

11. Fisheries and Marine Resources Act 2007 amended

The Fisheries and Marine Resources Act 2007 is amended -

- (a) in section 2 -
 - (i) in the definition of “fish farm”, by deleting the words “or any structure” and replacing them by the words “, structure, area or any area in a fish farming zone”;
 - (ii) by inserting in the appropriate alphabetical order, the following definition -

“fish farming zone” means a fish farming zone referred to in section 8A;

- (b) in section 8 -
- (i) by repealing subsection (1) and replacing it by the following subsection -
- (1) Subject to section 8A, no person shall carry out fish farming in a pond, tank, barachois or fish hatchery unless he has a written authorisation from the Permanent Secretary.
- (ii) by repealing subsection (2) and replacing it by the following subsection -
- (2) A person who wishes to carry out fish farming in a pond, tank, barachois or fish hatchery shall make an application to the Permanent Secretary in a form approved by the Permanent Secretary.
- (iii) by repealing subsection (3);
- (iv) by repealing subsection (4) and replacing it by the following subsection -
- (4) The Permanent Secretary may require the applicant to furnish such other documents and clearances from the Department of Environment and other authorities as he shall specify.
- (v) in subsection (5), by deleting the words “, any objection lodged under subsection (3) and”;
- (vi) by repealing subsection (7);
- (vii) in subsection (9), by inserting after the words “ fish farming” the words “in a pond, tank, barachois or fish hatchery”;
- (c) by inserting after section 8, the following sections -

8A. Delimitation of fish farming zones

Notwithstanding any other enactment, the areas of sea specified in the First Schedule shall be fish farming zones.

8B. Authorisation to carry out fish farming in the sea

(1) No person shall carry out any fish farming activity in any fish farming zone, unless the person -

- (a) is a company incorporated or registered under the Companies Act 2001;
- (b) obtains an authorisation in principle and in writing from the Permanent Secretary;

- (c) obtains an EIA licence under the Environment Protection Act 2002; and
 - (d) is the holder of a *concession* granted by the Prime Minister.
- (2) Every application for authorisation under subsection (1)(b) shall -
- (a) be made to the Managing Director of the Board of Investment established under the Investment Promotion Act, in such manner and in such form as may be determined by the Managing Director; and
 - (b) be accompanied by -
 - (i) a full and detailed account of the fish farming project;
 - (ii) a social impact assessment to identify the impact of the proposed fish farming project on the local community and a written undertaking by the applicant indicating the benefits that shall accrue to the local community and to small entrepreneurs generally, in terms of employment and business opportunities;
 - (iii) an implementation plan relating to the fish farming project with full details including a timeframe for its completion; and
 - (iv) such other particulars or information as may be required in the form of application.
 - (c) be dealt with in accordance with section 18B of the Investment Promotion Act.
- (3) The Managing Director of the Board of Investment shall make his recommendations on the application to the Permanent Secretary.
- (4) Upon the recommendations of the Managing Director of the Board of Investment, the Permanent Secretary may -
- (a) approve the application and issue the authorisation, in principle, on such terms and conditions as he may determine; or
 - (b) reject the application and inform the applicant accordingly.

8C. Concession of area in fish farming zones

(1) Any company which has obtained an authorisation under section 8B(4)(a) shall apply to the Prime Minister for a *concession* in a fish farming zone in respect of its fish farming project.

(2) On receipt of an application under subsection (1), the Prime Minister may, on the recommendations of the Minister and the Board of Investment, grant to the applicant a *concession* by way of a deed of *concession*.

(3) Any *concession* granted under subsection (2) shall -

- (a) not exceed 20 years duration and may be renewable for successive periods of 10 years;
- (b) not be transferable except with the written authorisation of the Prime Minister;
- (c) be subject to the *concessionaire* complying with the Maritime Zones Act 2005;
- (d) be subject to such annual fees and charges as may be determined by the Prime Minister; and
- (e) be subject to such other terms and conditions as may be prescribed by the Prime Minister.

8D. Marked-off areas in fish farming zones

(1) The *concessionaire* of any area in a fish farming zone shall clearly and visibly mark off the area subject of the *concession*, in such manner as may be approved by the Prime Minister and shall properly maintain the marked-off area.

(2) Every marked-off area shall be under the overall control and administration of the *concessionaire*.

8E. Cancellation or suspension of concessions

Where a company obtains a *concession* under section 8C and the company -

- (a) uses the area subject of the *concession* for any purpose other than that for which it has been granted, without the prior written approval of the Prime Minister;
- (b) utilises the area subject of the *concession* so as to constitute a nuisance, or to cause any detriment to, or be a source of pollution of, the natural resources and the environment;

- (c) fails to carry out, or insufficiently carries out, fish farming in the area subject of the *concession*; or
- (d) fails to comply with this Act, or any regulations made under this Act, or any of its obligations under the deed of *concession*,

the Prime Minister may cancel or suspend the *concession*.

8F. Removal of *concession* right

The Prime Minister may, on the ground of public interest, or of the implementation of a project of national interest that modifies the status of the fish farming zone, remove a *concession* from a *concessionaire*, subject to payment of a reasonable compensation to the *concessionaire*.

- (d) in section 16(2)(c), by deleting the word “Schedule” and replacing it by the words “Second Schedule”;
- (e) in section 70 -
 - (i) in subsection (1)(b), by inserting after the word “section” the words “8D(1),”;
 - (ii) in subsection (1)(c), by inserting after the word “section” the word “8B(1),”;
- (f) by inserting before the new Second Schedule, the First Schedule specified in the Fourth Schedule to this Act.