



REPUBLIC OF SOUTH AFRICA

GOVERNMENT GAZETTE

STAATSKOERANT

VAN DIE REPUBLIEK VAN SUID-AFRIKA

Registered at the Post Office as a Newspaper

As 'n Nuusblad by die Poskantoor Geregistreer

Vol. 395

CAPE TOWN, 27 MAY 1998

No. 18930

KAAPSTAD, 27 MEI 1998

OFFICE OF THE PRESIDENT

KANTOOR VAN DIE PRESIDENT

No. 747.

27 May 1998

No. 747.

27 Mei 1998

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

No. 18 of 1998: Marine Living Resources Act, 1998.

Hierby word bekend gemaak dat die President sy goedkeuring geheg het aan die onderstaande Wet wat hierby ter algemene inligting gepubliseer word:—

No. 18 van 1998: Wet op Lewende Mariene Hulpbronne, 1998.

ACT

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; and for these purposes to provide for the exercise of control over marine living resources in a fair and equitable manner to the benefit of all the citizens of South Africa; and to provide for matters connected therewith.

ARRANGEMENT OF SECTIONS

Section

1. Definitions

CHAPTER 1

INTRODUCTORY PROVISIONS

2. Objectives and principles
3. Application of Act
4. Conflict with other Acts

CHAPTER 2

ADMINISTRATION

5. Establishment of Forum
6. Functions of Forum
7. Composition of Forum
8. Industrial bodies and interest groups
9. Fishery control officers and honorary marine conservation officers
10. Marine Living Resources Fund
11. Appropriation of Fund
12. Register
13. Permits

CHAPTER 3

MANAGEMENT OF MARINE LIVING RESOURCES

PART 1: FISHERIES PLANNING

14. Determination of allowable catches and applied effort
15. Fisheries management areas
16. Emergency measures
17. Priority fishing areas

PART 2: LOCAL FISHING

18. Granting of rights
19. Subsistence Fishing
20. Recreational Fishing

PART 3: COMMERCIAL FISHING

21. Commercial Fishing
22. Leasing of rights

PART 4: GENERAL LOCAL MATTERS

23. Local fishing vessel licence

WET

Om voorsiening te maak vir die bewaring van die mariene ekosisteem, die langtermyn- volhoubare benutting van lewend mariene hulpbronne en die ordelike toegang tot ontginning, benutting en beskerming van sekere lewend mariene hulpbronne; en om met hierdie doel voor oë voorsiening te maak vir die uitoefening van beheer oor lewend mariene hulpbronne op 'n billike en regverdige wyse tot die voordeel van al die burgers van Suid-Afrika; en om voorsiening te maak vir aangeleenthede wat daarmee in verband staan.

INDELING VAN ARTIKELS

Artikel

1. Woordomskrywing

HOOFSTUK 1

INLEIDENDE BEPALINGS

2. Doelstellings en beginsels
3. Toepassing van Wet
4. Strydigheid met ander Wette

HOOFSTUK 2

ADMINISTRASIE

5. Instelling van Forum
6. Funksies van Forum
7. Samestelling van Forum
8. Bedryfsliggame en belangegroep
9. Visserybeheerbeamptes en ere- mariene bewaringsbeamptes
10. Lewende Mariene Hulpbronnefonds
11. Aanwending van Fonds
12. Register
13. Permitte

HOOFSTUK 3

BESTUUR VAN LEWENDE MARIENE HULPBRONNE

DEEL 1: VISSERYEBEPLANNING

14. Vaststelling van toegelate vangste en ontplooid vangpoging
15. Visseryebestuursgebiede
16. Noodmaatreëls
17. Voorkeurvisvanggebiede

DEEL 2: PLAASLIKE VISVANGS

18. Toestaan van regte
19. Bestaansgrondslagvisvangs
20. Sportvisvangs

DEEL 3: KOMMERSIËLE VISVANGS

21. Kommersiële visvangs
22. Verhuring van regte

DEEL 4: ALGEMENE PLAASLIKE AANGELEENTHEDE

23. Plaaslike vissersbootlisensie

24. Reduction of rights
25. Fees
26. Recovery of interest and fees
27. Fishing harbours
28. Cancellation and suspension of rights, licences and permits

PART 5: FISHERIES TRANSFORMATION COUNCIL

29. Establishment of Fisheries Transformation Council
30. Main object of Council
31. Allocation of rights to and by Council
32. Powers of Council
33. Management and control
34. Composition of Council
35. Staff
36. Reporting
37. Abolishment of Council

PART 6: FOREIGN FISHING

38. International agreements
39. Foreign fishing vessel licences

PART 7: HIGH SEAS FISHING

40. Prohibition of high seas fishing
41. High seas licences
42. Implementation of international conservation and management measures

CHAPTER 4

MARINE PROTECTED AREAS

43. Marine protected areas

CHAPTER 5

PROHIBITED ACTIVITIES AND STOWAGE OF GEAR

44. Prohibited fishing methods
45. Possession of prohibited gear
46. Interference with gear
47. Driftnet fishing
48. Fish aggregating devices
49. Stowage of gear

CHAPTER 6

LAW ENFORCEMENT

50. Observers
51. Powers of fishery control officers
52. Powers of fishery control officers beyond South African waters
53. Seizure of vessels
54. Seizure of vehicles or aircraft
55. Immobilisation of vessels, vehicles or aircraft
56. Co-operation with officials
57. Duty to report

24. Vermindering van regte
25. Gelde
26. Invordering van rente en gelde
27. Vissershawens
28. Kansellering en opskorting van regte, lisensies en permitte

DEEL 5: VISSERYE-OORGANGSRAAD

29. Instelling van Visserye-oorgangsraad
30. Hoofdoelstelling van Raad
31. Toewysing van regte aan en deur Raad
32. Bevoegdhede van Raad
33. Bestuur en beheer
34. Samestelling van Raad
35. Personeel
36. Verslaggewing
37. Afskaffing van Raad

DEEL 6: BUITELANDSE VISVANGS

38. Internasionale ooreenkomste
39. Buitelandse vissersbootlisensies

DEEL 7: OOPSEEVISVANGS

40. Verbod op oopseevisvangs
41. Oopseeisensies
42. Implementering van internasionale bewarings- en bestuursmaatreëls

HOOFSTUK 4

BESKERMDE MARIENE GEBIEDE

43. Beskermdede mariene gebiede

HOOFSTUK 5

VERBODE BEDRYWIGHEDEN EN BERGING VAN VISTUIG

44. Verbode visvangmetodes
45. Besit van verbode vistuig
46. Versteyring van vistuig
47. Dryfnetvisvangs
48. Visskolingstoestelle
49. Berging van vistuig

HOOFSTUK 6

WETSTOEPASSING

50. Waarnemers
51. Bevoegdhede van visserybeheerbeamptes
52. Bevoegdhede van visserybeheerbeamptes buite Suid-Afrikaanse waters
53. Beslaglegging op vaartuie
54. Beslaglegging op voertuie of vliegtuie
55. Immobilisering van vaartuie, voertuie of vliegtuie
56. Samewerking met beamptes
57. Plig om te rapporteer

CHAPTER 7**JUDICIAL MATTERS**

58. Offences and penalties
59. Limitation of liability
60. Destruction of evidence
61. Payment for information leading to conviction
62. Security for release of vessel, vehicle or aircraft
63. Disposal of perishables
64. Treatment of things detained or seized
65. Application of security
66. Liability for loss, damage or deterioration of things in custody
67. Removal from custody
68. Forfeiture orders by court
69. Disposal of forfeited things and discharge of forfeiture orders
70. Jurisdiction of courts
71. Documentary evidence
72. Validity of certificates
73. Certificate as to location of vessel
74. Designated machines
75. Photographic evidence
76. Observation devices

CHAPTER 8**GENERAL PROVISIONS**

77. Power to make regulations
78. Assignment to provinces
79. Delegation of powers
80. Appeal to Minister
81. Exemptions
82. Inquiries
83. Scientific investigations and practical experiments
84. Repeal of laws, and savings
85. Transitional measures
86. Short title and commencement

SCHEDULE 1

(English text signed by the President.)
(Assented to 21 May 1998.)

BE IT ENACTED by the Parliament of the Republic of South Africa, as follows:—

Definitions

1. In this Act, unless the context indicates otherwise—
 - (i) “aircraft” means any craft capable of self-sustained movement through the atmosphere and includes a hovercraft; (lx)
 - (ii) “allowable commercial catch” means that part of the total allowable catch available annually for commercial fishing rights in terms of section 14; (xliii)

HOOFSTUK 7**GEREGTELIKE AANGELEENTHEDE**

58. Misdrywe en strawwe
59. Beperking van aanspreeklikheid
60. Vernietiging van getuienis
61. Beloning vir inligting wat tot skuldigbevinding lei
62. Sekerheid vir vrystelling van vaartuig, voertuig of vliegtuig
63. Beskikking oor bederfbare goed
64. Hantering van goed aangehou of waarop beslag gelê is
65. Aanwending van sekerheid
66. Aanspreeklikheid vir verlies, skade of agteruitgang van goed in aanhouding
67. Verwydering uit aanhouding
68. Verbeurdverklaringsbevele deur hof
69. Beskikking oor verbeurdverklaarde goed en opheffing van verbeurdverklaringsbevele
70. Regsbevoegdheid van howe
71. Dokumentêre getuienis
72. Geldigheid van sertifikate
73. Sertifikaat oor ligging van vaartuig
74. Aangewese masjiene
75. Fotografiese getuienis
76. Waarnemingstoestelle

HOOFSTUK 8**ALGEMENE BEPALINGS**

77. Regulasiebevoegdhede
78. Opdra aan provinsies
79. Delegering van bevoegdhede
80. Appèl na Minister
81. Vrystellings
82. Ondersoeke
83. Wetenskaplike ondersoeke en praktiese eksperimente
84. Herroeping van wette, en voorbehoude
85. Oorgangsmatreëls
86. Kort titel en inwerkingtreeding

BYLAE I

(Engelse teks deur die President geteken.)
(Goedgekeur op 21 Mei 1998.)

DAAR WORD BEPAAL deur die Parlement van die Republiek van Suid-Afrika, soos volg:—

Woordomskrywing

1. In hierdie Wet, tensy uit die samehang anders blyk, beteken—
 - 5 (i) “bestaansgrondslagvisser” ’n natuurlike persoon wat gereeld vir persoonlike gebruik of vir die gebruik van sy of haar afhanklikes visvang, met inbegrip van iemand wat van tyd tot tyd betrokke is by die plaaslike verkoop of ruil van die oorskot van die vangs, maar uitgesonderd ’n persoon wat by grootskaalse verkoop van vis op ’n kommersiële grondslag betrokke is; (lv)
 - 10 (ii) “binnewaters” die binnewaters soos omskryf in artikel 3 van die Wet op Maritieme Sones, 1994 (Wet No. 15 van 1994); (xxxii)

- (iii) "aquatic plant" means any kind of plant, algae or other plant organism found in the sea and in or on the seashore; (lxiv)
- (iv) "commercial fishing" means fishing for any of the species which have been determined by the Minister in terms of section 14 to be subject to the allowable commercial catch or total applied effort, or parts of both; (xx) 5
- (v) "Constitution" means the Constitution of the Republic of South Africa, 1996 (Act No. 108 of 1996); (xv)
- (vi) "Council" means the Fisheries Transformation Council established in terms of section 29; (xxxii)
- (vii) "court" means a competent court of law; (xvii) 10
- (viii) "Department" means the Department of Environmental Affairs and Tourism; (v)
- (ix) "Director-General" means the Director-General of the Department; (vi)
- (x) "driftnet" means a gillnet or other net or a combination of nets, the purpose of which is to enmesh, entrap or entangle fish by drifting on the surface of or in the water, irrespective of whether it is used or intended to be used while attached to any point of land or the seabed or to any vessel; (vii) 15
- (xi) "driftnet fishing activities" means fishing with the use of a driftnet and includes any related activities, including transporting, transshipping and processing any driftnet catch, and the provision of food, fuel and other supplies for vessels used or outfitted for driftnet fishing; (viii) 20
- (xii) "exclusive economic zone" means the exclusive economic zone as defined in section 7 of the Maritime Zones Act, 1994 (Act No. 15 of 1994); (x)
- (xiii) "fish" means the marine living resources of the sea and the seashore, including any aquatic plant or animal whether piscine or not, and any mollusc, crustacean, coral, sponge, holothurian or other echinoderm, reptile and marine mammal, and includes their eggs, larvae and all juvenile stages, but does not include sea birds and seals; (xlix) 25
- (xiv) "fish aggregating device" means an artificially made or partially artificially made floating, submerged or semi-submerged device, whether anchored or not, intended to aggregate fish, including any natural floating object on which a device has been placed to facilitate its location; (lvi) 30
- (xv) "fisheries management area" means a fisheries management area declared in terms of section 15(1); (lv)
- (xvi) "fishery" means one or more stock or stocks of fish or any fishing operations based on such stocks which can be treated as a unit for purposes of conservation and management, taking into account geographical, scientific, technical, recreational, economic and other relevant characteristics; (liii) 35
- (xvii) "fishery control officer" means any person appointed as a fishery control officer in terms of section 9; (liv) 40
- (xviii) "fishing" means—
- (a) searching for, catching, taking or harvesting fish or an attempt to any such activity;
- (b) engaging in any other activity which can reasonably be expected to result in the locating, catching, taking or harvesting of fish; 45
- (c) placing, searching for or recovering any fish aggregating device or associated gear, including radio beacons;
- (d) any operation in support or in preparation of any activity described in this definition; or
- (e) the use of an aircraft in relation to any activity described in this definition; (lviii) 50
- (xix) "fishing harbour" means a declared fishing harbour contemplated in section 27(1); (lii)
- (xx) "fishing vessel" means any vessel, boat, ship or other craft which is used for, equipped to be used for or of a type that is normally used for fishing or related activities, and includes all gear, equipment, stores, cargo and fuel on board the vessel; (li) 55
- (xxi) "fish processing establishment" means any vehicle, vessel, premises or place where any substance or article is produced from fish by any method, including the work of cutting up, dismembering, separating parts of, cleaning, sorting, lining and preserving of fish, or where fish are canned, packed, dried, gutted, 60

- (iii) "buitelandse vissersboot" enige vissersboot anders as 'n plaaslike vissersboot; (xxiii)
- (iv) "buitelandse vissersbootlisensie" 'n lisensie wat ingevolge artikel 39(2) uitgereik is; (xxiv)
- 5 (v) "Departement" die Departement van Omgewingsake en Toerisme; (viii)
- (vi) "Direkteur-generaal" die Direkteur-generaal van die Departement; (ix)
- (vii) "dryfnet" 'n kiefnet of 'n ander net of 'n kombinasie van nette waarvan die
10 doel is om vis te verstrik, vas te vang of te vervleg deur dit op die oppervlak van of in die water te laat dryf, ongeag of dit gebruik word of bedoel is om gebruik te word terwyl dit aan enige punt op land of aan die seabodem of aan enige vaartuig vasgeheg is; (x)
- (viii) "dryfnet-visvangbedrywighede" visvang met die gebruik van 'n dryfnet en ook enige verwante bedrywighede, met inbegrip van vervoer, oorlaai en verwerking van enige dryfnetvangs, en die verskaffing van voedsel, brandstof en ander voorraad aan vaartuie wat vir dryfnetvisvangs aangewend word of
15 toegerus is; (xi)
- (ix) "eienaar" enige persoon wat die reg uitoefen of uitvoer of daarop aanspraak maak, of wat die verpligting om enige van die eienaar se bevoegdhede of pligte uit te oefen of uit te voer, aanvaar, hetsy namens hom- of haarself of namens iemand anders, met inbegrip van 'n persoon wat saam met een of
20 meer persone die eienaar is en die bestuurder, direkteur, sekretaris, of ander soortgelyke beampte of enige persoon wat voorgee om in sodanige hoedanigheid op te tree, van enige regs persoon of maatskappy wat 'n eienaar is; (xliii)
- (x) "eksklusiewe ekonomiese sone" die eksklusiewe ekonomiese sone soos omskryf in artikel 7 van die Wet op Maritieme Sones, 1994; (xii)
- (xi) "Fonds" die Lewende Mariene Hulpbronnefonds in artikel 10(1) bedoel; (xxvi)
- (xii) "Forum" die Raadplegende Adviesforum vir Lewende Mariene Hulpbronne
30 kragtens artikel 5 ingestel; (xxv)
- (xiii) "fuik" 'n hok, maar nie 'n net nie, wat gebruik kan word om vis te vang; (lxi)
- (xiv) "gebiedswaters" die gebiedswaters soos omskryf in artikel 4 van die Wet op Maritieme Sones, 1994; (lvi)
- (xv) "Grondwet" die Grondwet van die Republiek van Suid-Afrika, 1996 (Wet
35 No. 108 van 1996); (v)
- (xvi) "hierdie Wet" ook 'n regulasie of kennisgewing kragtens hierdie Wet uitgevaardig of uitgereik; (lvii)
- (xvii) "hof" 'n bevoegde geregshof; (vii)
- (xviii) "internasionale bewarings- en bestuursmaatreëls" maatreëls om een of meer
40 spesies lewende mariene hulpbronne te bewaar of te bestuur, vervat in internasionale konvensies, verdrae of ooreenkomste, of wat aangeneem of toegepas word ooreenkomstig die toepaslike reëls van die volkereg soos vervat in die Verenigde Nasies Seeregkonvensie, hetsy deur internasionale, streek- of substreek-visseryorganisasies en welke maatreëls bindend is op die Republiek ingevolge die volkereg; (xxxii)
- 45 (xix) "jaar" enige tydperk wat strek vanaf 'n dag in enige jaar tot 'n dag wat die numeries ooreenstemmende dag en maand in die volgende jaar voorafgaan, beide dae ingesluit; (xlv)
- (xx) "kommersiële visvangs" die vang van vis van enige van die spesies wat deur die Minister ingevolge artikel 14 bepaal is om onderhewig te wees aan die
50 toegelate kommersiële vang of die totale ontplooiëde vangpoging of gedeeltes van beide; (iv)
- (xxi) "marikultuur" die teel van of boerdery met vis in seewater; (xxxv)
- (xxii) "Minister" die Minister verantwoordelik vir die Departement; (xxxvii)
- 55 (xxiii) "net" 'n weefsel van tou, koord, lyn of ander materiaal, geknoop of geweef in 'n maasnetwerk waarin vis verstrik kan raak; (xxxix)
- (xxiv) "oop see" die waters buite Suid-Afrikaanse waters, met die uitsondering van die waters ondergeskik aan die spesifieke jurisdiksie van 'n ander staat; (xxviii)
- 60 (xxv) "oopseevissersboot" 'n vaartuig ten opsigte waarvan 'n lisensie ingevolge artikel 41(1) uitgereik is; (xxix)
- (xxvi) "oopseevissersbootlisensie" 'n lisensie ingevolge artikel 41(1) uitgereik; (xxx)

- salted, iced, chilled, frozen or otherwise processed for sale in or outside the territory of the Republic; (lix)
- (xxii) "fish product" means any product, whether in a processed form or not, wholly or partially derived from fish; (l)
- (xxiii) "foreign fishing vessel" means any fishing vessel other than a local fishing vessel; (iii) 5
- (xxiv) "foreign fishing vessel licence" means a licence issued in terms of section 39(2); (iv)
- (xxv) "Forum" means the Consultative Advisory Forum for Marine Living Resources established under section 5; (xii) 10
- (xxvi) "Fund" means the Marine Living Resources Fund referred to in section 10(1); (xi)
- (xxvii) "gear" means, in relation to fishing, any equipment, implement or other object that can be used in fishing, including any net, rope, line, float, trap, hook, winch, aircraft, boat or craft carried on board a vessel, aircraft or other craft; (lvii) 15
- (xxviii) "high seas" means the waters beyond South African waters, but does not include waters subject to the particular jurisdiction of another state; (xxiv)
- (xxix) "high seas fishing vessel" means a vessel in respect of which a high seas fishing vessel licence has been issued in terms of section 41(1); (xxv) 20
- (xxx) "high seas fishing vessel licence" means a licence issued in terms of section 41(1); (xxvi)
- (xxxi) "internal waters" means the internal waters as defined in section 3 of the Maritime Zones Act, 1994; (ii)
- (xxxii) "international conservation and management measures" means measures to conserve or manage one or more species of marine living resources contained in international conventions, treaties or agreements, or that are adopted or applied in accordance with the relevant rules of international law as reflected in the United Nations Convention on the Law of the Sea, whether by global, regional or subregional fishery organisations and which measures are binding on the Republic in terms of international law; (xviii) 25
- (xxxiii) "local fishing vessel" means any fishing vessel registered in the Republic which is— 30
- (a) wholly owned and controlled by one or more South African persons;
- (b) wholly owned by the State; 35
- (c) wholly owned and controlled by any body corporate, society or other association of persons incorporated or established under the laws of the Republic and in which the majority of the shares and the voting rights are held and controlled by South African persons; or
- (d) wholly owned by a body corporate designated as an authorised body corporate by the Minister; (xxx) 40
- (xxxiv) "local fishing vessel licence" means a licence issued in terms of section 23(1); (xxxi)
- (xxxv) "mariculture" means the culture or husbandry of fish in sea water; (xxi)
- (xxxvi) "master" means, in relation to a vessel, aircraft or other craft, the person having lawful command or charge, or for the time being in charge, of the vessel, aircraft or other craft, as the case may be, including a person who has principal responsibility for fishing on board, but does not include a pilot aboard a fishing vessel solely for the purpose of providing navigational assistance; (xxxvi) 50
- (xxxvii) "Minister" means the Minister responsible for the Department; (xxii)
- (xxxviii) "nautical mile" means the international nautical mile of 1 852 metres; (xxxv)
- (xxxix) "net" means a fabric of rope, cord, twine or other material knotted or woven into meshes by which fish can be taken; (xxiii)
- (xl) "observation device" means any device or machine placed on a fishing vessel in terms of this Act as a condition of its licence which transmits, whether in conjunction with other machines elsewhere or not, information or data concerning the position and fishing activities of the vessel; (lxiii) 55
- (xli) "observer" means any person authorised in writing by the Director-General in terms of section 50 to perform scientific, compliance, monitoring and other similar observation duties on board a fishing vessel in accordance with this Act; (lxii) 60

- (xxvii) "oorlaai" die verskuiwing van vis of vistuig van een vaartuig na 'n ander;
(lx)
- (xxviii) "permit" 'n permit in artikel 13 beoog; (xlv)
- (xxix) "persoon" ook 'n trust; (xlv)
- 5 (xxx) "plaaslike vissersboot" enige vissersboot geregistreer in die Republiek waarvan—
(a) volle eiendomsreg en beheer berus by een of meer Suid-Afrikaanse persone;
(b) volle eiendomsreg berus by die Staat;
- 10 (c) volle eiendomsreg en beheer berus in 'n regs persoon, genootskap of ander vereniging van persone ingelyf of opgerig kragtens die wette van die Republiek en waarin die meerderheid van die aandele en van die stemreg deur Suid-Afrikaanse persone gehou en beheer word; of
(d) volle eiendomsreg berus by 'n regs persoon aangewys as 'n gemagtigde regs persoon deur die Minister; (xxxiii)
- 15 (xxxi) "plaaslike vissersbootlisensie" 'n lisensie ingevolge artikel 23(1) uitgereik; (xxxiv)
- (xxxii) "Raad" die Visserye-oorgangsraad ingevolge artikel 29 ingestel; (vi)
- (xxxiii) "regulasie" 'n regulasie kragtens hierdie Wet uitgevaardig en ook 'n kennisgewing kragtens hierdie Wet uitgereik; (xlviii)
- 20 (xxxiv) "sedentêre spesies" organismes wat tydens die oesbare stadium, óf onbeweeglik op of onder die seebedding is, óf nie in staat is om te beweeg nie behalwe in konstante fisiese kontak met die seebedding of die ondergrond; (lii)
- 25 (xxxv) "seemyl" die internasionale seemyl van 1 852 meter; (xxxviii)
- (xxxvi) "skipper" met betrekking tot 'n vaartuig, vliegtuig of ander tuig, die persoon wat tydelik of op 'n permanente grondslag in wettige bevel of beheer is van die vaartuig, vliegtuig of ander tuig, na gelang van die geval, met inbegrip van 'n persoon wat die oorhoofse verantwoordelikheid oor die vang van vis aan boord het, maar uitgesonderd 'n loods aan boord van 'n vissersboot wat bloot teenwoordig is om 'n navigasiediens te verleen; (xxxvi)
- 30 (xxxvii) "sportvisvangs" die vang van vis vir ontspanning of sport, maar nie vir verkoop, ruil, inkomste of wins nie; (xlvii)
- (xxxviii) "staatsorgaan" 'n staatsorgaan soos omskryf in artikel 239 van die Grondwet; (xlii)
- 35 (xxxix) "strand" die strand soos omskryf in artikel 1 van die Strandwet, 1935 (Wet No. 21 van 1935); (li)
- (xl) "Suid-Afrikaanse persoon"—
(a) 'n Suid-Afrikaanse burger ingevolge die Wet op Suid-Afrikaanse Burgerskap, 1995 (Wet No. 88 van 1995);
- 40 (b) 'n maatskappy geregistreer ingevolge die Maatskappywet, 1973 (Wet No. 61 van 1973), waarvan die meerderheid aandeelhouders, soos voorgeskryf deur die Minister, Suid-Afrikaanse persone is;
- (c) 'n beslote korporasie ingevolge die Wet op Beslote Korporasies, 1984 (Wet No. 69 van 1984), waarvan die meerderheid lede Suid-Afrikaanse persone is; of
- 45 (d) 'n trust waarvan—
(i) die meerderheid van die trustees wat die beherende bevoegdheid het op enige tydstep Suid-Afrikaanse burgers is; of
- 50 (ii) die voordele merendeels Suid-Afrikaanse burgers toeval; (liii)
- (xli) "Suid-Afrikaanse waters" die strand, binnewaters, gebiedswaters, die eksklusiewe ekonomiese sone, en in verband met die sedentêre spesies soos omskryf in Artikel 77 van die Verenigde Nasies Seeregkonvensie, die kontinentale plat soos omskryf in artikel 7 van die Wet op Maritieme Sones, 1994, met inbegrip van getystrandmere en getyrieviere waarvan die watervlak as gevolg van die getye styg en val; (liv)
- 55 (xlii) "toegangsreg" 'n reg van toegang tot vis ingevolge hierdie Wet verleen; (l)
- (xliii) "toegelate kommersiële vang" daardie gedeelte van die totale toegelate vang wat jaarliks ingevolge artikel 14 vir kommersiële visvangsregte beskikbaar is; (ii)
- 60 (xliv) "totale ontplooidde vangpoging" die maksimum getal vissersbote, die soort, grootte en motorkrag daarvan of die vangmetode aangewend ten opsigte waarvan vissersbootlisensies of permitte om vis te vang, uitgereik mag word

