



BRITISH INDIAN OCEAN TERRITORY

**REVISED ORDINANCES OF THE
BRITISH INDIAN OCEAN TERRITORY**

**THE DIEGO GARCIA CONSERVATION
(RESTRICTED AREA) ORDINANCE 1994**

CHAPTER E.3

Revised Edition

Showing the law as at 1 September 2020

Published by Authority

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This is a revised edition of the law, prepared by the Law Revision Commissioner under the authority of the Law Revision Ordinance 2015 and contains a consolidation of the following laws:

The Diego Garcia Conservation (Restricted Area) Ordinance 1994 - Ordinance No.6 of 1994

As amended by:

Ordinance No.4 of 2016

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ARRANGEMENT OF SECTIONS

Section		Page
1.	Citation and definitions.	4
2.	<i>Deleted on revision.</i>	5
3.	Establishment of restricted area.	5
4.	Entry into restricted area and permitted activities there.	5
5.	Offences and penalties.	5
6.	Exceptions.	6
7.	Evidence.	6
8.	Saving for immigration control.	6

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An Ordinance to promote the conservation of the natural resources and historical heritage of the Territory by authorising the restriction of access to certain areas in and adjacent to Diego Garcia and the regulation of activities within those areas, and for purposes incidental thereto.

Citation and definitions.

1. (1) This Ordinance may be cited as the Diego Garcia Conservation (Restricted Area) Ordinance 1994, ROBIOT c.E.3.

(2) In this Ordinance, unless the contrary intention appears –

the Commanding Officer means the United States Navy Officer in command of the facility;

the controlled area means the whole of Diego Garcia outside the specific area, together with the four islets at the mouth of the lagoon, and includes the waters of the lagoon and the territorial sea adjacent to Diego Garcia and those four islets;

the facility means the facility described in paragraph (1)(a) of the Exchange of Notes of 25 February 1976 between the Government of the United Kingdom and the Government of the United States of America concerning a United States Navy Support Facility on Diego Garcia, British Indian Ocean Territory;

members of the United States Forces and **contractor personnel** have the same meaning as in the Exchange of Notes of 20 December 1966 concerning the “Availability for Defence Purposes” of the British Indian Ocean Territory;

the restricted area means the part or parts of the controlled area that is or are for the time being determined to constitute the restricted area by a notice issued under section 3;

the specific area means the area for the time being identified as such in accordance with paragraph (1)(a) of the Exchange of Notes of 25 February 1976 between the Government of the United Kingdom and the Government of the United States of America concerning a United States Navy Support Facility on Diego Garcia, British Indian Ocean Territory.

Deleted on revision.

2. *Deleted on revision.*

Establishment of restricted area.

3. The Commissioner's Representative may, by notice issued by him which shall be posted in a part of his office to which the public has access and a copy of which is sent to the Commanding Officer, determine which part or parts of the controlled area shall constitute the restricted area.

Entry into restricted area and permitted activities there.

4. (1) No person may enter the restricted area except under the authority of a permit issued by the Commissioner's Representative.

(2) A permit authorising entry into the restricted area may confer such authority –

(a) on all persons generally or only on any specified person or persons or class or classes of persons;

(b) without limitation of time or only for any specified occasion or occasions or period or periods;

(c) in respect of the whole of the restricted area or in respect only of any specified part or parts thereof; and

(d) without limitation as to the activities (not otherwise unlawful) that may be carried out there or for the purpose of the carrying out there only of any specified activity or activities or class or classes of activities.

(3) In the framing of a permit issued under this section, a person or persons or an occasion or occasions or a part or parts of the restricted area or an activity or activities may be specified by reference to all persons, occasions, parts or activities (as the case may be) other than as expressly excepted by the permit.

(4) The Commissioner's Representative may attach such conditions as he thinks fit to any permit which he issues under this section.

Offences and penalties.

5. (1) Any person who enters any part of the restricted area otherwise than as authorised by a permit issued under section 4 is guilty of an offence.

(2) Any person who, while within the restricted area as authorised by a permit issued under section 4, being a permit which specifies the activities which he may carry out there, carries out there any activity other than one so specified is guilty of an offence.

(3) Any person who contravenes any condition attached to a permit issued under section 4 is guilty of an offence.

(4) Any person who is convicted of an offence under this section is liable to a fine not exceeding £2,000.

Exceptions.

6. (1) Sections 4 and 5 do not apply to members of the United States Forces or contractor personnel exercising such functions as are necessary for the development, use, maintenance, operation or security of the facility.

(2) Despite the definition in section 1(2) of **the controlled area** as including the territorial sea adjacent to Diego Garcia and the four islets at the mouth of the lagoon, sections 4 and 5 do not apply to any person on board a vessel exercising the right of innocent passage through the territorial sea.

Evidence.

7. (1) In any proceedings for an offence under section 5, a certificate by the Commissioner's Representative as to whether a person was, at any material time, authorised by a permit issued under section 4 to enter the restricted area or as to the extent of the authority conferred by any such permit or as to whether any (and what) condition was attached to any such permit shall be conclusive as to the matter so certified.

(2) In any proceedings for an offence under section 5, a certificate by the Commanding Officer as to whether a person was, at any material time, a member of the United States Forces or contractor personnel exercising functions necessary for the development, use, maintenance, operation or security of the facility shall be conclusive as to that matter.

(3) In any proceedings for an offence under section 5, a certificate which purports to be a certificate by the Commissioner's Representative or by the Commanding Officer, as the case may be, and to be signed by him shall be accepted as such without further proof unless credible evidence to the contrary is adduced.

Saving for immigration control.

8. For the avoidance of doubt it is hereby declared that the restrictions imposed, or authorised to be imposed, by this Ordinance are in addition to, and not in substitution for or in derogation from, the restrictions imposed, or authorised to be imposed, by the British Indian Ocean Territory (Immigration) Order 2004 and, accordingly, that nothing in this Ordinance is to be construed as authorising any person to enter any part of the Territory unless he is in

possession of a permit, or his name is endorsed on a permit, issued under the British Indian Ocean Territory (Immigration) Order 2004.
