

Translation of MARINE ENVIRONMENT ORDINANCE (A.B 1991 Nr.8)

This document was produced by The Coral Reef Alliance at the request of the Bonaire National Marine Park and STINAPA Bonaire to provide the Island of Bonaire with supporting documentation for the proposed transboundary World Heritage site nomination with the Venezuelan islands of Los Roques and Las Aves.

NOTE: This translation of the Marine Environment Ordinance has been prepared to assist interested parties to understand the content of this legislation. To resolve legal matters ONLY the original Dutch legislation (Verordening Marien Milieu A.B 1991 Nr.8) should be used.

Background

The Marine Environment Ordinance (A.B 1991 Nr.8) is an Island Ordinance approved and passed by the Island Government of Bonaire in 1991 for the purpose of protecting the marine environment around Bonaire from the high water mark to the 60m depth contour. The Ordinance includes all provisions on the statute books for protecting the marine environment (protection of turtle nests and eggs, protection of corals from collection etc) and the exploitation of fish stocks (prohibition on spearfishing, restrictions on use of nets etc). It was revised in April 2001 to take into account the inclusion of the uninhabited island of Klein Bonaire under the management of the Bonaire National Marine Park.

Sanctions and enforcement

Under the Marine Environment Ordinance the maximum penalties are:

- fines of up to Naf 5,000.00 (US\$ 2,800.00) per offense
- up to one month imprisonment.

The Island Government can also choose to invoke its power to have the marine environment restored to its original condition at the offender's expense. The section on sanctions has not been included in this translation.

Persons empowered to enforce this legislation include: park rangers and supervisors, persons involved in the management of the Marine Park and any other persons named by Island Resolution.

The Bonaire Marine Park is further empowered to report offenses, write out prosecutions and give summary (on the spot) fines. It is also authorized to advise the Island Government on all matters pertaining to the marine environment and works cooperatively with the Government appointed Marine Environment Commission (CMM).

Section 1: General

Article 1

1. The commission which gives advice concerning the marine environment is called the **Commissie Marien Milieu (Marine Environment Commission)**
2. The Commissie Marien Milieu (CMM) consists of 5 members chosen by the **Bestuurscollege (Executive Council of the Island Territory of Bonaire)** for their expertise in fields relevant to the marine environment
3. The Bestuurscollege determines the terms of reference for the CMM as necessary
4. The CMM gives advice, looked for or otherwise, in regard to matters resulting from this ordinance and the management of the marine environment in general

Article 1a

1. With reference to this legislation it is understood that:
 - v Marine Park - the waters around the island territory of Bonaire from the high-water mark to the 60m depth contour and the island of Klein Bonaire
 - v Diver - anyone having SCUBA equipment and being in the water, obviously about to get into the water, getting out of the water or obviously having been in the water
 - v Diving - use of scuba whether for leisure or not
 - v Dive site - where diving takes place, begins or ends
 - v Filling station - where dive cylinders (tanks) are filled

Article 1b

1. Bonaire has a Marine Park
2. Within the Marine Park there are reserves, which are:
 - a. The marked section from Boca Slagbaai to Playa Frans
 - b. The marked area from the plantation house at Karpata to the entrance to the Gotomeer
 - c. Any other section of the Park as decreed by **EHAM (Island Resolution Containing General Provisions)**. Such designation may also be for a specified period.

Article 1c

1. In order to obtain a permit or exemption as described in this ordinance, a written application must be submitted to the Bestuurscollege
2. The application should be supported by all necessary documentation
3. The Bestuurscollege can determine the nature of the supporting documentation
4. Only written permits/exemptions will be considered valid

Article 1d

1. Conditions may be attached to any permit issued under this ordinance which are in the interest of
 - a. Protecting the marine environment and/or the environment and nature of Klein Bonaire
 - b. Upholding these regulations
 - c. Ensuring the safety Marine Park visitors
2. The Bestuurscollege may grant exemptions on scientific or educational grounds from one or more of the regulations contained in this ordinance. Conditions may be attached to the exemption.
3. Requests for an exemption will be presented to the CMM for advise, who should give their advice as quickly as possible

4. A fee will be levied for permits, the amount to be set by EHAM.

Article 1e

1. The permit or exemption may be revoked or amended:
 - a. Where supporting documentation was incomplete/inaccurate
 - b. Where changed circumstances or insights which have come to light after the permit was issued mean that revoking or amending the permit is required in the interest of the protection
 - c. Where conditions or limitations attached to the permit/exemption have not been honoured
2. A decision to withdraw/amend the permit/exemption needs to be justified. The permit holder will be given the opportunity to respond to the intention to withdraw or revoke the permit within a timeframe to be set by the Bestuurscollege.