- (xlii) "organ of state" means an organ of state as defined in section 239 of the Constitution; (xxxviii)
- (xliii) "owner" means any person exercising or discharging or claiming the right or accepting the obligation to exercise or discharge any of the powers or duties of an owner whether on his or her own behalf or on behalf of another, including a person who is the owner jointly with one or more other persons and the manager, director, secretary, or other similar officer or any person purporting to act in such a capacity, of any body corporate or company which is an owner; (ix) 5
- (xliv) "permit" means a permit contemplated in section 13; (xxviii) 10
- (xlv) "person" includes a trust; (xxix)
- (xlvi) "prescribe" means to prescribe by regulation; (lxi)
- (xlvii) "recreational fishing" means, any fishing done for leisure or sport and not for sale, barter, earnings or gain; (xxxvii)
- (xlviii) "regulation" means a regulation made and includes a notice issued under this Act; (xxxiii) 15
- (xlix) "related activities" include—
- (a) storing, buying, selling, transshipping, processing or transporting of fish or any fish product taken from South African waters up to the time it is first landed or in the course of high seas fishing; 20
- (b) on-shore storing, buying, selling or processing of fish or any fish product from the time it is first landed;
- (c) refuelling or supplying fishing vessels, selling or supplying fishing equipment or performing any other act in support of fishing;
- (d) exporting and importing fish or any fish product; or 25
- (e) engaging in the business of providing agency, consultancy or other similar services for and in relation to fishing or a related activity; (xlviii)
- (l) "right of access" means a right of access to fish granted in terms of this Act; (xlii)
- (li) "seashore" means the sea-shore as defined in section 1 of the Sea-shore Act, 1935 (Act No. 21 of 1935); (xxxix) 30
- (lii) "sedentary species" means organisms which, at the harvestable stage, either are immobile on or under the seabed, or are unable to move except in constant physical contact with the seabed or the subsoil; (xxxiv)
- (liii) "South African person" means— 35
- (a) a South African citizen in terms of the South African Citizenship Act, 1995 (Act No. 88 of 1995);
- (b) a company registered in terms of the Companies Act, 1973 (Act No. 61 of 1973), of which the majority of shareholders, as prescribed by the Minister, are South African persons; 40
- (c) a close corporation in terms of the Close Corporations Act, 1984 (Act No. 69 of 1984), of which the majority of members are South African persons; or
- (d) a trust in which—
- (i) the majority of trustees having the controlling power at any given time are South African citizens; or 45
- (ii) a majority of the beneficial interests are held by South African citizens; (xl)
- (liv) "South African waters" means the seashore, internal waters, territorial waters, the exclusive economic zone, and in relation to the sedentary species as defined in Article 77 of the United Nations Convention on the Law of the Sea, the continental shelf as defined in section 7 of the Maritime Zones Act, 1994, and such waters include tidal lagoons and tidal rivers in which a rise and fall of the water level takes place as a result of the tides; (xli) 50
- (lv) "subsistence fisher" means a natural person who regularly catches fish for personal consumption or for the consumption of his or her dependants, including one who engages from time to time in the local sale or barter of excess catch, but does not include a person who engages on a substantial scale in the sale of fish on a commercial basis; (i) 55
- (lvi) "territorial waters" means the territorial waters as defined in section 4 of the Maritime Zones Act, 1994; (xiv) 60
- (lvii) "this Act" includes any regulation or notice made or issued under this Act; (xvi)

- met betrekking tot 'n spesie of groepe spesies, of die maksimum getal persone aan boord van 'n vissersboot, ten opsigte waarvan lisensies of permitte uitgereik mag word om 'n spesie of groepe spesies te vang; (lix)
- 5 (xlv) "totale toegelate vangs" die maksimum hoeveelheid vis van 'n spesie of groepe spesies wat jaarliks ingevolge artikel 14 beskikbaar gestel word, of vir sodanige ander tydperk soos voorgeskryf, vir sport-, bestaansgrondslag-, kommersiële en buitelandse visvangs; (lviii)
- (xlvi) "vaartuig" ook enige kano, ligter, drywende platform, dekboot, draboot, vaartuig toegerus met 'n binneboord- of buiteboordmotor of enige ander tuig, hetsy 'n oppervlaktuig of duikboot; (lxiii)
- 10 (xlvii) "Verenigde Nasies Seeregkonvensie" die Verenigde Nasies Seeregkonvensie, 1982, aangeneem te Montegobaai op 10 Desember 1982; (lxii)
- (xlviii) "verwante bedrywighe" ook—
- 15 (a) die opberging, koop, verkoop, oorlaai, verwerking of vervoer van vis of 'n visprodukt wat in Suid-Afrikaanse waters gevang is, totdat dit vir die eerste keer ontskep word, of tydens die vang van vis op die oop see;
- (b) opberging aan land, koop, verkoop of verwerking van vis of 'n visprodukt vandat dit vir die eerste keer ontskep word;
- 20 (c) verskaffing van brandstof of bevoorrading van vissersbote, die verkoop of verskaffing van vistuig of die verrigting van 'n ander handeling ter ondersteuning van die vang van vis;
- (d) die uitvoer en invoer van vis of 'n visprodukt; of
- (e) betrokkenheid in die verlening van agentskaps-, konsultasie- of ander soortgelyke dienste vir en in verband met die vang van vis, of 'n
- 25 verwante bedrywigheid; (xlix)
- (xlix) "vis" die mariene lewende hulpbronne van die see en die strand, met inbegrip van enige waterplant of dier, hetsy visagtig al dan nie, en ook enige weekdier, skaaldier, koraal, spons, seekomkommer of enige ander stekelhuidige, reptiel en mariene soogdier, insluitende hul eiers, larwes en alle onvolwasse fases, maar uitgesonderd seevoëls en robbe; (xiii)
- 30 (I) "visprodukt" enige produk, hetsy in 'n verwerkte vorm al dan nie, wat in geheel of gedeeltelik van vis afkomstig is; (xxii)
- (li) "vissersboot" 'n vaartuig, boot, skip of enige ander tuig wat gebruik word vir, toegerus is vir, of van 'n soort wat gewoonlik gebruik word vir die vang van vis of verwante bedrywighe, met inbegrip van alle vistuig, toerusting, voorrade, vrag en brandstof aan boord van die vaartuig; (xx)
- 35 (lii) "vissershawe" 'n verklaarde vissershawe in artikel 27(1) beoog; (xix)
- (liii) "vissery" een of meer visstapel of visstapels of enige visvangbedrywigheid wat op sodanige stapels gebaseer is en wat vir die doeleindes van beskerming en bestuur as 'n eenheid behandel kan word, met inagneming van geografiese, wetenskaplike, tegniese, ontspannings-, ekonomiese en ander verbandhoudende kenmerke; (xvi)
- 40 (liv) "visserybeheerbeampte" 'n persoon ingevolge artikel 9 as 'n visserybeheerbeampte aangestel; (xvii)
- 45 (lv) "visserybestuursgebied" 'n gebied wat ingevolge artikel 15(1) tot 'n visserybestuursgebied verklaar is; (xv)
- (lvi) "visskolingstoestel" enige vervaardigde of gedeeltelik vervaardigde toestel, drywend onder die oppervlak of gedeeltelik onder die oppervlak van die water, hetsy geanker al dan nie, met die bedoeling om vis te laat skool, en ook enige natuurlike drywende voorwerp waarop 'n toestel aangebring is om die opsporing daarvan te vergemaklik; (xiv)
- 50 (lvii) "vistuig" met betrekking tot die vang van vis, enige toerusting, implement of ander voorwerp wat vir die vang van vis gebruik kan word, met inbegrip van enige net, tou, lyn, dobber, fuik, hoek, windas, vliegtuig, boot of tuig wat aan boord van 'n vaartuig, vliegtuig of ander tuig mag wees; (xxvii)
- 55 (lviii) "visvang"—
- (a) die opspoor, vang, neem of oes van vis of 'n poging om enige van daardie handelinge uit te voer;
- 60 (b) betrokke raak by enige ander bedrywigheid waarvan redelikerwys verwag kan word om die opspoor, vang, neem of oes van vis tot gevolg te hê;
- (c) die plasing van, soek na of herwinning van enige visskolingstoestel of verwante tuig, met inbegrip van radiobakens;

- (lviii) "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, commercial and foreign fishing in terms of section 14; (xlv)
- (lix) "total applied effort" means the maximum number of fishing vessels, the type, size and engine power thereof or the fishing method applied thereby for which fishing vessel licences or permits to fish may be issued for individual species or groups of species, or the maximum number of persons on board a fishing vessel for which fishing licences or permits may be issued to fish individual species or groups of species; (xlv) 5
- (lx) "transship" means transferring fish or gear from one vessel to another; (xxvii) 10
- (lxi) "trap" means an enclosure, not being a net, that may be used to take fish; (xiii)
- (lxii) "United Nations Convention on the Law of the Sea" means the United Nations Convention on the Law of the Sea, 1982, adopted at Montego Bay on 10 December 1982; (xlvii) 15
- (lxiii) "vessel" includes any canoe, lighter, floating platform, decked boat, carrier vessel, vessel equipped with an inboard or outboard motor or any other craft, whether a surface craft or submarine; (xlvii)
- (lxiv) "year" means any period extending from a day in one year to a day preceding the day corresponding numerically to that day and month in the following year, both days inclusive. (xix) 20

CHAPTER 1

INTRODUCTORY PROVISIONS

Objectives and principles

2. The Minister and any organ of state shall in exercising any power under this Act, have regard to the following objectives and principles: 25
- (a) The need to achieve optimum utilisation and ecologically sustainable development of marine living resources;
- (b) the need to conserve marine living resources for both present and future generations; 30
- (c) the need to apply precautionary approaches in respect of the management and development of marine living resources;
- (d) the need to 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; 35
- (e) the need to protect the ecosystem as a whole, including species which are not targeted for exploitation;
- (f) the need to preserve marine biodiversity;
- (g) the need to minimise marine pollution; 40
- (h) the need to achieve to the extent practicable a broad and accountable participation in the decision-making processes provided for in this Act;
- (i) any relevant obligation of the national government or the Republic in terms of any international agreement or applicable rule of international law; and
- (j) the need to restructure the fishing industry to address historical imbalances and to achieve equity within all branches of the fishing industry. 45

- (d) enige handeling ter ondersteuning of voorbereiding van enige bedrywigheid in hierdie omskrywing beskryf; of
- (e) die gebruik van 'n vliegtuig in verband met enige bedrywigheid in hierdie omskrywing beskryf; (xviii)
- 5 (lix) "visverwerkingsaanleg" enige voertuig, vaartuig of perseel of enige plek waar enige stof of artikel uit vis vervaardig word deur enige metode, met inbegrip van die opnsy, verbrokkel, skeiding van rompdele, skoonmaak, sortering, toedraai en preservering van vis, of waar vis ingemaak, verpak, gedroog, ontderm, gesout, in ys gepak, verkoel, gevries of andersins verwerk
- 10 word vir verkoop binne of buite die grondgebied van die Republiek; (xxi)
- (lx) "vliegtuig" enige tuig wat in staat is tot selfstandige beweging deur die atmosfeer, insluitende 'n skeertuig; (i)
- (lxi) "voorskryf" by regulasie voorgeskryf; (xlvi)
- 15 (lxii) "waarnemer" enige persoon wat skriftelik deur die Direkteur-generaal ingevolge artikel 50 gemagtig is om wetenskaplike, wetsnakomings-, kontrolering- en ander soortgelyke waarnemersfunksies ooreenkomstig hierdie Wet aan boord van 'n vissersboot te verrig; (xli)
- (lxiii) "waarnemingstoestel" enige toestel of masjien wat ingevolge hierdie Wet as 'n lisensievoorwaarde aan boord van 'n vissersboot geplaas is, en wat
- 20 inligting of data betreffende die ligging en visvangbedrywigheide van die vaartuig versend, hetsy in samewerking met ander masjiene elders al dan nie; (xl)
- (lxiv) "waterplant" enige soort plant, alg of ander plantorganisme wat in die see en in of op die strand gevind word. (iii)

25

HOOFSTUK 1**INLEIDENDE BEPALINGS****Doelstellings en beginsels**

2. Die Minister en enige staatsorgaan moet in die uitvoering van enige bevoegdheid kragtens hierdie Wet, die volgende doelstellings en beginsels in ag neem:
- 30 (a) Die noodsaak om optimale benutting van ekologies volhoubare ontwikkeling van lewende mariene hulpbronne te bereik;
- (b) die noodsaak om lewende mariene hulpbronne vir sowel die huidige as toekomstige geslagte te bewaar;
- 35 (c) die behoefte om voorkomende benaderings ten opsigte van die bestuur en ontwikkeling van lewende mariene hulpbronne te handhaaf;
- (d) die behoefte om lewende mariene hulpbronne te benut vir die bereiking van ekonomiese groei, menslike hulpbronontwikkeling, uitbreiding van vermoëns in vissery- en marikultuurvertakkings, werkskepping en 'n gesonde ekologiese balans, in ooreenstemming met die ontwikkelingsdoelstellings van die nasionale regering;
- 40 (e) die behoefte om die ekosisteem in geheel te beskerm, met inbegrip van spesies wat nie vir ontginning bestem is nie;
- (f) die behoefte aan die behoud van mariene biodiversiteit;
- (g) die behoefte om mariene besoedeling tot 'n minimum te beperk;
- 45 (h) die behoefte om, vir sover prakties haalbaar, uitgebreide en toerekenbare deelname aan die besluitnemingsprosesse waarvoor hierdie Wet voorsiening maak, te bereik;
- (i) enige tersaaklike verpligting van die nasionale regering of die Republiek ingevolge 'n toepaslike internasionale ooreenkoms of reël van die volkereg; en
- 50 (j) die behoefte om die visnywerheid te herstruktureer om historiese ongelikhede aan te spreek en om gelykheid binne alle vertakkings van die visnywerheid te bewerkstellig.

Application of Act

3. (1) Unless the context indicates otherwise, this Act shall apply—
- (a) to all persons, whether or not South African persons, and to all fishing vessels and aircraft, including foreign fishing vessels and aircraft, on, in or in the airspace above South African waters; 5
 - (b) to fishing activities carried out by means of local fishing vessels or South African aircraft in, on, or in the airspace above waters outside South African waters, including waters under the particular jurisdiction of another state; and
 - (c) to the Prince Edward Islands referred to in section 1 of the Prince Edward Islands Act, 1948 (Act No. 43 of 1948), and any reference in this Act to the Republic shall include a reference to those Islands. 10
- (2) This Act, including any applicable regulation, shall have extraterritorial application.
- (3) This Act shall not apply in respect of fish found in water which does not at any time form part of the sea. 15

Conflict with other Acts

4. If any conflict relating to marine living resources dealt with in this Act arises between this Act and the provisions of any other law, save the Constitution or any Act expressly amending this Act, the provisions of this Act shall prevail.

CHAPTER 2 20**ADMINISTRATION****Establishment of Forum**

5. The Minister shall establish a body called the Consultative Advisory Forum for Marine Living Resources.

Functions of Forum 25

6. The Forum shall advise the Minister on any matter—
- (a) referred to it by him or her, and in particular—
 - (i) the management and development of the fishing industry, including issues relating to the total allowable catch;
 - (ii) marine living resources management and related legislation; 30
 - (iii) the establishment and amendment of operational management procedures, including management plans;
 - (iv) recommendations and directives on areas of research, including multi-disciplinary research; and
 - (v) the allocation of money from the Fund; and 35
 - (b) in respect of the objectives and principles referred to in section 2 that in the opinion of the Forum should be brought to the attention of the Minister.

Composition of Forum

7. (1) The forum shall consist of at least five members, including a chairperson, appointed by the Minister for the period determined by him or her, but not exceeding three years at a time. 40
- (2) The Minister shall ensure that the Forum be broadly representative and multidisciplinary, with members qualified to make a substantial contribution towards the proper functioning of the Forum.
- (3) Before the members of the Forum are appointed, the Minister shall invite 45 nominations by interested parties by notice in the *Gazette*: Provided that the Minister shall not be bound by any such nomination.
- (4) A member of the Forum shall vacate his or her office if he or she—
- (a) becomes insolvent;

Toepassing van Wet

3. (1) Tensy uit die samehang anders blyk, is hierdie Wet van toepassing—
- (a) op alle persone, hetsy Suid-Afrikaanse burgers al dan nie, en op alle vissersbote en vliegtuie, met inbegrip van buitelandse vissersbote en vliegtuie, in, op of in die lugruim bokant Suid-Afrikaanse waters;
- (b) op visvangbedrywighede beoefen deur middel van plaaslike vissersbote of Suid-Afrikaanse vliegtuie in, op, of in die lugruim bokant die waters buite Suid-Afrikaanse waters, met inbegrip van waters onder die jurisdiksie van 'n ander staat; en
- (c) op die Prince Edward-eilande bedoel in artikel 1 van die Wet op die Prince Edward-eilande 1948 (Wet No. 43 van 1948), en enige verwysing in hierdie Wet na die Republiek sluit 'n verwysing na daardie Eilande in.
- (2) Hierdie Wet, met inbegrip van enige toepaslike regulasie, het ekstraterritoriale toepassing.
- (3) Hierdie Wet is nie van toepassing nie op vis wat voorkom in water wat nooit deel van die see vorm nie.

Strydigheid met ander Wette

4. Indien daar 'n strydigheid tussen hierdie Wet en die bepalings van enige ander wet, behalwe die Grondwet of 'n Wet waarby hierdie Wet uitdruklik gewysig word, ontstaan met betrekking tot lewende mariene hulpbronne wat in hierdie Wet behandel word, geniet die bepalings van hierdie Wet voorrang.

HOOFSTUK 2**ADMINISTRASIE****Instelling van Forum**

5. Die Minister moet 'n liggaam wat die Raadplegende Adviesforum vir Lewende Mariene Hulpbronne genoem word, instel.

Funksies van Forum

6. Die Forum moet die Minister met advies dien oor enige aangeleentheid—
- (a) deur hom of haar na die Forum verwys, en in die besonder—
- (i) die bestuur en ontwikkeling van die visbedryf, met inbegrip van aangeleenthede wat verband hou met die totale toegelate vang; en
- (ii) die bestuur van lewende mariene hulpbronne en wetgewing in verband daarmee;
- (iii) die instelling en wysiging van operasionele bestuursprosedures, met inbegrip van bestuursplanne;
- (iv) aanbevelings en riglyne insake navorsingsgebiede, met inbegrip van multi-dissiplinêre navorsing; en
- (v) die toewysing van geld uit die Fonds; en
- (b) ten opsigte van die doelstellings en beginsels beoog in artikel 2 wat na die mening van die Forum onder die Minister se aandag gebring behoort te word.

Samestelling van Forum

7. (1) Die Forum bestaan uit minstens vyf lede, met inbegrip van 'n voorsitter, deur die Minister aangewys vir die tydperk deur hom of haar bepaal, maar wat nie drie jaar op 'n keer oorskry nie.
- (2) Die Minister moet toesien dat die Forum breed verteenwoordigend en multi-dissiplinêr saamgestel word, met lede wat bevoeg is om 'n wesenlike bydrae tot die behoorlike funksionering van die Forum te maak.
- (3) Voordat die lede van die Forum aangestel word, moet die Minister belanghebbendes by kennisgewing in die *Staatskoerant* uitnooi om nominasies te doen: Met dien verstande dat die Minister nie deur enige sodanige nominasie gebind word nie.
- (4) 'n Lid van die Forum ontruim sy of haar amp indien hy of sy—
- (a) insolvent raak;

- (b) becomes of unsound mind;
- (c) is convicted of an offence and is sentenced to imprisonment without the option of a fine;
- (d) is absent from three consecutive meetings of the Forum without leave of the chairperson; 5
- (e) resigns by written notice to the Minister; or
- (f) is removed from office by the Minister if there are sufficient reasons in the opinion of the Minister for doing so.

(5) The Director-General may pay to a member of the Forum who is not in the full-time employment of an organ of state, from money appropriated by Parliament for that purpose, the allowances which the Minister may determine in general or in a specific case, in consultation with the Minister of Finance. 10

(6) The Minister may prescribe the necessary matters relating to meetings of the Forum.

Industrial bodies and interest groups 15

8. (1) The Minister may, by notice in the *Gazette*, recognise any industrial body or interest group in a branch of the fishing industry which, in the opinion of the Minister, is representative of the specific body or group.

(2) The Forum shall give consideration to information submitted to it by industrial bodies and interest groups recognised in terms of subsection (1). 20

Fishery control officers and honorary marine conservation officers

9. (1) The Minister may, subject to the laws governing the public service, designate posts or ranks in any organ of state of which the incumbents shall be fishery control officers.

(2) The Minister may by written notice to any other person that he or she deems fit to be an honorary marine conservation officer, appoint that person, and in doing so may specify the powers to be exercised by such a person in terms of this Act. 25

(3) A fishery control officer and an honorary marine conservation officer shall be furnished by the Director-General with the prescribed identity card.

Marine Living Resources Fund 30

10. (1) The Sea Fishery Fund referred to in section 27 of the Sea Fishery Act, 1988 (Act No. 12 of 1988), shall continue to exist under the name the Marine Living Resources Fund, notwithstanding the repeal of the said Act by section 84.

(2) Into the Fund there shall be paid, notwithstanding the provisions of any other Act, but subject to section 22— 35

- (a) money paid in respect of fines, penalties and interest for any offence committed in terms of this Act, including any proceeds from the sale of any vessel, vehicle, aircraft, gear or fish forfeited or seized in terms of this Act;
- (b) all interest and fees collected in terms of this Act;
- (c) money appropriated by Parliament for the realisation of the objects of the Fund; 40
- (d) interest on investments;
- (e) donations, with the approval of the Minister in consultation with the Minister of Finance;
- (f) money which, with the approval of the Minister in consultation with the Minister of Finance, may accrue to the Fund from any other source; and 45
- (g) any levy on fish, fish products, aquatic plants or other marine resources, imposed and collected in terms of this Act, the Sea Fishery Act, 1988, or any other law.

(3) The Fund shall be administered by the Director-General in consultation with the Minister, in accordance with an estimate or a supplementary or revised estimate of revenue and expenditure approved by the Minister with the concurrence of the Minister of Finance in respect of every financial year, which shall end on 31 March, and no expenditure payable from the Fund may be incurred except in accordance with such estimate of expenditure. 50

(4) The Director-General shall be the accounting officer charged with the responsibility of accounting for money received and expenditure incurred by the Fund. 55

- (b) in sy of haar geestesvermoë gekrenk raak;
 - (c) aan 'n misdryf skuldig bevind word en tot gevangenisstraf sonder die keuse van 'n boete gevonnissen word;
 - (d) sonder verlot van die voorsitter van drie agtereenvolgende vergaderings van die Forum afwesig is;
 - (e) by skriftelike kennisgewing aan die Minister bedank; of
 - (f) deur die Minister van die amp onthef word indien daar na die oordeel van die Minister geïntegreerde redes bestaan om dit te doen.
- (5) Die Direkteur-generaal kan aan 'n lid van die Forum wat nie in die heeltydse diens van 'n staatsorgaan is nie, uitgeld wat die Parlement vir daardie doel bewillig, die toelae betaal wat die Minister in die algemeen of in 'n besondere geval, in oorleg met die Minister van Finansies, bepaal.
- (6) Die Minister kan die nodige aangeleenthede in verband met vergaderings van die Forum voorskryf.

