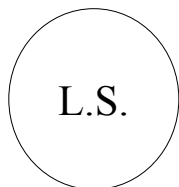


Philip Rushbrook  
Governor of Ascension



**ASCENSION  
No. 3 of 2021**

Enacted.....19 March 2021  
Date of Commencement.....in accordance with section 1  
Published in the Gazette..... 19 March 2021

**AN ORDINANCE**

**to amend the National Protected Areas Ordinance, 2003, to make further provision with respect to the protection of marine protected areas; and to amend the Fisheries (Conservation and Management) Ordinance, 2015, to further regulate fishing within the fishery limits; and for connected or incidental matters.**

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Enacted by the Governor of Ascension after consultation with the Island Council of Ascension.

**PART 1  
PRELIMINARY**

**Short title and commencement**

**1.** This Ordinance may be cited as the Marine Protection (MPA Management Plan) Ordinance, 2021, and comes into force on a date fixed by the Governor by notice in the *Gazette*.

**PART 2  
AMENDMENTS TO THE NATIONAL PROTECTED AREAS ORDINANCE, 2003**

**2.** (1) The National Protected Areas Ordinance, 2003 is amended in accordance with this part.

(2) References in this part to a division or sub-division of an ordinance are references to the National Protected Areas Ordinance, 2003.

### Amendments to definitions

3. Section 2 (interpretation) is amended—
- (a) by deleting the definition of “development” and substituting the following—  
“**development**” includes any change in use of land, the erection of any structure and the carrying out of any drainage or sewerage scheme, dredging otherwise than for the purpose of mining (but excludes any such dredging as may be authorised under the Harbours (Ascension) Ordinance 2005); and any other activities prescribed by the Governor by regulations;”;
- (b) by inserting the following definitions in the appropriate alphabetical sequence—  
“**minerals**” includes material, such as clay, sand, limestone, or other stone and any of the following—
- (a) metalliferous minerals containing aluminium, antimony, arsenic, barium, bismuth, cadmium, calcium, cerium, chromium, cobalt, columbium, copper, iron, lead, lithium, magnesium, manganese, mercury, molybdenum, nickel, potassium, sodium, tantalum, tin, titanium, tungsten, vanadium, zinc, zirconium and all other substances of a similar nature to any of them, and all ores containing them and combinations of any of them with each other or with any other substance, excepting only those that occur in the form of precious minerals;
- (b) combustible carbonaceous minerals, including—
- (i) coal;
- (ii) lignite, which includes brown coal which the Administrator may prescribe to be lignite if the estimated average ash content is so high or the estimated average thermal value is so low that such coal may properly be classed as lignite;
- (c) other minerals, including those used for their abrasive or refractory qualities and asbestos, barytes, bauxite, china clay, gypsum, fuller’s earth, graphite, laterite, marble, mica, mineral oils, nitrates, phosphates, pipeclay, pottery clay, potash, quartz crystals, salt, slate, soda, sulphur, talc and all other substances of a similar nature to any of them;
- (d) precious minerals, including—
- (i) precious stones and semi-precious stones including amber, amethyst, beryl, cat’s eye, chrysolite, garnet and all other semi-precious stones, whether of the same kind as those enumerated or not;
- (ii) precious metals;
- (iii) all radio-active minerals;”;
- “**mining**” means any activity involving the extraction or exploitation of any non-living naturally occurring resource (including polymetallic nodules, minerals in any form and metal, oil, gas fossil, stone or other substances) found on, in, or under the seabed and includes such extraction or exploitation by dredging;”;

“**mining-related activity**” means any activity that is exploratory or otherwise preparatory in nature to any mining, and any activity that is incidental to or results from any mining;”;

“**precious metals**” means gold, silver, or metal of the platinoid group, in the unmanufactured state, all ores containing such metal, but not including ores containing any such metal in combination with another mineral where such metal cannot be worked apart from such mineral and the value of such metal is less than the cost of producing both the metal and the mineral;”

“**precious stones**” means diamonds, emeralds, opals, rubies, sapphires, turquoises, and such other stones as may be prescribed to be precious stones for the purpose of this Ordinance;”.

