



THE
JAMAICA GAZETTE
SUPPLEMENT

PROCLAMATIONS, RULES AND REGULATIONS

469

Vol. CXXIX

THURSDAY, OCTOBER 5, 2006

No. 97

No. 185

THE BEACH CONTROL ACT

THE BEACH CONTROL (SAFETY MEASURES) REGULATIONS, 2006

In exercise of the powers conferred upon the Natural Resources Conservation Authority by section 18 (1) of the Beach Control Act, the following Regulations are hereby made, with the approval of the Minister:—

PART I. Preliminary

- Citation. 1. These Regulations may be cited as the Beach Control (Safety Measures) Regulations, 2006.
2. In these regulations—
- Interpreta- “competent training organization” means an organization which offers
tion. training to lifeguards and is designated as such by the Authority;
- “beach or licensed area” means the area which is specified in a licence
 granted under section 11 of the Act in relation to a hotel, guest
 house, boarding house, proprietary or members club with a beach,
 or a commercial or public recreational beach;

“beach licence” means a licence granted under section 11 of the Act in respect of the use of the foreshore, water column or the floor of the sea;

“lifeguard”, means a person employed as such by the licensee of a beach or licensed area who is skilled as a swimmer and properly trained to assist in emergencies and in the procedure for rescuing and resuscitating a person who is drowning;

“lifeguard licence” means a licence issued under regulation 5;

“life-saving devices” includes life rings, oxygen tanks, spinal boards, first-aid kits, reaching assists, communication equipment, alert devices and pocket masks and such other devices as may be prescribed by the Authority;

“vessel” includes every description of water craft, including non-displacement craft, seaplanes and jet ski equipped with an inboard, or outboard motor, or any other means of conveyance used or capable of being used as a means of transportation on water.

PART II. *Licensing of Lifeguards*

Conditions
for operating
as lifeguard.

3.—(1) No person shall operate as a lifeguard unless he—

- (a) is certified as such by a competent training organization; and
- (b) holds a current lifeguard licence issued, by, the Authority.

(2) Where a person satisfies the Authority that he has alternative equivalent certification, that person may be exempt from the requirements of paragraph (1) (a) so however, that no exemption shall be granted in respect of paragraph (1) (b).

Application
for lifeguard
licence.
First
Schedule.
Second
Schedule.

4.—(1) Every person who is desirous of operating as a lifeguard shall apply to the Authority in the form specified as Form A in the First Schedule for a licence so to do.

(2) An applicant under paragraph (1) shall—

- (a) pay the appropriate fees specified in the Second Schedule for such application; and
- (b) provide such information or documents as may be required by the Authority.

Authority
may grant
licence.

5.—(1) Where an application is made under these Regulations, the Authority may grant or refuse to grant a licence.

(2) The Authority shall grant a licence to the applicant, where it is satisfied that the applicant—

- (a) has passed a lifeguard competence examination administered by the authority; and

(b) has successfully completed the prescribed course of training and is the holder of certification specified in regulation 3 (1) (a); or

(c) has been exempted from the prescribed course of training by the Authority,

and has satisfied the requirement of regulation 4.

(3) Where a licence is granted under paragraph (2), the Authority shall assign a unique licence number to the applicant.

(4) Every licence issued under these Regulations shall—

Form B.
First
Schedule.

(a) be in the form specified as Form B in the First Schedule;

(b) be valid for a period of twelve months from the date of issue;

(c) have the photograph of the applicant affixed to it.

Refusal of
licence.

6. The Authority shall refuse to grant or renew a licence—

(a) if it is satisfied that the applicant is incapable, by reason of a mental or physical condition or disability, of carrying out the functions of a lifeguard;

(b) where an application contains information which is false in a material particular;

(c) to an individual who is under the age of eighteen years.

Applicant
to be
notified.
Licence
not
transferable.

7. Where the Authority refuses to grant a licence, it shall notify the applicant in writing within fourteen days of such refusal and state the reasons therefor.

8. A licence granted under these Regulations shall be subject to such conditions as are specified therein and shall not be transferable.

Licence
renewable.

9.—(1) A licence granted under these Regulations may, on its expiration, be renewed by the Authority on the application of the holder thereof.

