

LEGAL SUPPLEMENT

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*to the Government Gazette of Mauritius No. 43 of 29 April 2017**Government Notice No. 57 of 2017***THE MARITIME ZONES ACT****Regulations made by the Minister under section 23 of
the Maritime Zones Act**

1. These regulations may be cited as the Maritime Zones (Conduct of Marine Scientific Research) Regulations 2017.

2. In these regulations –

“Act” means the Maritime Zones Act;

“biological material” includes –

- (a) animal, plants, plant parts or propagation material of marine origin;
- (b) any other material of plant, animal, fungus, microbial of marine origin and the genetic resources contained therein;

“marine scientific research” or “research” means any research or study, whether fundamental or applied, intended to increase knowledge about marine environment, including all its resources and living organisms and embraces all related scientific activity for the benefit of mankind and for peaceful purposes;

“Convention” means the United Nations Convention on the Law of the Sea of 1982;

“National Jurisdiction” includes –

- (a) the archipelagic waters;
- (b) the contiguous zone;
- (c) the continental shelf;
- (d) the EEZ;

- (e) historic waters;
 - (f) the internal waters;
 - (g) maritime cultural zone; and
 - (h) the territorial sea;
- of Mauritius as defined in the Act;

“person” means a State or competent international organisation making an application to the Minister to conduct research;

“Precautionary Principle” means principle 15 of the 1992 Rio Declaration on Environment and Development, which provides that, in order to protect the environment, where there are threats of serious and irreversible damage to the marine environment or threats to human health in the Republic of Mauritius, a lack of full scientific certainty regarding the extent of adverse effects shall not be used as a reason for postponing measures to prevent or minimise environmental degradation arising in any way from a matter or person or activity regulated under these regulations.

3. No person shall conduct research in any area of National Jurisdiction unless the Minister has approved the conduct of such research.

4. (1) Any person who wishes to obtain the approval to conduct research within an area of the National Jurisdiction shall, at least 6 months prior to the proposed start of the project, submit an application, in writing, to the Minister.

(2) The application shall contain a full description of the following –

- (a) the cruise name, the number, tonnage, type and class of vessels;

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- (b) the name, nationality, contact details and address of the sponsoring institution, the scientist in charge of the project, and any other collaborators and participants;
 - (c) the co-ordinates and charts of the broad area or areas within which the project is to be conducted;
 - (d) a description of the nature and objectives of the project, including –
 - (i) the proposed date of commencement and its approximate duration, and the proposed use of the data collected; and
 - (ii) any plans to make the research results internationally available;
 - (e) the details of the methods, the equipment to be deployed and subsequently removed, any descriptions of sampling to be carried out and any installations to be used;
 - (f) a preliminary assessment of likely impact on the marine environment of the proposed project;
 - (g) the details of any intended ports of call;
 - (h) the modalities of the participation of any representatives from Mauritius in the project; and
 - (i) the expected dates and method of submission of a preliminary report, a final report, and assessment of data, samples and research results.

5. (1) The Minister may, subject to the following conditions, in accordance with Article 249 of the Convention and such other conditions as he may determine, grant an approval to conduct research –

- (a) the person shall ensure the right of any representative of Mauritius to participate or be represented in the research project, specially on board research vessels and other craft or scientific research installations without obligation to contribute towards the costs of the project;
- (b) the person shall undertake to provide to the Department for Continental Shelf, Maritime Zones Administration and Exploration of Mauritius access to all data and samples derived from the research project and likewise to furnish it with data which may be copied and samples which may be divided without detriment to their scientific value;
- (c)
 - (i) the person shall provide to the Department for Continental Shelf, Maritime Zones Administration and Exploration of Mauritius with an assessment of such data, samples and research results or provide assistance in their assessments or interpretation as the Department for Continental Shelf, Maritime Zones Administration and Exploration of Mauritius may require;
 - (ii) the person shall report all meteorological observations to the Mauritius Meteorological Services;
- (d) the person shall ensure that the research results are made internationally available through appropriate national or international channels as soon as practicable;

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- (e) the person shall inform the Department for Continental Shelf, Maritime Zones Administration and Exploration of Mauritius of any major changes to the proposed research programme from the information provided in the application for consent;
 - (f) the person shall remove the scientific research installations or equipment once the research is completed unless otherwise agreed upon;
 - (g) all scientists involved in the marine research project shall undertake not to do anything which may be detrimental to any property right or Intellectual Property Right (IPR);
 - (h) the publications, utilisation or other exploitation of any data, information or material collected in the course of, or as a result of the expedition in any area of National Jurisdiction shall require written authorisation from the Department for Continental Shelf, Maritime Zones Administration and Exploration of Mauritius;
 - (i) the activities of the research vessel and the scientists thereon shall not unjustifiably interfere with activities undertaken by Mauritius in the exercise of its sovereignty and jurisdiction;
 - (j) the person shall facilitate return of participants from Mauritius to the port of embarkation;
 - (k) the participants from Mauritius shall be provided with an interim report on the expedition before they leave the vessel and a final report will be provided to the Department for Continental Shelf, Maritime Zones Administration and Exploration of Mauritius as soon as it is available;

