



# Government Gazette Staatskoerant

REPUBLIC OF SOUTH AFRICA  
REPUBLIEK VAN SUID-AFRIKA

*Regulation Gazette*

**No. 8792**

*Regulasiekoerant*

**Vol. 510**

**Pretoria, 3 December 2007**  
**Desember 2007**

**No. 30542**



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## GOVERNMENT NOTICE

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### DEPARTMENT OF ENVIRONMENTAL AFFAIRS AND TOURISM

No. R.1141

3 December 2007

#### **MARINE LIVING RESOURCES ACT, 1998 (ACT NO. 18 OF 1998): DRAFT REGULATIONS FOR THE PROTECTION OF ABALONE (*HALIOTIS*) (WILD)**

The Minister of Environmental Affairs and Tourism, Marthinus van Schalkwyk hereby publishes for comment in terms of subsections (1)(b) and (2)(y) of section 77 of the Marine Living Resources Act, 1998 (Act No. 18 of 1998), draft regulations relating to the protection of wild abalone (*Haliotis*) as set out in the Schedule hereto.

Interested and affected parties may submit written comments to: Department of Environmental Affairs and Tourism: Branch Marine and Coastal Management, Attention Risha Persad, Private Bag X2, Roggebaai, 8012. Written comments may be posted by registered mail to the above address; or faxed to (021) 402-3009; or emailed to [Rpersad@deat.gov.za](mailto:Rpersad@deat.gov.za). All written comments must be received by the Department by no later than 16h00 on **15 JANUARY 2008**. Comments received after this time may not be considered.

## SCHEDULE

### Definitions

1. In these Regulations, unless the context indicates otherwise, a word or expression to which a meaning has been assigned in the Act and the Regulations in terms of the Marine Living Resources Act, 1998 published in *Gazette* No. 19205 in Notice No. R. 1111 of 2 September 1998, has the same meaning, and –

“**the Act**” means the Marine Living Resources Act, 1998 (Act No. 18 of 1998);

“**diving**” means swimming in the sea using prohibited gear;

“**listed areas**” means areas listed in Annexure 1;

“**prohibited gear**” means diving masks, snorkels, flippers, artificial breathing apparatus, weight belts or weights, bags used for underwater collection of fish, shucking tools or any implement which could be used for harvesting abalone.

### Objectives of the Regulations

2. The objectives of these regulations are to—
  - (a) enable implementation of the emergency suspension of the abalone *Haliotis* fishery;
  - (b) establish measures for the protection of wild abalone *Haliotis* and to promote the recovery and rebuilding of the wild abalone resource; and
  - (c) repeal certain regulations published in terms of the Act.

### Prohibition on diving and possession of gear

- 3.(1) No person shall engage in diving in the listed areas, notwithstanding possession of a valid permit.
  - (2) No person shall be in possession of or have on board any vessel, prohibited gear in the listed areas.
  - (3) Any person who undertakes—
    - (a) scientific research;
    - (b) white shark-cage diving;
    - (c) commercial kelp harvesting; or

(d) sea ranching;  
may apply to the Minister for a permit to engage in diving and be in possession of prohibited gear in the listed areas.

### **Offences and penalties**

- 4.(1) Any person who fails to comply with regulations 3(1) and (2) shall be guilty of an offence and liable on conviction to a fine not exceeding R500 000 or to imprisonment not exceeding two years, or to both such fine and imprisonment.
- (2) Any person who undertakes an activity without a permit in contravention of regulation 3(3) shall be guilty of an offence and liable on conviction to a fine not exceeding R100 000 or to imprisonment not exceeding one year, or to both such fine and imprisonment.

### **Repeal of regulations**

- 5.(1) Regulations 36(1)(c); 36(2); 37; 38; 39 and 40 of the Regulations in terms of the Marine Living Resources Act, 1998 published in Gazette No. 19205 in Notice No. R. 1111 of 2 September 1998, as amended are hereby repealed.
- (2) Item 5 of Annexure 2 of the Regulations in terms of the Marine Living Resources Act, 1998 published in Gazette No. 19205 in Notice No. R. 1111 of 2 September 1998, as amended is hereby repealed.
- (3) Regulation 6 of the Regulations published in terms of the Marine Living Resources Act, 1998 published in Gazette No. 26432 in Notice No. 696, of 4 June 2004 is hereby repealed.

**ANNEXURE 1****LISTED AREAS**

1. Bird Island Marine Protected Area as declared in *Notice No. 696, Gazette No. 26432* of 4 June 2004.
  2. Quoin Point to Danger Point (from the west bank of the Ratel River along the coast to the eastern boundary of Gansbaai Harbour's main breakwater wall, extending 2 nautical miles seaward from the high watermark).
  3. Dyer Island extending 1 nautical mile from the high watermark.
  4. Venus Pool to Olifantsbos (extending 2 nautical miles seaward from the high watermark). Co-ordinates: 34°17'.744S;018°28'.464E to 34°16'375S; 18° 22'.752E.
  5. Robben Island, extending 1 nautical mile from the high watermark.
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