

(16 September 2011 – to date)

MARINE LIVING RESOURCES ACT 18 OF 1998

(Gazette No. 18930, Notice No. 747. Commencement date: 1 September 1998 [Proc. No. 80, Gazette No. 19148])

AMATHOLE MARINE PROTECTED AREA REGULATIONS

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I, Mrs RE.E. Molewa, the Minister of Water and Environmental Affairs has under Section 77(2)(x)(i) of the Marine living Resources Act, 1998 (Act No. 18 of 1998), made the regulation in the Schedule hereto.

Mrs RE.E. Molewa, Minister of Water and Environmental Affairs

Schedule

1. Definitions

In these regulations any word or expression to which a meaning has been assigned in the Act bears that meaning, unless the context otherwise indicates—

"alpha flag" means the "diver down" flag used to indicate that diving operations are in progress and other vessels must keep clear;

"the Act" means the Marine living Resources Act, 1998 (Act No.18 of 1998), inclusive of amendments, regulations and notices promulgated thereunder;

"benchmark areas" means areas against which other sites may be compared;

"Marine Protected Area" means the Amathole Marine Protected Area comprising the Kei, Gonubie and Gxulu areas as declared by the Minister in terms of section 43 of the Act;

"SCUBA Diving" means swimming below the surface of the water, with the aid of compressed or pumped air or other gasses;

"Spearfisher" means a person who undertakes fishing with the use of a spear-gun;

2. Objectives of regulations

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The objectives of these regulations are:

- (1) To protect and conserve the marine environment and the marine biodiversity in the Amathole region;
- (2) To provide a sanctuary for species impacted by boat-based exploitation;
- (3) To provide benchmark areas for scientific research and monitoring aimed at the protection and conservation of biodiversity and ecosystems;
- (4) To control activities in the Marine Protected Area to reduce the risks of habitat degradation.

3. Control of activities

- (1) Subject to section 83 of the Act—
 - (a) No person may fish, or attempt to fish, within the Marine Protected Area from any vessel;
 - (b) Fishing gear on a vessel that enters or traverses the Marine Protected Area must be stowed, with all hooks disconnected and un-baited; and such a vessel may not stop or move at less than 5 knots at any time while in the Marine Protected Area, except for purposes of preparing the vessel for re-entering the surf zone opposite the Haga Haga, Kei Mouth or Christmasvale launch sites.
- (2) A vessel entering or traversing the Marine Protected Area with fishing gear on board must have a Global Positioning System (GPS) Mapping Device with an active trail operational on the vessel, prior to entering and while traversing the Marine Protected Area and such GPS data may not be deleted from this device for forty eight hours after passing through the Marine Protected Area.
- (3) A vessel required by law to have a Vessel Monitoring System; must when entering or traversing the Marine Protected Area with fishing gear on board, ensure that the Vessel Monitoring System is active.
- (4) No spearfisher may use any floatation device to extend swimming range when traversing, diving, fishing or landing fish in a Marine Protected Area.
- (5) No person may use any device including radio, other electronic, chemical or mechanical, which increases casting distance.

4. SCUBA Diving

- (1) No person may without a permit issued in terms of section 13 of the Act—

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- (a) SCUBA dive or attempt to SCUBA dive in the Marine Protected Area; or
 - (b) operate or attempt to operate a SCUBA diving business in the Marine Protected Area.
- (2) Individual SCUBA diving permits may be obtained from an office authorised by the Minister, or an authorised SCUBA diving business operator, subject to the payment of the prescribed fee.
 - (3) Application for a permit referred to in sub-regulation (1)(b) must be made to the Department.
 - (4) A Person scuba diving from a vessel must deploy an alpha flag.

5. Offences and penalties

Any person who, contravenes a provision of these Regulations; shall be guilty of an offence and liable on conviction to a fine not exceeding R300 000, or to imprisonment for a maximum period not exceeding two years.

6. Savings

Section 43 (2)(c) and (d) of the Act shall not apply to existing marine aquaculture structures and discharges within the Marine Protected Area.

7. Short title and commencement

These regulations are called the Amathole Marine Protected Area Regulations and commence upon date of publication.