

FISHERIES RESOURCES (JURISDICTION AND CONSERVATION) (FLATS FISHING) REGULATIONS, 2017

Arrangement of Regulations

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

**FISHERIES RESOURCES (JURISDICTION AND
CONSERVATION) (FLATS FISHING) REGULATIONS, 2017**

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, 2017.

2. Interpretation.

In these Regulations —

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

“**angler**” means a person who fishes on the flats, using hook or bait, for sporting or other non-commercial purposes;

“**approved fly-fishing association**” means a body established under the Companies Act² that —

- (a) has as its primary object and purpose the development and promotion of the fly-fishing industry in The Bahamas;
- (b) offers to the public an internationally recognised program of training leading to certification as a flats fishing guide of any person who successfully completes the program; and
- (c) is approved by the Minister in writing;

“**authorised person**” means the Treasurer of the Commonwealth of The Bahamas or a Family Island Administrator;

“**commercial**” in relation to fishing has the meaning given under the Act;

“**Conservation Fund**” means the Fund referred to under regulation 6;

¹ (Ch. 244)

² (Ch. 308)

“**fixed penalty offence**” means an offence listed in the second column of the *Fourth Schedule* for which the penalty listed in the fourth column is imposed;

“**flats**” means those areas comprising the territorial sea, the archipelagic waters, the internal waters, and the exclusive fishery zone of The Bahamas where water levels comprise a shallow gradient between one to six feet deep with different habitats including sand flats, mud marks, mangrove and mangrove creeks;

“**flats fishing**” means the fishing for permits, tarpon, snook, cobia and bone-fish within the flats by hook or bait (angling) for sporting, or other non-commercial purposes;

“**flats fishing guide**” means a person who acts, for compensation or reward, as a flats fishing guide for another and includes a person who does any of the following —

- (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) assists any other person to and from the flats on a watercraft, or between different areas of the flats, for the purpose of angling;

“**personal angler licence**” means a licence permitting a person to engage in flats fishing with or without the assistance of a flats fishing guide.

3. Licence required for fishing in the flats.

- (1) No person shall engage in flats fishing unless such person —
 - (a) is the holder of a personal angler licence granted under regulation 4;
or
 - (b) is under the age of twelve years.
- (2) A vessel, other than a Bahamian owned or licensed charter vessel, shall not engage in flats fishing unless —
 - (a) a permit to engage in sportsfishing 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 intending to engage in flats fishing by means of the vessel is the holder of a personal angler licence or under the age of twelve years.

³*Sub. Leg., Vol. IV, (Ch. 244 - 14)*

- (3) A person aged twelve years or older wishing to engage in flats fishing must apply for a personal angler licence in Form 1 as set out in the *First Schedule* and pay the prescribed fee as set out in the *Third Schedule*.
- (4) An application for a personal angler licence —
 - (a) shall be addressed to the Minister and submitted in hard copy or electronically;
 - (b) may be issued electronically to an applicant in advance of arrival in The Bahamas subject to the —
 - (i) clearing of the applicant upon arrival at a port of entry; and
 - (ii) stamping of such licence at the port of entry.
- (5) A person who contravenes paragraph (1) or (2) of this regulation commits an offence.

4. Grant of personal angler licence.

- (1) A personal angler licence granted to an applicant may be issued only upon payment of the fees prescribed in the *Third Schedule*.
- (2) A personal angler licence granted under this regulation —
 - (a) shall be issued in Form 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 Minister considers appropriate; and
 - (d) shall at all times be readily available and produced upon the request of a fisheries inspector.
- (3) The Minister shall cause to be kept a record of all personal angler licences issued under this regulation.
- (4) Subject to paragraph (5), where a vessel engages in flats fishing pursuant to the grant of a sportsfishing permit referred to under regulation 3(2)
 - (a) —
 - (a) the vessel must employ a minimum of one certified flats fishing guide; and
 - (b) a certified flats fishing guide must be employed at a ratio of one to two, namely, one guide for every two anglers engaged in flats fishing by means of the vessel.
- (5) Paragraph (4) does not apply where the vessel carries one person only.

