

(31 May 2013 - 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])

TRANSFER OF ADMINISTRATION AND POWERS AND FUNCTIONS ENTRUSTED BY LEGISLATION TO CERTAIN CABINET MEMBERS IN TERMS OF SECTION 97 OF THE CONSTITUTION

Proclamation No. 16 in Government Gazette 36527 dated 31 May 2013. Commencement date:
31 May 2013.

In terms of section 97 of the Constitution of the Republic of South Africa, 1996, I hereby transfer the administration and powers and functions entrusted by the specified legislation, and all amendments thereto, to the specified Cabinet member and amend and clarify previous proclamations as set out in the Schedule in English and isiZulu, with effect from the date of publication of this Proclamation in the *Gazette*.

Given under my Hand and the Seal of the Republic of South Africa at Cape Town on this 23rd day of May, Two Thousand and Thirteen.

(Signed)

PRESIDENT

By Order of the President-in-Cabinet:

MINISTER OF THE CABINET

(Signed)

MINISTER OF THE CABINET

(Signed)

SCHEDULE

1. The administration of and the powers and functions entrusted by the legislation, mentioned in Column 1 of the tables below, to a Cabinet member mentioned in column 2 of the tables below are hereby transferred to the Cabinet member mentioned in column 3 of the tables below.
2. Column 2 of the Schedule states the Minister or Ministers in whom, immediately prior to the commencement of this Proclamation, by virtue of the following Proclamations, the administration or powers and functions of the legislation mentioned in Column 3 vests:

Prepared by:

- (a) Proclamation No. 44 of 1 July 2009, published in *Government Gazette* No 32367 of that date; and
- (b) Proclamation No. 1 of 10 February 2010, published in *Government Gazette* No. 32945 of that date.
3. Column 3 of the Schedule states the relevant Minister and the extent of the transfer of the administration of legislation and the powers and functions entrusted by legislation to that Minister. Column 3 also states instances where the administration of and powers and functions entrusted by legislation remain with the relevant Minister.
4. In so far as this Schedule may differ from or be in conflict with the Schedules to the Proclamations mentioned in item 2 above, and in so far as those Schedules relate to the Marine Living Resources Act, 1998 (Act No. 18 of 1998), this Schedule prevails.
5. Below, the Marine Living Resources Act, 1998 (Act No. 18 of 1998), is referred to as the Marine Living Resources Act, 1998.

ENVIRONMENTAL RELATED LEGISLATION:

COLUMN 1	COLUMN 2	COLUMN 3
LEGISLATION	CABINET MEMBER PREVIOUSLY RESPONSIBLE	CABINET MEMBER TO WHOM FUNCTIONS IS TRANSFERRED AND EXTENT OF TRANSFER
1. Marine Living Resources Act, 1998: Sections 1 to 4	Minister of Water and Environmental Affairs and Minister of Agriculture, Forestry and Fisheries	<p>1. The Minister of Water and Environmental Affairs in so far as the administration of and the powers and duties provided for in the sections referred to in Column 1 pertain to the administration of, and the exercise of the powers and performance of the functions contained in-</p> <p>(a) section 43 of the Marine Living Resources Act, 1998; and</p> <p>(b) the regulations and other provisions listed in this proclamation relating to marine protected areas; and</p> <p>(c) the regulations listed in this proclamation relating to whales,</p>

		dolphins, turtles and white sharks.
		2. The Minister of Agriculture, Forestry and Fisheries in so far as the administration of and the powers and duties provided for in the sections referred to in Column 1 pertain to the administration of, and the exercise of the powers and performance of the functions contained in, the provisions of the Marine Living Resources Act, 1998, not mentioned in item 1 and the regulations listed in this proclamation that relate to fishing within a marine protected area.
2. Marine Living Resources Act, 1998: Sections 5 to 7, 10, 11, 14, 15, 17, 18 to 27, 29 to 41 and 44 to 50	Minister of Agriculture, Forestry and Fisheries	Minister of Agriculture, Forestry and Fisheries: The administration of and the powers and duties provided for in the sections referred to in Column 1 remain with the Minister
3. Marine Living Resources Act, 1998: Section 8	Minister of Water and Environmental Affairs and Minister of Agriculture, Forestry and Fisheries	Minister of Agriculture, Forestry and Fisheries: The administration of and the powers and duties provided for in the section referred to in Column 1.
4. Marine Living Resources Act, 1998: Section 9	Minister of Water and Environmental Affairs and Minister of Agriculture, Forestry and Fisheries	1. Minister of Water and Environmental Affairs in so far as the administration of and the powers and duties provided for in the section referred to in Column 1 pertain to designating persons – (a) to perform enforcement functions within marine protected areas; and (b) enforcing the regulations listed in this Proclamation relating to marine protected areas, and those relating to whales, dolphins, turtles and white sharks. 2. Minister of Agriculture, Forestry and Fisheries in so far as the administration of

