

**FORESTRY, PROTECTED AREAS AND WILDLIFE CONSERVATION  
(PROTECTED AREA SPECIAL DEVELOPMENT PERMIT) REGULATIONS 2014**

**ARRANGEMENT OF REGULATIONS**

1. Short title
2. Interpretation
3. Designation of Developments
4. Application for a Permit
5. Processing of Application
6. Further Information
7. Terms of reference
8. Preparation of environmental assessment in accordance with TOR
9. Minimum Statutory Standards for Preparation of EIA
10. Review of EIA report
11. Public consultation on EIA report
12. Determination of Application
13. Issue and Refusal of Permit
14. Protected Area Special Development Register
15. Responsibilities of Permittee
16. Requirement to act in a timely manner
17. Changes in Permitting Conditions
18. Variation of Permit
19. Issuance of Amended Permit
20. Transfer of Permit
21. Renewal of Permit
22. Revocation of Permit
23. Suspension of Permit
24. Procedure for the Revocation, Suspension and Variation of Permits and  
Rejection of Claims
25. Notification of Decisions of the Authority or Department
26. Appeals to the Environmental Commission
27. Special Development Register
28. Trade secrets and confidential business information
29. Offences

## **PROTECTED AREA SPECIAL DEVELOPMENT PERMIT REGULATIONS**

### **MADE BY THE MINISTER UNDER SECTION 121 OF THE FORESTRY, PROTECTED AREAS AND WILDLIFE CONSERVATION ACT 2014**

#### **Short title**

1. These Regulations may be cited as the Protected Area Special Development Permit Regulations.

#### **Interpretation**

2. In these Regulations, unless the context otherwise requires—

“**Act**” means the Forestry, Protected Areas and Wildlife Conservation Act No.---of 2014;

“**applicant**” means a person applying for a Permit pursuant to regulation 4 or asserting a claim for omission of a trade secret or confidential business information from the National Biodiversity Information System pursuant to regulation 27

“**application**” means an application for a Protected Area Special Development Permit pursuant to regulation 4; or asserting a claim for omission of a trade secret or confidential business information from the National Biodiversity Information System pursuant to regulation 14

“**Authority**” means the Forest and Protected Areas Management Authority established under the Act’;

“**Department**” means the Department of Natural Resources and Environment of the Tobago House of Assembly;

“**development**” means any proposed use of lands within a protected area that may in the opinion of the Authority or the Authority or Department adversely impact on the objectives for which the protected area was designated;

“**effect**” include direct and indirect, secondary, cumulative, short, medium and long term, permanent, temporary, positive, negative and synergistic;

“**EIA**” means an environmental impact assessment;

“**Environmental Commission**” means the tribunal appointed pursuant to section 81 of the Environmental Management Act Chapter 35:05;

“**mitigate**” means, with respect to an undertaking, to eliminate, reduce, or control the adverse effects or the significant environmental effects of an undertaking

“**NBIS**” means the National Biodiversity Information System established under Section 35(1) of the Act;

“**notice**” means a notice in accordance with the form determined by the Authority or the Authority or Department;

“**Permit**” means a Protected Area Special Development Permit issued under Sections 65(1) and 66 of the Act;

“**permittee**” means a person proposing or executing a development project or the applicant for a Permit for a development project;

“**prescribed fee**” means the fee established by the Forestry, Protected Areas and Wildlife Conservation (Fees) Regulations 2014.

“**TOR**” means terms of reference for an EIA

## **Designation of Developments**

**3.** (1) The Authority and the Authority or Department shall inform all owners or occupiers of lands within protected areas as to the types of development that would be permitted within the protected areas.

## **Application for a Permit**

**4.** (1) An application for a Permit shall be completed in the form provided by the Authority or Department and submitted to the Authority or Department together with the prescribed fee.

