

(1 February 2008 – to date)

MARINE LIVING RESOURCES ACT 18 OF 1998

(Gazette No. 18930, Notice No. 747. Commencement date: 1 September 1998 [Proc. No. 80, Gazette No. 19148])

NOTICE DECLARING THE BIRD ISLAND GROUP MARINE PROTECTED AREA UNDER SECTION 43 OF THE MARINE LIVING RESOURCES ACT, 18 OF 1998

*Government Notice 696 in Government Gazette 26432 dated 4 June 2004. Commencement date:
4 June 2004 (Regulations 6 and 7 shall commence on 31 December 2004)*

As amended by:

*Government Notice R62 in Government Gazette 30716 dated 1 February 2008. Commencement date:
1 February 2008.*

I, Marthinus van Schalkwyk, the Minister of Environmental Affairs and Tourism, hereby declare the Bird Island Group Marine Protected Area in terms of section 43, and prescribe the management and protection measures for the Bird Island Group Marine Protected Area in terms of section 77(2)(x)(i), of the Marine Living Resources Act, 18 of 1998 ("the Act") as set out in the Regulations in the Schedule, below.

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Schedule

To protect the marine environment and the marine biodiversity within the Bird Island Group Marine Protected Area; to allow over-exploited species of fish a sanctuary in which to recover and breed; to

protect seabird breeding colonies; and to promote and regulate eco-tourism activities and scientific research in a way that does not adversely affect the marine environment and biodiversity of the Bird Island Group Marine Protected Area and to prescribe penalties for contraventions.

1. Definitions

In these regulations any word or expression given a meaning in the Act has that meaning, unless such word or expression is defined in these regulations for the purposes of these regulations, and unless, the context indicates otherwise—

Act means the Marine Living Resources Act, 18 of 1998, inclusive of amendments and regulations promulgated thereunder;

Dive means to swim below the surface of the water, or to enter the water, with the aid of diving gear;

Demarcation buoy means a buoy installed to mark the boundaries of the Marine Protected Area;

the Manager means the Manager of the Greater Addo Elephant National Park;

Marine Protected Area means the Bird Island Group Marine Protected Area as declared by the Minister in terms of section 43 of the Act;

the Minister means the Minister of Environmental Affairs and Tourism;

Spearfishing means fishing with the use of a speargun;

Speargun means a device by which a spear is projected by mechanical or pneumatic means; and

WGS 84 means the World Geodetic System of 1984 (G730), which is a geographic co-ordinate system.

2. Objectives

The objectives of declaring the Marine Protected Area are to:

- (1) Protect and conserve marine ecosystems and populations of threatened marine species and seabirds that *[sic]* found on the Bird Island Group;
- (2) Protect the reproductive capacity of commercially important species of fish, including abalone and traditional linefish, and to allow their populations to recover;

- (3) Control other marine activities in the Marine Protected Area to reduce the risks of pollution and habitat degradation.

3. Interpretation

- (1) All geographic co-ordinates are determined in accordance with the *WGS 84* datum.
- (2) All bearings are true bearings and not compass or magnetic bearings.

4. Boundaries

The Marine Protected Area shall include the water, the seabed and the airspace to 1000 metres above sea-level in a rectangular area bounded by the latitudes 33° 48'.0 S and 33° 52'.5 S and the longitudes 026° 14'.5 E and 026° 20'.0 E.

5. Control of activities

- (1) No person may fish or attempt to fish within the Marine Protected Area.
- (2) Fishing gear on board fishing vessels that enter the Marine Protected Area for the purpose of passage must be stowed.
- (3) No person may undertake spearfishing or attempt to undertake spearfishing in the Marine Protected Area or be in possession of a speargun in the Marine Protected Area.

6. ...

(According to regulation 11, regulation 6 shall commence on 31 December 2004)

(Regulation 6 repealed by regulation 6(3) of Government Notice R62 in Government Gazette 30716 dated 1 February 2008)

7. Scientific research permit

- (1) No person may undertake any scientific research within the Marine Protected Area except on the authority of a scientific research permit.
- (2) Applications for a scientific research permit shall be made to the Minister on an application form and subject to criteria and an application fee determined by the Minister in terms of the Act.
- (3) Scientific research permits shall be valid for a maximum period of twelve months and shall be capable of being renewed by the Minister.
- (4) Scientific research permits may be issued subject to conditions.

(According to regulation 11, regulation 7 shall commence on 31 December 2004)

8. Use of vessels

- (1) All vessels that have deployed divers within the Marine Protected Area must display an alpha flag.
- (2) No vessel may be attached to a demarcation buoy.
- (3) No person may use or attempt to use any type of personal watercraft or hovercraft within the Marine Protected Area.
- (4) No person may moor or anchor any vessel within the Marine Protected Area.

9. Offences and penalties

Any person who contravenes a provision of these regulations shall be guilty of an offence and liable on conviction to a maximum fine of one hundred thousand rand or to imprisonment for a period not exceeding two years.

10. Management Plan

The Department shall, after consulting with the Manager, commence with the implementation of a management plan for the Marine Protected Area within six months of the date of commencement of these regulations.

11. Transitional Provision

Notwithstanding the provisions of regulation 12, regulations 6 and 7 shall commence on 31 December 2004.

12. Commencement

These regulations shall commence immediately upon promulgation.