		and the powers and duties provided for in the section referred to in Column 1 pertain to designating persons to enforce all fisheries related and all other matters in terms of the Marine Living Resources Act, 1998, not mentioned in item 1 and the regulations listed in this proclamation that relate to fishing within a marine protected area.
5. Marine Living Resources Act, 1998: Section 12	Minister of Agriculture, Forestry and Fisheries	<p>1. Minister of Water and Environmental Affairs in so far as the administration of and the powers and duties provided for in the section referred to in Column 1 pertain to the keeping of-</p> <p>(a) a register for permits issued in terms of the Marine Living Resources Act, 1998, in respect of activities within marine protected areas; and</p> <p>(b) a register for permits issued in terms of the regulations listed in this proclamation in respect of activities within marine protected areas, excluding a register contemplated in item 2(a); and</p> <p>(c) a register for permits issued in terms of regulations relating to whales, dolphins, turtles and white sharks.</p> <p>2. Minister of Agriculture, Forestry and Fisheries in so far as the administration of and the powers and duties provided for in the section referred to in Column 1 pertain to the keeping of-</p> <p>(a) a register relating to permits issued in terms of the regulations listed in this proclamation in respect of fishing within a marine protected area; and</p>

		(b) a register relating to any other right, permit and licence issued in terms of the Marine Living Resources Act, 1998, not mentioned in item 1.
6. Marine Living Resources Act, 1998: Section 12	Minister of Water and Environmental Affairs and Minister of Agriculture, Forestry and Fisheries	<p>1. Minister of Water and Environmental Affairs in so far as the administration of and the powers and duties provided for in the section referred to in Column 1 pertain to-</p> <p>(a) permits issued in terms of the Marine Living Resources Act, 1998, in respect of activities within marine protected areas; and</p> <p>(b) permits issued in terms of the regulations listed in this proclamation in respect of activities within marine protected areas, excluding fishing permits contemplated in item 2(a); and</p> <p>(c) permits issued in terms of regulations relating to whales, dolphins, turtles and white sharks.</p> <p>2. Minister of Agriculture, Forestry and Fisheries in so far as the administration of and the powers and duties provided for in the section referred to in Column 1 pertain to-</p> <p>(a) fishing permits issued in terms of the regulations listed in this proclamation in respect of fishing within marine protected areas; and</p> <p>(b) any other permit issued in terms of the Marine Living Resources Act, 1989, not mentioned in item 1.</p>
7. Marine Living Resources Act, 1998: Section 16	Minister of Water and Environmental Affairs and Minister of Agriculture,	Minister of Agriculture, Forestry and Fisheries: The administration of and the powers and duties provided for in the section referred to in Column

	Forestry and Fisheries	1.
8. Marine Living Resources Act, 1998: Section 28	Minister of Water and Environmental Affairs and Minister of Agriculture, Forestry and Fisheries	<p>1. Minister of Water and Environmental Affairs in so far as the administration of and the powers and duties provided for in the section referred to in Column 1 pertain to-</p> <p>(a) permits issued in terms of the Marine Living Resources Act, 1998, in respect of activities within marine protected areas; and</p> <p>(b) permits issued in terms of the regulations listed in this proclamation in respect of activities within marine protected areas, excluding fishing permits contemplated in item 2(a); and</p> <p>(c) permits issued in terms of regulations relating to whales, dolphins, turtles and white sharks.</p> <p>2. Minister of Agriculture, Forestry and Fisheries in so far as the administration of and the powers and duties provided for in the section referred to in Column 1 pertain to-</p> <p>(a) fishing permits issued in terms of the regulations listed in this proclamation in respect of fishing within marine protected areas; and</p> <p>(b) Any other permit, right or licence issued in terms of the Marine Living Resources Act, 1998, not mentioned in item 1.</p>
9. Marine Living Resources Act, 1998: Section 42	Minister of Water and Environmental Affairs and Minister of Agriculture, Forestry and Fisheries	<p>1. Minister of Water and Environmental Affairs in so far as the administration of and the powers and duties provided for in the section referred to in Column 1 pertain to any matter relating to marine protected</p>