- (2) An application for a Permit shall include the following:
- (a) the name and business address of the applicant;
  - (b) an identification of the development project;
  - (c) the location of the development project;
  - (d) the purpose and objectives of the development project;
  - (e) a description of the site and the areas likely to be affected by the proposed development project;
  - (f) the size and scale of the development project including capacity, throughput, land space and covered areas;
  - (g) a description of the development project explaining –
    - (i) the types of processes and equipment or machinery to be involved;
    - (ii) the type, quantity and sources of input materials;
    - (iii) the quantity and destination of any by-products including any waste;
    - (iv) the modes of transportation that will be used to carry out the development project and the potential effects of such transportation;
    - (v) the volume of intermediate and final products; and
    - (vi) the frequency or rate of extraction with respect to use of natural resources;
  - (h) the expected life of the development project;
  - (i) the proposed schedule of actions from preparatory work to start-up and operation;
  - (j) such maps, plans, diagrams, photographs, charts and other illustrative or graphic material as may facilitate understanding of the information presented and the nature of the site.
  - (k) such other information that the Authority or Authority or Department may require.
- (3) Where the permittee of a development project is a company, the permittee shall supply the Authority or Department with a Registrar's Permit furnished by the Registrar of Companies under Section 8 of the Companies Act Chap 11.12 state that the name of the company is on the Companies Register.

- (4) Where a permittee is required to apply for a Permit in the discretion of the Authority or Department exercised in accordance with Section 67 of the Act, the permittee shall submit an application in accordance with procedures in accordance with paragraphs (1), (2) and (3) above.

### **Processing of Application**

5. (1) Subject to paragraph (2), the Authority or Department shall within fourteen working days after receipt of an application issue to the permittee a notice acknowledging receipt of the application and it shall –

- (i) notify the permittee that the application does not relate to a development project contemplated by these Regulations and accordingly, does not require a Permit;
- (ii) notify the permittee that the application requires a Permit but does not require further information or an EIA;
- (iii) notify the permittee that the application requires a Permit and further information as prescribed in regulation 4(2) but not an EIA; or
- (iv) notify the permittee that the application requires a Permit and an EIA in accordance with a TOR.

(2) Where a permittee who has submitted an application for a Permit as directed by the Authority or Department in accordance with regulation 4(4), the Authority or Authority or Department shall within fourteen working days after receipt of an application issue to the permittee a notice acknowledging receipt of the application and it shall –

- (i) notify the permittee that the application requires a Permit but does not require further information or an EIA;
- (ii) notify the permittee that the application requires a Permit and further information as prescribed in regulation 4(2) but not an EIA; or
- (iii) notify the permittee that the application requires a Permit and an EIA in accordance with a TOR.

### **Further Information**

6. Where a permittee has been notified in accordance with regulation 5 above that the application requires further information as prescribed by regulation 4(2), the Authority or Department shall within fourteen days of issue of such notification prepare and submit to the permittee a statement setting out the full particulars of the further information required by the Authority or Department to determine the application for a Permit.

### **Terms of reference**

7. (1) Where a permittee has been notified in accordance with regulation 5 above that the application requires an EIA, the permittee shall within twenty eight working days of receipt of such notification –

- (a) prepare a draft TOR;

- (b) consult with the Authority or Department on the preparation of the proposed draft TOR as necessary;
  - (c) consult with relevant agencies, governmental entities, non-governmental organisations and other members of the public on the draft TOR;
  - (d) submit a report of the consultations with relevant agencies, non-governmental organisations and other members of the public of the draft TOR.
  - (e) submit a report responding to comments received by relevant agencies, governmental entities, non-governmental organisations and other members of the public on the draft TOR;
- (2) A draft TOR shall include, but not be limited to, the following information:
- (a) a description of the proposed project;
  - (b) the reason for the project;
  - (c) the requirements for the preparation of the EIA in accordance with regulation 9;
  - (d) a program of public consultation to explain and receive comments on the project including but not limited to disadvantages, advantages, impacts, effects, monitoring programs, mitigation measures as provided in the EIA.
- (3) Within eighteen days from receipt of the draft TOR, consultation report and report on response to comments received in paragraph (1) above, the Authority or Department shall approve the draft TOR with any amendments that it considers necessary after a consideration of comments received and where it is satisfied that an environmental assessment prepared in accordance with a Final TOR will be consistent with the purpose of the Act and the public interest.
- (4) The Final TOR may provide that the environmental assessment consist of information in addition to that required by paragraph (2) above.