15 Bedryfsliggame en belangegroepes

8. (1) Die Minister kan, by kennisgewing in die *Staatskoerant*, aan enige bedryfsliggame of belangegroep in 'n vertakking van die visbedryf wat na die oordeel van die Minister verteenwoordigend is van die spesifieke liggame of groep, erkenning verleen.
- (2) Die Forum moet oorweging skenk aan inligting voorgelê deur die bedryfsliggame en belangegroepes aan wie ingevolge subartikel (1) erkenning verleen word.

Visserybeheerbeamptes en ere- mariene bewaringsbeamptes

9. (1) Die Minister kan, behoudens die bepalings van die wette wat die staatsdiens reël, poste of range in enige staatsorgaan aanwys waarvan die ampsbekleërs visserybeheerbeamptes sal wees.
- (2) Die Minister kan by skriftelike kennisgewing aan enige ander persoon wat hy of sy bevoeg ag om 'n ere- mariene bewaringsbeampte te wees, daardie persoon aanstel, en kan die bevoegdheid wat so 'n persoon ingevolge hierdie Wet uitvoer, bepaal.
- (3) 'n Visserybeheerbeampte en 'n ere- mariene bewaringsbeampte moet deur die Direkteur-generaal van die voorgeskrewe identiteitskaart voorsien word.

30 Lewende Mariene Hulpbronnefonds

10. (1) Die Seevisseryfonds bedoel in artikel 27 van die Wet op Seevissery, 1988 (Wet No. 12 van 1988), bly voortbestaan onder die naam die Lewende Mariene Hulpbronnefonds, ondanks die herroeping van genoemde Wet deur artikel 84.
- (2) Ondanks die bepalings van enige ander Wet, maar behoudens artikel 22, moet in die Fonds gestort word—
- (a) geld betaal ten opsigte van boetes, strawwe en rente vir enige misdryf ingevolge hierdie Wet, met inbegrip van enige opbrengste van die verkoop van enige vaartuig, voertuig, vliegtuig, vistuig of vis wat verbeurd verklaar is, of waarop beslag gelê is, ingevolge hierdie Wet;
 - (b) alle rente en gelde ingevolge hierdie Wet ingevorder;
 - (c) geld wat die Parlement vir die bereiking van die doelstellings van die Fonds bewillig;
 - (d) rente op beleggings;
 - (e) skenkings, met die goedkeuring van die Minister in oorleg met die Minister van Finansies;
 - (f) geld wat die Fonds met die goedkeuring van die Minister in oorleg met die Minister van Finansies, uit 'n ander bron toeval; en
 - (g) enige heffing op vis, visprodukte, waterplante of enige ander mariene hulpbron wat ingevolge hierdie Wet, die Wet op Seevissery, 1988, of enige ander wet opgelê is.
- (3) Die Fonds word deur die Direkteur-generaal in oorleg met die Minister geadministreer ooreenkomstig 'n raming of 'n aanvullende of hersiene raming van inkomste en uitgawes wat die Minister met die instemming van die Minister van Finansies ten opsigte van elke boekjaar wat op 31 Maart eindig, goedkeur, en geen uitgawe mag uit die Fonds aangegaan word nie behalwe ooreenkomstig so 'n raming van uitgawes.
- (4) Die Direkteur-generaal is die rekenpligtige beampte belas met die verantwoording van geld ontvang in, en betalings gemaak uit, die Fonds.

(5) The Director-General shall invest money in the fund not required for immediate use with the Public Investment Commissioners.

(6) Any unexpended balance in the Fund at the end of a financial year shall be carried forward as a credit in the Fund to the next financial year.

(7) The Auditor-General shall annually audit the books and accounts of the Fund. 5

Appropriation of Fund

11. The Fund shall provide for the administration of the provisions of this Act, including any activity aimed at reaching the objectives referred to in section 2.

Register

12. (1) The Director-General shall keep a register of all rights of access, other rights, permits and licences granted or issued in terms of this Act. 10

(2) The Minister may prescribe—

(a) the format of the register contemplated in subsection (1); and

(b) any registration system that he or she deems necessary.

(3) The register contemplated in subsection (1) shall be available for inspection by the public at the prescribed places and times. 15

Permits

13. (1) No person shall exercise any right granted in terms of section 18 or perform any other activity in terms of this Act unless a permit has been issued by the Minister to such person to exercise that right or perform that activity. 20

(2) Any permit contemplated in subsection (1) shall—

(a) be issued for a specified period not exceeding one year;

(b) be issued subject to the conditions determined by the Minister in the permit; and

(c) be issued against the payment of any fees determined by the Minister in terms of section 25(1). 25

(3) The holder of a permit shall at all times have that permit available for inspection at the location where the right or activity in respect of which the permit has been issued, is exercised.

(4) A permit to exercise an existing right in terms of this Act may be refused if the conditions of a previously issued permit had not been adhered to. 30

CHAPTER 3

MANAGEMENT OF MARINE LIVING RESOURCES

PART 1: FISHERIES PLANNING

Determination of allowable catches and applied effort 35

14. (1) The Minister shall determine the total allowable catch, the total applied effort, or a combination thereof.

(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, recreational, local commercial and foreign fishing, respectively. 40

(3) In the execution of his or her powers in terms of this section, the Minister may determine that the total allowable catch, or the total applied effort, or a combination thereof, shall apply—

(a) in a particular area, or in respect of particular species or a group of species of fish; and 45

(b) in respect of the use of particular gear, fishing methods or types of fishing vessels.

(4) If the allowable commercial catch in respect of which commercial fishing rights exist, increases, the mass of the increase shall be available for allocation by the Minister.

(5) Die Direkteur-generaal moet geld in die Fonds wat nie vir onmiddellike gebruik benodig word nie, by die Openbare Beleggingskommissaris belê.

(6) 'n Onbestede saldo in die Fonds aan die einde van 'n boekjaar moet as 'n krediet in die Fonds na die volgende boekjaar oorgedra word.

5 (7) Die Ouditeur-generaal ouditeer jaarliks die boeke en rekeninge van die Fonds.

Aanwending van Fonds

11. Die Fonds moet voorsiening maak vir die uitvoering van die bepalings van hierdie Wet, met inbegrip van enige aktiwiteit ter bereiking van die doelstellings in
10 artikel 2 vermeld.

Register

12. (1) Die Direkteur-generaal moet 'n register hou van alle toegangsregte, ander regte, permitte en lisensies wat ingevolge hierdie Wet toegestaan of uitgereik word.

(2) Die Minister kan—

15 (a) die inhoud van die register beoog in subartikel (1); en

(b) enige registrasiesetelsel wat hy of sy nodig ag, voorskryf.

(3) Die register beoog in subartikel (1) is op die voorgeskrewe plekke en tye vir insaek deur die publiek beskikbaar.

20 Permitte

13. (1) Geen persoon mag enige reg toegestaan ingevolge artikel 18 uitoefen of enige ander bedrywigheid ingevolge hierdie Wet verrig nie tensy die Minister aan so 'n persoon 'n permit uitgereik het om daardie reg of bedrywigheid uit te oefen of te verrig.

(2) 'n Permit in subartikel (1) beoog, word—

25 (a) vir 'n bepaalde tydperk wat nie een jaar oorskry nie, uitgereik;

(b) uitgereik onderworpe aan die voorwaardes wat die Minister in die permit bepaal; en

(c) uitgereik teen die betaling van enige gelde deur die Minister ingevolge artikel 25(1) bepaal.

30 (3) 'n Permithouer moet te alle tye daardie permit beskikbaar hê vir inspeksie op die plek waar die reg of bedrywigheid ten opsigte waarvan die permit uitgereik is, uitgeoefen word.

(4) 'n Permit om 'n bestaande reg ingevolge hierdie Wet uit te oefen, kan geweier word as die voorwaardes van 'n voorheen uitgereikte permit nie nagekom is nie.

35

HOOFSTUK 3

BESTUUR VAN LEWENDE MARIENE HULPBRONNE

DEEL 1: VISSERYEBEPLANNING

Vasstelling van toegelate vangste en ontplooië vangpoging

40 14. (1) Die Minister moet die totale toegelate vangs, die totale ontplooië vangpoging, of 'n kombinasie daarvan, vasstel.

(2) Die Minister moet bepaal watter gedeeltes van die totale toegelate vangs, die totale ontplooië vangpoging, of 'n kombinasie daarvan, in enige jaar toegeken sal word vir, onderskeidelik, bestaansgrondslag, sport-, plaaslike kommersiële en buitelandse visvangs.

45 (3) By die uitoefening van sy of haar pligte ingevolge hierdie artikel, kan die Minister bepaal dat die totale toegelate vangs, die totale ontplooië vangpoging, of 'n kombinasie daarvan, van toepassing is—

(a) in 'n bepaalde gebied of ten opsigte van bepaalde spesies of groep visspesies; en

50 (b) ten opsigte van die gebruik van bepaalde vistuig, visvangmetodes of soort vissersbote.

(4) Indien die toegelate kommersiële vangs ten opsigte waarvan kommersiële visvangregte bestaan, toeneem, is die massa van die toename beskikbaar vir toewysing deur die Minister.

(5) The provisions of this section shall not be construed to mean that the Minister is prohibited from determining that—

- (a) the total allowable catch;
 - (b) a portion of the total allowable catch contemplated in subsection (2); or
 - (c) an allocation in terms of subsection (4),
- shall be nil. 5

Fisheries management areas

15. (1) The Minister may by notice in the *Gazette* declare any area of the South African waters to be a fisheries management area for the management of the species described in the notice. 10

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

(3) The Minister shall, during the preparation of any plan contemplated in subsection (2), consult with the Forum and other organs of state affected by the plan.

Emergency measures 15

16. (1) 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 or part of a fishery, the Minister may—

- (a) suspend all or any of the fishing in that fishery or any specified part of it;
 - (b) restrict the number of fishing vessels fishing in that fishery; or
 - (c) restrict the mass of fish which may be taken from that fishery.
- 20

(2) The particulars of any measures taken in terms of this section shall be made known by notice in the *Gazette* and in any other appropriate manner.

Priority fishing areas

17. 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, by notice in the *Gazette*—

- (a) declare such an area to be a priority fishing area for the purposes stated in the notice; and
 - (b) prohibit any activity determined in the notice.
- 30

PART 2: LOCAL FISHING

Granting of rights

18. (1) No person shall undertake commercial fishing or subsistence 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. 35

(2) An application for any right referred to in subsection (1) shall be submitted to the Minister in the manner that the Minister may determine.

(3) The Minister may require an environmental impact assessment report to be submitted by the applicant. 40

(4) Unless otherwise determined by the Minister in relation to the holders of existing rights, only South African persons shall acquire or hold rights in terms of this section.

(5) In granting any right referred to in subsection (1), the Minister shall, in order to achieve the objectives contemplated in section 2, have particular regard to the need to permit new entrants, particularly those from historically disadvantaged sectors of society. 45

(6) All rights granted in terms of this section shall be valid for the period determined by the Minister, which period shall not exceed 15 years, whereafter it shall automatically terminate and revert back to the State to be reallocated in terms of the provisions of this Act relating to the allocation of such rights. 50

(7) The Minister may determine sustainable conservation and management measures, including the use of a particular type of vessel or gear, or area of fishing, to which a right may be subject.

(5) Die bepalings van hierdie artikel word nie so uitgelê nie dat dit beteken dat die Minister verbied word om te bepaal dat—

- (a) die totale toegelate vangpoging;
- (b) 'n gedeelte van die totale toegelate vangpoging in subartikel (2) beoog; of
- 5 (c) 'n toewysing ingevolge subartikel (4),
nul sal wees.

Visseryebestuursgebiede

15 15. (1) Die Minister kan by kennisgewing in die *Staatskoerant* enige gebied van die Suid-Afrikaanse waters verklaar tot 'n visseryebestuursgebied vir die bestuur van die spesies wat in die kennisgewing beskryf word.

(2) Die Minister kan ten opsigte van elke visseryebestuursgebied 'n plan vir die beskerming, bestuur en ontwikkeling van die visserye goedkeur.

(3) Die Minister moet tydens die voorbereiding van 'n plan in subartikel (2) beoog met die Forum en ander staatsorgane wat deur die plan geraak word, oorleg pleeg.

15 Noodmaatreëls

16. (1) Indien 'n noodtoestand ontstaan wat visstapels of seelewe, of enige spesies of groep visse of seelewe in enige vissery of deel van 'n vissery bedreig of kan bedreig, kan die Minister—

- 20 (a) alle of enige visvang in daardie vissery of enige bepaalde deel daarvan opskort;
- (b) die getal vissersbote wat in daardie vissery visvang, beperk; of
- (c) die massa vis wat van daardie vissery geneem mag word, beperk.

(3) Die besonderhede van enige maatreëls ingevolge hierdie artikel getref, moet in die *Staatskoerant* en op enige ander geskikte wyse bekendgemaak word.

25 Voorkeurvisvanggebiede

17. Indien die Minister van oordeel is dat spesiale maatreëls noodsaaklik is om te verseker dat gemagtigde visvangs binne enige gebied van die Suid-Afrikaanse waters nie belemmer word of andersins op inbreuk gemaak word nie, kan hy of sy na oorleg met die partye wat daardeur geraak word by kennisgewing in die *Staatskoerant*—

- 30 (a) verklaar dat so 'n gebied 'n voorkeurvisvanggebied is vir die doeleindes in die kennisgewing vermeld; en
- (b) enige bedrywigheid in die kennisgewing bepaal, verbied.

DEEL 2: PLAASLIKE VISVANGS

Toestaan van regte

35 18. (1) Geen persoon mag kommersiële visvangs of bestaansgrondslagvisvangs onderneem, marikultuur beoefen of 'n visverwerkingsaanleg bedryf nie tensy 'n reg om so 'n bedrywigheid te onderneem, te beoefen of te bedryf deur die Minister aan so 'n persoon toegestaan is.

40 (2) 'n Aansoek om 'n reg in subartikel (1) bedoel, word aan die Minister gerig op die wyse deur die Minister bepaal.

(3) Die Minister kan vereis dat die aansoeker 'n evalueringsverslag oor die invloed op die omgewing indien.

(4) Tensy die Minister in verband met die houers van bestaande regte anders bepaal, verkry of hou slegs Suid-Afrikaanse persone regte ingevolge hierdie artikel.

45 (5) By die verlening van 'n reg in subartikel (1) bedoel, moet die Minister, ten einde die doelstellings beoog in artikel 2 te verwesenlik, in besonder ag slaan op die behoefte om nuwe deelnemers toe te laat, in die besonder diegene van histories verontregte dele van die samelewing.

50 (6) Alle regte ingevolge hierdie artikel toegestaan, is geldig vir die tydperk deur die Minister bepaal, welke tydperk nie 15 jaar mag oorskry nie, waarna dit outomaties verval en terugval na die Staat om hertoegewys te word ingevolge die bepalings van hierdie Wet ten opsigte van die toewysing van sodanige regte.

55 (7) Die Minister kan volhoubare bewarings- en bestuursmaatreëls, met inbegrip van die gebruik van 'n bepaalde tipe vaartuig of vistuig, of van die visvanggebied, bepaal, waaraan 'n reg onderhewig mag wees.

Subsistence fishing

19. (1) The Minister may, in order to achieve the objectives contemplated in section 9(2) of the Constitution, by notice in the *Gazette*—
- (a) establish areas or zones where subsistence fishers may fish; and
 - (b) after consultation with the Forum, declare—
 - (i) a specified community to be a fishing community, from which inhabitants may be declared to be subsistence fishers; or
 - (ii) any other person to be a subsistence fisher; or
 - (iii) any other fishing or related activity or the exercise of any other right in that area or zone to be prohibited.
- (2) No subsistence fishing permit shall be transferable except with the approval of and subject to the conditions determined by the Minister.

Recreational fishing

20. (1) No person shall sell, barter or trade any fish caught through recreational fishing.
- (2) No recreational fishing permit shall be transferable.

PART 3: COMMERCIAL FISHING**Commercial fishing**

21. (1) Subject to the provisions of this Act, a commercial fishing right may be leased, divided or otherwise transferred.
- (2) An application to transfer a commercial fishing right or a part thereof shall be submitted to the Minister in the manner that the Minister may determine, and subject to the provisions of this Act and any applicable regulation, the Minister may, in writing, approve the transfer of the right or a part thereof.
- (3) The Minister may, after consultation with the Forum, make regulations regarding—
- (a) the formula by which a commercial fishing right as a portion of the allowable commercial catch, the total applied effort, or a combination thereof, shall be determined;
 - (b) guidelines or criteria concerning the transfer of any right of access, including determining limits on the transfer of rights between holders of such rights on a temporary basis;
 - (c) the maximum or minimum portion of the allowable commercial catch, the total applied effort, or a combination thereof, which may be allocated or transferred to, or acquired or otherwise held by, any person;
 - (d) reallocation of any right of access, having regard to any significant alteration in the long-term revenue derived from the resource being exploited or in the long-term availability of the resource;
 - (e) the determination of rights to, or disposition of, by-catches in relation to any right;
 - (f) the monitoring and control of the use of rights of access;
 - (g) subject to the provisions of the Labour Relations Act, 1995 (Act No. 66 of 1995), the employment of South African persons on board fishing vessels that are used for the utilisation of any right of access;
 - (h) the utilisation of South African fish processing establishments in the exercise of a right of access; and
 - (i) the other measures that may be necessary or desirable to achieve the effective implementation of a scheme for rights of access.

Leasing of rights

22. (1) As from a date fixed by the Minister in the *Gazette*, the rights contemplated in section 18 shall, subject to section 31, be leased by the State.

Bestaansgrondslagvisvangs

19. (1) Die Minister kan, ten einde die doelstellings beoog in artikel 9(2) van die Grondwet te bereik, by kennisgewing in die *Staatskoerant*—

- 5 (a) gebiede of sones vasstel waar bestaansgrondslagvisvaarders kan visvang; en
 (b) na oorleg met die Forum—
 (i) 'n bepaalde gemeenskap tot 'n vissersgemeenskap verklaar, waarvan inwoners tot bestaansgrondslagvisvaarders verklaar kan word; of
 (ii) enige ander persoon tot 'n bestaansgrondslagvisvaarder verklaar; of
 10 (iii) enige ander visvang- of verwante bedrywigheid of die uitoefening van enige ander reg in daardie gebied of sone verbied.
- (2) 'n Permit vir bestaansgrondslagvisvangs is nie oordraagbaar nie behalwe met die goedkeuring van en onderhewig aan die voorwaardes deur die Minister bepaal.

Sportvisvangs

20. (1) Geen persoon mag enige vis deur sportvisvangs gevang, verkoop, ruil of 15 daarmee handel dryf nie.
 (2) 'n Permit vir sportvisvangs is nie oordraagbaar nie.

DEEL 3: KOMMERSIËLE VISVANGS**Kommersiële visvangs**

21. (1) Behoudens die bepalings van hierdie Wet kan 'n kommersiële visvangsreg 20 verhuur, verdeel of op 'n ander wyse oorgedra word.
 (2) 'n Aansoek om 'n kommersiële visvangsreg of 'n gedeelte daarvan oor te dra, word aan die Minister gerig op die wyse wat die Minister bepaal en die Minister kan, behoudens die bepalings van hierdie Wet en enige toepaslike regulasie, die oordrag van die reg of 'n gedeelte daarvan skriftelik goedkeur.
 25 (3) Die Minister kan, na oorleg met die Forum, regulasies uitvaardig met betrekking tot—
 (a) die formule waarvolgens 'n kommersiële visvangsreg as 'n gedeelte van die toegelate kommersiële vangs, die totale ontplooiëde vangpoging, of 'n
 30 (b) riglyne of maatstawwe insake die oordrag van enige toegangsreg, met inbegrip van die vasstelling van beperkings op die tydelike oordrag van regte tussen houers van sodanige regte;
 (c) die grootste of kleinste gedeelte van die toegelate kommersiële vangs, die totale ontplooiëde vangpoging, of 'n kombinasie daarvan, wat aan 'n persoon
 35 toegeken of oorgedra mag word, of deur 'n persoon verkry of gehou mag word;
 (d) die hertoewysing van enige toegangsreg, met inagneming van enige beduidende verandering in die langtermyn inkomste uit die hulpbron wat ontgin word, of die langtermyn beskikbaarheid van die bron;
 40 (e) die bepaling van regte op of toewysing van byvangste in verband met enige reg;
 (f) die kontrolering van en beheer oor die aanwending van toegangsregte;
 (g) behoudens die bepalings van die Wet op Arbeidsverhoudinge, 1995 (Wet No. 66 van 1995), die indiënsneming van Suid-Afrikaanse persone aan boord van
 45 vissersbote wat vir die benutting van enige toegangsreg aangewend word;
 (h) die benutting van Suid-Afrikaanse visverwerkingsaanlegte in die uitoefening van 'n toegangsreg; en
 (i) die ander maatreëls wat nodig of wenslik is om die doeltreffende implementering van 'n skema van toegangsregte te verwesenlik.

50 Verhuring van regte

22. (1) Behoudens artikel 31, word die regte beoog in artikel 18, vanaf 'n datum deur die Minister in die *Staatskoerant* bepaal, deur die Staat verhuur.

(2) The Minister may prescribe the method of allocation and payment in respect of leases contemplated in subsection (1), including criteria for the granting of the rights contemplated in section 18.

(3) The method of allocation and payment contemplated in subsection (2), which may include tendering and fixed price leasing, may vary between branches of the fishing industry. 5

(4) With the concurrence of the Minister of Finance, a determined portion of the money paid in respect of a right leased by the State shall be paid into the Fund and the remainder shall be paid into the National Revenue Fund.

PART 4: GENERAL LOCAL MATTERS 10

Local fishing vessel licence

23. (1) No person shall use a fishing vessel or any other vessel to exercise any right of access unless a local fishing vessel licence has been issued to such person.

(2) An application for a local fishing vessel licence shall be submitted to the Minister in the manner that the Minister may determine. 15

Reduction of rights

24. The Minister may in respect of any fishery, determine, after 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, local commercial and foreign fishing, and rights granted in respect thereof, shall be reduced. 20

Fees

25. (1) All rights, permits and licences in terms of this Act shall be granted or issued against the payment of the fees determined by the Minister in consultation with the Minister of Finance.

(2) An application for any right, permit or licence in terms of this Act shall be accompanied by an application fee determined by the Minister in consultation with the Minister of Finance. 25

Recovery of interest and fees

26. The Director-General may recover the amount of any interest or fee which is due and payable in terms of this Act in a competent court of law. 30

Fishing harbours

27. (1) Subject to subsection (2), the Minister may by notice in the *Gazette* declare a harbour or a defined portion of a harbour or a defined area of the sea and the seashore, to be a fishing harbour.

(2) If the Minister desires to declare a commercial harbour or a portion of such harbour to be a fishing harbour, he or she shall obtain the prior approval of the Minister of Transport. 35

(3) The Minister may, in consultation with the Minister of Finance, determine the fees payable in respect of the use of a fishing harbour or the facilities available in such a harbour. 40

Cancellation and suspension of rights, licences and permits

28. (1) If a holder of any right, licence or permit in terms of this Act—

- (a) has furnished information in the application for that right, licence or permit, or has submitted any other information required in terms of this Act, which is not true or complete; 45
- (b) contravenes or fails to comply with a condition imposed in the right, licence or permit;

(2) Die Minister kan die metode van toewysing en betaling ten opsigte van die verhurings in subartikel (1) beoog, voorskryf, met inbegrip van maatstawwe vir die toestaan van die regte in artikel 18 beoog.

(3) Die metode van toewysing en betaling in subartikel (2) beoog, wat tender en 5 verhuring teen vasgestelde pryse mag insluit, mag varieër tussen vertakkings van die visnywerheid.

(4) Met die instemming van die Minister van Finansies, kan 'n bepaalde gedeelte van die geld wat betaal is ten opsigte van 'n reg wat deur die Staat verhuur word in die Fonds inbetaal word en die oorblywende gedeelte word inbetaal in die Nasionale 10 Inkomstefonds.

DEEL 4: ALGEMENE PLAASLIKE AANGELEENTHEDE

Plaaslike vissersbootlisensie

23. (1) Geen persoon mag 'n vissersboot of enige ander vaartuig vir die uitoefening van enige toegangsreg gebruik nie tensy 'n plaaslike vissersbootlisensie aan so 'n 15 persoon uitgereik is.

(2) 'n Aansoek om 'n plaaslike vissersbootlisensie word aan die Minister gerig op die wyse wat die Minister bepaal.

Vermindering van regte

24. Die Minister kan ten opsigte van enige vissery, na oorleg met die Forum, bepaal 20 dat die gedeeltes van die totale toegelate vangs, die totale vangpoging, of 'n kombinasie daarvan, wat in enige jaar ten opsigte van bestaansgrondslag-, plaaslike kommersiële en buitelandse visvangs toegewys is, en regte ten opsigte daarvan toegestaan, verminder word.

Gelde

25 25. (1) Alle regte, permitte en lisensies ingevolge hierdie Wet word toegestaan en uitgereik teen die betaling van die gelde deur die Minister in oorleg met die Minister van Finansies bepaal.

(2) 'n Aansoek om 'n reg, permit of lisensie ingevolge hierdie Wet gaan vergesel van die betaling van aansoekgelde deur die Minister in oorleg met die Minister van 30 Finansies bepaal.

Invordering van rente en gelde

26. Die Direkteur-generaal kan die bedrag ten opsigte van enige rente of gelde wat ingevolge hierdie Wet verskuldig en betaalbaar is, in 'n bevoegde hof verhaal.