(2) An application for the renewal of a licence shall be—

(a) made not later than thirty days before the date of expiration of that licence;

Form C.
First
Schedule.
Second
Schedule.

(b) in the form specified as Form C in the First Schedule;

(c) accompanied by—

(i) the appropriate fees specified in the Second Schedule;

(ii) a current training certificate from a competent training organization; and

(iii) any other document the Authority considers necessary.

(3) A person who submits an application for the renewal of his licence after the expiration thereof shall pay a late application processing fee as set out in the Second Schedule.

Suspension
of licence.

10.—(1) The Authority, may suspend a licence for a breach of any provision of these Regulations or for a breach of any condition subject to which the licence is granted.

(2) Before suspending a licence, the Authority shall notify the licensee in writing—

- (a) stating the breach which gave rise to the proposed suspension;
- (b) requiring the licensee to remedy the breach;
- (c) stating the time within which the breach is to be remedied and the time within which the Authority shall be notified thereof; and
- (d) stating the time within which the licence shall be returned to the Authority.

(3) Where the licensee has, within the time Revocation notified under paragraph (2) (c), remedied a breach, he shall inform the Authority.

(4) Where the Authority is satisfied that the breach is remedied, it shall forthwith revoke any proposed suspension or reinstate the licence as the case may require.

Revocation
of licence.

11.—(1) The Authority may revoke a licence if it is satisfied that—

- (a) in making the application for the licence, the applicant has supplied information which is false or misleading, in any material particular;
- (b) changes in the circumstances of the holder of the licence have occurred, which justify such revocation;
- (c) the licensee has failed to remedy the breach which gave rise to the licence being suspended under regulation 10, within the time specified.

(2) Where a licence is revoked under paragraph (1) the Authority shall inform the licensee, in writing, of the reason therefor and the licensee shall forthwith return the licence to the Authority.

PART III. *Duties of Lifeguards*

Lifeguard to
secure
persons using
beach.

12. Every lifeguard shall keep watch for and take all possible steps to secure the safety of every person using the beach or licensed area in relation to which he is employed.

Lifeguard to report accidents or injuries.

13. Where an accident or injury occurs on a beach or licensed area, the lifeguard on duty shall, within seven days after the accident or injury, submit a report in writing to the Authority.

PART IV. Duties of Licensee of Beach or Licensed area

Duties of licensee of beach or licensed area.

14. The licensee of every beach or licensed area, or his agent, shall—

- (a) post in a conspicuous position at the entrance to the beach or licensed area, a notice stating the opening and closing hours of the beach or licensed area;
- (b) ensure that no child under twelve years of age is permitted to use the beach or licensed area unless he is accompanied by an adult, so however, that it shall be a defence in any case, for the licensee to show that he has taken all reasonable steps to ensure that children under twelve years of age are accompanied by an adult;
- (c) ensure that fishing in the licensed area is not carried out within any area buoyed for swimming;
- (d) provide lifeguards with uniforms clearly marked “Lifeguard”;
- (e) provide clearly distinguishable lifeguard stands for the beach or licensed area at such distances and in such number and dimensions as may be directed by the Authority;
- (f) employ such number of lifeguards for the beach or licensed area as may be directed by the Authority and as stated in any beach licence issued to him;
- (g) in a conspicuous place on the beach or licensed area, erect a sign, notifying users of the beach or licensed area of the periods when the lifeguard is not on duty;
- (h) not permit any person to use the beach for the purpose of bathing or otherwise unless such lifeguard, attired in uniform is in attendance and on duty;
- (i) ensure that the beach or licensed area is adequately manned at all times by a lifeguard as provided for in the beach licence.

PART V. General

Life-saving devices to be kept.

15.—(1) The licensee of every beach or licensed area, or his agent, shall—

- (a) keep in good order and condition, such number and description of life-saving devices as may be stated in the relevant beach licence or as may be otherwise directed by the Authority;

- (b) keep all life-saving devices in such manner as may be stated in the beach licence or as may be otherwise directed by the Authority;
- (c) ensure that all life-saving devices are available and fit to be utilized by the lifeguards in the performance of their functions;
- (d) permit the Authority, or any person authorized by the Authority, to enter the beach or licensed area at all reasonable times to inspect the life-saving devices;
- (e) buoy to the satisfaction of the Authority an area for swimming using white buoys each with a red band.