#### **Amendments to the control of mining, mining-related activity and development in an MPA**

4. Section 4 (purpose and use of National Parks, etc.) is amended by inserting the following subsections after subsection (1A)—

“(1B) Mining and mining-related activities are prohibited within a marine protected area except as authorised by licence for scientific or research purposes in such circumstances as the Governor may prescribe.

(1C) development is prohibited within a marine protected area except as authorised by the Administrator in accordance with section 5A.

(1D) The reference in subsection (1C) to development includes the laying and maintenance of submarine pipelines within a marine protected area, but does not apply to the laying and maintenance of submarine cables within a marine protected area beyond Ascension’s territorial waters.”.

#### **Amendment to the scope of MPA management plans**

5. (1) Section 4 (purpose and use of National Parks, etc.) is further amended by deleting paragraph (a) of subsection (1A) and substituting the following—

“(a) habitats, ecosystems and natural processes; and”.

(2) Section 4A (Marine Protected Areas, Management Plans and regulations) is amended by deleting subsection (2) and substituting the following—

“(2) A management plan is a scheme for conserving, protecting, preserving or restoring the habitats, ecosystem, natural process or biodiversity, and the management measures must limit the disturbance of an area by human activity, either at any time or at particular times.”.

**Amendments concerning the authorisation of development in an MPA**

6. (1) After section 5, insert—

**“Provisions with respect to development in areas declared to be Marine Protected Areas**

**5A. (1)** A person applying for authorisation to carry out development within a marine protected area must provide to the Administrator an assessment of the environmental impact of the proposed development and submit a plan setting out how the applicant will mitigate its impact.

(2) The Administrator may authorise the development only if satisfied that to do so—

- (a) is compatible with the objectives set out in a management plan pertaining to the marine protected area, as published from time to time under section 4A; and
- (b) will not otherwise materially negatively affect the habitats, ecosystems, natural processes or biodiversity of the marine protected area.

(3) Before authorising any development under subsection (2), the Administrator must seek and take into account the advice of the Director of Conservation.

(4) A decision by the Administrator under this section must be published, together with the application to which it relates, on the public notice board and in such other manner as the Administrator may deem appropriate.

(5) A person who is dissatisfied with the decision of the Administrator under this section, and who is affected by that decision, may make written representations to the Governor within 14 days of the date of the decision being published under subsection (4).

(6) In response to written representations, the Governor may uphold or quash the Administrator’s decision, and if the decision is quashed may give such procedural directions as are necessary in the circumstances.”

**Amendments to power in respect of activities harmful to the ecology**

7. Section 6 (restrictions on certain activities harmful to the ecology) is amended—
- (a) by inserting the character and words “, Marine Protected Area,” after the words “Nature Reserve” in subsection (1)(a);
  - (b) by inserting the words “or any part of the exclusive economic zone” after the word “Ascension” in subsection (1)(b).

### Consequential amendments to offences

- 8.** Section 7 (enforcement) is amended—
- (a) by deleting paragraph (a) of subsection (1) and substituting the following—  
“(a) carry out any development in a National Park, Nature Reserve, Marine Protected Area, Sanctuary or Area of Historical Interest, except as authorised under section 4 (in respect of a National Park, Nature Reserve or Area of Historical Interest) or section 5A (in respect of a Marine Protected Area);”;
  - (b) inserting after paragraph (a) the following—  
“(ba) to carry out any mining or mining-related activity contrary to section 4(1B).”.