### **Preparation of environmental assessment in accordance with TOR**

8. The permittee shall prepare an EIA for a project in accordance with a Final TOR.

### **Minimum Statutory Standards for Preparation of EIA**

9. An EIA required by the Authority or Department shall be carried out by persons with expertise and experience in the specific areas for which information is required and shall include but not be limited to the following information:

(a) a non-technical summary of the findings of the assessment comprising the key issues, a brief evaluation of the potential effects and hazards of the proposed development project and the measures and recommendations proposed for addressing the findings of the evaluation;

(b) a description of the existing ecological and other characteristics and conditions of the site and areas likely to be affected by the proposed development project, with relevant

information about the land use requirements during the various phases of the development project;

(c) illustrative materials where appropriate, including maps and photographs;

(d) a description of the development project giving adequate and concise information on—

- (i) the characteristics of the processes and methods proposed;
- (ii) the design, size, scale and capacity;
- (iii) equipment and machinery to be involved;
- (iv) source, nature and quantity of materials to be used;
- (v) rates of extraction; and
- (vi) the estimated type and quantities of expected emissions, residues, wastes, noise, light, vibrations, heat, and radiation to air, water and soil during the various phases of the development project;

(e) an identification and assessment of the main effects that the development project is likely to have on the components of the environment, including:

- (i) human beings;
- (ii) fauna;
- (iii) flora
- (iv) soil;
- (v) water—surface and ground;
- (vi) air;
- (vii) the coast and sea;
- (viii) weather and climate;
- (ix) the landscape;
- (x) the interaction between any of the foregoing;
- (xi) material assets; and
- (xii) the cultural heritage;

(f) an evaluation of the alternatives to the development project, giving consideration to concerns of environment, alternative sites, designs, approaches and processes;

(g) an account of the assessment of the methods used and the level of uncertainty of any predictions;

(h) an account of the measures proposed to avoid, reduce, mitigate or remedy any of the significant adverse effects identified;

(i) an identification of the potential hazards and an assessment of the level of risk that may be caused by the proposed development project and an account of the measures envisaged to address any environmental emergencies that may result from the development project;

(j) a description of the programme proposed for monitoring actual impacts and the effects of the mitigation measures at the various stages of the development project;

(k) the data and methods used to obtain the information in paragraph (e) above; and

(l) a description of any consultation about the project by the permittee and the results of the consultation.

### **Review of EIA report**

**10.** (1) Upon submission of the EIA report, the Authority or Department shall examine the EIA report to determine whether it addresses the items specified in the Final TOR or Secondary TOR.

(2) Within 60 days following receipt of the EIA Report the Authority or Department shall advise the permittee in writing that:

(a) the EIA report does not address the items specified in the Final TOR or is deficient in any respect and additional information is required to complete the EIA report; or

(b) the EIA report addresses the items specified in the terms of reference and is accepted.

(3) The permittee shall submit the additional information required under subregulation (2)(a) and the procedures and requirements of paragraphs (1) and (2) apply.

### **Public consultation on EIA report**

**11** (1) The Authority or Department shall, no later than 14 days after accepting the EIA Report in regulation 10 above, publish a notice in the manner set out in paragraph (3) below announcing the release of the EIA Report to the public and shall state in the notice that the public may submit written comments to the Authority or Department within 48 days following the date of publication of the notice.

(2) If the Authority or Department considers the time period for submitting comments under paragraph (1) to be insufficient, the Authority or Department may extend the deadline and shall advise the permittee in writing of the decision.

- (3) The Authority or Department is required by the Act or these regulations to publish a notice, the notice shall be published the Notice in the *Gazette* and in one newspaper having general circulation.

### **Determination of Application**

12. (1) Subject to paragraph (2) below, the Authority or Department shall notify the applicant in writing of its determination with respect to a Permit which –

- (i) does not require further information or an EIA, within twenty one working days after the date of acknowledgement of the receipt of the application under regulation 5;
- (ii) requires further information but not an EIA, within twenty eight working days after the receipt of the further information;
- (iii) requires an EIA within twenty eight working days after the end of public comment period provided in regulation 11 above.

(2) If the Authority or Department considers the time period for making a determination under paragraph (1) to be insufficient, the Authority or Department may extend the deadline and shall advise the permittee in writing of the decision and reasons thereof.