Vissershawens

35 27. (1) Behoudens subartikel (2) kan die Minister by kennisgewing in die *Staatskoerant* 'n hawe of 'n omskrewe gedeelte van 'n hawe of 'n omskrewe gebied van die see en die strand tot 'n vissershawe verklaar.

(2) Indien die Minister 'n handelshawe of 'n gedeelte van so 'n hawe tot 'n vissershawe wil verklaar, moet hy of sy vooraf die goedkeuring van die Minister van 40 Vervoer daarvoor verkry.

(3) Die Minister kan, in oorleg met die Minister van Finansies, die gelde bepaal wat betaalbaar is ten opsigte van die gebruik van 'n vissershawe of die fasiliteite beskikbaar in so 'n hawe.

Kansellering en opskorting van regte, lisensies en permitte

45 28. (1) Indien die houer van 'n reg, lisensie of permit ingevolge hierdie Wet—
 (a) inligting verstrek in die aansoek om daardie reg, lisensie of permit, of enige ander inligting voorlê wat ingevolge hierdie Wet vereis word, wat onwaar of onvolledig is;
 50 (b) 'n voorwaarde opgelê in die reg, lisensie of permit oortree of versuim om dit na te kom;

(c) contravenes or fails to comply with a provision of this Act;

(d) is convicted of an offence in terms of this Act; or

(e) fails to effectively utilise that right, licence or permit,

the Director-General may by written notice delivered to such holder, or sent by registered post to the said holder's last known address, request the holder to show cause in writing, within a period of 21 days from the date of the notice, why the right, licence or permit should not be revoked, suspended, cancelled, altered or reduced, as the case may be. 5

(2) The Director-General shall after expiry of the period referred to in subsection (1) refer the matter, together with any reason furnished by the holder in question, to the Minister for the Minister's decision. 10

(3) When a matter is referred to the Minister in terms of subsection (2), the Minister may—

(a) revoke the right, licence or permit;

(b) suspend the right, licence or permit for a period determined by the Minister; 15

(c) cancel the right, licence or permit from a date determined by the Minister;

(d) alter the terms or conditions of the right, licence or permit; or

(e) decide not to revoke, suspend, cancel, alter or reduce the right, licence or permit.

(4) Notwithstanding the provisions of subsections (1), (2) and (3), the Minister may, whenever he or she is of the opinion that it is in the interests of the promotion, protection or utilisation on a sustainable basis of a particular marine living resource, at any time by written notice to the holder of a right, licence or permit, revoke, suspend, cancel or reduce that right, licence or permit. 20

PART FIVE: FISHERIES TRANSFORMATION COUNCIL 25

Establishment of Fisheries Transformation Council

29. The Minister shall establish a body by notice in the *Gazette*, which shall be called the Fisheries Transformation Council.

Main object of Council

30. The main object of the Council shall be to facilitate the achievement of fair and equitable access to the rights referred to in section 18. 30

Allocation of rights to and by Council

31. (1) The Minister may, notwithstanding the provisions of this Act, allocate rights to the Council.

(2) The Council shall lease rights, according to criteria determined by the Minister, to persons from historically disadvantaged sectors of society and to small and medium size enterprises. 35

Powers of Council

32. The Council may, subject to restrictions determined by the Minister—

(a) lease commercial fishing rights; 40

(b) determine the price to be paid by lessees of rights;

(c) determine the conditions applicable to leases granted in terms of this section, which conditions shall govern the circumstances under which the lease may be revoked, cancelled, suspended or altered; and

(d) assist in the development and capacity building of persons from historically disadvantaged sectors of society and small and medium size enterprises. 45

Management and control

33. For the purposes of management and control of the Council, the Minister may—

(a) issue criteria, guidelines and instructions for the operation of the Council; and

- (c) 'n bepaling van hierdie Wet oortree of versuim om dit na te kom;
- (d) skuldig bevind word aan 'n misdryf ingevolge hierdie Wet; of
- (e) versuim om die betrokke reg, lisensie of permit effektief te gebruik,
- kan die Direkteur-generaal, deur middel van 'n skriftelike kennisgewing bestel op die
- 5 betrokke houer, of versend per geregistreerde pos aan genoemde houer se laaste bekende adres, die houer versoek om skriftelik redes aan te voer, binne 'n tydperk van 21 dae vanaf die datum van die kennisgewing, waarom die reg, lisensie of permit nie ingetrek, opgeskort, gekanselleer, verander of verminder moet word nie.
- (2) Die Direkteur-generaal moet na die verstryking van die tydperk bedoel in
- 10 subartikel (1) die aangeleentheid tesame met enige rede deur die betrokke houer verstrek, na die Minister verwys vir sy of haar beslissing.
- (3) Wanneer 'n aangeleentheid ingevolge subartikel (2) na die Minister verwys word, kan die Minister—
- (a) die reg, lisensie of permit intrek;
- 15 (b) die reg, lisensie of permit opskort vir 'n tydperk deur die Minister bepaal;
- (c) die reg, lisensie of permit kanselleer vanaf 'n datum deur die Minister bepaal;
- (d) die bedinge of voorwaardes van die reg, lisensie of permit wysig; of
- (e) besluit om nie die reg, lisensie of permit in te trek, op te skort, te kanselleer, te verander of te verminder nie.
- 20 (4) Ondanks die belyings van subartikels (1), (2) en (3) kan die Minister, wanneer hy of sy van oordeel is dat dit in die belang van die bevordering, beskerming of benutting op 'n volhoubare grondslag van 'n bepaalde lewende mariene hulpbron is, te eniger tyd deur middel van 'n skriftelike kennisgewing aan die houer van 'n reg, lisensie of permit daardie reg, lisensie of permit intrek, opskort, kanselleer of
- 25 verminder.

DEEL 5: VISSERYE-OORGANGSRAAD

Instelling van Visserye-oorgangsraad

29. Die Minister moet by kennisgewing in die *Staatskoerant* 'n liggaam wat die Visserye-oorgangsraad genoem word, instel.

30 Hoofdoelstelling van Raad

30. Die hoofdoelstelling van die Raad sal wees om die verwesenliking van billike en regverdige toegang tot die regte in artikel 18 bedoel, te bewerkstellig.

Toewysing van regte aan en deur Raad

31. (1) Ondanks die belyings van hierdie Wet, wys die Minister regte aan die Raad

35 toe.

(2) Die Raad verhuur regte, ooreenkomstig die maatstawwe deur die Minister bepaal, aan persone van histories verontregte dele van die samelewing en aan klein- en mediumgrootte-ondernemings.

Bevoegdhede van Raad

40 32. Die Raad kan—

- (a) kommersiële visvangsregte verhuur;
- (b) die prys wat deur die huurders van regte betaal moet word, bepaal;
- (c) die voorwaardes van toepassing op huurkontrakte ingevolge hierdie artikel verleen, bepaal, welke voorwaardes die omstandighede waaronder die
- 45 huurkontrak ingetrek, gekanselleer, opgeskort of gewysig mag word, moet reël; en
- (d) hulp verleen in die ontwikkeling en verbetering van vermoëns van persone van histories verontregte dele van die samelewing en aan klein- en mediumgrootte-ondernemings.

50 Bestuur en beheer

33. Vir die doeleindes van die bestuur en beheer van die Raad, kan die Minister—

(a) maatstawwe, riglyne en opdrage vir die werking van die Raad uitreik; en

- (b) determine that the affairs of the Council shall be managed and controlled according to a business plan approved by him or her.

Composition of Council

34. (1) The Council shall consist of at least five members, including a chairperson, appointed by the Minister for the period determined by him or her, but not exceeding three years at a time. 5

(2) The Minister shall ensure that the Council be broadly representative and multidisciplinary, with members qualified to make a substantial contribution towards the proper functioning of the Council.

(3) Before the members of the Council are appointed, the Minister shall invite nominations by interested parties by notice in the *Gazette*: Provided that the Minister shall not be bound by any such nomination. 10

(4) No person who has a direct interest in any manner whatsoever in commercial fishing or mariculture shall be appointed in terms of this section.

(5) A member of the Council shall vacate his or her office if he or she— 15

- (a) becomes insolvent;
- (b) becomes of unsound mind;
- (c) is convicted of an offence and is sentenced to imprisonment without the option of a fine;
- (d) is absent from three consecutive meetings of the Council without leave of the chairperson; 20
- (e) resigns by written notice to the Minister; or
- (f) is removed from office by the Minister if there are sufficient reasons in the opinion of the Minister for doing so.

(6) The Director-General may pay to a member of the Council who is not in the full-time employment of an organ of state, from money appropriated by Parliament for that purpose, the allowances and remuneration which the Minister may determine in general or in a specific case, in consultation with the Minister of Finance. 25

(7) The Minister may prescribe the necessary matters relating to meetings of the Council. 30

Staff

35. The employees required for the proper performance of the Council's functions, shall be appointed subject to the laws governing the public service.

Reporting

36. (1) The Council shall annually not later than the first day of March, submit to the Minister a report on all its activities during the previous year. 35

(2) The report referred to in subsection (1) shall be laid upon the Table in Parliament within 14 days after it was submitted to the Minister, if Parliament is then in session, or if Parliament is not then in session, within 14 days of the commencement of the next ensuing session. 40

Abolishment of Council

37. The Minister may by notice in the *Gazette*, after consultation with the Forum, abolish the Council.

PART 6: FOREIGN FISHING

International agreements 45

38. (1) No international agreement entered into by the national government of the Republic concerning access to fish in South African waters shall exceed the total resources or the total mass of fish allowed to the appropriate category of foreign fishing vessels in terms of any applicable determination of the total allowable catch or applicable fishery plan. 50

(2) Any international agreement entered into by the national government of the

- (b) bepaal dat die Raad bestuur en beheer moet word volgens 'n bestuursplan deur hom of haar goedgekeur.

Samestelling van Raad

34. (1) Die Raad bestaan uit minstens vyf lede, met inbegrip van 'n voorsitter, deur die Minister aangewys vir die tydperk deur hom of haar bepaal, maar wat nie drie jaar op 'n keer oorskry nie.
- (2) Die Minister moet toesien dat die Raad breed verteenwoordigend en multidisiplinêr saamgestel word, met lede wat bevoeg is om 'n wesenlike bydrae tot die behoorlike funksionering van die Raad te maak.
- 10 (3) Voordat die lede van die Raad aangestel word, moet die Minister belanghebbendes by kennisgewing in die *Staatskoerant* uitnooi om nominasies te doen: Met dien verstande dat die Minister nie deur enige sodanige nominasie gebind word nie.
- (4) Geen persoon wat op enige wyse hoegenaamd 'n belang in kommersiële visvangs of marikultuur het, mag ingevolge hierdie artikel aangestel word nie.
- 15 (5) 'n Lid van die Raad ontruim sy of haar amp indien hy of sy—
- (a) insolvent raak;
- (b) in sy of haar geestesvermoë gekrenk raak;
- (c) aan 'n misdryf skuldig bevind word en tot gevangenisstraf sonder die keuse van 'n boete gevonnissen word;
- 20 (d) sonder verlof van die voorsitter van drie agtereenvolgende vergaderings van die Raad afwesig is;
- (e) by skriftelike kennisgewing aan die Minister bedank; of
- (f) deur die Minister van die amp onthef word indien daar na die oordeel van die Minister gegronde redes bestaan om dit te doen.
- 25 (6) Die Direkteur-generaal kan aan 'n lid van die Raad wat nie in die heelydse diens van 'n staatsorgaan is nie, uit geld wat die Parlement vir daardie doel bewillig, die toelaes en vergoeding betaal wat die Minister in die algemeen of in 'n besondere geval, in oorleg met die Minister van Finansies, bepaal.
- (7) Die Minister kan die nodige aangeleenthede in verband met vergaderings van die Raad voorskryf.
- 30

Personeel

35. Die werknemers wat vir die behoorlike uitvoering van die Raad se funksies benodig word, word aangestel behoudens die bepalings van die wette wat die staatsdiens reël.

35 Verslaggewing

36. (1) Die Raad lê jaarliks nie later nie as die eerste dag van Maart 'n verslag oor al sy bedrywighede gedurende die voorafgaande jaar aan die Minister voor.

- (2) Die verslag in subartikel (2) bedoel, word in die Parlement ter Tafel gelê binne 14 dae nadat dit aan die Minister voorgelê is, indien die Parlement dan byeen is, of, indien die Parlement dan nie byeen is nie, binne 14 dae na die aanvang van sy eersvolgende sessie.
- 40

Afskaffing van Raad

37. Die Minister kan, na oorleg met die Forum, die Raad by kennisgewing in die *Staatskoerant* afskaf.

45 DEEL 6: BUITELANDSE VISVANGS

Internasionale ooreenkomste

38. (1) 'n Internasionale ooreenkoms aangegaan deur die nasionale regering ten opsigte van toegang tot vis in Suid-Afrikaanse waters mag nie die totale hulpbronne of die totale massa vis toegestaan aan die toepaslike kategorie buitelandse vissersbote ingevolge enige toepaslike vasstelling van die totale toegestane vangst of toepaslike visseryplan oorskry nie.
- 50

(2) 'n Internasionale ooreenkoms aangegaan ten opsigte van toegang tot vis in

Republic concerning access to fish in South African waters shall include a provision establishing the responsibility of the foreign state or an association to take necessary measures to ensure compliance by its vessels with the terms and conditions of the agreement and with the legislation relating to fishing in South African waters.

Foreign fishing vessel licences

5

39. (1) No foreign fishing vessel shall be used for fishing or related activities in South African waters unless a foreign fishing vessel licence has been issued to such vessel.

(2) Subject to the provisions of this Act, the Minister may issue a foreign fishing vessel licence in the prescribed format authorising a foreign fishing vessel to be used in South African waters, or any part thereof, for the fishing or related activities that may be determined in the licence.

10

(3) Subject to subsection (4), no foreign fishing vessel licence shall be issued to any foreign fishing vessel unless there is in force with the government of the flag state of the vessel or with an association of which the owner or charterer is a member, a fishery agreement to which the national government of the Republic is a party.

15

(4) Notwithstanding the absence of a fishery agreement contemplated in subsection (3), the Minister may issue a licence in respect of a foreign fishing vessel where the applicant provides sufficient financial and other guarantees relating to his or her fulfilment of all obligations arising in terms of this Act, as well as other conditions regarding insurance related to pollution and rescue, and the Minister is satisfied that those guarantees are adequate for that purpose.

20

(5) If a fishing vessel is used in contravention of subsection (1) or of any condition of a foreign fishing vessel licence, the master, owner and charterer of that fishing vessel shall each be guilty of an offence.

PART 7: HIGH SEAS FISHING

25

Prohibition of high seas fishing

40. No person shall undertake fishing or related activities on the high seas by means of a fishing vessel registered in the Republic unless a high seas fishing vessel licence has been issued in respect of such a fishing vessel.

High seas licences

30

41. (1) The Minister may issue a high seas fishing licence in respect of a local fishing vessel, subject to the conditions that he or she considers appropriate.

(2) A high seas fishing licence shall be valid for a period not exceeding one year.

(3) A high seas fishing licence shall only be issued in respect of a local fishing vessel.

(4) A high seas fishing licence shall terminate—

35

(a) on expiration of the period for which it was valid;

(b) should the vessel cease to be registered in the Republic; or

(c) should the master, owner or charterer of the high seas fishing vessel be convicted of an offence in terms of section 39(5).

Implementation of international conservation and management measures

40

42. (1) The Minister may provide appropriate information in terms of international conservation and management measures to an international organisation of which the Republic is a member, or to states parties to such international conservation and management measures.

(2) The Minister may exchange information, including evidentiary material, with other states that are parties to international conservation and management measures to enable the Republic and such other states to better implement the objects of such international conservation and management measures.

45

Suid-Afrikaanse waters moet 'n bepaling insluit wat die verantwoordelikheid van die ander staat of 'n verbond vestig om die nodige maatreëls te tref wat nakoming van die bedinge en voorwaardes van die ooreenkoms, asook ten opsigte van die wetgewing met betrekking tot visvangs deur sy vaartuie in Suid-Afrikaanse waters, sal verseker.

5 Buitelandse vissersbootlisensies

39. (1) Geen buitelandse vissersboot mag vir visvang- of verwante bedrywighede in Suid-Afrikaanse waters gebruik word sonder dat 'n buitelandse vissersbootlisensie aan so 'n vaartuig uitgereik is nie.

(2) Behoudens die bepalings van hierdie Wet mag die Minister 'n buitelandse vissersbootlisensie in die voorgeskrewe formaat uitreik wat magtig dat 'n buitelandse vissersboot in Suid-Afrikaanse waters of enige deel daarvan gebruik word vir die visvang- of verwante bedrywighede in die lisensie bepaal.

(3) Behoudens subartikel (4) word geen buitelandse vissersbootlisensie uitgereik aan enige buitelandse vaartuig nie tensy daar tussen die nasionale regering van die Republiek en die regering van die vlagstaat van die vaartuig of die verbond van wie die eienaar of huurder 'n lid is, 'n geldige visseryooreenkoms bestaan.

(4) Ondanks die afwesigheid van 'n visseryooreenkoms in subartikel (3) beoog, kan die Minister 'n lisensie ten opsigte van 'n buitelandse vaartuig uitreik indien die aansoeker voldoende finansiële en ander waarborge verskaf in verband met sy of haar vervulling van alle verpligtinge wat mag ontstaan ingevolge hierdie Wet, asook ander voorwaardes ten opsigte van versekering met betrekking tot besoedeling en redding, en die Minister oortuig is dat daardie waarborge voldoende is vir daardie doel.

(5) Indien 'n vissersboot in stryd met subartikel (1) of enige voorwaarde van 'n buitelandse vissersbootlisensie gebruik word, is die skipper, eienaar en huurder van daardie vissersboot elk skuldig aan 'n misdryf.

DEEL 7: OOPSEEVISVANGS

Verbod op oopseevisvangs

40. Geen persoon mag visvang- of verwante bedrywighede deur middel van 'n vissersboot geregistreer in die Republiek op die oop see onderneem nie tensy 'n oopseevissersbootlisensie ten opsigte van so 'n vissersboot uitgereik is.

Oopseevislisensies

41. (1) Die Minister kan 'n oopseevisvanglisensie ten opsigte van 'n plaaslike vissersboot uitreik, onderhewig aan die voorwaardes wat hy of sy gepas ag.

(2) 'n Oopseevisvanglisensie is geldig vir 'n tydperk wat nie een jaar oorskry nie.

(3) 'n Oopseevisvanglisensie word slegs ten opsigte van 'n plaaslike vissersboot uitgereik.

(4) 'n Oopseevisvanglisensie verval—

(a) by die verstryking van die tydperk waarvoor dit geldig was;

(b) indien die vaartuig nie meer in die Republiek geregistreer is nie; of

(c) indien die skipper, eienaar of huurder van die oopseevissersboot aan 'n oortreding van artikel 39(5) skuldig bevind word.

Implementering van internasionale bewarings- en bestuursmaatreëls

42. (1) Die Minister kan toepaslike inligting ingevolge internasionale bewarings- en bestuursmaatreëls verskaf aan 'n internasionale organisasie waarvan die Republiek 'n lid is, of aan lidstate van sodanige internasionale bewarings- en bestuursmaatreëls.

(2) Die Minister kan inligting uitruil, met inbegrip van bewysmateriaal, met ander state wat partye is tot internasionale bewarings- en bestuursmaatreëls ten einde die Republiek en ander state in staat te stel om die doelstellings van sodanige internasionale bewarings- en bestuursmaatreëls beter te implementeer.

(3) If the Director-General has reason to suspect that a foreign fishing vessel was involved in a contravention of an international conservation or management measure, he or she may—

- (a) provide to the appropriate authorities of the flag state of the foreign fishing vessel concerned, such information, including evidentiary material, relating to that contravention; and 5
- (b) when such foreign fishing vessel is voluntarily in a port of the Republic, promptly notify the appropriate authorities of the flag state of the vessel accordingly.

(4) The Minister may from time to time publish by notice in the *Gazette* particulars of any international conservation and management measures or international agreement concerning marine living resources. 10

CHAPTER 4

MARINE PROTECTED AREAS

Marine protected areas 15

43. (1) The Minister may, by notice published in the *Gazette*, declare an area to be a marine protected area—

- (a) for the protection of fauna and flora or a particular species of fauna or flora and the physical features on which they depend; 20
- (b) to facilitate fishery management by protecting spawning stock, allowing stock recovery, enhancing stock abundance in adjacent areas, and providing pristine communities for research; or
- (c) to diminish any conflict that may arise from competing uses in that area.

(2) No person shall in any marine protected area, without permission in terms of subsection (3)— 25

- (a) fish or attempt to fish;
- (b) take or destroy any fauna and flora other than fish;
- (c) 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; 30
- (d) construct or erect any building or other structure on or over any land or water within such a marine protected area; or
- (e) carry on any activity which may adversely impact on the ecosystems of that area.

(3) The Minister may, after consultation with the Forum, give permission in writing that any activity prohibited in terms of this section may be undertaken, where such activity is required for the proper management of the marine protected area. 35

CHAPTER 5

PROHIBITED ACTIVITIES AND STOWAGE OF GEAR

Prohibited fishing methods 40

44. (1) No person shall—

- (a) 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 in any way rendering fish to be caught more easily;
- (b) carry or have in his or her possession or control any explosive, fire-arm, poison or other noxious substance for any of the purposes referred to in paragraph (a); or 45
- (c) engage in a fishing or related activity by a method or in a manner prohibited by the Minister by notice in the *Gazette*.

(2) No person shall land, sell, receive or possess any fish taken by any means in contravention of this Act. 50

(3) Indien die Direkteur-generaal rede het om te vermoed dat 'n buitelandse vissersboot betrokke was by die oortreding van 'n internasionale bewarings- of bestuursmaatreël, kan hy of sy—

- 5 (a) die toepaslike owerhede van die vlagstaat van die buitelandse vissersboot voorsien van sodanige inligting, met inbegrip van bewysmateriaal, wat verband hou met daardie oortreding; en
- (b) wanneer sodanige buitelandse vissersboot vrywilliglik in 'n hawe van die Republiek is, die toepaslike owerhede van die vlagstaat van die vaartuig dienoreenkomstig onmiddellik in kennis stel.
- 10 (4) Die Minister kan van tyd tot tyd besonderhede van enige internasionale bewarings- en bestuursmaatreëls of internasionale ooreenkoms in verband met lewende mariene hulpbronne by kennisgewing in die *Staatskoerant* publiseer.

HOOFSTUK 4

BESKERMDE MARIENE GEBIEDE

15 Beskermd mariene gebiede

43. (1) Die Minister kan by kennisgewing in die *Staatskoerant* 'n gebied tot 'n beskermd mariene gebied verklaar—

- (a) vir die beskerming van fauna en flora of 'n bepaalde spesie fauna of flora en die fisiese omgewing waarvan hulle afhanklik is;
- 20 (b) om visserybestuur te vergemaklik deur die beskerming van kuitskietstapels, die herstel van stapels, die opbou van stapelomvang in aangrensende gebiede en die vestiging van ongerepte omgewings vir navorsing; of
- (c) om botsing tussen mededingende gebruike in daardie gebied te verminder.

(2) Geen persoon mag in enige beskermd mariene gebied sonder magtiging

25 ingevolge subartikel (3)—

- (a) visvang of poog om vis te vang nie;
- (b) enige fauna en flora anders as vis versamel of vernietig nie;
- (c) baggerwerk verrig, sand of gruis verwyder, afval of enige ander besoedelende materiaal stort, of op enige wyse die natuurlike omgewing versteur, verander of vernietig nie;
- 30 (d) enige gebou of ander struktuur bou of oprig nie op of bo enige grond of waters binne so 'n beskermd mariene gebied; of
- (e) enige bedrywigheid onderneem nie wat 'n nadelige uitwerking op die ekosisteme van daardie gebied mag hê.

35 (3) Die Minister kan, na oorleg met die Forum, skriftelik toestem dat enige bedrywigheid wat ingevolge hierdie artikel verbied word, onderneem kan word indien daardie bedrywigheid noodsaaklik is vir die behoorlike bestuur van die beskermd mariene gebied.

HOOFSTUK 5

40 VERBODE BEDRYWIGHEDE EN BERGING VAN VISTUIG

Verbode visvangmetodes

44. (1) Geen persoon mag—

- (a) enige plofstof, vuurwapen, gifstof of ander skadelike stof gebruik, of toelaat dat dit gebruik word, of poog om dit te gebruik, met die oog op die
- 45 doodmaak, bedwelming, besering of vang van vis of met die oog daarop om op enige wyse te bewerkstellig dat vis makliker gevang kan word nie;
- (b) enige plofstof, vuurwapen, gifstof of ander skadelike stof dra of in sy of haar besit of beheer hê nie vir enige van die doeleindes in paragraaf (a) bedoel; of
- (c) enige ander visvang- of verwante bedrywigheid onderneem nie by wyse van
- 50 'n metode of op 'n wyse wat deur die Minister by kennisgewing in die *Staatskoerant* verbied is.

(2) Geen persoon mag enige vis wat op enige wyse in stryd met hierdie Wet bekom is, aan wal bring, verkoop, ontvang of besit nie.

