

**CONSULTATION DRAFT
FOR DISCUSSION PURPOSES ONLY DATED
JUNE 17, 2015**

**FISHERIES RESOURCES (JURISDICTION AND
CONSERVATION) (FLATS FISHING)
REGULATIONS, 2015**

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**FISHERIES RESOURCES (JURISDICTION AND
CONSERVATION) ACT
(CHAPTER 244)**

**FISHERIES RESOURCES (JURISDICTION AND
CONSERVATION) (FLATS FISHING)
REGULATIONS, 2015**

The Minister, in exercise of the powers conferred by section 19 of the Fisheries Resources (Jurisdiction and Conservation) Act, makes the following Regulations —

1. Citation.

These Regulations may be cited as the Fisheries Resources (Jurisdiction and Conservation) (Flats Fishing) Regulations, 2015.

2. Interpretation.

In these Regulations —

“**Act**” means the Fisheries Resources (Jurisdiction and Conservation) Act¹;

“**Conservation Fund**” means the Fund referred to in regulation 6 into which fifty per cent of revenues collected from the issuance of flats fishing permits shall be deposited;

“**fishing guide**” means a person who acts, for compensation or reward, as a flats fishing guide for another who fishes in the flats by hook or bait (angling) and includes a person who —

- (a) accompanies and assists another person to angle;
- (b) attends another person at or near the flats in a way that directly or indirectly assists that person to angle;
- (c) transports another person to and from the flats, or between different areas of the flats, for the purpose of angling;

¹*Vol. V, (Ch. 244)*

“**fishing lodge operator**” means a person issued a permit under the Hotels Act² to operate a fishing lodge; *(will require amendment to the Hotels Act)*

3. Permit required for foreign fishing in the flats.

- (1) A non-Bahamian shall not, unless the holder of a personal permit, engage in foreign fishing within the flats.
- (2) A vessel, other than a Bahamian owned and licensed charter vessel, shall not engage in flats fishing unless —
 - (a) a permit to engage in sports fishing has been issued in respect of the vessel in accordance with the Act and regulation 47 of the Fisheries Resources (Jurisdiction and Conservation) Regulations³; and
 - (b) each person, other than a Bahamian, intending to fish in the flats by means of the vessel is the holder of a valid permit granted under regulation 4.
- (3) A non-Bahamian wishing to fish within the flats must apply for a personal permit in Form No. 1 as set out in the *First Schedule* and pay the prescribed fee.
- (4) Application for a personal permit to engage in flats fishing shall be addressed to the Minister and may be submitted to the Department of Marine Resources or to a fishing guide, fishing lodge operator or a Family Island administrator authorised in accordance with regulation 4.
- (5) An application may be submitted in hard copy or electronically.

4. Grant of flats fishing permit.

- (1) The Minister may authorise in writing a fishing guide, fishing lodge operator or a Family Island administrator, for and on behalf of the Minister, to accept and process applications and grant and issue permits to persons, not being Bahamians, to engage in flats fishing.
- (2) The Minister shall not authorise a fishing guide or fishing lodge operator under paragraph (1) unless such guide or operator is certified in accordance with regulation 5.
- (3) A flats fishing permit shall be issued to an applicant only upon payment of the prescribed fee.
- (4) Subject to regulation 6, fifty per cent of fees payable upon the issuance of a flats fishing permit shall be deposited into the Consolidated Fund.

²Vol. VI, (Ch.289)

³Sub. Leg., Vol. IV, (Ch. 244 - 14)

- (5) Where application for a flats fishing permit is refused by an authorised fishing guide or fishing lodge operator, or a Family Island administrator, the applicant may appeal the decision to refuse the application directly to the Minister and the Minister may confirm the decision or grant the permit.
- (6) A flats fishing permit granted under this regulation —
 - (a) shall be issued in Form No. 2 as set out in the *First Schedule*;
 - (b) shall state the period for which it is granted;
 - (c) may be granted subject to such conditions, restrictions or limitations as the granter considers appropriate; and
 - (d) shall be displayed prominently in the vessel, or be easily retrievable by an angler, as the case may be.
- (7) The Minister shall cause to be kept a record of all flats fishing permits issued under this regulation.
- (8) A sports fishing permit referred to in regulation 3(2)(a) shall, where the vessel engages in foreign fishing in the flats, be subject to the requirements that —
 - (a) the vessel employs a minimum of one certified fishing guide; and
 - (b) a certified fishing guide be employed at a ratio of one to two, namely, one guide for every two anglers fishing in the flats by means of the vessel.

