

NOT ONLY ABOUT ABALONE – AND ALL ABOUT FISH

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RELEVANT LEGISLATION

- 1. General
 - Maritime Zones Act 15 of 1994 (LOSC 1982)
- 2. Coastal Zone
 - Sea Shore Act 21 of 1935
 - NEMA: Regulations on the Control of Vehicles in the Coastal Zone GN No. 1399, GG 22960 of 21/12 /2001
- 3. Marine Living Resources
 - The Marine Living Resources Act 18 of 1998
 - Regulations R 1111 Government Gazette 19205 of 2 September 1998
 - Sea Birds and Seals Protection Act 46 of 1973

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- 4. Marine Pollution
 - Merchant Shipping Act 57 of 1951
 - Dumping at Sea Control Act 73 of 1980 (London Convention)
 - Marine Pollution (Prevention of Pollution from Ships) Act 2 of 1986 (MARPOL)
 - Marine Pollution (Control and Civil Liability) Act 6 of 1981
 - Minerals Act 50 of 1991
 - National Water Act 36 of 1998
 - National Heritage Act 25 of 1999

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THE MARINE LIVING RESOURCES ACT 18 OF 1998

...conservation
...sustainable utilisation ...
...access to exploitation...
...control over ...
Marine Living Resources
Blah, Blah, Blah

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MARINE LIVING RESOURCES ACT 18 OF 1998 (continued)

- Section 1: Definitions
- Section 9: FCO's
 - Notice 2418/2000 GG 36 of 2000
- Section 10: Marine Living Resources Fund
- Section 13: Permits - Rights
 - Related Activities
- Section 18: Rights to
 - undertake commercial fishing
 - engage in mariculture
 - operate a fish processing establishment

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MARINE LIVING RESOURCES ACT 18 OF 1998 (continued)

- Section 13 (1) MLRA
 - 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.
- Section 18 (1) MLRA
 - 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 activity or to operate such an establishment has been granted to such a person by the Minister

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MARINE LIVING RESOURCES ACT 18 OF 1998 (continued)

- Section 58 (1) MLRA
- Any person who, subject to the provisions of subsections (2) or (3)
- (a) undertakes fishing or related activities in contravention of
- (i) a provision of section 13; ...

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MARINE LIVING RESOURCES ACT 18 OF 1998 (continued)

- 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;
- (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
- (e) engaging in the business of providing agency, consultancy or other similar services for and in relation to fishing or a related activity

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MARINE LIVING RESOURCES ACT 18 OF 1998 (continued)

- “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 catch or a total applied effort, or parts of both

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MARINE LIVING RESOURCES ACT (continued)

- Section 20: Recreational fishing
- Section 28: Cancellation and suspension of rights, licences and permits
- Section 38 – 39: Foreign fishing
- Section 40 – 42: High seas fishing
- Section 43: Marine Protected Areas
GN R. 1429 of GG No.21948
29/12/2000
- Section 44 – 49 : Prohibited Activities and Stowage of Gear

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MARINE LIVING RESOURCES ACT (continued)

- Section 51: Powers of FCO's
- Section 52: Powers of FCO's beyond SA waters
- Section 53 & 54: Seizure
- Section 56: Co-operation with officials
- Section 57: Duty to report
- Section 58: Offences and penalties
- Section 60: Destruction of evidence

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MARINE LIVING RESOURCES ACT (continued)

- Section 62: Security for release of VVA's
- Section 65: Application of security
- Section 63: Disposal of perishables
- Section 68: Forfeiture orders
- Section 70: Jurisdiction of courts
- Section 77: Power to make regulations

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REGULATIONS R 111 OF G.Z. 19025 OF 2/9/98

- R 1: Definitions
- R 9: Closed seasons
- R 10: Closed areas
- R 11- 18: Restrictions on gear
- R 19 -20: Nets
- R 21- 22: Linefishing -See amendments
GN. 329 G.Z. 27453 of 6/04/05

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REGULATIONS R 111 (continued)