Possession of prohibited gear

- 45.** No person shall use, possess or have control of—
- (a) any net or trap, the mesh size of which does not conform to the prescribed minimum mesh size;
 - (b) any gear which does not conform to the standards that may be prescribed for that type of gear; or
 - (c) any gear which is prohibited in terms of this Act.

Interference with gear

- 46.** No person shall—
- (a) 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;
 - (b) 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;
 - (c) 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
 - (d) 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

- 47.** Except on the authority of a permit issued by the Minister—
- (a) no vessel shall be used for or to assist in any driftnet fishing activities;
 - (b) no person shall engage or assist in any driftnet fishing activities; and
 - (c) no person on board a local fishing vessel or a foreign fishing vessel in respect of which a foreign fishing vessel licence has been issued, shall be in possession of a driftnet or part thereof.

Fish aggregating devices

- 48.** (1) An application to place a fish aggregating device in South African waters shall be submitted to the Minister in the manner that the Minister may determine.
- (2) A permit to place a fish aggregating device shall not confer any right to fish.
- (3) The Minister may by notice in the *Gazette*—
- (a) declare any fish aggregating device to be a designated fish aggregating device for the purposes of this section; and
 - (b) determine who may fish within a radius of one nautical mile of a designated fish aggregating device or a class of designated fish aggregating devices.
- (4) Subject to subsection (3), no person shall fish within a radius of one nautical mile from a designated fish aggregating device without the permission of the Minister and unless in accordance with the conditions that he or she may determine.
- (5) Permission to use a fish aggregating device does not affect any obligation to observe applicable conservation or management measures, unless the Minister determines in writing that a particular measure does not apply in respect of fish caught within one nautical mile of that device.

Stowage of gear

- 49.** (1) Gear on board any foreign fishing vessel for which a foreign fishing vessel licence has not been issued shall be stowed in the prescribed manner while the vessel is within South African waters.
- (2) A foreign fishing vessel that is licensed in terms of section 39(2) to fish by means of a particular type of gear in any specific area of the South African waters—

Besit van verbode vistuig**45. Geen persoon mag—**

- (a) enige net of fuik waarvan die maasgrootte nie aan die voorgeskrewe minimum voldoen nie;
- 5 (b) enige vistuig wat nie aan enige voorgeskrewe standaard vir daardie soort vistuig voldoen nie; of
- (c) enige vistuig wat deur hierdie Wet verbied word, gebruik, besit of in beheer daarvan wees nie.

Versteuring van vistuig**10 46. Geen persoon mag—**

- (a) enige visnet, lyn, pot, fuik, vistuig, visgerei of enige ander toerusting wat aan 'n ander persoon behoort sonder daardie persoon se toestemming verwyder, wegsleep, leegmaak, laat wegdryf of andersins versteur nie;
- 15 (b) enige voorwerp in die water plaas, of enige bedrywigheid bevorder of onderneem op 'n wyse wat die visvangs van 'n ander persoon belemmer nie;
- (c) enige visnet, lyn, pot, fuik, vistuig, visgerei of enige ander toerusting, of enige dobber, vlot of ander merker daaraan geheg vernietig, beskadig, verplaas of beweeg of die ligging daarvan verander nie; of
- 20 (d) vis van enige visnet, lyn, pot, fuik, vistuig, visgerei of enige ander toerusting wat aan 'n ander persoon behoort sonder die toestemming van daardie persoon verwyder nie.

Dryfnetvisvangs**47. Behalwe op gesag van 'n permit deur die Minister uitgereik, mag—**

- 25 (a) geen vaartuig gebruik word vir of om hulp te verleen met enige dryfnetvisvangbedrywighede nie;
- (b) geen persoon betrokke wees by of hulp verleen met enige dryfnetvisvangbedrywighede nie; of
- 30 (c) geen persoon aan boord van 'n plaaslike vissersboot of 'n buitelandse vissersboot ten opsigte waarvan 'n buitelandse vissersbootlisensie uitgereik is, in besit wees van 'n dryfnet of 'n deel daarvan nie.

Visskolingstoestelle

48. (1) 'n Aansoek om 'n visskolingstoestel in Suid-Afrikaanse waters te plaas, word aan die Minister gerig op die wyse deur die Minister bepaal.

35 (2) 'n Permit om 'n visskolingstoestel te plaas, verleen nie enige reg om vis te vang nie.

(3) Die Minister kan by kennisgewing in die *Staatskoerant*—

- (a) enige visskolingstoestel tot 'n aangewese visskolingstoestel vir die doeleindes van hierdie artikel verklaar; en
- 40 (b) bepaal wie binne 'n straal van een seemyl van 'n aangewese visskolingstoestel of 'n klas aangewese visskolingstoestelle mag visvang.

(4) Behoudens subartikel (3) mag geen persoon vis binne 'n straal van een seemyl van 'n aangewese visskolingstoestel vang nie behalwe met die toestemming van die Minister en onderhewig aan die voorwaardes wat hy of sy bepaal.

45 (5) Toestemming om 'n visskolingstoestel te gebruik, raak nie enige verpligting om toepaslike bewarings- of bestuursmaatreëls na te kom nie, tensy die Minister skriftelik bepaal dat 'n spesifieke maatreël nie van toepassing is nie ten opsigte van vis gevang binne een seemyl van daardie toestel.

Berging van vistuig

50 49. (1) Vistuig aan boord van enige buitelandse vissersboot ten opsigte waarvan 'n buitelandse vissersbootlisensie uitgereik is nie moet, terwyl die vaartuig binne Suid-Afrikaanse waters is, op die voorgeskrewe wyse geberg word.

(2) 'n Buitelandse vissersboot wat ingevolge artikel 39(2) gelisensieer is om vis te vang met 'n bepaalde soort vistuig in enige bepaalde gebied van die Suid-Afrikaanse waters, moet—

- (a) shall stow any other gear on board the vessel in the prescribed manner while the vessel is within that area; and
- (b) shall stow all gear on board the vessel in the prescribed manner while the vessel is within any other area of the South African waters where it is not licensed to fish.

5

CHAPTER 6

LAW ENFORCEMENT

Observers

50. (1) The Director-General may designate a person in writing to act as an observer on vessels issued with fishing licences in terms of this Act and shall furnish such an observer with the prescribed identity card. 10

(2) An observer may be designated in accordance with the terms of an agreement contemplated in section 38.

(3) Any person designated in accordance with subsection (2) who is not a citizen of the Republic shall, while in South African waters, be subject to the provisions of this Act for the purposes of carrying out his or her duties and enforcing his or her rights. 15

(4) An observer shall exercise the scientific, compliance, monitoring and other functions determined by the Minister.

(5) Any person on board any vessel issued with a licence or permit shall permit any observer to board and remain on such vessel for the purposes of performing his or her functions. 20

Powers of fishery control officers

51. (1) For the purposes of enforcing this Act any fishery control officer may with a warrant enter and search any vessel, vehicle, aircraft or premises or seize any property. 25

(2) For the purposes of enforcing this Act any fishery control officer may without a warrant—

- (a) order any foreign fishing vessel in South African waters, and any local fishing vessel in or beyond such waters to stop;
- (b) require the master of a vessel to stop fishing and take the gear of the vessel back on board; 30
- (c) require the master of a vessel to facilitate the boarding of a vessel by all appropriate means;
- (d) go on board a vessel and take with him or her such other persons as he or she may require for assistance in the execution of his or her powers; 35
- (e) muster the crew of a vessel;
- (f) require to be produced, examine and make copies of a certificate of registry, licence, permit, log book, official documents, record of fish caught and any other document required in terms of this Act or relating to a vessel and to the crew or any member thereof or to any person on board the vessel which is in their respective possession or control on board the vessel; 40
- (g) require the master to appear and give an explanation concerning the vessel, the crew, any person on board the vessel and any document referred to in paragraph (f);
- (h) make any examination or enquiry which he or she may consider necessary to ascertain whether any provision of this Act has been contravened; 45
- (i) make an entry dated and signed by him or her in any vessel's log book;
- (j) where he or she has reasonable grounds to believe that an offence in terms of this Act has been or is being committed, take or require the master to take the vessel to any place, port or harbour in the territory of the Republic for the purpose of carrying out any search, examination or enquiry; 50
- (k) give directions to the master and any crew member of any vessel stopped, boarded or searched as may be necessary or reasonably expedient for any

- (a) enige ander vistuig aan boord van die vaartuig op die voorgeskrewe wyse berg terwyl die vaartuig binne die gebied is; en
- (b) al die vistuig aan boord van die vaartuig op die voorgeskrewe wyse berg terwyl die vaartuig binne enige ander gebied van die Suid-Afrikaanse waters is waar dit nie gelisensieer is om vis te vang nie.

HOOFSTUK 6

WETSTOEPASSING

Waarnemers

50. (1) Die Direkteur-generaal kan 'n persoon skriftelik aanwys om as waarnemer op te tree op vaartuie wat ingevolge hierdie Wet met visvanglisensies uitgereik is en moet so 'n waarnemer van die voorgeskrewe identiteitskaart voorsien.
- (2) 'n Waarnemer kan in ooreenstemming met die bepalings van 'n ooreenkoms beoog in artikel 38 aangewys word.
- (3) 'n Persoon ingevolge subartikel (2) aangewys wat nie 'n burger van die Republiek is nie, is, terwyl binne Suid-Afrikaanse waters, onderhewig aan die bepalings van hierdie Wet vir die doeleindes van die uitvoering van sy of haar pligte en die afdwinging van sy of haar regte.
- (4) 'n Waarnemer oefen die wetenskaplike, nakomings-, kontrolerings- en ander funksies uit wat die Minister bepaal.
- (5) 'n Persoon aan boord van enige vaartuig wat met 'n lisensie of permit uitgereik is, moet enige waarnemer aan boord toelaat en huisves op sodanige vaartuig vir die doeleindes van die uitvoering van sy of haar funksies.

Bevoegdheid van visserybeheerbeamptes

51. (1) Vir die doeleindes van die toepassing van hierdie Wet kan 'n visserybeheerbeampte 'n vaartuig, voertuig, vliegtuig of perseel met 'n lasbrief betree en dit deursoek, of op enige eiendom beslag lê.
- (2) Vir die doeleindes van die toepassing van hierdie Wet kan 'n visserybeheerbeampte sonder 'n lasbrief—
- (a) enige buitelandse vissersboot in Suid-Afrikaanse waters, en enige plaaslike vissersboot binne of buite daardie waters beveel om by te lê;
- (b) die skipper van 'n vaartuig aansê om visvang te staak en die vistuig van die vaartuig terug aan boord te bring;
- (c) die skipper van 'n vaartuig aansê om die bestyging van die vaartuig deur alle geskikte middele te vergemaklik;
- (d) aan boord van 'n vaartuig gaan en met hom of haar die ander persone saamneem wat hy of sy mag benodig om hom of haar by te staan in die uitvoering van sy of haar funksies;
- (e) die bemanning van 'n vaartuig byeenroep;
- (f) versoek dat 'n sertifikaat van registrasie, lisensie, permit, logboek, amptelike dokumente, register van vis gevang en enige ander dokument wat benodig word ingevolge hierdie Wet of in verband met 'n vaartuig en met die bemanning of enige lid daarvan of enige ander persoon aan boord van die vaartuig en wat in hulle onderskeie besit of beheer aan boord die vaartuig is, voorgelê word en dit ondersoek en afskrifte daarvan maak;
- (g) die skipper aansê om hom of haar aan te meld en 'n uiteensetting te gee van die vaartuig, die bemanning, enige persoon aan boord van die vaartuig en enige dokument bedoel in paragraaf (f);
- (h) enige ondersoek instel of navraag doen wat hy of sy noodsaaklik ag ten einde vas te stel of enige bepaling van hierdie Wet oortree is;
- (i) 'n inskrywing maak, deur hom of haar gedagteken en onderteken, in enige vaartuig se logboek;
- (j) waar hy of sy redelike gronde het om te glo dat 'n misdryf ingevolge hierdie Wet gepleeg is of gepleeg word, die vaartuig neem na of die skipper versoek om die vaartuig te neem na enige plek of hawe in die grondgebied van die Republiek vir deursoeking, ondersoek of navraag;
- (k) opdragte gee aan die skipper en enige bemanningslid van enige vaartuig wat gestop, aan boord gegaan, of deursoek word soos nodig of redelikerwys

- purpose specified in this Act or for the compliance by the vessel, master or any crew member with any condition of a licence;
- (l) at all reasonable times enter and inspect any fish processing establishment or any other place where fish or fish products are kept or stored; and
- (m) take samples of any fish found in any vessel, vehicle, aircraft or on any premises searched in terms of this section. 5
- (3) A fishery control officer may, without a warrant—
- (a) enter and search any vessel, vehicle, aircraft or premises if he or she has reasonable grounds to believe that an offence has been or is being committed or that fish illegally fished or substances or devices for use contrary to section 44 or 45 are being stowed, if— 10
- (i) the person in control of the vessel, vehicle, aircraft or premises consents to such entry or search; or
- (ii) the fishery control officer has reasonable grounds to believe that a warrant will be issued, if he or she were to apply for such warrant, and the delay caused by the obtaining of such a warrant would defeat the object of the entry or search; 15
- (b) stop, enter and search any vessel, vehicle or aircraft which he or she reasonably suspects is being used or is involved in the commission of an offence in terms of this Act; 20
- (c) seize—
- (i) any property on board any vessel, vehicle or aircraft or on any premises if—
- (aa) the person in control of the vessel, vehicle, aircraft or premises consents to such seizure; or 25
- (bb) the fishery control officer has reasonable grounds to believe that a warrant will be issued, if he or she were to apply for such warrant, and the delay caused by the obtaining of such a warrant would defeat the object of the seizure;
- (ii) any vessel, including its gear, equipment, stores and cargo, and any vehicle or aircraft of which he or she has reasonable grounds to believe that it has been or is being used in the commission of an offence in terms of this Act or in respect of which he or she suspects such offence to have been committed or which he or she knows or has reasonable grounds to suspect that it has been seized or forfeited in terms of any provision of this Act; 30
- (iii) any fish or fish product which he or she has reasonable grounds to suspect to have been taken or produced in the commission of such offence or which are possessed in contravention of this Act;
- (iv) any substance or device which he or she has reasonable grounds to suspect to have been used or to be possessed or controlled in contravention of section 44 or 45; 40
- (v) any log book, chart or other document required to be maintained in terms of this Act or in terms of any licence, in respect of which he or she has reasonable grounds to believe that it shows or tends to show, with or without other evidence, the commission of an offence in terms of this Act; or 45
- (vi) anything which he or she has reasonable grounds to believe might be used as evidence in any proceedings in terms of this Act; or
- (d) arrest any person whom he or she has reasonable grounds to suspect to have committed an offence in terms of this Act. 50
- (4) In exercising the powers referred to in this section a fishery control officer may, where necessary, use only the minimum force which is reasonable in the circumstances, with due regard to human dignity and privacy.
- (5) A fishery control officer shall in the exercise of his or her powers in terms of this Act, be deemed to be a peace officer as defined in section 1 of the Criminal Procedure Act, 1977 (Act No. 51 of 1977). 55

Powers of fishery control officers beyond South African waters

52. A fishery control officer may without a warrant following hot pursuit in

wenslik vir enige doel in hierdie Wet bepaal, of vir die nakoming van 'n voorwaarde van 'n lisensie deur die vaartuig, skipper of enige bemanningslid;

- (l) te alle redelike tye enige visverwerkingsaanleg of enige ander plek waar vis of visprodukte gehou of geberg word, betree en inspekteer; en
- (m) monsters neem van enige vis gevind in enige vaartuig, voertuig, vliegtuig of op enige perseel wat ingevolge hierdie artikel deursoek word.
- (3) 'n Visserybeheerbeampte kan sonder 'n lasbrief—
- (a) enige vaartuig, voertuig, vliegtuig of perseel betree en deursoek as hy of sy redelike gronde het om te glo dat 'n misdryf gepleeg is of gepleeg word of dat vis wat onregmatig gevang is, of stowwe of toestelle vir gebruik in stryd met artikel 44 of 45 geberg word, indien—
- (i) die persoon in beheer van die vaartuig, voertuig, vliegtuig of perseel tot sodanige betreding of deursoeking toestem; of
- (ii) die visserybeheerbeampte redelike gronde het om te glo dat 'n lasbrief uitgereik sal word, sou hy of sy aansoek doen om sodanige lasbrief, en dat die vertraging om 'n lasbrief te verkry die doel van die betreding en deursoeking sal verydel;
- (b) enige vaartuig, voertuig of vliegtuig wat hy of sy redelikerwys vermoed gebruik word vir of betrokke is by die pleging van 'n misdryf ingevolge hierdie Wet, stop, betree en deursoek;
- (c) beslag lê op—
- (i) enige eiendom aan boord van enige vaartuig, voertuig, vliegtuig of op enige perseel, indien—
- (aa) die persoon in beheer van die vaartuig, voertuig, vliegtuig of perseel toestem tot die beslaglegging; of
- (bb) die visserybeheerbeampte redelike gronde het om te glo dat 'n lasbrief uitgereik sal word, sou hy of sy aansoek doen om sodanige lasbrief, en dat die vertraging om so 'n lasbrief te verkry die doel van die beslaglegging sal verydel;
- (ii) enige vaartuig, tesame met sy vistuig, toerusting, voorrade en vrag, en enige voertuig of vliegtuig waarvan hy of sy redelike gronde het om te glo dat dit gebruik is of word by die pleging van 'n misdryf ingevolge hierdie Wet, of ten opsigte waarvan hy of sy vermoed dat sodanige misdryf gepleeg is of waarvan hy of sy weet of redelike gronde het om te vermoed dat daar op beslag gelê is of dat dit verbeurd verklaar is ingevolge enige bepaling van hierdie Wet;
- (iii) enige vis of visprodukt waarvan hy of sy redelike gronde het om te vermoed dat dit geneem of vervaardig is in die pleeg van 'n misdryf of wat besit word in stryd met hierdie Wet;
- (iv) enige stof of toestel ten opsigte waarvan hy of sy redelike gronde het om te vermoed dat dit gebruik, besit of beheer word in stryd met artikel 44 of 45;
- (v) enige logboek, kaart of dokument wat ingevolge hierdie Wet of enige lisensie bygehou moet word, ten opsigte waarvan hy of sy met of sonder ander getuienis redelike gronde het om te glo dat dit daarop dui of neig om daarop te dui dat 'n misdryf ingevolge hierdie Wet gepleeg is; of
- (vi) enige item waarvan hy of sy redelike gronde het om te glo dat dit gebruik kan word as bewysstuk in enige verrigtinge ingevolge hierdie Wet; of
- (d) enige persoon in hegtenis neem indien hy of sy redelike gronde het om te vermoed dat daardie persoon 'n misdryf ingevolge hierdie Wet gepleeg het.
- (4) In die uitoefening van die bevoegdhede in hierdie artikel bedoel, mag 'n visserybeheerbeampte, indien nodig, slegs die minimum geweld gebruik wat onder die omstandighede redelik is, met behoorlike inagneming van menswaardigheid en privaatheid.
- (5) 'n Visserybeheerbeampte word in die uitoefening van sy of haar bevoegdhede ingevolge hierdie Wet geag 'n vredesbeampte te wees soos omskryf in artikel 1 van die Strafproseswet, 1977 (Wet No. 51 van 1977).

60 Bevoegdhede van visserybeheerbeamptes buite Suid-Afrikaanse waters

52. 'n Visserybeheerbeampte kan in die uitvoering van 'n hakkejagoperasie

accordance with international law as reflected in article 111 of the United Nations Convention on the Law of the Sea—

- (a) stop, board and search outside South African waters, any foreign fishing vessel which he or she has reasonable grounds to believe has been used in the commission of an offence in terms of this Act in South African waters and bring such vessel and all persons and things on board to any place, port or harbour in the territory of the Republic; and
- (b) exercise beyond South African waters all the powers conferred on a fishery control officer in terms of this Act.

Seizure of vessels 10

53. (1) Where any vessel is seized in terms of section 51, the master and crew thereof shall take the vessel to such place, port or harbour in the territory of the Republic as the fishery control officer shall require and the vessel may be detained pending the outcome of any proceedings in terms of this Act until it is released on payment or lodging of security in terms of section 62. 15

(2) If a master fails or refuses to take a vessel contemplated in subsection (1) to the designated place, port or harbour, a fishery control officer may take charge of the vessel for the purpose of taking it to the designated place, port or harbour.

Seizure of vehicles or aircraft

54. (1) Where any vehicle or aircraft is seized in terms of section 51, the driver or pilot thereof shall take the vehicle or aircraft to such place in the territory of the Republic as a fishery control officer shall designate as being the nearest or most convenient place for the holding of such vehicle or aircraft and the vehicle or aircraft may be detained pending the outcome of any proceedings in terms of this Act until it is released on payment or lodging of security in terms of section 62. 25

(2) If a driver or pilot fails or refuses to take a vehicle or aircraft contemplated in subsection (1) to the designated place, a fishery control officer may take charge of the vehicle or aircraft for the purpose of bringing it to the designated place.

(3) A court with jurisdiction over a vessel seized in terms of section 51, shall have jurisdiction over any vehicle or aircraft seized in connection with the same offence in terms of this section notwithstanding the whereabouts of the said vehicle or aircraft. 30

Immobilisation of vessels, vehicles or aircraft

55. (1) Having regard to the safety of a vessel, vehicle or aircraft seized, taken or detained, which is in the custody of the State in terms of this Act, a fishery control officer may take steps to immobilise it and may remove any part thereof. 35

(2) Any part removed as contemplated in subsection (1) shall be kept safely and returned to the vessel, vehicle or aircraft immediately upon its release from custody.

Co-operation with officials

56. (1) Whenever a fishing control officer or an honorary marine conservation officer exercises any power or performs any duty in terms of this Act, he or she shall at the request of any person affected thereby, produce the identity card contemplated in section 9(3) to such person for inspection. 40

(2) The master and each member of the crew of any fishing vessel, the driver of any vehicle and the pilot and crew of any aircraft shall immediately comply with any lawful instruction given or request made by a fishery control officer and shall facilitate safe boarding, entry and inspection of the vessel, vehicle or aircraft and any gear, equipment, register, document, fish and fish product. 45

(3) The master and each member of the crew of any fishing vessel, the driver of any vehicle and the pilot and crew of any aircraft shall take all measures to ensure the safety of a fishery control officer in the performance of his or her duties. 50

ooreenkomstig die volkereg soos beliggaam in artikel 111 van die Verenigde Nasies Seeregkonvensie, sonder 'n lasbrief—

- (a) buite Suid-Afrikaanse waters enige buitelandse vaartuig waarvan hy of sy redelike gronde het om te glo dat dit gebruik is in die pleging van 'n misdryf ingevolge hierdie Wet binne Suid-Afrikaanse waters, stop, bestyg en deursoek en so 'n vaartuig en alle persone en alles wat aan boord is na enige plek of hawe in die grondgebied van die Republiek neem; en
- (b) al die bevoegdhede wat ingevolge hierdie Wet aan 'n visserybeheerbeampte verleen is, buite Suid-Afrikaanse waters uitoefen.

10 Beslaglegging op vaartuie

53. (1) Indien op enige vaartuig ingevolge artikel 51 beslag gelê is, moet die skipper en die bemanning daarvan die vaartuig na 'n plek of hawe in die grondgebied van die Republiek neem soos deur die visserybeheerbeampte vereis word en die vaartuig kan, hangende die uitslag van enige verrigtinge ingevolge hierdie Wet, aangehou word totdat dit vrygelaat word by betaling of deponering van sekuriteit ingevolge artikel 62.

(2) Indien 'n skipper nalaat of weier om 'n vaartuig in subartikel (1) beoog na die aangewese plek of hawe te neem, kan 'n visserybeheerbeampte beheer oor die vaartuig neem om dit na die aangewese plek of hawe te neem.

Beslaglegging op voertuie of vliegtuie

54. (1) Indien op enige voertuig of vliegtuig ingevolge artikel 51 beslag gelê is, moet die bestuurder of vlieënier daarvan die voertuig of vliegtuig na die plek in die grondgebied van die Republiek neem wat die visserybeheerbeampte aanwys as die naaste en mees geskikte plek vir die berging van die voertuig of vliegtuig en die voertuig of vliegtuig kan, hangende die uitslag van enige verrigtinge ingevolge hierdie Wet, aangehou word totdat dit vrygelaat word by betaling of deponering van sekuriteit ingevolge artikel 62.

(2) Indien 'n bestuurder of vlieënier nalaat of weier om 'n voertuig of vliegtuig in subartikel (1) beoog na die aangewese plek te neem, kan 'n visserybeheerbeampte beheer oor die voertuig of vliegtuig neem om dit na die aangewese plek te neem.

(3) 'n Hof met regsbevoegdheid oor 'n vaartuig waarop ingevolge artikel 51 beslag gelê is, het regsbevoegdheid oor 'n voertuig of vliegtuig waarop ten opsigte van dieselfde misdryf ingevolge hierdie artikel beslag gelê is, ongeag waar genoemde voertuig of vliegtuig ook al mag wees.

Immobilisering van vaartuie, voertuie of vliegtuie

55. (1) Met inagneming van die veiligheid van 'n vaartuig, voertuig of vliegtuig waarop beslag gelê is, of wat geneem is of aangehou word en wat ingevolge hierdie Wet in die bewaring van die Staat is, kan 'n visserybeheerbeampte stappe doen om dit te immobiliseer en enige onderdeel daarvan verwyder.