### **Issue and Refusal of Permit**

13. (1) A determination with respect to a Permit includes –

- (a) the issue of a Permit in accordance with the form as determined by the Authority or Department which shall include –
  - (i) an identifying number
  - (ii) the date from which the Permit is effective
  - (iii) the information, in the application mentioned in regulation 4(2);
  - (iv) the mitigation measures that the applicant is required to undertake;
  - (v) a condition that if the project for which the Permit is granted has not commenced within three years after the effective date, the Permit shall cease to have any validity, force or effect;
  - (vi) other terms and conditions as the Authority sees fit; and
  - (vii) a reminder to the permittee of his right of appeal to the Environmental Commission against a decision to grant a Permit with conditions; or
- (b) the issue of a notice of refusal to issue a Permit which shall set out the reasons for refusal and a reminder to the applicant of his right of appeal to the Environmental Commission against a decision to refuse to issue a Permit.

- (2) The permittee shall cause the Permit to be displayed in public view at the place from which the permittee carries on the development project for which the Permit was issued.

### **Protected Area Special Development Register**

**14.** (1) The Authority or Department shall specify and maintain a Protected Area Special Development Register which shall be in any form and be part of the NBIS established pursuant to section 35(1) of the Act.

(2) The Protected Area Special Development Register shall be open to the public for inspection at the Authority or Department's principal office during working hours.

(3) Subject to paragraph (4) below, the Authority or Department shall enter into the NBIS, the details and status of every –

- (i) application, including the information supplied under regulation 4(2);
- (ii) application for and transfers approved by the Authority or Department under regulation 20;
- (iii) Permit, including the appropriate mitigation measures, other terms and conditions subject to which it is issued under regulation 13;
- (iv) refusal to issue a Permit and the reasons for refusal;
- (v) refusal to grant a transfer of a Permit;
- (vi) a variation of a Permit under regulation 18;
- (vii) issuance or refusal to issue an amended Permit under regulation 19(2)
- (viii) refusal of an application for a transfer of a Permit under regulation 20;
- (ix) a revocation of a Permit under regulation 22;
- (x) a suspension of a Permit under regulation 23;
- (xi) inspection and monitoring reports;
- (xii) inspection and monitoring reports, notices, administrative orders, administrative civil assessments, appeals, applications, civil actions, claims, and applications for enforcements issued or made pursuant to the Act and these Regulations; and
- (xiii) any other information considered by the Authority or Department as necessary to be placed in the public domain.

(3) An extract from the Protected Area Special Development Register shall be supplied at the request of any person on payment of the prescribed fee.

(4) The Authority or Department shall omit from the NBIS any information which the permittee claims under Section 35(6) of the Act should be treated as a trade secret or confidential business information.

## **Responsibilities of Permittee**

**15.** (1) The permittee shall at all times properly act to achieve compliance with the Permit and shall promptly furnish the Authority or Department with any information which the Authority or Department may request to determine whether cause exists for varying, suspending, revoking or renewing the Permit or to determine compliance with the Permit .

(2) The permittee shall furnish to the Authority or Department, upon request, copies of records required to be kept by the permittee.

(3) The permittee shall report all instances of anticipated non-compliance to the Authority or Department and shall give reasonable notice of any activity which may result in non-compliance with the requirements of the Permit.

(4) Where there has been non-compliance with the requirements of the Permit, the permittee shall:–

- i. report to the Authority or Department, within forty-eight hours of the time the permittee becomes aware of the circumstances of the non-compliance, the anticipated manner in which it may endanger health or the environment; and
- ii. within five (5) days submit to the Authority or Department a report containing a description of the non-compliance, its cause and the period of non-compliance including exact dates and time and the response of the permittee to the non-compliance.

(5) If the non-compliance in sub regulation (4) has not been corrected, the permittee shall:

- i. submit a report to the Authority or Department indicating the anticipated duration it is expected to continue; and
- ii. state whether the permittee considers that the non-compliance was due to an emergency and the reasons for such a belief.

(6) The permittee shall allow an authorised officer, upon the presentation of identification to –

- i. inspect at reasonable times any practices or operations regulated or required under the Permit;
- ii. copy any records that must be kept under the conditions of the Permit; and
- iii. monitor at reasonable times, for the purposes of ensuring compliance with the Permit.