(2) No vessel shall be operated in the areas licensed for swimming and buoyed pursuant to paragraph (1) (e).

Speed limit of
3 knots.

16.—(1) Every area licensed for swimming shall have a ten-metre buffer around it within which no vessel shall be operated at a speed exceeding three knots.

(2) Where a licensee has vessels operating in a licensed area, he shall buoy to the satisfaction of the Authority a suitable passage through which vessels may proceed to and from shore, and where an area has been buoyed for swimming (where applicable) the passage shall be on one side of the area and not in the middle.

(3) For the purpose of paragraph (2), red buoys with a white band shall be used on the right side of the passage and green buoys with a white band on the left side in the direction facing shore.

Register of
lifeguards—

17.—(1) The Authority shall maintain a register of lifeguards which shall contain—

- (a) the name, address and licence number of each person to whom a lifeguard licence is granted;
- (b) the number of applications received and the name of each applicant;
- (c) the number of lifeguard licences—
 - (i) granted or refused and the reasons for any such refusal;
 - (ii) suspended or revoked and the reasons therefor;
- (d) information on the status of each lifeguard licence granted; and
- (e) any other information the Authority thinks necessary.

(2) Every register under paragraph (1) shall be open for inspection by the public at the offices of the Authority during office hours, free of charge.

(3) The Authority shall cause to be made, on payment of the prescribed fee by any person, copies of any entry in the register.

PART VI. *Offences*

Operating without a lifeguard licence.

18. Any person who operates as a lifeguard without a licence commits an offence and shall be liable on summary conviction before a Resident Magistrate to a fine not exceeding one hundred thousand dollars or to imprisonment for a term not exceeding six months or to both such fine and imprisonment.

Assaulting a lifeguard, etc.

19. Any person who assaults a lifeguard or prevents him from performing his duties commits an offence and shall be liable on summary conviction before a Resident Magistrate to a fine not exceeding one hundred thousand dollars or to imprisonment for a term not exceeding six months or to both such fine and imprisonment.

Damage, etc., to life-saving device.

20. Any person who deliberately damages or destroys any life-saving device commits an offence and shall be liable, on summary before a Resident Magistrate, to a fine not exceeding two hundred thousand dollars or to imprisonment for a term not exceeding twelve months or to both such fine and imprisonment.

Fishing in or near licensed area.

21. Any person who fishes in or in the sea within fifty metres of a beach or licensed area commits an offence and shall be liable, on summary conviction before a Resident Magistrate, to a fine not exceeding one hundred thousand dollars or to imprisonment for a term not exceeding twelve months or to both such fine and imprisonment.

Operation of boat, etc.

22.— (1) Any person who, in a beach or licensed area, operates a boat, jet ski or any other vessel—

- (a) outside an area buoyed for the purpose of such operations; or
- (b) at a speed in excess of three knots within the area buoyed for that purpose,

commits an offence and shall be liable, on summary conviction before a Resident Magistrate, to a fine not exceeding five hundred thousand dollars or to imprisonment for a term not exceeding twelve months or to both such fine and imprisonment.

Making false declarations, etc.

23. Any person who—

- (a) for the purpose of obtaining, whether for himself or for any other person, the issue, grant, renewal of any lifeguard licence, makes any declaration or statement which is false or misleading in any material particular;
- (b) furnishes to an authorized officer or other person performing any duty in relation to these Regulations, a document that, to

his knowledge contains information which is false or misleading in any material particular;

- (c) knowingly utters, produces, or makes use of any document containing any false declaration or statement for the purpose of obtaining a lifeguard licence or otherwise under these Regulations; or
- (d) falsifies or amends any information contained in a lifeguard licence,

commits an offence and shall be liable on summary conviction before a Resident Magistrate to a fine not exceeding one hundred thousand dollars or to imprisonment for a term not exceeding six months or to both such fine and imprisonment.

Lifeguard without valid licence.