(2) Enige onderdeel wat verwyder is soos in subartikel (1) beoog, moet in veilige bewaring gehou word en teruggeplaas word in die vaartuig, voertuig of vliegtuig onmiddellik ten tyde van vrylating uit aanhouding.

Samewerking met beamptes

56. (1) Wanneer 'n visserybeheerbeampte of 'n eremariene bewaringsbeampte enige bevoegdheid uitoefen of enige plig uitvoer ingevolge hierdie Wet moet hy of sy op versoek van enige persoon wat daardeur geraak word die identiteitskaart in artikel 9(3) beoog, voortbring vir die inspeksie deur daardie persoon.

(2) Die skipper en elke bemanningslid van 'n vissersboot, die bestuurder van 'n voertuig en die vlieënier en bemanning van 'n vliegtuig moet onmiddellik uitvoering gee aan enige wettige opdrag of versoek van 'n visserybeheerbeampte en moet die veilige bestyging, toegang tot en inspeksie van die vaartuig, voertuig of vliegtuig en enige vistuig, toerusting, register, dokument, vis en visprodukt vergemaklik.

(3) Die skipper en elke bemanningslid van 'n vissersboot, die bestuurder van 'n voertuig en die vlieënier en bemanning van 'n vliegtuig moet die nodige maatreëls tref om die veiligheid van 'n visserybeheerbeampte in die uitvoering van sy of haar pligte te verseker.

(4) The holder of a permit for and all persons employed at any fish processing establishment, shall immediately comply with any instruction or request given by a fishery control officer, facilitate his or her safe entry and inspection of the fish processing establishment, records, documents, fish and fish products and take all measures necessary to ensure the safety of a fishery control officer in the performance of his or her duties. 5

(5) No person shall—

- (a) assault, obstruct, resist, delay, refuse the boarding of, intimidate or fail to take all reasonable measures to ensure the safety of, or otherwise interfere with a fishery control officer or observer in the performance of his or her duties; 10
- (b) incite or encourage any other person to assault, resist or obstruct any fishery control officer while exercising or performing his or her powers or duties, or any other person lawfully acting under the orders of the fishery control officer in his or her aid;
- (c) use threatening language or behave in a threatening or insulting manner or use abusive language or insulting gestures towards any fishery control officer or observer while exercising or performing his or her powers or duties, or towards any other person lawfully acting under the orders of a fishery control officer in his or her aid; 15
- (d) fail to comply with the lawful requirements of any fishery control officer or observer; 20
- (e) furnish to any fishery control officer any particulars which are false or misleading;
- (f) impersonate or falsely represent himself or herself as a fishery control officer; or 25
- (g) falsely represent himself or herself as a person lawfully acting under a fishery control officer's orders or in his or her aid.

Duty to report

57. A holder of a right, license or permit granted or issued in terms of this Act shall report to the Minister any contravention of the provisions of this Act by any other person. 30

CHAPTER 7

JUDICIAL MATTERS

Offences and penalties

58. (1) Any person who, subject to the provisions of subsections (2) or (3)— 35
- (a) undertakes fishing or related activities in contravention of—
 - (i) a provision of section 13;
 - (ii) the conditions of any right of access, other right, licence or permit granted or issued in terms of Part 1, 2 or 3 of Chapter 3; or
 - (iii) an authorisation to undertake fishing or related activities in terms of Part 6 or 7 of Chapter 3, but excluding section 39(5); or 40
 - (b) contravenes any other provision of this Act,
- shall be guilty of an offence and liable on conviction to a fine not exceeding two million rand, or to imprisonment for a period not exceeding five years.
- (2) Any person who contravenes— 45
- (a) a provision of an international conservation and management measure inside or outside South African waters, or otherwise fails to comply with any provision of Part 7 of Chapter 3, by means of a vessel registered in the Republic; or
 - (b) the conditions imposed in a high seas fishing permit or high seas fishing vessel licence, 50
- shall be guilty of an offence and liable on conviction to a fine not exceeding three million rand.

(4) Die permithouer vir en enige persoon werksaam by 'n visverwerkingsaanleg, moet onmiddellik uitvoering gee aan enige opdrag of versoek van 'n visserybeheerbeampte, sy of haar veilige toegang en inspeksie van die visverwerkingsaanleg, registers, dokumente, vis en visprodukte vergemaklik, en moet die nodige maatreëls tref om die veiligheid van 'n visserybeheerbeampte in die uitvoering van sy of haar pligte te verseker.

(5) Geen persoon mag—

- (a) 'n visserybeheerbeampte of 'n waarnemer in die uitvoering van sy of haar pligte aanrand, dwarsboom, teenstaan, vertraag, verhoed om aan boord te gaan, intimideer of nalaat om alle redelike stappe te doen om die veiligheid van die visserybeheerbeampte of waarnemer te verseker of andersins met hom of haar in die uitoefening of uitvoering van sy of haar bevoegdheidspligte inmeng nie;
- (b) enige ander persoon aanhits of aanmoedig om enige visserybeheerbeampte in die uitoefening of uitvoering van sy of haar bevoegdheidspligte, of enige ander persoon wat in opdrag van 'n visserybeheerbeampte hom of haar regmatig bystaan, aan te rand, teen te staan of te dwarsboom nie;
- (c) dreigende taal gebruik of op 'n dreigende of beledigende manier optree of skeldtaal gebruik of beledigende gebare maak teenoor enige visserybeheerbeampte of waarnemer tydens die uitoefening of uitvoering van sy of haar bevoegdheidspligte nie, of teenoor enige ander persoon wat in opdrag van 'n visserybeheerbeampte hom of haar regmatig bystaan;
- (d) versuim om 'n regmatige versoek van 'n visserybeheerbeampte of waarnemer na te kom nie;
- (e) enige besonderhede wat vals of misleidend is aan enige visserybeheerbeampte verskaf nie;
- (f) hom of haar voorhou of valslik voordoen as 'n visserybeheerbeampte nie; of
- (g) hom of haar valslik voordoen as 'n persoon wat regmatig in opdrag van 'n visserybeheerbeampte optree of hom of haar bystaan nie.

30 Plig om te rapporteer

57. Die houër van 'n reg, lisensie of permit wat ingevolge hierdie Wet toegestaan of uitgereik is, moet enige oortreding van die bepalings van hierdie Wet deur enige ander persoon aan die Minister rapporteer.

HOOFSTUK 7

35 GEREGETELIKE AANGELEENTHEDE

Misdrywe en strawwe

58. (1) Behoudens die bepalings van subartikels (2) en (3) is iemand—

- (a) wat visvang- of verwante bedrywighede onderneem, in stryd met—
- (i) 'n bepaling van artikel 13;
- (ii) die voorwaardes van 'n toegangsreg, ander reg, lisensie of permit verleen of uitgereik ingevolge Deel 1, 2 of 3 van Hoofstuk 3; of
- (iii) 'n magtiging om visvang- of verwante bedrywighede te onderneem ingevolge Deel 6 of 7 van Hoofstuk 3, uitgesonderd artikel 39(5); of
- (b) wat enige ander bepaling van hierdie Wet oortree,
- 45 skuldig aan 'n misdryf en by skuldigbevinding strafbaar met 'n boete van hoogstens twee miljoen rand, of gevangenisstraf vir 'n tydperk van hoogstens vyf jaar.

(2) Iemand wat 'n bepaling oortree—

- (a) van 'n internasionale bewarings- en bestuursmaatreël binne of buite Suid-Afrikaanse waters, of wat andersins versuim om enige van die bepalings van Deel 7 van Hoofstuk 3 na te kom, deur middel van 'n vaartuig in die Republiek geregistreer; of
- (b) van die voorwaardes neergelê in 'n oopseevisvangpermit of oopseevissersbootlisensie,

55 is skuldig aan 'n misdryf en by skuldigbevinding strafbaar met 'n boete van hoogstens drie miljoen rand.

(3) Any person who contravenes a provision of section 39(5), 45, 47, 48 or 49 shall be guilty of an offence and liable on conviction to a fine not exceeding five million rand.

(4) A regulation made under this Act may provide that a person who contravenes or fails to comply with a provision thereof, shall be guilty of an offence and liable on conviction to a fine or to imprisonment for a period not exceeding two years. 5

Limitation of liability

59. (1) The State, the Minister, any person in the employment of an organ of state or any person appointed to perform any function in terms of this Act shall not be liable by virtue of anything done in good faith under a provision of this Act.

(2) The State, the Minister or any persons contemplated in subsection (1) shall not be liable, except in the case of any intentional act or omission on the part of any such person, to any person who, except in the performance of any function in terms of this Act or any other law— 10

(a) makes use of any vessel, vehicle or aircraft which is the property or under control of the State; 15

(b) is present in any fishing harbour; or

(c) leaves any vessel or any other property in a fishing harbour or makes use of the facilities of a fishing harbour,

or to the spouse or any dependant of any such person, for any loss or damage resulting from any bodily injury, loss of life or loss of or damage to any property caused by or arising out of or in any manner connected with the use of any vessel, vehicle of aircraft referred to in paragraph (a), the presence referred to in paragraph (b) or the presence of any property or the use of any facilities referred to in paragraph (c). 20

Destruction of evidence

60. (1) No person who, being on board any vessel being pursued, about to be boarded or notified that it will be boarded by a fishery control officer shall throw overboard or destroy any fish, fish product, gear, explosive, fire-arm, poison, noxious substance, chart, log book, document or other thing to avoid the seizure thereof or the detection of any contravention of this Act. 25

(2) Subsection (1) shall as far as applicable also apply to vehicles, aircraft, fish processing plants and other premises. 30

Payment for information leading to conviction

61. The Minister may from money appropriated by Parliament for that purpose and in consultation with the Minister of Finance, pay to any person, excluding a person in the employment of the State or an organ of state who has furnished any information or material of proof which leads to a conviction by a court, a remuneration in cash which, in the opinion of the Minister, is reasonable and fair in the circumstances. 35

Security for release of vessel, vehicle or aircraft

62. (1) If a fishing vessel, vehicle or aircraft is taken, seized or detained in terms of this Act and judicial proceedings are instituted in respect of an offence for which the vessel has been detained, the master, owner, charterer or agent of the owner or the charterer of the vessel, vehicle or aircraft may at any time apply to the court which will hear the matter, for the release of the vessel, vehicle or aircraft on the provision of security in terms of this section. 40

(2) On hearing the application the court shall— 45

(a) determine the amount of security to be deposited with the court by adding to the value of the vessel, vehicle or aircraft—

(i) the maximum fine for the offence or offences alleged; and

(3) Iemand wat 'n bepaling van artikel 39(5), 45, 47, 48 of 49 oortree, is skuldig aan 'n misdryf en is by skuldigbevinding strafbaar met 'n boete van hoogstens vyf miljoen rand.

(4) 'n Regulasie wat kragtens hierdie Wet uitgevaardig word, kan bepaal dat 'n persoon wat 'n bepaling daarvan oortree of versuim om dit na te kom, skuldig is aan 'n misdryf en by skuldigbevinding strafbaar is met 'n boete of gevangenisstraf vir 'n tydperk van hoogstens twee jaar.

Beperking van aanspreeklikheid

59. (1) Die Staat, die Minister, 'n persoon in diens van 'n staatsorgaan of enige ander persoon wat aangestel is om enige funksie ingevolge hierdie Wet te verrig, is nie aanspreeklik nie uit hoofde van enigiets wat te goeder trou kragtens 'n bepaling van hierdie Wet gedoen is.

(2) Die Staat, die Minister of enige persoon in subartikel (1) beoog, is nie aanspreeklik nie, behalwe in die geval van 'n opsetlike handeling of versuim aan die kant van so 'n persoon, teenoor 'n persoon wat, behalwe by die verrigting van 'n funksie ingevolge hierdie Wet of enige ander wet—

- (a) gebruik maak van 'n vaartuig, voertuig of vliegtuig wat die eiendom of onder die beheer is van die Staat;
- (b) in 'n vissershawe aanwesig is; of
- (c) 'n vaartuig of ander goed in 'n vissershawe laat of van die geriewe van 'n vissershawe gebruik maak,

of teenoor die gade of afhanklike van so 'n persoon vir verlies of skade as gevolg van liggaamlike besering, lewensverlies of verlies van of skade aan eiendom wat veroorsaak is deur of voortspruit uit of op enige wyse in verband staan met die gebruik van 'n vaartuig, voertuig of vliegtuig bedoel in paragraaf (a) of die aanwesigheid bedoel in paragraaf (b) of die aanwesigheid van goed of die gebruik van geriewe bedoel in paragraaf (c).

Vernietiging van getuienis

60. (1) Geen persoon wat aan boord van enige vaartuig is wat agtervolg word, wat op die punt staan om bestyg te word of ten opsigte waarvan kennis gegee is dat dit deur 'n visserybeheerbeampte bestyg sal word, mag enige vis, visprodukt, vistuig, plofstof, vuurwapen, gif, skadelike stof, kaart, logboek, dokument, of enigiets anders oorboord gooi of vernietig om beslaglegging daarvan of die blootlegging van 'n oortreding van hierdie Wet te vermy nie.

(2) Subartikel (1) is met die nodige veranderinge ook van toepassing op voertuie, vliegtuie, visverwerkingsaanlegte en ander persele.

Beloning vir inligting wat tot skuldigbevinding lei

61. Die Minister kan aan enige persoon, maar nie 'n persoon in diens van die Staat of 'n staatsorgaan nie, wat inligting of bewysmateriaal verskaf wat tot 'n skuldigbevinding deur 'n hof lei, uit geld deur die Parlement vir daardie doel bewillig en in oorleg met die Minister van Finansies, 'n vergoeding in kontant betaal wat, na die mening van die Minister, onder die omstandighede redelik en billik is.

Sekerheid vir vrystelling van vaartuig, voertuig of vliegtuig

62. (1) Indien 'n vaartuig, voertuig of vliegtuig geneem is, daarop beslag gelê is of dit aangehou word ingevolge hierdie Wet, en regstappe gedoen word met betrekking tot 'n misdryf ten opsigte waarvan die vaartuig aangehou word, kan die skipper, eienaar, huurder of agent van die eienaar of huurder van die vaartuig, voertuig of vliegtuig te eniger tyd by die hof wat die aangeleentheid sal verhoor, aansoek doen om die vrystelling van die vaartuig, voertuig of vliegtuig teen die stel van sekerheid ingevolge hierdie artikel.

(2) By die aanhoor van die aansoek moet die hof—

- (a) die bedrag van die sekerheid wat by die hof gedeponeer moet word, bepaal deur by die waarde van die vaartuig, voertuig of vliegtuig te voeg—
 - (i) die maksimum boete vir die beweerde misdryf of misdrywe; en

- (ii) costs and expenses incurred or reasonably foreseen to be incurred by the State, and recoverable in terms of this Act, and order the release of the vessel subject to the lodging of a guarantee or depositing of the security as determined; or
- (b) where it is satisfied that there are special and exceptional circumstances to justify it doing so, order the release of the vessel, vehicle or aircraft subject to the payment of security which is less than the amount contemplated in paragraph (a). 5
- (3) The furnishing of security shall, subject to subsection (4), be subject to the conditions that the court determine. 10
- (4) Any security granted in terms of subsection (2) shall be subject to the condition that, if—
- (a) the accused is found not guilty of the charge; or
- (b) the accused, on being convicted of the charge, pays in full within 14 days, or such time as the court may determine, after he or she is convicted, the amount of the fine imposed by the court and the amount of all costs and expenses due by him or her to the State in terms of subsection (2), 15
- the security shall be of no effect and any amount that has been deposited, shall forthwith be returned to the accused.
- (5) Any security granted in terms of subsection (2) shall be recoverable in full in any court as a debt due to the State jointly and severally by the person or persons by whom the security has been given unless the person or persons prove the due performance of the conditions on which the security was given. 20
- (6) The Minister may order the release of any vessel, vehicle, aircraft or gear, equipment or fish seized in terms of this Act. 25

Disposal of perishables

63. (1) If any fish or other thing of a perishable nature is seized in terms of section 51 the Minister may, notwithstanding any other provision of this Act—
- (a) return the fish or other thing to the person from whom it was seized on receiving adequate security equivalent to the value of the fish or thing; or 30
- (b) cause the sale of the fish or other thing at a price which is reasonable in the circumstances and, if court proceedings are instituted, pay the proceeds of the sale into a suspense account of the Department pending a court order in respect of the forfeiture of the proceeds or, if no proceedings are instituted, release the proceeds to the person from whom the fish or other thing was seized: Provided that, if, after making all reasonable efforts, the Minister is unable to sell the fish or other thing, or where such fish or other things are unfit for sale, he or she may dispose thereof in such other manner as he or she deems fit, including by destruction. 35
- (2) If any live fish has been seized in terms of section 51, it may be released or destroyed at the discretion of the seizing fishery control officer where he or she for any sufficient reason considers such act desirable. 40

Treatment of things detained or seized

64. (1) If any vessel, vehicle, aircraft or other thing has been detained or seized in terms of section 51, and a person who has been properly charged with an offence in relation thereto fails to appear to answer the charge within 90 days of the detention or seizure, the Minister may apply to the court for it to be forfeited to the State and the court shall make such order as it shall deem fit. 45
- (2) If the lawful owner of a vessel, vehicle, aircraft or thing seized or detained in terms of section 51 cannot be traced within 90 days of such seizure it shall be forfeited to the State and be disposed of as the Director-General in his or her discretion shall consider fit. 50
- (3) If a vessel, vehicle, aircraft or thing has been seized or detained in terms of section 51 and the court does not order the forfeiture of it, any proceeds realised from its

- (ii) die koste en uitgawes aangegaan of wat redelikerwys deur die Staat voorsien word om aangegaan te word, en wat ingevolge hierdie Wet verhaalbaar is,
 en onderhewig aan die voorlegging van 'n waarborg of die deponering van die sekerheid soos bepaal, die vrystelling van die vaartuig gelas; of
- 5 (b) die vrystelling van die vaartuig, voertuig of vliegtuig gelas onderhewig aan die betaling van sekerheid minder as die bedrag in paragraaf (a) beoog, indien die hof oortuig is dat daar spesiale en uitsonderlike omstandighede bestaan om dit te regverdig.
- 10 (3) Behoudens subartikel (4) is sekerheidstelling onderhewig aan die voorwaardes wat die hof bepaal.
- (4) Sekerheid ingevolge subartikel (2) toegestaan, is onderhewig aan die voorwaarde dat, indien—
- (a) die beskuldigde onskuldig bevind word op die aanklag; of
- 15 (b) die beskuldigde, by skuldigbevinding op die aanklag, binne 14 dae of die tyd wat die hof bepaal, die bedrag van die boete deur die hof opgelê en die bedrag van alle kostes en uitgawes deur hom of haar verskuldig aan die Staat ingevolge subartikel (2) ten volle betaal,
 die sekerheid nie meer van krag sal wees nie en enige bedrag wat gedeponeer is, sonder
 20 versuim teruggee moet word aan die beskuldigde.
- (5) Enige sekerheid ingevolge subartikel (2) toegestaan, is ten volle verhaalbaar in 'n hof as 'n skuld aan die Staat gesamentlik en afsonderlik deur die persoon of persone deur wie die sekerheid verskaf is, tensy die persoon of persone bewys lewer van behoorlike voldoening aan die voorwaardes waarop die sekerheid verskaf is.
- 25 (6) Die Minister kan die vrystelling van 'n vaartuig, voertuig, vliegtuig of vistuig, toerusting of vis waarop ingevolge hierdie Wet beslag gelê is, gelas.

Beskikking oor bederfbare goed

63. (1) Indien daar ingevolge artikel 51 op enige vis of ander goed van bederfbare aard beslag gelê word, kan die Minister, ondanks enige ander bepaling van hierdie
 30 Wet—
- (a) by ontvangs van voldoende sekerheid gelykstaande aan die waarde van die vis of ander goed, die vis of ander goed teruggee aan die persoon van wie daarop beslag gelê is; of
- (b) bewerkstellig dat die vis of enige ander goed verkoop word teen 'n prys wat
 35 onder die omstandighede redelik is en, indien regstappe gedoen word, die opbrengs van die verkoop in 'n afgagerekening van die Departement inbetaal, hangende 'n hofbevel ten opsigte van die verbeurdverklaring van die opbrengs of, indien geen regstappe gedoen word nie, die opbrengs vrystel aan die persoon van wie op die vis of ander goed beslag gelê is: Met dien
 40 verstande dat, indien, nadat alle redelike pogings aangewend is, die Minister nie in staat is om die vis of ander goed te verkoop nie, of waar sodanige vis of ander goed nie geskik is vir verkoop nie, hy of sy na goeddunke daaroor kan beskik, met inbegrip van die vernietiging daarvan.
- (2) Indien ingevolge artikel 51 op lewende vis beslag gelê is, kan dit in die diskresie
 45 van die beslagleggende visserybeheerbeampte vrygestel of vernietig word indien hy of sy weens enige afdoende rede van mening is dat sodanige handeling wenslik is.

Hantering van goed aangehou of waarop beslag gelê is

64. (1) Indien 'n vaartuig, voertuig, vliegtuig of ander goed ingevolge artikel 51 in beslag geneem is of aangehou word, en 'n persoon wat behoorlik aangekla is van 'n
 50 misdryf met betrekking daartoe nie binne 90 dae vanaf die aanhouding of beslaglegging verskyn om te antwoord op die aanklag nie, kan die Minister aansoek doen dat dit aan die Staat verbeurd verklaar word en die hof gee die bevel wat dit goedvind.
- (2) Indien die wettige eienaar van 'n vaartuig, voertuig, vliegtuig of goed in beslag geneem of aangehou ingevolge artikel 51 nie binne 90 dae van sodanige beslaglegging
 55 opgespoor kan word nie, word dit aan die Staat verbeur en daarvoor beskik soos die Direkteur-generaal in sy of haar diskresie goedvind.
- (3) Indien 'n vaartuig, voertuig, vliegtuig of goed in beslag geneem of ingevolge artikel 51 aangehou word en die hof geen verbeurdverklaring gelas nie, word enige opbrengs uit die beskikking daarvoor teruggee aan die eienaar daarvan of aan die

disposal shall be returned to the owner thereof or the person having the possession, care or control of it at the time of such detention or seizure.

(4) If the owner of a vessel, vehicle, aircraft or thing or the person having the possession, care or control of it at the time of its seizure or detention is convicted of an offence in terms of this Act and a fine is imposed, it may be detained until all fines, orders for costs and penalties imposed in terms of this Act have been paid. 5

(5) If any payment contemplated in subsection (4) is not made within such time as the court may determine, the vessel, vehicle, aircraft or thing may be sold in satisfaction and the proceeds shall be dealt with in accordance with section 65.

(6) Any vessel, vehicle, aircraft or other thing ordered to be forfeited in terms of this Act may, if no appeal has been lodged at the expiry of the time limited for appeal in a court, be disposed of in the manner that the Minister may determine. 10

Application of security

65. Any security or net proceeds of sale held in respect of any vessel, vehicle, aircraft or other thing shall be applied as follows and in that order: 15

- (a) The discharge of any forfeiture ordered in terms of section 68;
- (b) the payment of all fines or a contribution towards such a fine, for offences in terms of this Act or penalties imposed in terms of this Act, arising out of the use of or in connection with the vessel, vehicle, aircraft or other thing;
- (c) the discharge of all orders for costs in proceedings in terms of this Act arising out of the use of or in connection with the vessel, vehicle, aircraft or other thing; 20
- (d) return as provided for in section 64.

Liability for loss, damage or deterioration of things in custody

66. The State shall not be liable to any person for any loss, damage to or deterioration in the condition of any vessel, vehicle, aircraft or other thing while in the custody of the State in terms of this Act. 25

Removal from custody

67. (1) Any person who knows or can reasonably be expected to know that a vessel, vehicle, aircraft or other thing is held in the custody of the State in terms of this Act and who removes such vessel, vehicle, aircraft or thing, shall be guilty of an offence. 30

(2) If any vessel, vehicle, aircraft or other thing held or forfeited in terms of this Act has been unlawfully removed from the custody of the State it is liable to seizure in accordance with international law.

Forfeiture orders by court 35

68. (1) If any person is convicted of an offence in terms of this Act, the court may, in addition to any other penalty, order that any fishing vessel, together with its gear, equipment, any fish caught unlawfully or the proceeds of sale of such fish or any perishables, and any vehicle or aircraft used or involved in the commission of that offence be forfeited to the State. 40

(2) If any vessel, vehicle, aircraft or other thing seized in terms of this Act, or any security or net proceeds of sale in respect thereof is not forfeited or applied in the discharge of any fine, order for costs or penalty imposed in terms of this Act, it shall be made available to the registered owner or his or her nominee or, in the absence of such persons, a person who appears to be entitled to it. 45

(3) If any vessel, vehicle, aircraft or other thing has been released upon the lodging of security, an order for forfeiture shall, unless the court for special reasons fixes a smaller sum, operate as an order for forfeiture of the security.

persoon wat in besit, sorg of beheer daarvan was ten tyde van sodanige aanhouding of beslaglegging.