5. Certification and licensing of guides.

- (1) No person shall act as a flats fishing guide unless such person is the holder of a flats fishing guide licence granted and issued by the Minister in Form 2 or Form 3 as set out in the *Second Schedule*.
- (2) The Minister may grant and issue a flats fishing guide licence to an applicant —
 - (a) who is a citizen of The Bahamas;
 - (b) who is the holder of a flats fishing guide certificate issued by an approved fly-fishing association; and
 - (c) whose training has been verified by the Ministry of Tourism.
- (3) A flats fishing guide certificate issued by an approved fly-fishing association pursuant to paragraph (2) shall certify satisfactory completion by the holder of the certificate of internationally recognised training as a flats fishing guide.
- (4) The Minister —
 - (a) may grant a flats fishing guide licence subject to such conditions, restrictions or limitations as the Minister considers appropriate; and
 - (b) shall keep a register, accessible to the public, of all certificated and licensed flats fishing guides.
- (5) A licensed flats fishing guide shall at all times have his licence readily available and produce it when required to do so by a fisheries inspector.
- (6) A flats fishing guide licence granted under this regulation is renewable annually and may be suspended or revoked by the Minister —
 - (a) for breach of any provision of these Regulations;
 - (b) for non-compliance with any condition, restriction or limitation to which the licence is subject; or
 - (c) where the holder no longer satisfies one or more eligibility criteria established and published by the Minister.
- (7) Notwithstanding any provision of this regulation, the Minister may grant a provisional flats fishing guide licence to an applicant in accordance with regulation 12.
- (8) A person who contravenes paragraph (1) or (5) of this regulation commits an offence.

6. Conservation Fund, fees and levies.

- (1) The Minister shall establish a Conservation Fund for the conservation and management of the flats and its fisheries resources.

- (2) The fees payable on the issuance of a personal angler licence 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 deposited for the purposes of the Conservation Fund in accordance with section 15 of the Financial Administration and Audit Act.⁴
- (3) The fees under these Regulations are payable in accordance with the *Third Schedule*.

7. Establishment of committee.

The Minister shall establish a committee, consisting of such officers of the relevant Ministries and relevant non-governmental organisations as the Minister may appoint, in writing, to monitor and assist in the management of the flats and the protection of the flats fish stocks.

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. Protection of flats fish stocks.

- (1) Subject to paragraph (4), a person who engages in flats fishing shall —
 - (a) engage only in catch and release fishing in respect of bone-fish, permit, snook, cobia or tarpon and, unless it is being used for food, hold in his possession at any time not more than one fish; and
 - (b) fish for bone-fish, permit, snook, cobia or tarpon by hook and or bait method only.
- (2) A person who, while engaging in flats fishing, contravenes paragraph (1) 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.
- (3) Paragraph (1) shall not apply to the grant by the Minister of a personal angler licence for research purposes which the Minister may grant subject

⁴No. 26 of 2010.

to such conditions, restrictions or limitations as the Minister considers appropriate.

10. 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 five 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.

11. Fixed penalty offences and infringement notices.

- (1) There is prescribed offences against these Regulations called fixed penalty offences as listed in the *Fourth Schedule*.
- (2) The Minister —
 - (a) may by order amend the *Fourth Schedule*; and
 - (b) shall supply each fisheries inspector assigned to duty within the flats with a certificate of authorisation, in the form set out in the *Fifth Schedule*, to issue infringement notices in relation to fixed penalty offences.
- (3) A fisheries inspector assigned to duty within the flats may —
 - (a) require any person to give to the inspector his name and address; and
 - (b) issue an infringement notice to any person whom the inspector has reason to believe has committed a fixed penalty offence.
- (4) An infringement notice under paragraph (3)(b) may be issued at or about the time the alleged offence is believed to have been committed.
- (5) An infringement notice shall be in the form set out in the *Sixth Schedule* and shall —
 - (a) contain a description of the alleged fixed penalty offence;
 - (b) advise that if the alleged offender does not wish to have a complaint of the alleged offence heard and determined by a court, the amount of money specified in the notice as being the fixed penalty for the

