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GOVERNMENT NOTICE

DEPARTMENT OF ENVIRONMENTAL AFFAIRS AND TOURISM

No. R. 62

1 February 2008

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

The Minister of Environmental Affairs and Tourism, Marthinus van Schalkwyk hereby publishes the Regulations for the Protection of Wild Abalone (*Haliotis*) in terms of subsections (1)(b) and (2)(y) of section 77 of the Marine Living Resources Act, 1998 (Act No. 18 of 1998), as set out in the Schedule hereto.

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 goggles, 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) Subject to sub-regulation (3) and regulation 4, no person shall engage in diving in the listed areas.
 - (2) Subject to sub-regulation (3) and regulation 4 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 and monitoring;

- (b) white shark-cage diving;
 - (c) commercial kelp harvesting;
 - (d) sea ranching;
 - (e) salvage operations;
 - (f) maintenance of legal underwater infrastructure; or
 - (g) any other activity authorised in terms of legislation,
- must apply to the Minister for a permit as contemplated in section 13 of the Act, to engage in diving or be in possession of prohibited gear in the listed areas.

Limited prohibition in Area 4 (Cape of Good Hope section of the Table Mountain National Park)

4. Within listed area 4—

- (a) diving or being in possession of prohibited gear—
 - (i) may take place within one nautical mile of the high water mark, but excludes diving from or being in possession of prohibited gear on vessels;
 - (ii) may only take place within the access times of the Cape of Good Hope section of the Table Mountain National Park.
- (b) any person undertaking diving activities or being in possession of prohibited gear shall not approach within 30m of any vessel;
- (c) no vessel shall approach within 30m of any person undertaking diving activities or being in possession of prohibited gear.

Offences and penalties

- 5.(1) Any person who fails to comply with regulations 3(1); (2) and 4 shall be guilty of an offence and liable on conviction to a fine not exceeding R500 000 or to imprisonment not exceeding two years.
- (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.

Repeal of regulations

- 6.(1) Regulations 36(2); 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 end of Gansbaai Harbour's West Breakwater (34°35'.12S; 19 ° 20'.45E), extending 2 nautical miles seaward from the high watermark). At Gansbaai Breakwater the seaward direction shall be taken as westward; at the Ratel River southward.
 3. Dyer Island extending 1 nautical mile from the high watermark.
 4. Venus Pool to Cape Point and from Cape Point to Olifantsbospunt (extending 2 nautical miles seaward from the high watermark) but excluding Bellows Rock (34°23.35'S; 18 ° 29'.44E; and the area within 300m radius from it.) At Venus Pool and Olifantsbospunt the seaward direction shall be taken as eastwards and westwards respectively. Coordinates for Venus Pool and Olifantsbospunt are respectively: 34°17'.744S; 018°28'.020E and 34 °16'.30S; 18 ° 22'.822E.
 5. Robben Island, extending 1 nautical mile from the high watermark.
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