### Amendments to regulation-making powers

- 9.** Section 8 (regulations) is amended—
- (a) by renumbering the existing text as subsection (1);
  - (b) by inserting the words and character “Marine Protected Area,” after the words “Nature Reserve,” wherever they occur in subsection (1)(a), (b), (c) and (f);
  - (c) by adding the following subsection—  
“(2) Regulations under subsection (1) may prescribe such matters for the whole, or a part or parts of, any National Park, Nature Reserve, Marine Protected Area, Sanctuary or Area of Historical Interest.”.

### Further minor amendments

**10. (1)** Section 2 (interpretation) is further amended by deleting the definitions of—

- (a) “private land”, and
- (b) “Special Protection Area”.

**(2)** Section 4 (purpose and use of National Parks, etc.) is further amended—

- (a) by deleting the words and character “subject to appropriate planning permission being granted,” in subsection (1)(a)(ii);
- (b) by deleting the words “paragraph (e) as being permissible” in subsection (1)(a)(iii) and substituting “sub-paragraph (ii)”;
- (c) by deleting the words “by the Governor” in subsection (1A) and substituting “under section 3”;

**(3)** Section 4A (Marine Protected Areas, Management Plans and regulations) is further amended by deleting the words “or any number of Special Protection Areas designated within that MPA” in subsection (1).

**(4)** Section 5 (provisions with respect to land in areas declared to be National Parks, etc.) is repealed.

(5) Section 6 (restrictions on certain activities harmful to the ecology) is further amended by repealing subsection (2).

(6) Section 8 (regulations) is further amended by deleting the word “fishery” in subsection (1)(g).

(7) The following provisions are amended or further amended as the case may be by deleting the word “Governor” in each place that it appears and substituting the word “Administrator”—

- (a) subsection (1) and subsection (5) of section 4 (purpose and use of National Parks, etc.);
- (b) section 6 (restrictions on certain activities harmful to the ecology);
- (c) section 7 (enforcement).

**PART 3**  
**AMENDMENTS TO THE FISHERIES (CONSERVATION AND MANAGEMENT)**  
**ORDINANCE, 2015**

11. (1) The Fisheries (Conservation and Management) Ordinance, 2015 is amended in accordance with this part.

(2) References in this part to a division or sub-division of an ordinance are references to the Fisheries (Conservation and Management) Ordinance, 2015.

**Amendments to definitions**

12. (1) Section 2 (interpretation) is amended—

(a) by inserting the following definitions in the appropriate alphabetical sequence—

“**controlled fishing zone**” means any area of the fishery limits for the time being the subject of an order or regulations, as the case may be, made under, or continuing to have effect as if made under, section 5(1A);

“**exclusive economic zone**” means the Ascension maritime zone that extends 200 nautical miles from the nearest points of the baseline from which the breadth of the territorial sea adjacent to the island of Ascension is measured and as established by Proclamation dated 13 July 2017;

“**large-scale commercial fishing**” means extractive fishing or fishing-related operations by a person, the primary purpose of which is the taking of fish to export from Ascension for fee, gain or reward, or for sale elsewhere, whether such sale is by or on behalf of that person or another.

(2) Section 3 (fishery limits) other than the heading, is repealed and the following is substituted—

“3. Notwithstanding any reference to fishery limits or cognate expressions in any other Ordinance, the Ascension fishery limits extend to the seaward limits of the exclusive economic zone.”

### **Prohibition of large-scale commercial fishing and licensing of other fishing**

13. Section 5 (licensing of fishing) is amended—

(a) by deleting subsection (1) and substituting the following—

“(1) Large-scale commercial fishing in any area of the fishery limits that is declared to be a marine protected area under the National Protected Areas Ordinance, 2003 is prohibited.”;

(b) by inserting the following subsection after subsection (1) —

“(1A) Subject to subsection (1), the Governor, acting on the advice of the Director of Conservation, may by regulations—

(a) specify any area of the fishery limits within which fishing is prohibited unless it is authorised by a licence granted under this section; and

(b) make provision for the types of fishing licences that may be granted in respect of that area.”;

(c) by deleting the words “(the specified area)” in subsection 4(a).