(4) Indien die eienaar van 'n vaartuig, voertuig, vliegtuig of goed of die persoon in besit, sorg of beheer daarvan ten tyde van die beslaglegging of aanhouding skuldig bevind word aan 'n misdryf ingevolge hierdie Wet en 'n boete opgelê word, kan dit aangehou word totdat alle boetes, kostebevele en strawwe wat ingevolge hierdie Wet opgelê is, betaal word.

(5) By wanbetaling van enige betaling in subartikel (4) beoog by verstryking van die tyd wat die hof bepaal, kan die vaartuig, voertuig, vliegtuig of goed verkoop word en die opbrengs van die verkoop word in ooreenstemming met artikel 65 hanteer.

(6) Enige vaartuig, voertuig, vliegtuig of ander goed wat verbeurd verklaar is ingevolge hierdie Wet kan, indien geen appèl by verstryking van die tydsbepanking vir appèl in 'n hof en aangeteken is nie, oor beskik word op die wyse wat die Minister bepaal.

15 Aanwending van sekerheid

65. Enige sekerheid of netto verkoopopbrengs gehou met betrekking tot enige vaartuig, voertuig, vliegtuig of ander goed moet soos volg en in daardie volgorde aangewend word:

- (a) Die aflossing van enige verbeurdverklaring ingevolge artikel 68 beveel;
- (b) die betaling van alle boetes of 'n bydrae tot so 'n boete vir misdrywe of strawwe opgelê ingevolge hierdie Wet wat voortspruit uit die gebruik van of in verband met die vaartuig, voertuig, vliegtuig of ander goed;
- (c) die vereffening van alle kostebevele in verrigtinge ingevolge hierdie Wet wat ontstaan het uit die gebruik van of in verband met die vaartuig, voertuig, vliegtuig of ander goed;
- (d) teruggawe soos in artikel 64 beoog.

Aanspreeklikheid vir verlies, skade of agteruitgang van goed in aanhouding

66. Die Staat is nie aanspreeklik nie teenoor enige persoon vir enige verlies, skade aan of agteruitgang in die toestand van enige vaartuig, voertuig, vliegtuig of ander goed terwyl dit ingevolge hierdie Wet in die bewaring van die Staat is.

Verwydering uit aanhouding

67. (1) Enige persoon wat weet of van wie redelikerwys verwag kan word om te weet dat 'n vaartuig, voertuig, vliegtuig of ander goed in bewaring van die Staat aangehou word ingevolge hierdie Wet en wat so 'n vaartuig, voertuig, vliegtuig of sodanige ander goed verwyder, is skuldig aan 'n misdryf.

(2) Indien enige vaartuig, voertuig, vliegtuig of ander goed wat aangehou word of verbeurd verklaar is ingevolge hierdie Wet onregmatig verwyder word uit die bewaring van die Staat, is dit onderhewig aan beslaglegging ooreenkomstig die volkereg.

Verbeurdverklaringsbevele deur hof

68. (1) Indien 'n persoon skuldig bevind word aan 'n misdryf ingevolge hierdie Wet, kan die hof, bykomend tot enige ander straf, gelas dat enige vissersboot, tesame met sy vistuig, toerusting, en enige vis wat wederregtelik gevang is, of die opbrengs van die verkoop van sodanige vis of enige bederfbare goed, en enige voertuig of vliegtuig wat gebruik is in of betrokke was by die pleging van daardie misdryf, verbeurd verklaar aan die Staat.

(2) Indien op enige vaartuig, voertuig, vliegtuig of ander goed beslag gelê is ingevolge hierdie Wet, of enige sekerheid of netto verkoopopbrengs ten opsigte daarvan nie verbeurd verklaar is of aangewend is vir die betaling van enige boete, kostebevel of straf opgelê ingevolge hierdie Wet nie, word dit beskikbaar gestel aan die geregistreerde eienaar of sy of haar genomineerde of, in die afwesigheid van sodanige persone, die persone wat oënskynlik daarop geregtig is.

(3) Indien enige vaartuig, voertuig, vliegtuig of ander goed vrygestel is teen die deponering van sekerheid, dien 'n bevel vir verbeurdverklaring, tensy die hof weens besondere redes 'n mindere bedrag vasstel, as 'n bevel vir die verbeurdverklaring van die sekerheid.

(4) If any vessel, vehicle, aircraft or other thing has been released upon the lodging of security, the court may order any person convicted of an offence in connection therewith and the owner of the vessel, vehicle, aircraft or other thing concerned, whether or not he or she is an accused, to pay the difference between the amount lodged in respect of security and the aggregate value of the forfeited property. 5

Disposal of forfeited things and discharge of forfeiture orders

69. (1) Any vessel, including its gear, cargo, stores and fuel, and any vehicle or aircraft, gear, net or other equipment, explosive, fire-arm or poison ordered to be forfeited in terms of this Act shall be disposed of in such manner as the Minister may determine. 10

(2) The owner or any other person with real security in any property forfeited in terms of section 68, may apply to court for the release of the property in question or for the realisation of his or her security therein, as the case may be.

(3) The court may release the property contemplated in subsection (2) or order the realisation of the security therein, if the applicant proves that he or she was in no way implicated in the commission of the offence, and that he or she could not have prevented it. 15

Jurisdiction of courts

70. (1) Any act or omission in contravention of any of the provisions of this Act which is committed— 20

- (a) by any person within South African waters;
- (b) outside South African waters by any citizen of the Republic or any person ordinarily resident in the Republic; or
- (c) by any person on board any local fishing vessel;

shall be dealt with and judicial proceedings taken as if such act or omission had taken place in the territory of the Republic. 25

(2) Any offence in terms of this Act shall, for purposes in relation to jurisdiction of a court to try the offence, be deemed to have been committed within the area of jurisdiction of the court in which the prosecution is instituted.

(3) Notwithstanding anything to the contrary in any other Act, a magistrate's court shall have jurisdiction to impose any penalty prescribed by this Act. 30

Documentary evidence

71. (1) The Minister may issue a certificate stating that—

- (a) a specified vessel was or was not a local fishing vessel or a foreign fishing vessel on a specified date; 35
- (b) a specified vessel or person was or was not on a specified date the holder of any specified licence, permit, authorisation or certificate of registration;
- (c) an appended document is a true copy of the licence, authorisation or certificate of registration for a specified vessel or person and that specified conditions were those of a licence, permit, authorisation or certificate of registration issued in respect of a specified vessel or person; 40
- (d) a particular location or area of water was on a specified date within South African waters, or within an area of South African waters subject to specified conditions;
- (e) an appended chart shows the boundaries on a specified date of South African waters, internal waters, territorial waters, the exclusive economic zone or any area within such waters or zones which is subject to specified conditions; 45
- (f) a call sign, name or number is that of a particular vessel or has been allotted under any system of naming or numbering of vessels to a particular vessel; or
- (g) a particular position or catch report was given in respect of a specified vessel. 50

(4) Indien enige vaartuig, voertuig, vliegtuig of enige ander goed vrygestel is teen die deponering van sekerheid, kan die hof gelas dat 'n persoon wat skuldig bevind is aan 'n misdryf in verband daarmee en die eienaar van die vaartuig, voertuig, vliegtuig of ander goed wat betrokke is, ongeag of hy of sy 'n beskuldigde is, die verskil betaal 5 tussen die bedrag van die sekerheid wat gelewer is en die totale waarde van die verbeurdverklaarde eiendom.

Beskikking oor verbeurdverklaarde goed en opheffing van verbeurdverklaringsbevele

69. (1) Enige vaartuig, tesame met sy vistuig, vrag, voorrade en brandstof, en enige 10 voertuig, vliegtuig, vistuig, net of ander toerusting, plofstof, vuurwapen of gifstof ten opsigte waarvan 'n verbeurdverklaringsbevel ingevolge hierdie Wet uitgereik is, word oor beskik op die wyse wat die Minister bepaal.

(2) Die eienaar of enige ander persoon met 'n saaklike sekerheidsreg op enige eiendom wat ingevolge artikel 68 verbeurd verklaar is, kan by die hof aansoek doen om 15 die vrystelling van die betrokke eiendom of vir die tegeldemaking van sy of haar sekerheid daarop, na gelang van die geval.

(3) Die hof mag die eiendom bedoel in subartikel (2) vrystel of die tegeldemaking daarvan gelas, indien die aansoeker bewys dat hy of sy geensins aandadig was by die pleging van die misdryf nie, en dat hy of sy dit nie kon voorkom nie.

20 Regsbevoegdheid van howe

70. (1) Enige handeling of versuim in stryd met enige bepaling van hierdie Wet wat gepleeg is—

(a) deur enige persoon binne Suid-Afrikaanse waters;
 (b) deur enige Suid-Afrikaanse burger of enige persoon normaalweg woonagtig 25 in die Republiek buite Suid-Afrikaanse waters; of
 (c) deur enige persoon aan boord van enige plaaslike vissersboot, word hanteer en regstappe word gedoen asof daardie handeling of late in die grondgebied van die Republiek plaasgevind het.

(2) Enige misdryf ingevolge hierdie Wet word vir die doeleindes van die regsbe- 30 voegdheid van 'n hof om die misdryf te verhoor, geag gepleeg te wees binne die regsgebied van die hof waarin die vervolging ingestel word.

(3) Ondanks die bepalings van enige ander Wet het 'n landdroshof die bevoegdheid om 'n straf deur hierdie Wet voorgeskryf, op te lê.

Dokumentêre getuienis

71. (1) Die Minister mag 'n sertifikaat uitreik wat verklaar dat—

(a) 'n bepaalde vaartuig op 'n bepaalde datum 'n plaaslike of 'n buitelandse 35 vissersboot was, al dan nie;
 (b) 'n bepaalde vaartuig of persoon op 'n bepaalde datum die houër van 'n bepaalde lisensie, permit, magtiging of sertifikaat van registrasie was, al dan 40 nie;
 (c) 'n aangehegte dokument 'n ware afskrif van die lisensie, magtiging of sertifikaat van registrasie ten opsigte van 'n bepaalde vaartuig of persoon is, en dat bepaalde voorwaardes die voorwaardes is van die betrokke lisensie, 45 permit, magtiging of sertifikaat van registrasie uitgereik ten opsigte van 'n bepaalde vaartuig of persoon;
 (d) 'n sekere plek of watergebied op 'n bepaalde datum binne die Suid-Afrikaanse waters geleë was, of binne 'n gebied van die Suid-Afrikaanse waters wat aan bepaalde voorwaardes onderhewig was;
 (e) 'n aangehegte kaart die grense van Suid-Afrikaanse waters, binnewaters, 50 gebiedswaters, die eksklusiewe ekonomiese sone of enige gebied binne sodanige waters of sones op 'n bepaalde datum aandui, wat aan bepaalde voorwaardes onderhewig is;
 (f) 'n roepsein, naam of nommer dié van 'n bepaalde vaartuig is of dat dit ingevolge 'n stelsel van benaming of nommering van vaartuie aan 'n 55 spesifieke vaartuig toegeken is; of
 (g) 'n sekere posisie of vangverslag verstrek is ten opsigte van 'n bepaalde vaartuig.

(2) Any certificate issued in terms of this section shall be—

- (a) signed by the person who made it; and
- (b) headed "Certificate: Section 71 Marine Living Resources Act, 1998".

(3) In the absence of evidence to the contrary, a document purporting to be a certificate issued in terms of this section shall be deemed to be such a certificate and to have been duly given. 5

(4) In any proceedings for any offence in terms of section 44, a certificate as to the cause and manner of death or injury of any fish, signed by the Director-General, shall, in the absence of the evidence to the contrary, be sufficient evidence as to the matters stated in that certificate. 10

Validity of certificates

72. (1) Subject to this section, in any proceedings in terms of this Act, a certificate issued in terms of section 71 shall be admissible in evidence and shall be *prima facie* evidence of the facts averred in it.

(2) A court may, of its own accord or on application by any party to proceedings, require that the person who issued the certificate attend and give oral evidence at the hearing. 15

(3) Any omission or mistake in any certificate issued in terms of section 71 shall not render it inadmissible in evidence unless the court considers such omission or mistake to be material to any issue in the proceedings concerned, or the court is of the opinion that the defendant or accused is unduly prejudiced thereby. 20

Certificate as to location of vessel

73. (1) A certificate given by a fishery control officer or observer shall be *prima facie* evidence in any proceedings in terms of this Act, of the place or area in which a vessel has been at a particular date and time or during a particular period of time. 25

(2) A fishery control officer shall in any certificate issued in terms of subsection (1) state the following:

- (a) His or her name, address, official position, place of appointment and provision in terms of which he or she is appointed;
- (b) the name and, if known, call sign of the fishing vessel concerned; 30
- (c) the date and time or period of time the vessel was in a place or area;
- (d) the place or area in which it is alleged the vessel was located;
- (e) the position fixing instruments used to fix the place or area referred to in paragraph (d) and their accuracy within their specified limits;
- (f) that he or she checked the position fixing instruments a reasonable time before and after they were used to fix the position and that they appeared to be working correctly; and 35
- (g) if a position fixing instrument which is not a designated machine or is not generally recognised as reliably accurate is used, that he or she checked the instrument as soon as possible after the time concerned against such an instrument. 40

(3) Section 71 shall, with the necessary changes, apply to a certificate issued in terms of this section.

Designated machines

74. (1) The Minister may by notice published in the *Gazette* designate any machine or instrument or class of machines or instruments as a designated machine. 45

(2) The readings of a designated machine shall be admissible as evidence of the facts that they aver if—

- (a) the readings were made by a person who has received training in the operation of designated machines; and 50
- (b) the machine was checked for correct working a reasonable time before and after the readings it is sought to adduce in evidence were made and the machine appeared to be working correctly.

(3) If a designated machine has been checked for correct working and read by a person trained in the operation thereof, it shall, in the absence of evidence to the contrary, be presumed to give accurate readings within the manufacturer's specified limits. 55

(2) 'n Sertifikaat wat ingevolge hierdie artikel uitgereik word, moet—

(a) onderteken word deur die persoon wat dit uitgereik het; en

(b) die opskrif "Sertifikaat: Artikel 71 Wet op Lewende Mariene Hulpbronne, 1998" bevat.

5 (3) Tensy die teendeel bewys word, word 'n dokument wat voorgee 'n sertifikaat te wees wat ingevolge hierdie artikel uitgereik is, geag so 'n sertifikaat te wees en om behoorlik uitgereik te wees.

(4) In enige verrigtinge vir 'n misdryf ingevolge artikel 44, is 'n sertifikaat ten opsigte van die oorsaak en wyse van dood of besering van enige vis onderteken deur die Direkteur-generaal, tensy die teendeel bewys word, afdoende getuienis oor die aangeleentheid in daardie sertifikaat gestel.

Geldigheid van sertifikate

72. (1) 'n Sertifikaat ingevolge artikel 71 uitgereik, is, behoudens hierdie artikel, in enige verrigtinge ingevolge hierdie Wet toelaatbaar as getuienis en is *prima facie*-
15 getuienis van die feite wat daarin beweer word.

(2) 'n Hof kan uit eie beweging op of op aansoek van enige party tot verrigtinge versoek dat die persoon wat die sertifikaat uitgereik het die verrigtinge bywoon en mondelinge getuienis lewer.

(3) Enige weglating of fout in 'n sertifikaat ingevolge artikel 71 uitgereik, maak dit
20 nie as getuienis ontoelaatbaar nie, tensy die hof so 'n weglating of fout beskou as wesenlik tot enige geskilpunt in die betrokke verrigtinge, of tensy die hof van oordeel is dat die verweerder of beskuldigde onbehoorlik daardeur benadeel word.

Sertifikaat oor ligging van vaartuig

73. (1) 'n Sertifikaat deur 'n visserybeheerbeampte of waarnemer uitgereik, is *prima*
25 *facie*-getuienis in enige verrigtinge ingevolge hierdie Wet van die plek of gebied waar 'n vaartuig was op 'n sekere datum en tyd of gedurende 'n sekere tydperk.

(2) 'n Visserybeheerbeampte verklaar soos volg in enige sertifikaat ingevolge subartikel (1) uitgereik:

(a) Sy of haar naam, adres, amptelike hoedanigheid, standplaas en bepaling
30 ingevolge waarvan hy of sy aangestel is;

(b) die naam en, indien bekend, roepsein van die betrokke vissersboot;

(c) die datum en tyd of tydperk wat die vaartuig in 'n plek of gebied was;

(d) die plek waar of die gebied waarin die vaartuig hom na bewering bevind het;
35 (e) die posisiemeetinstrumente wat gebruik is om die plek of gebied in paragraaf

(d) bedoel, vas te stel, en hul akkuraatheid binne hulle gespesifiseerde perke;

(f) dat hy of sy die posisiemeetinstrumente binne 'n redelike tyd voordat en
40 nadat dit aangewend is om die posisie te bepaal, getoets het en dat dit oënskynlik in korrekte werkende toestand was; en

(g) dat, indien 'n posisiemeetinstrument nie 'n aangewese masjien is of alge-
meen erken word as betroubaar akkuraat nie, hy of sy die instrument so gou
doenlik na die betrokke gebruik teen so 'n instrument getoets het.

(3) Artikel 71 is met die nodige veranderinge van toepassing op 'n sertifikaat ingevolge hierdie artikel uitgereik.

Aangewese masjiene

74. (1) Die Minister mag by kennisgewing in die *Staatskoerant* enige masjiene of
45 toestel of klas masjiene of toestelle as 'n aangewese masjien aanwys.

(2) Die lesings van aangewese masjiene is toelaatbaar as getuienis van die feite wat hulle beweer indien—

(a) die lesings geneem is deur 'n persoon wat opleiding in die werking van die
50 aangewese masjiene ontvang het; en

(b) die masjiene vir korrekte werking getoets is binne 'n redelike tyd voordat en nadat die lesings wat as getuienis gelei word, gedoen is, en dat die masjiene oënskynlik in korrekte werkende toestand was.

(3) Indien 'n aangewese masjien vir korrekte werking getoets is en die lesing gedoen
55 is deur 'n persoon wat in die gebruik daarvan opgelei is, word, tensy die teendeel bewys word, dit geag akkurate lesings binne die vervaardiger se gespesifiseerde perke te gee.

(4) The readings of designated machines may be made from a printout or as observed from a visual display unit.

(5) Any machine contemplated in subsection (1) must be capable either wholly or partially in itself of producing the readings concerned and not merely be a receiver of information or data.

5

Photographic evidence

75. (1) If a photograph is taken of any fishing or related activity and the date and time on and position from which the photograph is taken are simultaneously superimposed upon the photograph, it shall be *prima facie* evidence that the photograph was taken on the date, at the time and in the position so appearing.

10

(2) The provisions of subsection (1) shall apply only when—

(a) the camera taking the photograph is connected directly to the instruments which provide the date, time and position concerned; and

(b) the instruments which provide the date, time and position are generally recognised as being accurate or are designated machines or were checked as soon as possible after the taking of the photograph against such instruments.

15

(3) Any fishery control officer or observer who takes a photograph contemplated in subsection (1) may issue a certificate appending the photograph stating the following:

(a) His or her name, address, official position, place of appointment and provision in terms of which he or she is appointed;

20

(b) the name and call sign, if known, of any fishing vessel appearing in the photograph;

(c) the brand and model names of the camera, watch, clock or other instruments supplying the date and time, including the position fixing instrument, and that he or she checked those instruments a reasonable time before and after the taking of the photograph and, if necessary, in accordance with subsection (2)(b), and that they all appeared to be working correctly;

25

(d) the matters set out in subsection (2)(a);

(e) the accuracy of the fixing instrument if used within specified limits;

(f) the maximum possible distance and the direction of the subject of the photograph away from the camera at the time the photograph was taken.

30

(4) Section 71 shall, with the necessary changes, apply to a certificate issued in terms of this section.

Observation devices

76. (1) The Minister may, by notice published in the *Gazette*, designate any device or machine or class of device or machine as an observation device.

35

(2) The information or data concerning the vessel's position and fishing activities referred to in subsection (3) may be fed or captured manually into the observation device or automatically from machines aboard the vessel or ascertained by the use of the observation device's transmissions in conjunction with other machines.

40

(3) All information or data obtained or ascertained by the use of an observation device, shall be *prima facie* evidence that such information—

(a) came from the vessel so identified;

(b) was accurately relayed or transferred; and

(c) was given by the master, owner and charterer of the fishing vessel,

45

and evidence may be given of information and data so obtained or ascertained whether from a printout or visual display unit.

(4) Subsection (3) applies irrespective of whether or not the information was stored before or after any transmission or transfer.

(5) Any fishery control officer or observer may issue a certificate stating the following:

50

(a) His or her name, address, official position, place of appointment and provision in terms of which he or she is appointed;

(b) that he or she is competent to read the printout or visual display unit of any machine capable of obtaining or ascertaining information from an observation device;

55

(4) Die lesings van aangewese masjiene kan gedoen word vanaf 'n drukstuk of soos waargeneem op 'n beeldskerm.

(5) 'n Masjien in subartikel (1) beoog, moet in staat wees om die betrokke lesings, in geheel of gedeeltelik, selfstandig te genereer en moet nie bloot 'n ontvanger van inligting of data wees nie.

Fotografiese getuienis

75. (1) Indien 'n foto van enige visvang- of verwante bedrywigheid geneem word en die datum en tyd waarop en posisie vanwaar die foto geneem word, gelyktydig op die foto aangebring is, is dit *prima facie*-getuienis dat die foto geneem is op die datum, tyd en in die posisie soos dit verskyn.

(2) Die bepalings van subartikel (1) is slegs van toepassing indien—

(a) die kamera wat die foto neem, direk gekoppel is aan die instrumente wat die datum, tyd en betrokke posisie weergee; en
 (b) die instrumente wat die datum, tyd en posisie weergee, algemeen as noukeurig erken word, of aangewese masjiene is, of so gou as doenlik na die neem van die foto teen sodanige instrumente getoets is.

(3) 'n Visserybeheerbeampte of waarnemer wat 'n foto beoog in subartikel (1) neem, kan 'n sertifikaat by die foto aanheg waarin soos volg verklaar word:

(a) Sy of haar naam, adres, amptelike hoedanigheid, standplaas en bepaling ingevolge waarvan hy of sy aangestel is;
 (b) die naam en roepsein, indien bekend, van enige vissersboot wat op die foto verskyn;
 (c) die handelsname en modelle van die kamera, horlosie, klok of ander instrumente wat die datum en tyd weergee, met inbegrip van die posisiemeet-instrument, en dat hy of sy daardie instrumente getoets het binne 'n redelike tyd voor en na die neem van die foto en, indien nodig, in ooreenstemming met subartikel (2)(b), en dat hulle almal oënskynlik in korrekte werkende toestand was;
 (d) die aangeleentheid in subartikel (2)(a) uiteengesit;
 (e) die noukeurigheid van die meetinstrument indien dit binne gespesifiseerde perke gebruik word;
 (f) die maksimum moontlike afstand en die rigting van die onderwerp van die foto vanaf die kamera ten tyde van die neem van die foto.

(4) Artikel 71 is met die nodige veranderinge van toepassing op 'n sertifikaat ingevolge hierdie artikel uitgereik.

Waarnemingstoestelle

76. (1) Die Minister kan, by kennisgewing in die *Staatskoerant*, enige toestel of masjien of klas toestel of masjiene aanwys as 'n waarnemingstoestel.

(2) Die inligting of data in verband met 'n vaartuig se posisie en visvangbedrywigheede bedoel in subartikel (3) mag óf per hand in die waarnemingstoestel gevoer of vasgelê word, óf outomaties vanaf instrumente aan boord van die vaartuig, óf kan bepaal word deur die gebruik van transmissies van die waarnemingstoestel gekoppel aan ander masjiene.

(3) Alle inligting of data wat verkry of vasgestel word deur die gebruik van 'n waarnemingstoestel, is *prima facie*-getuienis dat sodanige inligting—

(a) afkomstig is van die vaartuig wat aldus geïdentifiseer is;
 (b) akkuraat deurgestuurd of oorgedra is; en
 (c) deur die skipper, eienaar en huurder van die vissersboot verskaf is, en getuienis kan gelewer word van inligting en data wat aldus verkry of vasgestel is, hetsy vanaf 'n drukstuk of 'n beeldskerm.

(4) Subartikel (3) is van toepassing ongeag of die inligting voor of na enige transmissie of oordrag, bewaar is al dan nie.

(5) 'n Visserybeheerbeampte of waarnemer kan 'n sertifikaat uitreik waarin soos volg verklaar word:

(a) Sy of haar naam, adres, amptelike hoedanigheid, standplaas en bepaling ingevolge waarvan hy of sy aangestel is;
 (b) dat hy of sy bevoeg is om die drukstuk of beeldskerm van enige masjien te lees wat inligting van 'n waarnemingstoestel kan verkry of vasstel;

- (c) the date and time the information was obtained or ascertained from the observation device and the details thereof;
- (d) the name and call sign of the vessel on which the observation device is or was located as known to him or her or as ascertained from any official register, record or other document; and
- (e) that there appeared to be no malfunction in the observation device, its transmissions or other machines used in obtaining or ascertaining the information.
- (6) Section 71 shall, with the necessary changes, apply to a certificate issued in terms of this section.
- (7) No person shall destroy, damage, render inoperative or otherwise interfere with an observation device or machine aboard a vessel, vehicle or aircraft which automatically feeds or inputs information or data into an observation device.
- (8) No person shall intentionally feed or capture information or data into an observation device which is not officially required in terms of this Act, or is false or inaccurate.