- offence may be paid to an authorised person within the period specified in the notice;
- (c) inform the alleged offender who are the persons for the purposes of receiving payment of the fixed penalties; and
 - (d) inform the alleged offender of the manner in which payment of fixed penalties may be made.
- (6) The amount specified in an infringement notice as being the fixed penalty for the offence referred to in the notice shall be the amount that was the prescribed fixed penalty at the time the offence is believed to have been committed.
 - (7) Where the fixed penalty specified in an infringement notice is paid within the period specified in the notice, the commencement of proceedings and the imposition of penalties are prevented to the same extent as they would be if the alleged offender had been convicted by a court and punished for the alleged offence.
 - (8) Payment of a fixed penalty is not to be treated as an admission of liability for the purpose of any civil or criminal proceedings against an alleged offender.

12. Provisional licence for flats fishing guide.

- (1) A person who on the date these Regulations come into operation has operated in excess of ten years as a flats fishing guide shall, within thirty days of the date these Regulations come into operation, apply for a provisional licence in order to continue operation as a flats fishing guide.
- (2) The Minister shall upon application made in writing and payment of the prescribed fee grant and issue to an applicant a provisional licence, in Form 3 as set out in the *Second Schedule*, for a period not exceeding one year.
- (3) A provisional licence granted under this regulation is not renewable.
- (4) The holder of a provisional licence shall not, upon expiry of such licence, be granted an annual flats fishing guide licence unless he has satisfied the requirements of regulation 5.

FIRST SCHEDULE

(regulations 3 and 4)

FORM 1

APPLICATION FOR PERSONAL ANGLER LICENCE TO ENGAGE IN FLATS FISHING

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

FISHERIES RESOURCES (JURISDICTION AND CONSERVATION) (FLATS FISHING) REGULATIONS

To: Minister responsible for Fisheries Resources

Is application for purposes of { } Sports Fishing OR { } Research

Note: If for research purposes, the purpose and details of the research and institution involved must accompany this application.

1. Name of Applicant:
2. Sex: Male { } Female { }
3. Age Range (Years):
13-20 { } 21-35 { } 36-55 { } 56+ { }
4. Home Address:
District/Settlement: Island:
5. Telephone No.: Fax No.:
Email Address:
6. Proposed Start Date of Fishing: Ending Date of Fishing:
7. Proposed Fishing Areas (Island):

Signature of Applicant:

Date:

FORM 2

PERSONAL ANGLER LICENCE TO ENGAGE IN FLATS FISHING

FISHERIES RESOURCES (JURISDICTION AND CONSERVATION) ACT
(CHAPTER 244)
FISHERIES RESOURCES (JURISDICTION AND CONSERVATION) (FLATS FISHING) REGULATIONS

No:.....

This Licence is granted to
to conduct flats fishing during the period toin the area of
.....for purposes of(*insert sports fishing/research as applicable*).

This Licence is issued subject to the following conditions:

- (a) This Licence shall not be transferred or assigned;
- (b) { } For sports fishing purposes, catch and release fishing only is allowed for the following species: bone-fish, permit, tarpon, cobia and snook OR
{ } For research purposes, the following fishing methods may be employed:.....;
- (c) { } For sports fishing purposes, no more than one fish may at any time be found in the possession of the licence holder; OR
{ } For research purposes, no more than ...bone-fish, ...permit, ...tarpon, ...cobia and ...snook may at any time be found in the possession of the licence holder;
- (d) Other than for research purposes, fishing on the flats is by hook and/or bait only.

The holder of this Licence may fish in the flats with or without the assistance of a licensed flats fishing guide during the validity of this Licence.

This Licence is valid for the period from, 20..... to, 20.....

Dated this day of, 20.....

MINISTER RESPONSIBLE FOR AGRICULTURE AND MARINE RESOURCES

SECOND SCHEDULE

(regulation 5)

FORM 1

APPLICATION FOR FLATS FISHING GUIDE LICENCE

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

FISHERIES RESOURCES (JURISDICTION AND CONSERVATION) (FLATS FISHING) REGULATIONS

To: Minister responsible for Fisheries Resources

1. Name:
2. Sex: Male { } Female { } Date of Birth (d/m/y):
3. Home Address:
District/Settlement: Island:
4. Telephone No.: Fax No.:
Email Address:
5. Date of Certification:

NB: This application must be accompanied by an original/certified copy of the certificate issued to you by an approved fly fishing association.