Article 1f

The holder of the permit/exemption is required to produce this immediately for inspection on request by any official concerned with the enforcement of these regulations.

Article 2

1. It is forbidden to dive in the Marine Park without a valid admission ticket
2. It is forbidden to engage in activities in the Marine Park which might damage the marine environment and/or the environment and nature of Klein Bonaire
3. It is forbidden to destroy/vandalise the marine environment in the waters around Bonaire

Article 2a

1. For access to the Marine Park divers are required to pay a usage fee of Naf 17,50 (US\$ 10.00) per person per year. The amount of the fee may be changed by EBHAM together with the designated groups of divers from whom a different fee can be levied
2. Other users of the Marine Park can be required to pay a usage fee by EHAM
3. The proceeds of the usage fee will go exclusively on the upkeep and maintenance of the Bonaire Marine Park, by which is meant maintenance, law enforcement, provision of information and research. The proceeds are hereby put at the disposal of the body charged by the Bestuurscollege with management of the Marine Park
4. The management body is required to produce full accounts and justification to the Bestuurscollege in respect of moneys collected during the previous fiscal year before the 1st April.

Article 2b

1. It is forbidden to operate a filling station or to have a compressor for filling dive tanks without a permit from the Bestuurscollege
2. It is forbidden to transport persons in the Marine Park with the intention of going to dive sites or to accompany divers commercially or against payment without a permit from the Bestuurscollege
3. The permit holder has an obligation when filling tanks, transporting persons or accompanying divers to check or make sure that checks are made to ensure that clients have a valid admission ticket. The permit may be withdrawn or suspended if no or insufficient control of tickets is made.
4. The permit is issued, amongst others, under the condition that the permit holder keeps a stock of tickets and sells admission tickets for the Marine Park. With regards to the registration and transfer of moneys thus collected, rules will be set by EHAM.
5. These regulations also apply to vessels transporting divers to Bonaire and giving them the opportunity to dive in the waters around Bonaire. Further regulations with respect to such vessels, their captain or owner/s will be issued by EHAM. Such regulations may deviate from those of the first 4 paragraphs of this article

6. The prohibition contained within the first paragraph does not apply to visiting yachts, where tanks are filled for personal use only and not for commercial purposes.

Section 2: Marine Park (including Klein Bonaire)

Article 3

1. Without a permit from the Bestuurscollege it is forbidden to collect living or dead animals or plants in the Bonaire Marine Park
2. This prohibition does not apply to the collection by hand or using traditional fishing gear of fish, crustacean, mollusks and turtles as regulated by articles 14, 15 and 16.
3. By traditional fishing methods are meant the use of fishing lines (linja), fishing rods, casting nets (traï), drag nets (reda) and fish traps (kanaster)

Article 4

1. It is forbidden to dump or use biological or chemical substances in the waters around Bonaire which might cause damage to the marine environment
2. Biological, chemical or other substances considered harmful to the marine environment may be determined by EHAM

Article 5

Without an exemption from the Bestuurscollege it is prohibited to enter the Marine Reserves of the Marine Park. This prohibition does not apply to vessels traveling through the reserves or fishing using traditional fishing methods with the exception of fish traps.

Article 6

1. It is prohibited to anchor in the Marine Park. By EBHAM anchoring may be allowed in certain areas.
2. The prohibition in section 1 does not apply to vessels with an overall length less than 12' providing they make use of stone anchors.

Article 7

Without a permit from the Bestuurscollege it is prohibited to destroy or remove anything cemented in or on the bottom.

Article 8

1. It is prohibited without a permit from the Bestuurscollege to build, place roads, moorings, piers or or similar structures in the Marine Park.
2. Only the management body for the Marine Park may remove or intentionally damage the moorings placed by or on behalf of the Bestuurscollege

Article 9

Users of the Marine Park must strictly obey instructions, which are in the interests of protecting the environment, marine environment and nature of the Marine Park, given to them by or on behalf of the management body.

