

# Marine Living Resources Act 18 of 1998 (MLRA)

Topic: Environment and Marine

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## IN A CALABASH

### Introduction

South Africa's coastal waters are slowly being over-fished. If this continues, marine and fish products will become scarce or unavailable. In order to manage this, the Marine Living Resources Act 18 of 1998 (MLRA) was brought into operation in South African. The Act seeks to ensure that coastal and sea areas and their related ecosystems are not exploited, over-fished, endangered, ruined or polluted.

The overarching purpose of the MLRA is to provide for the conservation of the marine ecosystem, the long-term sustainable utilisation of marine living resources and the orderly access to exploitation, utilisation and protection of certain marine living resources.

To this end, the MLRA seeks to control marine living resources in a fair and equitable manner to the benefit of all the citizens of South Africa.

### Objectives of the Act

The Act aims to—

- achieve optimum utilisation and ecologically sustainable development of marine living resources;
- conserve marine living resources for both present and future generations;
- apply precautionary approaches in respect of the management and development of marine living resources;
- utilise marine living resources to achieve economic growth, human resource development, capacity-building within fisheries and mariculture branches, employment creation and a sound ecological balance consistent with the development objectives of the national government;
- protect the ecosystem as a whole, including species which are not targeted for exploitation;
- preserve marine biodiversity;
- minimise marine pollution;
- achieve, to the extent practicable, a broad and accountable participation in decision-making processes;
- apply the principles of any international agreement or applicable rule of international law; and

- restructure the fishing industry to address historical imbalances and achieve equity within all branches of the fishing industry.
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## **Application of the Act and its implication to Tourism**

The MLRA applies to–

- all fishing vessels and aircraft, including foreign fishing vessels and aircraft, on, in or in the airspace above South African waters; and
- fishing activities carried out in South African seas, including commercial fishing, local fishing, fishing by international persons, scuba diving, private fishing or fishing for leisure on an ad hoc or permanent basis.

The Act will not apply in respect of fish found in water which does not at any time form part of the sea.

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## **Summary of the provisions of the Act**

### **Register**

The Director-General must keep a register of all rights of access, other rights, permits and licenses granted or issued in respect of fishing activities which take place in South African seas.

The register must be available for inspection by the public from 08h00 to 12h00 on normal working days at the office of Sea Fisheries, Cape Town.

### **Permits to operate boats**

No person may fish in or operate a boat on South African waters without a permit to do so.

### **Determination of allowable catches and applied effort**

The Minister may, from time to time, determine the total allowable catch, the total applied effort or a combination thereof, to be allocated in any year to subsistence, recreational, local commercial and foreign fishing, respectively, and which may apply in a particular area, or in respect of particular species or a group of species of fish and in respect of the use of particular gear, fishing methods or types of fishing vessels.

### **Fisheries management areas**

The Minister may, by notice in the Gazette, declare any area of South African waters to be a fisheries management area for the management of the species described in the notice.

The Minister may approve a plan for the conservation, management and development of the fisheries in respect of each fisheries management area.

### **Emergency measures**

If an emergency occurs that endangers or may endanger stocks of fish or aquatic life or any species or class of fish or aquatic life in any fishery, the Minister may—

- suspend all or any of the fishing in that fishery or any specified part of it;
- restrict the number of fishing vessels fishing in that fishery; or
- restrict the mass of fish which may be taken from that fishery.

The particulars of any measures taken must be made known by notice in the Gazette and in any other appropriate manner.

### **Priority fishing areas**

If the Minister is of the opinion that special measures are necessary to ensure that authorised fishing within any area of the South African waters is not impeded or otherwise interfered with, he or she may, after consultation with the affected parties and by notice in the Gazette, declare such an area to be a priority fishing area for the purposes stated in the notice and prohibit any activity determined in the notice.

### **Local Fishing**

It is unlawful to undertake—

- commercial fishing;
- subsistence fishing;
- mariculture; or
- a fish processing establishment,

unless a right to do so has been granted by the Minister.

### **Subsistence fishing**

The Minister may establish areas or zones where subsistence fishers may fish by notice in the Gazette. After consultation with a forum, the Minister may declare—

- a specified community to be a fishing community, inhabitants of which may be declared to be subsistence fishers;
- any other person to be a subsistence fisher; or
- any other fishing or related activity or the exercise of any other right in that area or zone to be prohibited.

No subsistence fishing permit may be transferred, except with the approval of and subject to the conditions determined by the Minister.

### **Recreational fishing**

No person may sell, barter or trade any fish caught through recreational fishing. No recreational fishing permit is transferable.

### **Commercial fishing**

A commercial fishing right may be leased, divided or otherwise transferred.

