



# GOVERNMENT GAZETTE

## OF THE

# REPUBLIC OF NAMIBIA

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## Government Notice

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### OFFICE OF THE PRIME MINISTER

No. 214

2015

#### PROMULGATION OF ACT OF PARLIAMENT

The following Act which has been passed by the Parliament and signed by the President in terms of the Namibian Constitution is hereby published in terms of Article 56 of that Constitution.

No. 9 of 2015: Marine Resources Amendment Act, 2015.

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Act No. 9, 2015

MARINE RESOURCES AMENDMENT ACT, 2015

**EXPLANATORY NOTE:**

- \_\_\_\_\_ Words underlined with a solid line indicate insertions in existing provisions.
- [            ] Words in bold type in square brackets indicate omissions from existing provisions.

**ACT**

To **amend the Marine Resources Act, 2000 so as to insert and substitute certain definitions; to provide for the sovereign exercise of ownership by the State over marine resources; to amend the provisions relating to the total allowable catch and allocation of quotas and to provide for incidental matters.**

*(Signed by the President on 10 September 2015)*

**BE IT ENACTED** as passed by the Parliament, and assented to by the President, of the Republic of Namibia as follows:

**Amendment of section 1 of Act No. 27 of 2000**

1. Section 1 of the Marine Resources Act, 2000 (in this Act referred to as the “principal Act”) is amended -

- (a) by the substitution for paragraph (a) of the definition of “commercial purposes” of the following definition:
- “(a) with the intention of selling, bartering, pledging or otherwise disposing of, or delivering or offering to do any of the things mentioned in this paragraph in respect of such resource in the ordinary course of business;”;
- (b) by the insertion after the definition of “Namibian waters” of the following definition:
- ““non-commercial purposes” with respect to harvesting marine resources means for purposes other than commercial purposes, including for the purposes of promoting any objective under section 3(3);”;
- (c) by the substitution for the definition of “quota” of the following definition:
- ““quota” means the part of the total allowable catch which may be harvested [by a holder of a right or a group of holders of a right] in respect of a specific marine resource and which is allocated for purposes of this Act [under section 39];”;
- (d) by the insertion after the definition of “quota” of the following definition:

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““reserve” means the part of the total allowable catch determined by the Minister under section 38(2), for allocation as the Minister may determine;”; and

- (e) by the substitution for the definition of “total allowable catch” of the following definition:

““total allowable catch” means a limitation of the quantity in respect of any marine resources which may be harvested in a given period in terms of section 38;”.

**Amendment of section 3 of Act No. 27 of 2000**

2. Section 3 of the principal Act is amended by -

- (a) the insertion after subsection (1) of the following subsection:

“(1A) The State owns and exercises sovereign rights over marine resources within the exclusive economic zone, territorial waters and the continental shelf in accordance with Article 100 of the Namibian Constitution and the United Nations Convention on the Law of the Sea of 10 December 1982;”;

- (b) the substitution for subsection (2) of the following subsection:

“(2) The management, protection, harvesting and utilization of marine resources in Namibia and Namibian waters shall be subject to this Act;”; and

- (c) the addition after subsection (2) of the following subsections:

“(3) Notwithstanding anything contained in sections 32, 33 and 39 of this Act, the State is entitled to utilize or harvest marine resources to advance any social-economic, cultural or other governmental objectives in the public interest, through an entity or person designated by the Minister, on direction from Cabinet.

(4) For the purpose of subsection (3), the Minister may enter into an agreement with an entity or person referred to or designated in terms of that subsection, which agreement shall set out the conditions as to the period of harvesting, the type of marine resource to be harvested, conservation and management measures to be observed and such other condition as may be determined under that subsection;”.

**Amendment of section 32 of Act No. 27 of 2000**

3. Section 32 of the principal Act is amended by the substitution for subsection (1) of the following subsection:

“**32.** (1) Except as may be otherwise provided under this Act, [N] no person shall in Namibia or in Namibian waters harvest any marine resource for commercial purposes, except under a right, an exploratory right or a fisheries agreement;”.

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**Amendment of section 38 of Act No. 27 of 2000**

4. Section 38 of the principal Act is amended -
- (a) by the substitution for subsection (1) of the following subsection:
- “(1) The Minister may, from time to time, determine a total allowable catch on the basis of the best scientific evidence available and having requested the advice of the advisory council, by notice in the *Gazette*.”; and
- (b) by substitution for subsection (2) of the following subsection:
- “(2) On determining a total allowable catch in terms of subsection (1) the Minister may determine the total allowable catch to be allocated, in a given period, to the following categories -
- (a) commercial harvesting;
- (b) non-commercial harvesting; and
- (c) reserve.”.

**Amendment of section 39 of Act No. 27 of 2000**

5. Section 39 of the principal Act is amended -
- (a) by the substitution for subsection (3) of the following subsection:
- “(3) The Minister may, upon application in the prescribed manner, but having regard to the matters set out in section 33(4), section 39A and to others that may be prescribed, allocate a quota to the holder of a right or to a person nominated under section 35(2), subject to such conditions, in addition to the conditions specified in the notice under subsection (2), as the Minister may determine.”; and
- (b) by the insertion after subsection (3) of the following subsection:
- “(3A) If the Minister has in terms of section 38(1) and (2) determined a total allowable catch for allocation for non-commercial harvesting or reserve purposes, the Minister may, notwithstanding the provisions of sections 32, 33 and subsection (2) and (3), on application, allocate a quota to the National Fishing Corporation of Namibia Limited established in terms of the National Fishing Corporation of Namibia Act, 1991 (Act No. 28 of 1991), for the purpose of achieving any of the objects set out in section 3(3).”.

**Insertion of section 39A in Act No. 27 of 2000**

6. The following section is inserted after section 39 of the principal Act:

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**Certain information required in respect of quota applications**

“**39A.** The Minister may require proof of the following when receiving and considering applications for quotas in terms of section 39:

- (a) whether the applicant has paid up all fees and levy’s referred to in section 44;
- (b) applicant’s certificate of good standing from the Ministry responsible for matters relating to finance in respect of income tax and value added tax;
- (c) whether the applicant has been convicted of an offence under this Act; and
- (d) any other matter which the Minister may consider relevant to an application.”.

**Short title**

7. This Act is called the Marine Resources Amendment Act, 2015.
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