supporting marine parks and reserves;
  - (g) a business representative with a commercial interest in marine parks or reserves; and
  - (h) not more than three other members to be appointed by the Minister.
- Non-voting members
- 2.** The Unit Manager and the Permanent Secretary shall be *ex officio* members of the Board, and the Unit Manager shall be the Secretary to the Board.
- Chairman
- 3.** The Minister shall appoint a chairman from three candidates to be nominated by the members of the Board.
- Vice-chairman
- 4.** The members of the Board shall, from among their number elect a vice-chairman, who shall hold office for one year, but shall be eligible for re-election subject to his continuing being a member of the Board.

- Tenure of office 5. A member of the Board shall, except in case of misconduct or termination for other reasons, hold office for three years, but shall be eligible for re-election.
- Meeting of Board 6.-(1) An ordinary meeting of the Board shall be convened by the chairman and the notice specifying the place, date and time of the meeting shall be sent to each member, at his usual place of business or residence, not less than fifteen days before the date of the meeting.
- (2) The chairman or in his absence the vice-chairman, shall be bound to convene a special meeting of the Board upon receipt of a request in writing in that behalf signed by not less than two members of the Board or where the chairman or vice-chairman is required to do so, by the Minister.
- (3) The quorum at any meeting of the Board shall be five members.
- (4) A member who has an interest, direct or indirect, in the matter before the members shall, as soon as reasonably practicable, disclose to the chairman or vice-chairman the nature of the interest and shall not, except with the consent of a majority of the remaining members present and voting, take part in any deliberations or in the decision of the Board.
- (5) Subject to other directions to be given by the Minister and the provisions of this Schedule, the Board may regulate its own proceedings.
- Annual report 7. The Board shall, at least annually, report to the Minister about activities, proposed development and other works on the marine parks, and the Minister shall submit that report to the National Assembly for approval.

## SECOND SCHEDULE

*(Made under section 5(2))*

### THE ADVISORY COMMITTEE

- Composition of Committee 1.-(1) The Advisory Committee shall consist of members whose number shall not be less than nine and shall not be more than eleven including-
- (a) one representative of the ministry responsible for fisheries;
  - (b) two persons who are members of village councils whose villages are in the vicinity of or affected by a marine park;
  - (c) one representative of a local authority from an area containing all or part of a marine park;
  - (d) two representatives from these business entities-
    - (i) a private commercial concern currently operating in the fish or marine products industry in the vicinity of the marine park; and

- (ii) a private commercial concern currently operating in the tourism industry in the vicinity of the marine park or reserve;
- (e) an officer dealing with natural resources at a district level of the district which includes at least part of the marine park;
- (f) two representatives from among the following institutions and organisations-
  - (i) a scientific institution with expertise in the field of marine conservation; and
  - (ii) non-profit organisations concerned with marine conservation;
- (g) one representative of the regional authority with jurisdiction over the area of the marine park; and
- (h) one member to be appointed by the Director.

Chairman and  
Vice-chairman

2. The members of the Advisory Committee shall select from among their number, a chairman and a vice-chairman who shall hold office for three years unless their membership is terminated, and shall be eligible for re-election.

Tenure of office

3. The Members of the Advisory Committee shall hold office for three years and unless their membership is otherwise terminated due to misconduct or any other reason, they shall be eligible for re-election.

### NON-VOTING MEMBERS

Ex-official  
members

4. The Warden and the Unit Manager shall be *ex officio* members of the Advisory Committee and the warden shall be the Secretary to the Advisory Committee.

### MEETINGS AND PROCEDURAL MATTERS

Meetings of  
Committee

5.-(1) An ordinary meeting of the Advisory Committee shall be convened by the chairman and the notice specifying the place, date and time of the meeting shall be sent to each member at his usual place of business or residence not less than seven days before the date of the meeting.

(2) The chairman, or in his absence the vice-chairman shall be bound to convene a special meeting of the Advisory Committee upon receipt of a request in writing in that behalf signed by not less than two members or where the chairman or vice-chairman is required to do so, by the Permanent Secretary, unit manager or warden.

(3) The quorum at any meeting of the Advisory Committee shall be five members.

(4) A member who has any interest, direct or indirect, in the matter before the members shall, as soon as reasonably practicable, disclose to the chairman or vice-chairman the nature of the interest, and shall not, except with the consent of a majority of the remaining members present and voting, take part in any deliberations or in the decision of the Advisory Committee.

(5) Subject to other directions to be given by the Permanent Secretary, Unit Manager or warden subject to the provisions of this Schedule, the Advisory Committee shall regulate its own proceedings.

Annual report

**6.** At least annually, the Advisory Committee shall report to the members concerning activities, proposed developments and other works on the marine parks, for approval by the members.

Conditions specified in Schedule

**7.** The unit manager shall emulate the conditions laid down under item 5 of this Schedule in respect of a marine reserve.

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