Section 3: Fisheries regulations

Article 10

1. In the Marine Park it is prohibited to have one or more spearguns or to hunt or catch marine animals using a hand spear.
2. It is prohibited to have, offer for sale, steal, deliver or transport marine animals which have been caught using a speargun or hand spear.
3. It is prohibited to transport spearguns across public ground or open water.
4. It is prohibited to sell spearguns or parts thereof also to advertise their sale or to have them in a shop or room adjacent to a shop
5. By spearguns are understood rifles and pistols as described in the Firearms Act (P.B 1930 Nr.2), and other firearms capable of projecting a missile underwater by means of compressed air or other means.

Article 11

1. It is prohibited to use fish traps to collect marine animals in areas designated by EBHAM
2. It is prohibited to use fish traps which do not conform to rules laid down by EBHAM
3. It is prohibited to use more fish traps than permitted by EBHAM

Article 12

1. It is prohibited to collect marine animals in the waters around Bonaire using nets (redas) where the mesh of the upper 2/5ths of the net is smaller than 3cm or the rest is smaller than 2cm.
2. The above mentioned sizes should be measured by pulling opposing corners of the mesh so far apart that the mesh is pulled straight.
3. It is prohibited to use nets (redas) under the piers in Kralendijk or within 20m of the outer edge of these piers.

Article 13 (obsolete)

Article 14

1. It is prohibited to take, destroy, disturb, have, offer for sale, transport, sell, buy, trade in, deliver or give as a gift the eggs or nests of sea turtles.
2. It is prohibited to kill, catch or have sea turtles.
3. It is prohibited to offer for sale, sell, buy, trade in, give as a gift or in any way offer in public turtle meat or other turtle by products
4. Sea turtles are understood to include *Chelonia mydas* (tortuga blanku), *Caretta caretta* (kawama), *Eretmochelys imbricata* (karet), *Dermochelys coriacea* (drikil) and *Lepidochelys kempii*.
5. By means of EBHAM the prohibition in section 2 may be lifted for the maximum period of one year if it can be shown that the turtle population can withstand this. Such an EBHAM should give instructions regarding the gear used, the species, season, quota and maximum and minimum sizes for catches.

Article 15

It is prohibited to take, kill, to have, to offer for sale, to transport, to sell, buy, trade in, give as a gift or deliver lobsters smaller than 25cm top to tail or egg bearing lobsters.

Article 16

1. It is prohibited to collect conch without a permit from the Bestuurscollege. The permit will be issued with conditions set by the Commissie Marien Milieu.
2. The maximum number of permits will be set by the EBHAM under advice from the Commissie Marien Milieu
3. By EBHAM further conditions may be set on the conch fishery.

Article 17

By EBHAM the Bestuurscollege may list marine organisms, the catch of which may be restricted either temporarily or permanently in addition to regulating the method of catching them.

Section 4: Special regulations for the use of the Lac

Article 18

In addition to the above, the following special regulations apply to Lac.

Article 19

1. Without a permit from the Bestuurscollege it is prohibited to remove, destroy or cut down mangroves except if they are cut for traditional purposes in such a way that entire trees are not cut down nor lasting damage done to the mangroves.
2. By traditional purposes are meant use in boat construction, to make charcoal and for tanning
3. By mangroves are meant the following bushes or trees: *Rhizophora mangel* (mangel tan), *Avicennia germinans* (mangel blanku), *Conocarpus erecta* (mangel), and *Laguncularia racemosa*.

Article 20

Without a permit from the Bestuurscollege it is prohibited to damage, destroy or remove the bottom vegetation in Lac.

Article 21

It is prohibited to use motor boats with an engine of more than 6hp at the propellor and/or travel faster than 2 nmph outside of the buoyed channel between Cai and Sorobon or to travel faster than 4nmph within the above channel.

Article 22

1. Without a permit from the Bestuurscollege it is prohibited to dig canals, remove sand, build dams or allow any of the above to take place.
2. Permits will only be granted on written application under conditions set by the Commissie Marien Milieu.

Article 23

1. Without a permit from the Bestuurscollege it is prohibited to dump refuse in the water. Section 2 of article 22 applies.
2. It is prohibited to use insecticides, herbicides and the like in the mangroves area around Lac.

Article 24

1. It is prohibited to enter or drive in areas designated by the Bestuurscollege as breeding grounds.
2. By breeding grounds are meant closed or clearly marked areas in or around the water where marine animals are being raised.

Article 25

Users of the Lac must strictly obey instructions given to them by or on behalf of the management, body which are in the interest of the marine environment of Lac.

Article 26

By EBHAM other rules regarding the use of Lac may be instigated as dictated by necessity or experience.