## **Requirement to act in a timely manner**

**16.** Where the Authority or Department requires the information to be submitted under these Regulations, the applicant or permittee, where applicable, shall submit such information in a reasonable and timely manner.

## **Changes in Permitting Conditions**

**17.** (1) A Permittee shall notify the Authority or Department in writing within twenty one working days a change affecting the accuracy of any particulars provided in an application for a Permit.

- (2) Where a permittee -
- a. dies;
  - b. becomes bankrupt;
  - c. transfers ownership;
  - d. goes into liquidation or receivership; or
  - e. becomes a party to an amalgamation,

that person or the person responsible for his affairs, shall within 21 working days of the event, give the Authority or Department notice in writing thereof.

## **Variation of Permit**

**18.** (1) The Authority or Department may:

- a. on its own initiative vary the conditions of a Permit; or
- b. on the application of the permittee vary the conditions of a Permit;

(2) The Authority or Department may vary a Permit under paragraph (1) (a) -

- a. where it appears to the Authority or Department that a situation specified in regulation 17 above has occurred; or
- b. where it appears to the Authority or Department that an emergency has occurred; or
- c. where it appears to the Authority or Department that any other change, situation or development project relating to the use of the Permit has occurred that is not consistent with these Regulations

## **Issuance of Amended Permit**

**19.** (1) Where the Authority or Department varies a Permit pursuant to regulation 18(1)(a), it shall issue an amended Permit within 30 working days of its decision to vary the Permit.

(2) Where the Authority or Department receives an application under regulation 18(1) (b) for a variation of a Permit, the Authority or Department shall, within 30 working days of receipt of the completed application, issue to the applicant an amended Permit or refuse to grant a variation.

## **Transfer of Permit**

**20.** (1) No Permit is assignable or transferable to any person without the consent of the Authority or Department.

(2) The Authority or Department may, on the application of a permittee, transfer a Permit to another person.

(3) An application for a transfer of a Permit shall be in accordance with the form as determined by the Authority or Department, and be submitted to the Authority or Department together with the prescribed fee.

(4) An application for a transfer shall contain –  
(a) the name and address of the proposed transferee; and  
(b) the signatures of the proposed transferee and the applicant.  
(c) original copy of permit to be transferred

(5) An application for a transfer shall be accompanied by the Permit which is to be transferred.

(6) Where the Authority or Department approves an application under paragraph (2), the Authority or Department shall –  
(a) endorse the transfer on the Permit submitted under paragraph (5);  
(b) substitute the name of the applicant on the Permit for that of the transferee;  
and  
(c) endorse date on which the application was approved.

### **Renewal of Permit**

**21.(1)** Where a permittee desires to continue an activity beyond the expiration of a a Protected Area Special Development Permit, the permittee shall submit an application for the renewal of the Protected Area Special Development Permit to the Authority or Department, in accordance with the form provided by the Authority or Department, together with the prescribed fee.

(2) An application for renewal of a Protected Area Special Development Permit shall be made at least 30 days before the expiration of the Protected Area Special Development Permit.

(3) The Authority or Department may during the determination of an application for the renewal of a Protected Area Special Development Permit request oral or additional written information from an applicant within a specified time.

(4) The Authority or Department shall within thirty (30) days of receipt of a completed application under subregulations (2) and (3) above, grant with or without conditions or refuse to grant a renewed Protected Area Special Development Permit to the applicant.

(5) Where a permittee has submitted an application for the renewal of the Protected Area Special Development Permit pursuant to sub regulations (1) and (2), the expired Protected

Area Special Development Permit shall continue in force until the determination of the application to renew the Permit pursuant to subregulation (4).

(6) Unless previously revoked, varied or suspended by the Authority or Department, a renewed Protected Area Special Development Permit is effective until a fixed date specified in the renewed Protected Area Special Development Permit.

### **Revocation of Permit**

**22.** (1) The Authority or Department may revoke a Permit if it appears to the Authority or Department that:

- (a) the continuation of the project authorised by the Permit would cause serious harm to the environment or serious harm to human health that was unknown at the time of granting the Permit and which cannot be avoided by varying the conditions of the Permit;
- (b) the permittee has made a misrepresentation or wilful omission in obtaining the Permit or in any report submitted to the Authority or Department;
- (c) there has been any other change in circumstances relating to the Permit that requires a revocation of the Permit.