An application to transfer a commercial fishing right or a part thereof must be submitted to the Minister in the determined manner and, subject to the provisions of the Act and

any applicable regulation, the Minister may, in writing, approve the transfer of the right or a part thereof.

### **Marine protected areas**

The Minister may, by notice published in the Gazette, declare an area to be a marine protected area—

- for the protection of fauna and flora, a particular species of fauna or flora and the physical features on which they depend;
- to facilitate fishery management by protecting spawning stock, allowing stock recovery, enhancing stock abundance in adjacent areas and providing pristine communities for research; or
- to diminish any conflict that may arise from competing uses in that area.

It is unlawful for a person to—

- fish or attempt to fish;
- take or destroy any fauna and flora other than fish;
- dredge, extract sand or gravel, discharge or deposit waste or any other polluting matter or in any way disturb, alter or destroy the natural environment;
- construct or erect any building or other structure on or over any land or water within a marine protected area; or
- carry on any activity which may adversely impact on the ecosystems of that area,

in any marine protected area without permission.

The Minister may, after consultation with the forum, give permission in writing that any prohibited activity may be undertaken when such activity is required for the proper management of the marine protected area.

### **Control of activities in protected and restricted zones**

It is unlawful to fish or attempt to fish within a restricted zone.

Fishing gear onboard fishing vessels that enter a restricted zone for passage must be stowed.

No person may undertake or attempt to undertake spearfishing in a restricted zone or be in possession of an armed speargun in a restricted zone.

### **SCUBA diving permit**

It is unlawful to scuba dive or attempt to scuba dive in the marine protected area without the authority of a scuba diving permit.



Applications for a scuba diving permit must be made to the Minister on an application form and with the determined fee.

If granted, the permit may be issued subject to conditions.

Scuba diving permits are valid for maximum period of twelve months and may be renewed with a determined fee.

### **Prohibited fishing methods**

It is unlawful to—

- use, permit to be used or attempt to use any explosive, fire-arm, poison or other noxious substance for the purpose of killing, stunning, disabling or catching fish or of rendering fish to be caught more easily;
- carry or have in his or her possession or control any explosive, fire-arm, poison or other noxious substance; or
- engage in a fishing or related activity by a method or in a manner prohibited by the Minister by notice in the Gazette.

Furthermore, no person may land, sell, receive or possess any fish taken in contravention of the MLRA.

### **Interference with gear**

It is unlawful to –

- remove, haul, empty, cast adrift or otherwise interfere with any fishing net, line, pot, trap, gear, tackle or other equipment belonging to any other person without the consent of that person;
- place any object in the water or promote or undertake any activity in a manner so as to obstruct a fishing operation being carried out by another person;
- destroy, damage, displace or move or alter the position of any fishing net, line, pot, trap, gear, tackle or other fishing equipment or any buoy, float or other marker attached to it; or
- remove fish from any fishing net, line, pot, trap, gear, tackle or other fishing equipment belonging to any other person without the consent of that person.

### **Driftnet fishing**

Except on the authority of a permit issued by the Minister—

- no vessel may be used for or to assist in any driftnet fishing activities;
- no person may engage or assist in any driftnet fishing activities; and
- no person onboard a local fishing vessel or a foreign fishing vessel in respect of which a foreign fishing vessel license has been issued may be in possession of a driftnet or part thereof.

## Fishing returns



On or before the fifteenth day of each month the holder of a permit must submit to Sea Fisheries, Private Bag X2, Roggebaai, 8012, a fishing return furnishing the prescribed information, which must be dated and certified by that holder as being correct.

## Closed seasons and other time restrictions

Without the authority of a permit, a person may not engage in fishing, collecting, disturbing, keeping or controlling or be in possession of any fish during any closed periods.

## Closed areas

Without the authority of a permit, a person may not engage in fishing or collecting any fish in a closed area.

## Prohibition of gear

Without the authority of a permit, a person may not have onboard a fishing vessel or a vessel any gear, stake net, setnet, gillnet, driftnet, bottom trawlnet, midwater trawlnet, purse-seine net, purse-net, longline or any type of rock lobster trap.

## Size and mass limits

The sizes of caught fish must comply with permit conditions or the regulations.

## Dumping

It is unlawful to dump or discard at sea any fish for which a total allowable catch, total applied effort or precautionary maximum catch limit has been set.

## Disposal of fish and aquatic plants

It is only with a valid permit that a person may–

- sell any fish on the recreational list;
- sell any swordfish, except swordfish caught as a by-catch by means of trawlnets or longlines, which shall not exceed 10 percent of the mass of the total catch or swordfish imported under the authority of a permit;
- trans-ship or transfer at sea any fish or fishing gear from a fishing vessel or person to another fishing vessel or person;
- sell any aquatic plant;
- import any fish or any part or product thereof; or
- export any fish or any part or product thereof.