Signature of Applicant:

Date:

.....
Official Use Only

Has applicant enclosed original/certified copy of certificate? Yes { } No { }

Has training of applicant been verified by Ministry of Tourism in accordance with regulation 5(2)(b)? Yes { } No { }

FORM 2

FLATS FISHING GUIDE LICENCE

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

FISHERIES RESOURCES (JURISDICTION AND CONSERVATION) (FLATS FISHING) REGULATIONS

No:

This Licence is granted to

of to operate in the flats as a Flats Fishing Guide.

This Licence is subject to the following conditions:

- (a) This Licence shall not be transferred or assigned;
- (b) Licence holder must be in possession of a valid Business Licence;
- (c) { } For sports fishing purposes, catch and release fishing only is allowed for the following species: bone-fish, permit, tarpon, cobia and snook OR

{ } The following fishing methods may be employed by the holder of a personal licence for research purposes:
- (d) { } No more than one fish may at any time be found in the possession of the holder of a personal licence for sports fishing purposes; OR

{ } No more than ...bone-fish, ...permit, ...tarpon, ...cobia and ...snook may at any time be found in the possession of the holder of a personal licence for research purposes;
- (e) Other than for research purposes, fishing on the flats by all persons is by hook and/or bait only.

This Licence expires onday of, 20.....

Dated thisday of, 20.....

MINISTER RESPONSIBLE FOR AGRICULTURE AND MARINE RESOURCES

FORM 3

PROVISIONAL FLATS FISHING GUIDE LICENCE

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

FISHERIES RESOURCES (JURISDICTION AND CONSERVATION) (FLATS FISHING) REGULATIONS

No:

This Licence is granted to
.....of..... to operate
in the flats as a Flats Fishing Guide.

This Licence is subject to the following conditions:

- (a) This Licence shall not be transferred or assigned;
- (b) Licence holder must be in possession of a valid Business Licence;
- (c) { } For sports fishing purposes, catch and release fishing only is allowed for the following species: bone-fish, permit, tarpon, cobia and snook; OR

{ } The following fishing methods may be employed by the holder of a personal licence for research purposes:
- (d) { } No more than one fish may at any time be found in the possession of the holder of a personal licence for sports fishing purposes; OR

{ } No more than ...bone-fish,permit,tarpon,cobia and ...snook may at any time be found in the possession of the holder of a personal licence for research purposes;
- (e) Other than for research purposes, fishing on the flats by all persons is by hook and/or bait only.

NB: (1) This Licence may not be issued, and is not valid, for a period in excess of one year.

(2) This Licence is not renewable.

This Licence expires onday of, 20.....

Dated thisday of, 20.....

MINISTER RESPONSIBLE FOR AGRICULTURE AND MARINE RESOURCES

THIRD SCHEDULE

(regulations 3(3) and 6(4))

FLATS FISHING LICENSING FEES

(inclusive of VAT)

BS

FLATS FISHING – PERSONAL LICENCES

Personal Angler Licences (non-citizens/non-permanent residents):

Day licence (valid for day of issuance only):	15.00
Weekly licence:	20.00
Monthly licence:	30.00
Annual licence:	60.00

Personal Angler Licences (citizens/permanent residents):

Day licence (valid for day of issuance only):	5.00
Weekly licence:	10.00
Monthly licence:	20.00
Annual licence:	40.00

FLATS FISHING GUIDE LICENCES

Provisional Licence (Valid for one-year period only):	100.00
Annual Licence:	100.00

FOURTH SCHEDULE

(regulation 10(1))