24. Any person who employs a lifeguard who does not possess a valid licence commits an offence and shall be liable, on summary conviction before a Resident Magistrate, to a fine not exceeding two hundred and fifty thousand dollars or to imprisonment for a term not exceeding twelve months or to both such fine and imprisonment.

Disobeying lifeguard.

25. Any person who disobeys the lawful order of a lifeguard given to preserve the safety of beach users or their enjoyment of a beach and its facilities commits an offence and shall be liable on summary conviction before a Resident Magistrate, to a fine not exceeding fifty thousand dollars or to imprisonment for a term not exceeding three months or to both such fine and imprisonment.

Performing routine maintenance or refuelling outside of specially designated area.

26. Any person who performs routine maintenance of (including in-water cleaning of hulls) or refueling of vessels in the sea except in areas specifically designated for that purpose and within one hundred metres of a licensed area commits an offence and shall be liable, on summary conviction before a Resident Magistrate, to a fine not exceeding two hundred and fifty thousand dollars or to imprisonment for a term not exceeding twelve months or to both such fine and imprisonment.

Operating vessel at over 3 knots in 10-metre buffer area.

27. Any person who operates a vessel at a speed exceeding three knots within the buffer area referred to in regulation 16 commits an offence and shall be liable, on summary conviction before a Resident Magistrate, to a fine not exceeding two hundred and fifty thousand dollars or to imprisonment for a term not exceeding twelve months or to both such fine and imprisonment.

Operating beach without mandated equipment.

28. Any person who operates a beach without keeping life-saving devices as required under these Regulations commits an offence and shall be liable on summary conviction before a Resident Magistrate, to a fine not exceeding five hundred thousand dollars or to imprisonment for a term not exceeding twelve months or to both such fine and imprisonment.

Operating beach without required lifeguards. 29. Any person who operates a beach without the mandated number of lifeguards as required in the relevant beach licence and any directions issued by the Authority commits an offence and shall be liable, on summary conviction before a Resident Magistrate, to a fine not exceeding five hundred thousand dollars or to imprisonment for a term not exceeding twelve months, or to both such fine and imprisonment.

PART VII. *Appeal*

Appeal. 30.—(1) Where the Authority refuses to grant or renew, or revokes a lifeguard licence, the applicant or holder, as the case may be, may, after giving notice to the Authority of his intention so to do, appeal to the Minister by notice in writing within twenty-eight days of the date of notification of the decision of the Authority.

(2) The notice of appeal shall set out clearly the grounds of the appeal and there shall be attached to the notice, copies of any correspondence, document or statement relevant to the appeal.

(3) A copy of the notice of appeal together with copies of any relevant correspondence, document or statement shall be served on the Authority who shall forthwith transmit those documents to the Minister.

(4) The Minister shall, within seven days of the receipt of a notice of appeal under paragraph (1) request the Authority to furnish him with a statement in writing setting out the reasons for its decision.

(5) The Minister may order that any correspondence, document or statement relating to the appeal which is in the possession of the Authority or the person aggrieved, be produced at the hearing of the appeal.

Parties to be informed. 31. The Minister shall cause each party to the appeal to be informed—

- (a) of the date, time and place of the hearing of the appeal;
- (b) that he may appear himself or by his attorney-at-law; and
- (c) that he may summon witnesses in his cause.

Minister may up hold or rescind decision of Authority. 32. Where, upon any appeal, the Minister is satisfied that the refusal, or revocation as the case may be—

- (a) is justified, he shall uphold the decision of the Authority;
- (b) is not justified, he may rescind the refusal, or revocation as the case may be, and may order that the licence be granted or restored as the case may require; or
- (c) make such other order as he thinks fit.

PART VIII. *Miscellaneous*

Repeal. 33. The Beach Control (Safety Measures) Regulations, 1957 are hereby repealed.