Any live fish caught in contravention of the Act must be returned immediately to the sea without causing any further harm to the fish. All linefish caught in contravention of the Act must be returned immediately to the sea, whether alive or dead.

## Marking of fishing vessels

No person may use any fishing vessel unless it bears the registration letters and numbers assigned thereto by the Director-General.

## Radio call signs

All vessels with an overall length of 25 metres or more which are licensed to engage in fishing in South African waters may display the letters and/or numbers of its radio call-sign on each side of the superstructure at the highest practical point above the gunwale or main deck where it can best be seen.

## Documents to be carried onboard fishing vessels



Every fishing vessel to which a license or permit has been issued must carry onboard—

- documents issued by a competent authority of the flag state of such fishing vessel showing—
  - o the name of the fishing vessel;
  - o the letter or letters of the port or district in which and the number under which the fishing vessel is registered;
  - o the international radio call sign of the fishing vessel;
  - o the name and address of the owner of the fishing vessel; and
  - o all technical specifications pertaining to the fishing vessel as are specified in the relevant application for a license or permit in respect of the fishing vessel;
- up-to-date certified drawings or descriptions of the layout of the fishing vessel, in particular, the number of fish holds of the fishing vessel and their storage capacity expressed in cubic metres;
- a certificate from a competent authority of the flag state of the fishing vessel describing the nature of any modification made to the characteristics of the fishing vessel with respect to its overall length, gross registered tonnage, the horsepower of the main engine or engines or its hold capacity;
- a document from a competent authority of the flag state of the vessel indicating the calibration of the tanks in cubic metres if such fishing vessel is equipped with chilled or refrigerated sea-water tanks;
- the original of the license or permit issued in respect of the fishing vessel, which must be kept in a place where it can be readily examined and is protected from damage; and
- a copy of the Act and regulations.

## Fishing gear and other implements

No person may leave any fishing gear, mooring or any other implement or object utilised for fishing operations on or in the sea upon termination of any fishing operations, except on the authority of a permit.

Any buoy used for marking or suspending an implement in the sea must be clearly marked with the name of the vessel from which it was deployed.

## **Waste**

With the exception of biodegradable household waste, all waste generated on a fishing vessel, including waste generated in the course of fish processing and unused bait must be taken back to port, not disposed of at sea.

## **Entrance to harbour**

No person may enter or leave a fishing harbour except through the harbour entrance or exit.



### **WHAT HAPPENS IF YOU DO NOT COMPLY?**

Any person who undertakes fishing or related activities in contravention–

- of the MLRA;
- of the conditions of any right of access, other right, license or permit granted or issued; or
- of an authorisation to undertake fishing or related activities,

will be guilty of an offence and liable to a fine of up to R2 million or to imprisonment for a period of up to five years.

Any person who contravenes a provision of an international conservation and management measure inside or outside South African waters or the conditions imposed in a high seas fishing permit or high seas fishing vessel license will be guilty of an offence and liable to a fine of up to R3 million.

Any person who contravenes a provisions pertaining to the high sea fishing provisions will be guilty of an offence and liable to a fine of up to R5 million.

Any person who contravenes or fails to comply with any regulation will be guilty of an offence and liable on conviction to a fine of up to R800 000 or to imprisonment of up to two years.



### **RECOMMENDED ACTIONS OR CONTROLS WHICH SHOULD BE IMPLEMENTED BY THE TARGET AUDIENCE TO ENSURE COMPLIANCE WITH THE ACT**

- Fishing permit in place;
- Boat or vessel permit in place;
- Awareness of and non-practice of prohibited fishing methods;



- No possession of prohibited gear;
- No interference with gear;
- No driftnet fishing, unless with permission;
- Permission to use fish aggregating devices;
- Correct stowage of gear;
- Submission of fishing returns;
- No fishing in closed areas or closed seasons or other time restrictions;
- No use of unlawful gear;
- Nets and fishing devices to be lawful and permitted as per licenses;
- Compliance with permitted size and mass limits;
- No dumping of overcatch;
- No disposal of fish and aquatic plants;
- No fishing activity in marine protected areas;
- Marking of fishing vessels;
- Display of radio call signs;
- Keeping of commercial logbooks;
- Required documents to be carried onboard fishing vessels;
- Fishing gear and other implements not to be left at sea;
- Control of generation of and disposal on land of waste; and
- Correct entrance to and exit from harbour.

## FURTHER INFORMATION

### **Regulator**

Department of Agriculture, Forestry and Fisheries

### **Website**

[www.daff.gov.za](http://www.daff.gov.za)