Fixed Penalty Offences

No.	Description of offence	Regulation	Fixed Penalty if paid within 14 days	Maximum penalty on conviction
1	Engaging in flats fishing without holding a personal flats fishing licence	3(1)	\$250.00	\$2000.00 and/or 6 weeks imprisonment
2	Failure to display or produce a flats fishing licence when requested to do so by a Fisheries Inspector	4(2)(d)	\$300.00	\$2000.00 and/or 6 weeks imprisonment
3	Acting as a flats fishing guide without a valid flats fishing guide licence	5(1)	\$1,000.00	\$5000.00 and/or 3 months imprisonment
4	Failure to produce a flats fishing guide licence when requested to do so by a Fisheries Inspector	5(5)	\$500.00	\$3000.00 and/or 6 weeks imprisonment
5	Possession of flats fish species in excess of the quantity limit	8(1)(a)	\$500.00	\$1500.00 and/or 6 weeks imprisonment
6	Engaging in fishing on the flats for flats fish species by means other than hook and/or bait	8(1)(b)	\$500.00	\$3000.00 and/or 2 months imprisonment
7	Fishing in violation of the 1:2 fishing guide/customer ratio	4(4)(b)	\$750.00	\$2500.00 and/or 2 months imprisonment
8	Engaging commercially in flats fishing	7(1)	\$4,000.00	\$5000.00 and/or 3 months imprisonment

FIFTH SCHEDULE

(regulation 10(2))

CERTIFICATE OF AUTHORISATION FORM

MINISTRY RESPONSIBLE FOR FISHERIES RESOURCES

CERTIFICATE OF AUTHORISATION

(issued pursuant to)

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

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

No:.....

This Certificate authorises, a fisheries inspector within the Ministry of Agriculture and Marine Resources assigned to duty within the flats, to issue an infringement notice to any person whom the inspector has reason to believe has committed a fixed penalty offence.

This Certificate expires onday of, 20.....

Dated thisday of, 20.....

MINISTER RESPONSIBLE FOR AGRICULTURE AND MARINE RESOURCES

SIXTH SCHEDULE

(regulation 10 (5))

INFRINGEMENT NOTICE FORM

MINISTRY RESPONSIBLE FOR FISHERIES RESOURCES

INFRINGEMENT NOTICE

(issued pursuant to)

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

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

No:.....

TO: Alleged Offender

Surname:

Forenames:

Address:

Post Code:

Date of Birth (juveniles only):

I,, a fisheries inspector within the Ministry of
Agriculture and Marine Resources, holder of certificate of authorisation number
... , have reason to believe that on theday of, 20-- you committed
within the area ofthe following offences:

insert offences here

This notice offers you the opportunity to discharge any liability to conviction for the above-mentioned offence by payment of a fixed penalty. If you pay the fixed penalty of \$..... within 14 days no further proceedings will be taken. If you do not pay the fixed penalty within that time, you may be prosecuted for the offence described above and, if convicted, could receive a much larger fine and/or a term of imprisonment. The maximum for the offence(s) are as follows:

insert maximum penalty here

Payment must be made to the Treasurer or to a Family Island administrator.

Fisheries Inspector

Name:

Signature:

Date:

.....

SERIAL NO.

This slip must accompany your payment.

To: [Name/Title and Address]

I enclose with this letter a cheque in the amount of \$.....

Signature:

Date:

Name (BLOCK LETTERS):

Address (BLOCK LETTERS):

Please make all cheques payable to the Treasurer. Alternatively, you can pay by credit or debit card:

FISHERIES RESOURCES (JURISDICTION AND CONSERVATION) (FLATS FISHING) REGULATIONS, 2017

Credit card/Debit Card

Card number:

Start Date (if applicable):

Expiry Date:

Issue no. (debit card only):

Signature of card-holder:.....

Back page

Statement of witness

Statement of:

Address:

Tel. No:

This statement, consisting of ... page(s) each signed by me, is true to the best of my knowledge and belief and I make it knowing that, if tendered in evidence, I shall be liable to prosecution if I have wilfully stated anything that I know to be false, or do not believe to be true.

Dated:

Signature:

Statement..... (half page)

Signature of Fisheries Inspector.....

Made this 6 day of JANUARY 2017.

Minister responsible for Agriculture and Marine Resources