- (l) any eventual commercial use of materials extracted from the area in the National Jurisdiction will be subject to a separate agreement;
 - (m) the person shall adhere to the provisions of these regulations and any rules of procedures relating to research issued by Mauritius;
 - (n) the person shall, at all times, apply the Precautionary Principle and best environmental practices;
 - (o) the person shall conduct the research exclusively –
 - (i) for peaceful purposes; and
 - (ii) to increase scientific knowledge for the benefit of mankind;
 - (p) the person shall not unjustifiably interfere with other legitimate uses of the sea;
 - (q) the person shall not proceed with research if any act is likely to cause serious harm to the marine environment;
 - (r) the person shall immediately submit to the Department for Continental Shelf, Maritime Zones Administration and Exploration of Mauritius, by telephone and in writing, notice of any incident arising from research that causes or is likely to cause –
 - (i) serious harm to the marine environment; or
 - (ii) serious harm to the safety, health or welfare of any person.
6. (1) The Minister may refuse an application to conduct research where –

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- (a) the proposed research is of direct significance to the exploration and mining of the natural living or non-living resources;
 - (b) the information supplied pursuant to regulation 4 is inaccurate;
 - (c) the person already has an overdue outstanding obligation from a prior research project;
 - (d) such proposed research shall involve –
 - (i) drilling into the continental shelf;
 - (ii) the use of explosives;
 - (iii) the introduction of harmful substances into the marine environment;
 - (iv) the construction, operation or use of artificial islands, installations or structures, as referred to in Articles 60 and 80 of the Convention;
 - (v) a risk to the marine environment;
 - (vi) an area which has been publicly designated as an area in which exploitation or detailed exploratory operations are occurring or will occur within a reasonable period of time.

(2) Notwithstanding paragraph (1), the Minister may withhold consent for any reason he deems reasonable.

7. Research within an area of National Jurisdiction –

- (a) shall not –
 - (i) entail any exclusive right of access to the seabed or water column;

- (ii) permit extraction of seabed minerals;
 - (iii) constitute the legal basis for any claim to any part of the marine environment or its resources;
 - (b) shall cease within a particular area on notice in writing being given by the Minister.
8. (1) Notwithstanding regulations 3 to 7, access and use of biological material of marine origin, including material of natural and potential value having functional units of heredity shall be, in accordance with the Nagoya Protocol, subject to the following conditions –
- (a) the biological material, any progeny derived from it and other derivatives thereof shall remain the property of Mauritius;
 - (b) the party conducting research has no right to claim ownership over the biological material collected nor to seek Intellectual Property Rights (IPR) over that material or any progeny or derivatives thereof;
 - (c) subject to regulation 3, a party conducting research may use the biological material and any progeny or derivatives thereof, such as modified or unmodified extracts, for non-commercial purposes only;
 - (d) the party conducting research shall provide Mauritius with a fair and reasonable share of any benefits arising out of any utilisation of the biological material or its progeny or derivatives –
 - (i) in an amount and a form to be agreed upon between the party conducting research and the Republic of Mauritius;

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- (ii) this could be through acknowledgment in research results/publications, payments, training, assistance, technology transfer, or other forms of collaboration;
 - (e) no party conducting research under these regulations may commercialise the biological material or any progeny or derivatives thereof unless permission, in writing, from Mauritius is obtained;
 - (f) any commercialisation to which the Department for Continental Shelf, Maritime Zones Administration and Exploration of Mauritius agrees shall be subject to a separate agreement between the person and the Republic of Mauritius, consistent with the principle that benefits be shared in a fair and equitable manner with Mauritius;
 - (g) the party conducting research may not transfer the biological material or any progeny or derivatives thereof to any other party unless the permission, in writing, of the Department for Continental Shelf, Maritime Zones Administration and Exploration of Mauritius is obtained;
 - (h) the obligations under these regulations shall also apply to genes derived from the material.
9. (1) Subject to regulation 4, the person may proceed with research unless, within 4 months of receipt of the application, Mauritius has informed the person that –
- (a) it has withheld its consent; or
 - (b) supplementary information is required.

(2) Paragraph (1) shall not apply to the archipelagic waters, internal waters and the territorial seas of Mauritius.

10. (1) Mauritius shall have the right to require the suspension of any marine scientific activities in progress within the area of the National Jurisdiction if the research activities are not being conducted in accordance with the information communicated to Mauritius.

(2) Mauritius shall have the right to require the cessation of any research activities in case of non-compliance with the provisions of regulation 5 which amounts to a major change in the research project or research activities.

(3) Following notification by Mauritius of its decision to order suspension or cessation, the organisation authorised to conduct research activities shall terminate the research activities that are the subject of such a notification.

11. These regulations shall come into operation on 10 April 2017.

Made by the Minister on 10 April 2017.