- R 25 – 59: Species Restrictions
 - Hake
 - Sharks
 - Chokka Squid
 - Tuna
 - Abalone
 - Oyster
 - Rock Lobster
 - Other Species
 - Deepwater Species
 - Shellfish
 - Aquatic plants
 - Whales, dolphins and turtles
 - Seahorse, pipefish and coelacanth

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Abalone

■ General

36. (1) No person shall-

- (a) engage in fishing, collecting, disturbing, keeping, controlling, storing, transporting or be in possession of any abalone, except on the authority of a permit; or
- (b) transport or be in possession of any abalone that is not in the whole state, except on the authority of a permit; or
- (c) remove abalone other than with the use of a flat implement of which the front edge is not less than 25mm wide and not more than 35mm wide and that has been so rounded as not to cut or damage the foot of an abalone.

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- (2) No person under the age of 12 years shall be entitled to obtain a recreational abalone permit.
- (3) No person shall sell, deliver or acquire any abalone, or any part or product thereof, unless the seller issues an invoice described in subregulation (4) at the time of delivery in respect of such abalone or any part or product thereof to the person acquiring it.
- (4) An invoice referred to in subregulation (3) shall be kept for not less than 24 months by the person to whom it has been issued and shall contain at least the following details:
 - (a) full particulars, including full names, identity numbers, registration numbers and physical addresses, of the parties to the sale;
 - (b) the date of delivery;
 - (c) the quantity or mass of abalone or part or product thereof sold; and the number and date of issue of the permit authorising the selling of the abalone.

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■ Minimum size

- 37.(1) No person shall engage in fishing, keeping or controlling of, or be in possession of, any abalone of the species *Haliotis midae* of which the shell is able to pass through a ring with an inside diameter of 114mm.
- (2) No person shall engage in fishing, keeping or controlling of, or be in possession of, any abalone of the species *Haliotis spadicæ* of which the shell is able to pass through a ring with an inside diameter of 32mm.

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■ Recreational or subsistence

38. (1) A person over the age of 12 years may obtain from any authorised office a recreational fishing permit to engage in fishing, collecting, keeping, controlling, landing or transporting of, or be in possession of not more than three abalone per day by diving or collecting it from the sea-shore, subject to the payment of a fee determined by the Minister under section 25 of the Act.
- (2) The holder of a subsistence fishing permit may engage in fishing, collecting, keeping, controlling, landing or transporting of, or selling of or be in possession of not more than three abalone per day by diving or collecting it from the sea-shore, subject to the payment of a fee determined by the Minister under section 25 of the Act.

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- (3) No person shall-
 - (a) purchase or be the holder of more than one permit contemplated in subregulations (1) and (2);
 - (b) keep, control or be in possession of more than 15 abalone at any one time;
 - (c) engage in fishing or collecting any abalone between sunset and sunrise;
 - (d) use any artificial breathing apparatus, other than a snorkel, for fishing abalone;
 - (e) transport, keep, control or be in possession of any abalone in or on a fishing vessel or other vessel; or
 - (f) keep, control or be in possession in or on any vehicle or other form of transport of more than three abalone, unless
 - (i) all the persons by whom the abalone were caught are in or on the vehicle or other form of transport; and
 - (ii) such vehicle or other form of transport is not used to transport more than 15 abalone per day.

- **Commercial**

- 39. (1) No person shall, except on the authority of a permit
 - (a) engage in fishing, collecting, keeping or controlling of, or be in possession of, abalone for commercial purposes;
 - (b) receive, keep, control, be in possession of or process any abalone at a fish processing establishment.
 - (c) abalone caught or collected for commercial purposes shall be kept in the whole state until delivered to the holder of a permit contemplated in subregulation (1)(b).

40. Closed areas...

REGULATIONS R 1111 (continued)

- R 60 – 73: Mariculture
- R 74: Landing, Transportation, Delivery, Receipt, Processing and Marketing
- R 75: Marine Protected Areas
- R 76: Vessel Monitoring Systems (VMS)
- R 96: Offences and Penalties
S v Packerysammy (2004)(2)
SALR 167

THANK YOU