### **Suspension of Permit**

**23.** (1) The Authority or Department may suspend a Permit if it appears to the Authority or Department that there has been any other change in circumstances relating to Permit that requires a temporary cessation of the development project for which a Permit has been granted.

(2) A Permit suspended under this regulation shall be of no effect to authorise the project allowed in the Permit .

(3) Where a Permit is suspended under this regulation, the Authority or Department in suspending it or at any time while it is suspended, may require the permittee to take such measures as it deems necessary.

### **Procedure for the Revocation, Suspension and Variation of Permits and Rejection of Claims**

**24.**(1) The Authority or Department shall not revoke, suspend or vary a permit or reject a claim under regulation 27 unless it has:

- (a) given written notice to the permittee that it intends to do so;
- (b) specified in the notice to the permittee the reasons for its intention to do so;
- (c) given the permittee a reasonable opportunity to make submissions in relation to the revocation, suspension, variation or rejection; and
- (d) taken into consideration any submissions made by the permittee.

(2) Notwithstanding subregulation (1) above, the Authority or Department may suspend a permit in cases of national emergency or in the public interest or where the continuation of the activity authorised by the permit during the period of suspension would cause serious harm to the environment or serious harm to human health.

### **Notification of Decisions of the Authority or Department**

**25.** The Authority or Department shall by notice inform the permittee, as the case may be, of the following decisions in relation to a Permit:

- (a) refusal of a grant of a Permit under regulation 13(1)(b);
- (b) issue of a Permit with conditions under regulation 13(1)(a);
- (c) a variation of a Permit under regulation 18(1);
- (d) issuance or refusal to issue an amended Permit under regulation 19(2)
- (e) refusal of an application for a transfer of a Permit under regulation 20;
- (f) refusal of an application for a renewal of a permit under regulation 21;
- (g) a revocation of a Permit under regulation 22;
- (h) a suspension of a Permit under regulation 23; or
- (i) rejection of a claim under regulation 28.

### **Appeals to the Environmental Commission**

**26.** A decision of the Authority or Department mentioned in regulation 25 is subject to appeal to the Environmental Commission.

### **Special Development Register**

**27.** (1) The Authority or Department shall establish and maintain a Special Development Register which shall be in any form and be part of the NBIS established pursuant to section 35(1) of the Act.

(2) The Special Development Register shall be open to the public for inspection at the Authority or Department's principal office during working hours.

(3) Subject to regulation 35, the Special Development Register shall contain particulars of, or relating to –

- i. every application for a permit and relevant information forming part of the application;
- ii. a refusal of a grant of a permit;
- iii. issue of a permit with conditions;
- iv. a variation of a permit under regulation 18;
- v. issuance or refusal to issue an amended permit under regulation 19(2)
- vi. refusal of an application for a transfer of a permit under regulation 20(2);
- vii. refusal of an application for a renewal of a permit under regulation 21(4);
- viii. a revocation of a permit under regulation 22;
- ix. a suspension of a permit under regulation 23;

- x. a rejection of a claim under regulation 27;
- xi. inspection and monitoring reports, notices, administrative orders, administrative civil assessments, appeals, applications, civil actions, claims, and applications for enforcements issued or made pursuant to the Act and these Regulations; and
- xii. any other information considered by the Authority or Department as necessary to be placed in the public domain.

### **Trade secrets and confidential business information**

**28.**(1) An applicant, upon payment of the prescribed fee, may assert a claim in accordance with the form as determined by the Authority or Department, that any of the information supplied to the Authority or Department under these regulations is a trade secret or confidential business information and that it be omitted from the Special Development Register.

(2) The Authority or Department may reject the claim for the reason -

- i. that the applicant has not disclosed the basis for the claim;
- ii. that the basis thereof is invalid; or
- iii. that the public interest in disclosing the information clearly outweighs any prejudice to the applicant.

(3) The Authority or Department shall omit the information from the Special Development Register where –

- i. the Authority or Department does not contest the claim; or
- ii. the Authority or Department rejects the claim under subregulation (2) but the claim is upheld on an appeal pursuant to regulation 26 above.

### **Offences**

**29.** It shall be an offence of any permittee or person to contravene the provisions of these Regulations or any Permit.