

Please note that most Acts are published in English and another South African official language. Currently we only have capacity to publish the English versions. This means that this document will only contain even numbered pages as the other language is printed on uneven numbered pages.



Government Gazette

REPUBLIC OF SOUTH AFRICA

Vol. 587 Cape Town

19 May 2014

No. 37659

THE PRESIDENCY

No. 383

19 May 2014

It is hereby notified that the President has assented to the following Act, which is hereby published for general information:—

Act No. 5 of 2014: Marine Living Resources Amendment Act, 2014



AIDS HELPLINE: 0800-123-22 Prevention is the cure

- (b) by the deletion in the definition of “South African person” of the word “or” at the end of paragraph (c);
- (c) by the addition to the definition of “South African person” of the word “or” at the end of paragraph (d);
- (d) by the addition to the definition of “South African person” of the following paragraph: 5
 “(e) a co-operative registered in terms of the Co-operatives Act, 2005 (Act No. 14 of 2005), of which all the members are South African citizens but, where any member is a juristic person, such person’s principal place of business must be in the Republic;” 10
- (e) by the deletion of the definition of “subsistence fisher”; and
- (f) by the substitution for the definition of “total allowable catch” of the following definition: 15
 “**total allowable catch** means the maximum quantity of fish of individual species or groups of species made available annually, or during such other period of time as may be prescribed, for combined recreational, [subsistence] small-scale, commercial and foreign fishing in terms of section 14;”.

Amendment of section 2 of Act 18 of 1998

2. Section 2 of the principal Act is hereby amended— 20
- (a) by the deletion of the word “and” at the end of the paragraph (i); and
 - (b) by the addition of the following paragraphs: 25
 “(k) the need to promote equitable access to and involvement in all aspects of the fishing industry and, in particular, to rectify past prejudice against women, the youth and persons living with disabilities;
 - (l) the need to recognise approaches to fisheries management which contribute to food security, socio-economic development and the alleviation of poverty; and
 - (m) the need to recognise that fish may be allocated through a multi-species approach.”. 30

Amendment of section 14 of Act 18 of 1998, as amended by section 1 of Act 68 of 2000

3. Section 14 of the principal Act is hereby amended by the substitution for subsection (2) of the following subsection: 35
- “(2) The Minister shall determine the portions of the total allowable catch, the total applied effort, or a combination thereof, to be allocated in any year to [subsistence] small-scale, recreational, local commercial and foreign fishing, respectively.”.

Amendment of section 18 of Act 18 of 1998 40

4. Section 18 of the principal Act is hereby amended by the substitution for subsection (1) of the following subsection:
- “(1) No person shall undertake commercial fishing or [subsistence] small-scale fishing, engage in mariculture or operate a fish processing establishment unless a right to undertake or engage in such an activity or to operate such an establishment has been granted to such a person by the Minister.”. 45

Substitution of section 19 of Act 18 of 1998

5. The following section is hereby substituted for section 19 of the principal Act:

“Small-scale fishing

19. (1) The Minister, in order to achieve the objectives contemplated in section 9(2) and 39(3) of the Constitution, by notice in the *Gazette*— 50

- (a) must, subject to any law relating to marine protected areas, establish areas or zones where small-scale fishers may fish;
 - (b) may, within a prescribed period, recognise a community to be a small-scale fishing community, if the community meets requirements contained in the definition of a small-scale fishing community; 5
 - (c) may declare any other fishing or related activity or the exercise of any right of access in an area or zone contemplated in subsection (1)(a) to be prohibited;
 - (d) must prescribe—
 - (i) the process and procedures relating to the allocation and recognition or rights of access to small-scale fishers based within small-scale fishing communities; 10
 - (ii) procedures to be applied in the allocation of those rights;
 - (iii) the management of the rights of access;
 - (iv) the criteria and timetable for recognition of small-scale fishers and small-scale fishing communities; and 15
 - (e) may prescribe any ancillary or incidental administrative or procedural matter that it is necessary to prescribe for the proper exercise and performance of the powers and duties referred to in the preceding paragraphs. 20
- (2) No small-scale fishing right or permit shall be transferable except with the approval of and subject to the conditions determined by the Minister.
- (3) The Minister and any organ of state shall have regard to the need to incorporate a community-based approach in the allocation of rights of access within the small-scale fisheries sector.” 25

Substitution of section 24 of Act 18 of 1998

6. The following section is hereby substituted for section 24 of the principal Act:

“Reduction of rights

24. The Minister may in respect of any fishery, determine, after 30 consultation with the Forum, that the portions of the total allowable catch, the total applied effort, or a combination thereof, allocated in any year to [subsistence] small-scale, local commercial and foreign fishing, and rights granted in respect thereof, shall be reduced.”

Short title and commencement

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7. This Act is called the Marine Living Resources Amendment Act, 2014, and comes into operation on a date fixed by the President by proclamation in the *Gazette*.