CHAPTER 8

GENERAL PROVISIONS

Power to make regulations

77. (1) The Minister may make regulations regarding—
- (a) any matter required or permitted to be prescribed in terms of this Act; and
- (b) generally all matters which are reasonably necessary or expedient to be prescribed in order to achieve the objects of this Act.
- (2) Without prejudice to the generality of the provisions of subsection (1), the Minister may make regulations—
- (a) prescribing fines greater in amount than those already specified in any provision of this Act—
- (i) if necessary as a result of inflation or a rise in the consumer price index; or
- (ii) to be in accordance with international law;
- (b) providing for the forfeiture of any vessel, vehicle, aircraft or thing used in the commission of an offence in terms of this Act;
- (c) providing for the forfeiture of any fish caught in contravention of any provision of this Act;
- (d) providing for the imposition of an additional fine to an amount representing the value in whole or in part of any vessel, vehicle, aircraft, gear, equipment or fish in the place of forfeiture of such vessel, vehicle, aircraft, gear, equipment or fish;
- (e) prescribing fisheries management and conservation measures, including mesh sizes, gear standards, minimum species sizes, closed seasons, closed areas, prohibited methods of fishing or gear and schemes for limiting entry into all or any specified fisheries;
- (f) to regulate the catching and utilisation of fish taken incidentally when fishing for a species for which a licence or permit has been issued;
- (g) regarding licences or authorisation in respect of any vessel or class or category of vessels to be used for fishing, related activities or any other purpose pursuant to this Act, including application procedures and forms, and the format and requirements for the issuing of licences or permits, grounds for denial, terms and conditions;
- (h) prescribing different classes of and formats for licences or permits, including application procedures and forms, and the area or fishing method or type of gear in respect of which each class of licence or permit shall be valid;
- (i) prescribing the operation of, and conditions and procedures to be observed by any fishing vessel while in South African waters, having due regard to the provisions of the United Nations Convention on the Law of the Sea;
- (j) prescribing the operation of, and conditions and procedures to be observed by,

- (c) die datum en tyd waarop die inligting van die waarnemingstoestel verkry of vasgestel is en die besonderhede daarvan;
- (d) die naam en roepsein van die vaartuig waarop die waarnemingstoestel is of was soos aan hom of haar bekend of soos vasgestel vanuit enige amptelike register, rekord of ander dokument; en
- (e) dat daar oënskynlik geen fout was met die werking van die waarnemingstoestel, sy transmissies of ander masjiene wat gebruik is in die verkryging of vasstelling van die inligting nie.
- (6) Artikel 71 is met die nodige veranderinge van toepassing op 'n sertifikaat wat ingevolge hierdie artikel uitgereik is.
- (7) Geen persoon mag 'n waarnemingstoestel aan boord van 'n vaartuig, voertuig of vliegtuig en wat outomaties inligting of data invoer of invoeg in 'n waarnemingstoestel, vernietig, beskadig, buite werking stel of andersins daarmee inmeng nie.
- (8) Geen persoon mag opsetlik inligting of data in 'n waarnemingstoestel invoer of vaslê wat nie amptelik ingevolge hierdie Wet benodig word nie of wat vals of onnoukeurig is.

HOOFSTUK 8

ALGEMENE BEPALINGS

Regulasiebevoegdheid

- 20 77. (1) Die Minister kan regulasies maak oor—
- (a) enige aangeleentheid wat ingevolge hierdie Wet voorgeskryf moet of kan word; en
- (b) in die algemeen alle aangeleenthede wat redelikerwys nodig of wenslik is om voorgeskryf te word ten einde die doelstellings van hierdie Wet te bereik.
- 25 (2) Sonder om afbreuk te doen aan die algemeenheid van die bepalings van subartikel (1) kan die Minister regulasies maak—
- (a) wat groter bedrae vir boetes voorskryf as wat reeds in enige bepaling van hierdie Wet bepaal is—
- 30 (i) indien dit nodig is as gevolg van inflasie of 'n styging in die verbruikersprysindeks; of
- (ii) om in ooreenstemming te wees met die volkereg;
- (b) wat voorsiening maak vir die verbeurdverklaring van enige vaartuig, voertuig, vliegtuig of goed wat in die pleging van 'n misdryf ingevolge hierdie Wet gebruik is;
- 35 (c) wat voorsiening maak vir die verbeurdverklaring van enige vis wat in stryd met 'n bepaling van hierdie Wet gevang is;
- (d) wat voorsiening maak vir die oplegging van 'n bykomende boete tot 'n bedrag wat die waarde van enige vaartuig, voertuig, vliegtuig, vistuig, toerusting of vis in geheel of gedeeltelik verteenwoordig, in die plek van verbeurdverklaring van sodanige vaartuig, voertuig, vliegtuig, vistuig, toerusting of vis;
- 40 (e) wat visserybestuurs- en bewaringsmaatreëls voorskryf, met inbegrip van maasgroottes, standaard vir vistuig, minimum maatgroottes vir spesies, geslote seisoene, geslote gebiede, verbode visvangmetodes of vistuig en reëlins om toegang tot alle of bepaalde visserye te beperk;
- 45 (f) vir die regulering van die vang en gebruik van vis wat toevallig gevang word tydens die vangs van spesies waarvoor 'n lisensie of permit uitgereik is;
- (g) betreffende die lisensiering of magtiging ten opsigte van enige vaartuig of klas vaartuie vir die gebruik van visvangs, verwante bedrywighede of enige ander doel ingevolge hierdie Wet, met inbegrip van die aansoekprosedures en -vorme, die formaat van en vereistes vir die uitreiking van lisensies of permitte, gronde vir weiering, bedinge en voorwaardes;
- 50 (h) wat verskillende klasse van en die formate vir lisensies of permitte voorskryf, met inbegrip van aansoekprosedures en -vorme, en die gebied of visvangsmetode of soort vistuig ten opsigte waarvan elke klas lisensie of permit geldig is;
- 55 (i) wat die gebruik voorskryf van, en voorwaardes en prosedures wat nagekom moet word deur enige vissersboot in Suid-Afrikaanse waters, met behoorlike inagneming van die bepalings van die Verenigde Nasies Seeregkonvensie;
- 60 (j) wat die gebruik voorskryf van en voorwaardes en prosedures wat nagekom

- any vessel which enters South African waters for any purpose, including transiting the South African fisheries waters, in terms of this Act;
- (k) regulating—
- (i) the navigation of foreign fishing vessels through South African waters, having due regard to the provisions of the United Nations Convention on the Law of the Sea; and 5
 - (ii) the manner in which gear is to be stowed aboard such vessels;
- (l) regarding the catching, loading, landing, handling, processing, transshipping, transporting, possession and disposal of fish;
- (m) regarding the import, export, trade in, distribution and marketing of fish and fish products; 10
- (n) prescribing the manner in which any gear shall be stowed;
- (o) providing for the implementation of any agreement or arrangement entered into under section 38 or 42;
- (p) regarding the appointment, powers and duties of fishery control officers, honorary marine conservation officers and observers; 15
- (q) prescribing the duties and procedures to be followed by the master and crew of any vessel in respect of fishery control officers and observers;
- (r) prescribing the licensing, control and use of fish aggregating devices and the rights to the aggregated fish, and setting times and the minimum distances from such devices any vessel may fish around such devices; 20
- (s) regulating or prohibiting the use of any diving apparatus, spear guns or other similar devices for fishing or related activities;
- (t) establishing standards and measures for the safety of local fishers and local fishing vessels; 25
- (u) requiring the provision of statistical and other information related to fisheries, including fishing log books, and the format in which the information shall be recorded;
- (v) regulating and controlling the operation of fish processing establishments, including quality control measures and inspection of such establishments; 30
- (w) regarding the prevention of marine pollution;
- (x) regulating or prohibiting, either generally or in any specified fisheries—
- (i) the management and protection of marine protected areas;
 - (ii) the taking of coral;
 - (iii) the setting of fish traps, nets, fish pens or seine nets; 35
 - (iv) the taking of fish for aquarium purposes; or
 - (v) the taking of turtles;
- (y) establishing measures for the protection of specified species;
- (z) governing the administration of fishing harbours and any other matter incidental thereto; 40
- (aa) relating to the circumstances in which fish which have been caught shall be returned or not returned to the sea or shall be released or not released;
- (bb) relating to the dumping or discharging of anything which is or may be injurious to fish, or which may disturb or change the ecological balance in any area of the sea; 45
- (cc) to ensure the orderly development and control of mariculture in the Republic;
- (dd) to ensure the orderly development of high seas fishing by South African persons and vessels.

Assignment to provinces

78. The Minister may assign the administration of any provision of this Act to the executive authority of a province. 50

Delegation of powers

79. (1) The Minister may—

moet word deur enige vaartuig in Suid-Afrikaanse waters vir enige doel, met inbegrip van deurvaart in Suid-Afrikaanse visserywaters, ingevolge hierdie Wet;

- (k) in verband met die regulering van—
- 5 (i) die deurvaart van buitelandse vissersbote deur Suid-Afrikaanse waters met behoorlike inagneming van die Verenigde Nasies Seeregkonvensie; en
- (ii) die wyse waarop vistuig aan boord van sodanige vaartuie geberg moet word;
- 10 (l) betreffende die vang, laai, ontskeping, hantering, verwerking, oorlaai, vervoer, besit en beskikking oor vis;
- (m) betreffende die invoer, uitvoer, handeldryf met, verspreiding en bemarking van vis en visprodukte;
- (n) wat die wyse voorskryf waarop vistuig geberg moet word;
- 15 (o) wat voorsiening maak vir die implementering van enige ooreenkoms of reëling kragtens artikel 38 of 42 aangegaan;
- (p) betreffende die aanstelling, bevoegdhede en pligte van visserybeheerbeamptes, ere- mariene bewaringsbeamptes en waarnemers;
- (q) wat die pligte en prosedures voorskryf wat deur die skipper en bemanning van enige vaartuig ten opsigte van visserybeheerbeamptes en waarnemers gevolg moet word;
- 20 (r) wat die lisensiëring, beheer en gebruik van visskolingstoestelle en die regte op die saamgeskoolde vis voorskryf, en die bepaling van tye en die minimum afstande wat enige vaartuig vanaf sodanige toestelle mag visvang;
- 25 (s) wat die gebruik van geslote onderwaterduikapparaat, visspiesgewere of ander soortgelyke toestelle vir visvang- of verwante bedrywighede reguleer of verbied;
- (t) wat standaarde en maatreëls neerlê vir die veiligheid van plaaslike vissers en plaaslike vissersbote;
- 30 (u) wat vereis dat statistiese en ander inligting met betrekking tot visserye verstrek word, met inbegrip van logboeke, en die vereiste formaat waarin die inligting geboekstaaf moet word;
- (v) wat die bedryf van visverwerkingsaanlegte reguleer en beheer, met inbegrip van gehaltebeheermaatreëls en die inspeksie van sodanige aanlegte;
- 35 (w) betreffende die voorkoming van mariene besoedeling;
- (x) wat hetsy in die algemeen of in enige bepaalde visserye—
- (i) die bestuur en beskerming van beskermde mariene gebiede;
- (ii) die verwydering van koraal;
- (iii) die stel van visfuike, nette, vishokke of beursnette;
- 40 (iv) die versameling van vis vir akwariumdoeleindes; of
- (v) die neem van waterskilpaaie, reguleer of verbied;
- (y) wat maatreëls instel vir die beskerming van bepaalde spesies;
- (z) wat die administrasie van vissershawens en enige verbandhoudende aangeleentheid reël;
- 45 (aa) in verband met die omstandighede waaronder vis wat gevang is, in die see teruggeplaas of vrygelaat moet word;
- (bb) in verband met die storting of uitlating van enigets wat nadelig is of kan wees vir vis, of wat die ekologiese balans in enige gebied van die see kan versteur of verander;
- 50 (cc) ten einde die ordelike ontwikkeling van en beheer oor marikultuur in die Republiek te verseker;
- (dd) ten einde die ordelike ontwikkeling van oopseevissery deur Suid-Afrikaanse persone en vaartuie te verseker.

55 Opdra aan provinsies

78. Die Minister kan die administrasie van enige bepaling van hierdie Wet aan die uitvoerende gesag van 'n provinsie opdra.

Delegering van bevoegdhede

79. (1) Die Minister kan—

Act No. 18, 1998

MARINE LIVING RESOURCES ACT, 1998

- (a) upon the conditions that he or she deems fit, delegate any or all the powers conferred upon him or her in terms of this Act, save a power to make regulations, to the Director-General or an officer of the Department nominated by the Director-General; or
- (b) by notice in the *Gazette*, delegate any power conferred upon him or her in terms of this Act, excluding the power to make regulations, to an authority in the local sphere of government. 5

(2) The Director-General may delegate any power conferred upon him or her in terms of this Act to an officer in the Department upon the conditions that he or she deems fit.

(3) No delegation of any power shall prevent the exercise of such power by the Minister or the Director-General. 10

Appeal to Minister

80. (1) Any affected person may appeal to the Minister against a decision taken by any person acting under a power delegated in terms of this Act or section 238 of the Constitution. 15

(2) An appeal under subsection (1) must be noted and shall be dealt with in the manner and in accordance with the procedure prescribed by the Minister.

(3) The Minister shall consider any matter submitted to him or her on appeal, after giving every person with an interest in the matter an opportunity to state his or her case.

Exemptions 20

81. (1) If in the opinion of the Minister there are sound reasons for doing so, he or she may, subject to the conditions that he or she may determine, in writing exempt any person or group of persons or organ of state from a provision of this Act.

(2) An exemption granted in terms of subsection (1) may at any time be cancelled or amended by the Minister. 25

Inquiries

82. (1) The Minister may order an inquiry into any matter forming the subject matter of this Act.

(2) For the purposes of an inquiry contemplated in subsection (1), the Minister may appoint one or more persons, including a chairperson, as a committee to conduct the inquiry. 30

(3) A committee contemplated in subsection (2) may—

- (a) order any person who in its opinion may be able to give information of material importance concerning the subject of the inquiry, or who is believed to have in his or her possession or custody or control, any register, book, document or thing which may have a bearing on that subject, to appear before the committee with such register, book, document or thing; 35
- (b) call upon, and administer an oath to, or accept an affirmation from any person present at the inquiry, whether he or she has been or could have been ordered in terms of paragraph (a); 40
- (c) interrogate or require any person who has been called upon in terms of paragraph (b) to produce a register, book, document or thing referred to in paragraph (a). 45

(4) An order for the attendance before a committee shall be in the form determined by that committee, and shall be signed by the chairperson. 45

(5) The law relating to privilege as applicable to a person to give evidence or produce a register, book, document or thing before a court of law, shall be applicable in respect of the interrogation of, or production of a register, book, document or thing by, a person referred to in subsection (3).

Scientific investigations and practical experiments 50

83. The Minister may, notwithstanding the provisions of this Act, permit any scientific investigation or practical experiment.

- (a) op die voorwaardes wat hy of sy goedvind enige van of al die bevoegdhede ingevolge hierdie Wet aan hom of haar verleen, behalwe 'n bevoegdheid om regulasies uit te vaardig, delegeer aan die Direkteur-generaal of 'n beampte van die Departement deur die Direkteur-generaal aangewys;
- 5 (b) by kennisgewing in die *Staatskoerant* 'n bevoegdheid ingevolge hierdie Wet aan hom of haar verleen, met betrekking tot 'n omskrewe gebied, behalwe 'n bevoegdheid om regulasies uit te vaardig, delegeer aan 'n owerheid in die plaaslike regeringsfeer.
- (2) Die Direkteur-generaal kan 'n bevoegdheid ingevolge hierdie Wet aan hom of
10 haar verleen, delegeer aan 'n beampte in die Departement op die voorwaardes wat hy of sy goedvind.
- (3) Geen delegering van 'n bevoegdheid belet die uitoefening van sodanige bevoegdheid deur die Minister of die Direkteur-generaal nie.

Appèl na Minister

- 15 **80.** (1) Enige persoon wat daardeur geraak word, kan na die Minister appelleer teen 'n besluit geneem deur enige persoon wat optree kragtens 'n bevoegdheid wat ingevolge hierdie Wet of artikel 238 van die Grondwet gedelegeer is.
- (2) 'n Appèl kragtens subartikel (1) moet aangeteken en hanteer word op die wyse en in ooreenstemming met die prosedure deur die Minister voorgeskryf.
- 20 (3) Die Minister moet enige aangeleentheid wat op appèl aan hom of haar voorgelê is, oorweeg nadat hy of sy aan elke persoon wat daardeur geraak word die geleentheid gebied het om sy of haar saak te stel.

Vrystellings

- 81.** (1) Indien die Minister van oordeel is dat daar gegronde redes daarvoor bestaan,
25 kan hy of sy, behoudens die voorwaardes deur hom of haar vasgestel, enige persoon of groep persone of staatsorgaan skriftelik vrystel van 'n bepaling van hierdie Wet.
- (2) Die Minister kan 'n vrystelling ingevolge subartikel (1) verleen, te eniger tyd kanselleer of wysig.

Ondersoeke

- 30 **82.** (1) Die Minister kan 'n ondersoek gelas na enige aangeleentheid in verband met die inhoud van hierdie Wet.
- (2) Vir die doeleindes van 'n ondersoek in subartikel (1) beoog, kan die Minister een of meer persone, met inbegrip van 'n voorsitter, as 'n komitee aanstel om die ondersoek te doen.
- 35 (3) 'n Komitee in subartikel (2) beoog, kan—
- (a) iemand wat na sy oordeel in staat is om inligting van wesenlike belang te verstrek omtrent die onderwerp van die ondersoek, of wat vermoed word 'n register, boek, stuk of saak in sy of haar besit of bewaring of onder sy of haar beheer te hê wat op daardie onderwerp betrekking kan hê, gelas om voor die
40 komitee met sodanige register, boek, stuk of saak te verskyn;
- (b) iemand wat by die ondersoek teenwoordig is, hetsy hy of sy kragtens paragraaf (a) gelas is of kon gewees het, oproep en hom of haar 'n eed oplê of van hom of haar 'n bevestiging aanneem; en
- (c) iemand wat ingevolge paragraaf (b) opgeroep is, ondervra of vereis dat hy of
45 sy 'n register, boek, stuk of saak bedoel in paragraaf (a) voorlê.
- (4) 'n Lasgewing om voor 'n komitee te verskyn, moet in die vorm wees wat daardie komitee bepaal, en word deur die voorsitter onderteken.
- (5) Die regsreëls met betrekking tot privilegie wat geld in die geval van 'n persoon wat gedagvaar is om voor 'n geregshof getuienis af te lê of 'n register, boek, stuk of
50 saak voor te lê, is van toepassing ten opsigte van die ondervraging van, of die voorlegging van 'n register, boek, stuk of saak deur, iemand bedoel in subartikel (3).

Wetenskaplike ondersoeke en praktiese eksperimente

- 83.** Die Minister kan toestemming verleen vir wetenskaplike ondersoeke en praktiese eksperimente ondanks die bepalings van hierdie Wet.

Repeal of laws, and savings

84. (1) The laws mentioned in Schedule 1 are hereby repealed to the extent indicated in the third column thereof.

(2) A registration of, or any licence in respect of, a fishing boat, factory or implement and any right, permit or permission for the performance of any act in connection with fish or fish products under any provision of a law referred to in subsection (1) shall be deemed to be an appropriate registration, licence, permit, right or permission in terms of the corresponding provision of this Act (if any), respectively, for the unexpired portion of the period for which it would have been valid had this Act not been passed. 5

(3) Notwithstanding the provisions of subsection (2), the Minister may by notice in the *Gazette* terminate a right of exploitation granted in terms of a provision of a law referred to in subsection (1). 10

(4) An area set aside as a marine reserve under a provision of a law referred to in subsection (1), shall be deemed to have been declared a marine protected area in terms of this Act. 15

Transitional measures

85. Notwithstanding the provisions of section 84, the Minister shall for a period of six months after the commencement of this Act, exercise the powers of all institutions established by or under any Act repealed by that section, including the Sea Fishery Advisory Committee and Quota Board established by the Sea Fishery Act, 1988 (Act No. 12 of 1988). 20

Short title and commencement

86. This Act shall be called the Marine Living Resources Act, 1998, and shall come into operation on a date fixed by the President by proclamation in the *Gazette*.

Herroeping van wette, en voorbehoude

84. (1) Die wette in Bylae 1 vermeld, word hierby herroep in die mate in die derde kolom daarvan aangedui.

(2) 'n Registrasie van of 'n lisensie ten opsigte van 'n vissersboot, fabriek of 5 werktuig en enige reg, permit of vergunning vir die verrigting van die een of ander handeling in verband met vis of visprodukte kragtens 'n bepaling van 'n wet in subartikel (1) bedoel, word geag onderskeidelik 'n toepaslike registrasie, lisensie, permit, reg of vergunning ingevolge die ooreenstemmende bepaling van hierdie Wet (as 10 daar is) te wees vir die onverstreke gedeelte van die tydperk waarvoor dit geldig sou gewees het indien hierdie Wet nie aangeneem was nie.

(3) Ondanks die bepalings van subartikel (2) kan die Minister by kennisgewing in die *Staatskoerant* 'n ontginningsreg wat ingevolge 'n bepaling van 'n wet in subartikel (1) bedoel toegeken is, beëindig.

(4) 'n Gebied wat as 'n mariene reservaat afgesonder is kragtens 'n bepaling van 'n 15 wet in subartikel (1) bedoel, word geag 'n beskermde mariene gebied ingevolge hierdie Wet verklaar te wees.

Oorgangsmatreëls

85. Ondanks die bepalings van artikel 86, oefen die Minister vir 'n tydperk van ses maande na die inwerkingtreding van hierdie Wet die bevoegdheid uit van alle 20 instellings wat by of kragtens enige Wet wat by daardie artikel herroep is, ingestel is, met inbegrip van die Seevissery-advieskomitee en die Kwotaraad ingestel deur die Wet op Seevissery, 1988 (Wet No. 12 van 1988).

Kort titel en inwerkingtreding

86. Hierdie Wet heet die Wet op Lewende Mariene Hulpbronne, 1998, en tree in 25 werking op 'n datum wat die President by proklamasie in die Staatskoerant bepaal.

Act No. 18, 1998

MARINE LIVING RESOURCES ACT, 1998

Schedule 1**(Section 84)**

No. and year of law	Short title	Extent of repeal
Act No. 12 of 1988	Sea Fishery Act, 1988	The whole, except— (a) section 1 in its application to sections 29, 38, 47 and 50(1), (2) and (3); (b) section 29; (c) section 38 in its application to shells; (d) section 47 in its application to sections 29 and 38; (e) section 48 in its application to shells; and (f) section 50(1), (2) and (3) in its application to shells
Act No. 98 of 1990	Sea Fishery Amendment Act, 1990	The whole, except sections 1, 10(d) and 12
Act No. 57 of 1992	Sea Fishery Amendment Act, 1992	The whole, except sections 1, 10 and 18(a)
Act No. 129 of 1993	General Law Third Amendment Act, 1995	Sections 66, 67 and 68
Act No. 15 of 1994	Maritime Zones Act, 1994	Section 15(1) in respect of the amendment of the Sea Fishery Act, 1988
Act No. 74 of 1995	Sea Fishery Amendment Act, 1995	The whole, except section 5
Act No. 49 of 1996	General Law Amendment Act, 1996	Section 1 in respect of the amendment of the Sea Fishery Act, 1988
Act No. 88 of 1996	Abolition of Restrictions on the Jurisdiction of Courts Act, 1996	Sections 103 and 104

BYLAE 1

(Artikel 84)

No. en jaar van wet	Kort titel	Omvang van herroeping
Wet No. 12 van 1988	Wet op Seevisserij, 1988	Die geheel, met uitsondering van— (a) artikel 1 vir sover dit op artikels 29, 38, 47, 48 en 50(1), (2) en (3) van toepassing is; (b) artikel 29; (c) artikel 38 vir sover dit op skulpe van toepassing is; (d) artikel 47 vir sover dit op artikels 29 en 38 van toepassing is; (e) artikel 48 vir sover dit op skulpe van toepassing is; en (f) artikel 50(1), (2) en (3) vir sover dit op skulpe van toepassing is
Wet No. 98 van 1990	Wysigingswet op Seevisserij, 1990	Die geheel, met uitsondering van artikels 1, 10(d) en 12
Wet No. 57 van 1992	Wysigingswet op Seevisserij, 1992	Die geheel, met uitsondering van artikels 1, 10 en 18(a)
Wet No. 129 van 1993	Derde Algemene Regswysigingswet, 1993	Artikels 66, 67 en 68
Wet No. 15 van 1994	Wet op Maritieme Sones, 1994	Artikel 15(1) ten opsigte van die wysiging van die Wet op Seevisserij, 1988
Wet No. 74 van 1995	Wysigingswet op Seevisserij, 1995	Die geheel, met uitsondering van artikel 5
Wet No. 49 van 1996	Algemene Regswysigingswet, 1996	Artikel 1 ten opsigte van die wysiging van die Wet op Seevisserij, 1988
Wet No. 88 van 1996	Wet op Afskaffing van Beperkings op Howe se Jurisdiksie, 1996	Artikels 103 en 104