### **Consequential and minor amendments**

14. (1) Section 2 (interpretation) is further amended—

(a) by deleting paragraph (c) of the definition of “foreign fishing boat” and substituting the following—

“(c) owned by a company (wherever registered) that holds a licence to fish granted under this Ordinance”;

(b) by deleting paragraph (a) of the definition of “illegal” and substituting the following—

“(a) conducted by a fishing vessel in the fishery limits of Ascension contrary to a prohibition under this Ordinance, or otherwise than in accordance with a licence issued under this Ordinance; or”;

(c) by deleting the definition of “specified area”.

(2) Section 6 (report prior to entry or transmission of location within fishing limits) is amended as follows—

(a) in the heading, delete the word “fishing” and insert “fishery”;

(b) for the word “that specified area”. “the specified area” and “a specified area”, at each location at which they appear substitute the words “the fishery limits”;

(c) before the words “fishing boat” at each location at which it appears, insert “foreign”.

- (3) Section 7 (IUU offences) is amended—
- (a) by deleting the words “by an order made under” wherever they occur in subsections (1) and (2) and substituting “by or under”
- (b) by, in subsection (5)—
- (i) deleting the words “under this section” and substituting “in respect of a controlled fishing zone”;
- (ii) deleting the words “the fishery limits” wherever they appear and substituting the words “the controlled fishing zone”;
- (iii) deleting the words “those limits” and substituting “the controlled fishing zone”.
- (4) The following provisions are amended by deleting the words “specified area” in each place that they appear and substituting “controlled fishing zone”—
- (a) section 9 (unstowed fishing gear);
- (b) section 18 (powers referred to in section 17 and provisions related to those powers);
- (c) section 22 (reports on departure (foreign fishing boats));
- (d) section 23 (temporary departure provisions);
- (e) section 31 (regulations).
- (5) Section 17 (powers of Fishery Protection Officers: introductory provisions) is amended by deleting the word “order” in subsection (1) and substituting “prohibition”.

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**EXPLANATORY NOTE**

*(This note does not form part of the Ordinance)*

The purpose of this Ordinance is to amend the National Protected Areas Ordinance, 2003, to make further provision with respect to the protection of marine protected areas; and to amend the Fisheries (Conservation and Management) Ordinance, 2015, to further regulate the restrictions on fishing within the fishery limits.

Section 1 contains the citation for the Ordinance and makes provision for the Governor to fix the commencement date by notice in the Gazette.

Part 2 of the Ordinance is introduced by section 2 and makes various amendments to the National Protected Areas Ordinance, 2003 as follows

- section 3 inserts and deletes definitions in section 2;
- section 4 amends section 4 and section 4A to make changes to the manner in which mining, mining-related activity and development are managed in marine protected areas;
- section 5 amends section 4A in order to clarify the scope of management plans;
- section 6 introduces a new section 5A to deal with applications for authorisation to carry out development within a marine protected area;
- section 7 amends section 6 to ensure that the provisions which restrict certain activities that are harmful to the ecology are extended to marine protected areas, and that provisions to restrict, for the protection of living organisms, development and the depositing or discharge of waste are extended beyond Ascension to the exclusive economic zone;



- section 8 extends the provisions in section 7 relating to offences to marine protected areas;
- section 9 extends the regulation-making powers in section 8 to marine protected areas and inserts a new power to make regulations covering part of a national protected area;
- section 10 makes a small number of further minor amendments, in particular repealing the provisions dealing with private land and with Special Protection Areas.

Part 3 is introduced by section 11 and amends the Fisheries (Conservation and Management) Ordinance, 2015 as follows:

- section 12 inserts new definitions into section 2 of the F(CM)O and amends and deletes other definitions;
- section 13 amends section of the F(CM)O to introduce an absolute prohibition on large-scale commercial fishing and to make further provisions concerning the licensing of other fishing;
- section 14 makes a small number of consequential and minor amendments.