FIRST SCHEDULE

(Regulations 4, 5 and 9)

FORM A

THE BEACH CONTROL ACT

Natural Resources Conservation Authority
Lifeguard Examination Application Form

(Please Print)

| | | | |
|---|-----------|---------------------------------------|--|
| Date: | | Lifeguard Licence #: | |
| PERSONAL INFORMATION | | | |
| Applicant's Last Name | | First: | Middle: <input type="checkbox"/> Mr. <input type="checkbox"/> Miss <input type="checkbox"/> Mrs. |
| Birth Date: | | Sex: <input type="checkbox"/> M | <input type="checkbox"/> F |
| Place of Birth: | | Parish of Birth: | |
| Street Address: | | Home Phone No.: Cell Phone No.: | |
| Town: | Parish: | | Post Office: |
| Email Address: | | | |
| Employer: | | Employer's Phone No.: | |
| Employer's Address: | | | |
| QUALIFICATION INFORMATION | | | |
| Competent Training Organization: | | Expiry date of Lifeguard Certificate: | |
| Certificate No.: | | | |
| INSTRUCTIONS FOR DELIVERY OF LICENCE | | | |
| <input type="checkbox"/> SEND TO MAILING ADDRESS ABOVE <input type="checkbox"/> SEND TO EMPLOYER <input type="checkbox"/> DELIVER BY COURIER TO ADDRESS ABOVE (CASH ON DELIVERY) <input type="checkbox"/> I WILL COLLECT IN PERSON <input type="checkbox"/> SPECIAL DELIVERY INSTRUCTIONS (Write in the space below and be sure to include alternative delivery address) | | | |
| I hereby declare that the information provided by me above is accurate and true to the best of my knowledge. I further declare that, to the best of my knowledge I am physically and mentally capable of participating in the lifeguard examination. | | | |
| Applicant's Signature _____ | | Date _____ | |
| FOR OFFICIAL USE ONLY | | | |
| Fees Paid | Pass/Fail | Lifeguard Licence No. | Database updated <input type="checkbox"/> Yes <input type="checkbox"/> No |
| | | | Processing Officer |

INSTRUCTIONS FOR APPLICANT

To participate in the examination, candidates must:

- be at least 18 years old
- be able to swim well
- be able to read and write
- have successfully attended a lifeguard training session prior to the examination and be in possession of a valid and current Lifeguard Certificate;
- present valid photo I.D. (any of the following—driver's licence, national I.D., a passport-size photograph certified by a Justice of the Peace)
- pay the examination fee

NB: ONLY persons in possession of a valid lifeguard competence certificate will be examined

Notes:

The licence authorizes the licensee to operate as a lifeguard in Jamaica and is granted subject to any condition that may be deemed appropriate by the Natural Resources Conservation Authority.

The licence is the property of the Authority, and must be produced for inspection on demand by authorized personnel. It is not transferable and must be returned upon request.

The licence is valid for a period of one year from the date of issue.

Information on the competent training organization is available from the National Environment and Planning Agency.

FORM B

THE BEACH CONTROL ACT
NATURAL RESOURCES CONSERVATION AUTHORITY*Licence to Operate as a Lifeguard*

Name of Licensee:

Licence No.:

CTO Number:

Expiry Date:

Signature:

Authorized Officer
National Environment and Planning AgencyAuthorized Officer
Certified Training Organization (CTO)

FORM C

THE BEACH CONTROL ACT

NATURAL RESOURCES CONSERVATION AUTHORITY

Application for Renewal of Licence

Licence Number _____

Name of Licensee _____

Address _____

Telephone _____ Facsimile _____

E-mail _____

Current Training Certificate _____

Date of medical examination _____

Signature of Licensee

FOR OFFICE USE

Documents submitted

Fees paid _____

Remarks _____

Recommendation _____

Authorized Officer

THE BEACH CONTROL ACT

SECOND SCHEDULE

(Regulation 4 (2),
5 (2) and 9 (2))*Fees*

| | | |
|--|---|----------|
| Application for licence for a new candidate as a lifeguard | — | \$300.00 |
| Application for renewal of licence | — | \$200.00 |
| Resit of examination | — | \$200.00 |
| Fee for licence for lifeguard | — | \$500.00 |
| Fee for each copy of an entry | — | \$ 50.00 |
| Fee for processing of late applications | — | \$200.00 |
| Licence replacement fee | — | \$400.00 |

Dated this 4th day of October, 2006.

JAMES RAWLE

Chairman

Natural Resources Conservation Authority.

Approved:

DEAN PEART

Minister of Local Government and Environment.