5. Certification of guides and operators.

- (1) A fishing guide or fishing lodge operator wishing to be certified for the purposes of this Act must apply in writing to the Department of Marine Resources in Form No. 1 as set out in the *Second Schedule* and pay the prescribed fee.
- (2) A person eligible to apply for certification as a fishing guide under paragraph (1) must —
 - (a) be a citizen or permanent resident of The Bahamas;
 - (b) hold a minimum of a Class-B Captain's licence;
 - (c) successfully complete the fly-fishing training and certification programme offered by the Ministry of Tourism and attend regular refresher courses; and
 - (d) satisfy all criteria established and published by the Department of Marine Resources.
- (3) The Department of Marine Resources —

- (a) on granting certification, shall issue a certificate in Form No. 2 as set out in the *Second Schedule*;
 - (b) may subject the grant of a certificate to such conditions, restrictions or limitations as the Department considers appropriate; and
 - (c) shall keep a register, accessible to the public, of all certified fishing guides and certified fishing lodge operators.
- (4) A person eligible to apply for certification as a fishing lodge operator under paragraph (1) must —
- (a) be a citizen or permanent resident of The Bahamas; and
 - (b) satisfy all criteria established and published by the Department of Marine Resources.
- (5) A certified fishing guide or certified fishing lodge operator shall display the relevant certificate in a prominent place in the vessel or business establishment, as the case may be.
- (6) A certification granted under this regulation is renewable annually and may be suspended or revoked by the Department —
- (a) for breach of any provision of these Regulations;
 - (b) for non-compliance with any condition, restriction or limitation to which the certificate is subject; or
 - (c) where the holder no longer satisfies one or more eligibility criteria established and published by the Department of Marine Resources.

6. Fees and levies.

- (1) The Department of Marine Resources shall establish a Conservation Fund for the conservation and management of the flats and its marine resources.
- (2) The fees payable on the issuance of a flats fishing permit shall be allocable as follows —
 - (a) fifty per cent of the fee shall be directly deposited into the Consolidated Fund; and
 - (b) fifty per cent of the fee shall be reserved as a conservation levy and directly deposited into, and for the purposes of, the Conservation Fund.
- (3) Fees payable under these Regulations, other than the fee for a flats fishing permit, shall be deposited in their entirety into the Consolidated Fund.
- (4) Fees under these Regulations are payable in accordance with the *Third Schedule*.

7. Concessions to fishing lodge operators.

- (1) A fishing lodge operator certified under regulation 5 may apply to the Minister of Finance for customs duty exemptions in respect of items listed in the *Fourth Schedule* and imported for retail sale to anglers.
- (2) An application under paragraph (1) shall be made in duplicate and one copy each submitted to the Minister of Finance and the Minister responsible for Marine Resources respectively.
- (3) The Minister of Finance may, on the recommendation of the Minister responsible for Marine Resources, grant customs duty exemptions to an applicant under paragraph (1).

8. Commercial fishing in the flats prohibited.

- (1) No person shall engage in commercial fishing in the flats.
- (2) A person who engages in commercial fishing in the flats commits an offence and is liable on summary conviction to a fine not exceeding five thousand dollars, or to imprisonment for a term not exceeding three months, or to both fine and imprisonment.

9. General offences and penalties.

- (1) A person who contravenes or fails to comply with any provision of these Regulations commits an offence and, except as otherwise provided by the Act or these Regulations, or any other regulation, is liable on summary conviction to a fine not exceeding three thousand dollars, or to imprisonment for a term not exceeding three months, or to both fine and imprisonment.
- (2) A court may, where a person is convicted of an offence against these Regulations, in addition to any other penalty, order the confiscation and forfeiture to the Crown of any fishing gear and related supplies or devices inclusive of boats, engines, trailers, trucks and vehicles used in the commission of the offence or that is the subject matter of the offence.

FIRST SCHEDULE (Regulations 3 and 4)

FORM NO. 1 – APPLICATION FOR FLATS FISHING PERMIT

FORM NO. 2 – FLATS FISHING PERMIT

SECOND SCHEDULE (Regulation 5)

**FORM NO. 1 – APPLICATION FOR CERTIFICATION (FLATS FISHING
GUIDE OR FISHING LODGE OPERATOR)**

**FORM NO. 2 – CERTIFICATE (FLATS FISHING GUIDE OR FISHING
LODGE OPERATOR)**

THIRD SCHEDULE (Regulation 6(4))

FEEES

B\$

Processing Fees:

Application for flats fishing permit (personal): 10.00

Application for certification (fishing guide): 10.00

Application for certification (fishing lodge operator): 10.00

Fees for Issuance of Documents:

Flats Fishing Permit (Personal): 20.00 per day

Certificate (Flats Fishing Guide): 150.00 per annum

Certificate (Fishing Lodge Operator): 250.00 per annum

FOURTH SCHEDULE (Regulation 7)

CUSTOMS DUTY EXEMPTIONS

1. fly fishing gear and related supplies (reels, rods, flies, etc.)
2. boats
3. engines
4. trailers
5. trucks
6. vehicles

Made this day of 2015

Minister responsible for Marine Resources