		<p>areas and any matter relating to whales, dolphins, turtles and white sharks.</p> <p>2. Minister of Agriculture, Forestry and Fisheries in so far as the administration of and the powers and duties provided for in the section referred to in Column 1 pertain to any matter contained in the Marine Living Resources Act, 1998, not mentioned in item 1.</p>
10. Marine Living Resources Act, 1998: Section 43	Minister of Water and Environmental Affairs	<p>Minister of Water and Environmental Affairs:</p> <p>The administration of and the powers and duties provided for in the section referred to in Column 1, read together with-</p> <p>(a) the regulations and other provisions listed in this proclamation relating to marine protected areas; and</p> <p>(b) the regulations listed in this proclamation relating to whales, dolphins, turtles and white sharks.</p>
11. Marine Living Resources Act, 1998: Section 51 to 76	Minister of Water and Environmental Affairs and Minister of Agriculture, Forestry and Fisheries	<p>1. Minister of Water and Environmental Affairs in so far as the administration of and the powers and duties provided for in the sections referred to in Column 1 pertain to any matter relating to marine protected areas and any matter relating to whales, dolphins, turtles and white sharks.</p> <p>2. Minister of Agriculture, Forestry and Fisheries in so far as the administration of and the powers and duties provided for in the sections referred to in Column 1 pertain to any matter contained in the Marine Living Resources Act, 1998, not mentioned in item 1 and the regulations listed in this proclamation that relate to fishing within a marine protected area.</p>
12. Marine Living	Minister of Water and	1. Minister of Water and Environmental Affairs

Resources Act, 1998: Section 77 to 86	Environmental Affairs and Minister of Agriculture, Forestry and Fisheries	<p>in so far as the administration of and the powers and duties provided for in the sections referred to in Column 1 pertain to any matter relating to marine protected areas and any matter relating to whales, dolphins, turtles and white sharks, , including permits, exemptions and research.</p> <p>2. Minister of Agriculture, Forestry and Fisheries in so far as the administration of and the powers and duties provided for in the sections referred to in Column 1 pertain to any matter contained in the Marine Living Resources Act, 1998, not mentioned in item 1 and the regulations listed in this proclamation that relate to fishing within a marine protected area.</p>
REGULATIONS		
<p>13. Declaration of Areas as Marine Protected Areas, issued in terms of section 43 of the Marine Protected Areas Act, 1998 (Government Notice No. R.1429 of 29 December 2000):</p> <p>Paragraph 1 and paragraph 2 (Description of boundaries of marine protected areas):</p> <p>2(1) Castle Rock</p> <p>2(2) Betty's Bay</p> <p>2(3) De Hoop</p> <p>2(4) Goukamma</p> <p>2(5) Robberg</p>	Minister of Water and Environmental Affairs	<p>Minister of Water and Environmental Affairs:</p> <p>The administration of and the powers and duties provided for in the paragraphs referred to in Column 1 remain with the Minister.</p>

<p>2(6) Sardinia Bay 2(7) Dwesa Cwebe 2(8) Hluleka 2(9) Mkambati 2(10) Trafalgar 2(11) St Lucia 2(12) Maputo land 2(13) Langebaan Lagoon 2(14) Sixteen Mile beach 2(15) Malgas Island 2(16) Jutten Island 2(17) Marcus Island 2(18) Helderberg 2(19) Tsitsikamma; and Paragraphs 3(2), 3(3), 3(4) and 3(5) (Stipulations Marine Protected Areas)</p>		
<p>14. Declaration of Areas as Marine Protected Areas, issued in terms of section 43 of the Marine Protected Areas Act, 1998 (Government Notice No. R.1429 of 29 December 2000): Paragraph 3 (Stipulations Marine Protected Areas): 3(1)(a) - Betty's Bay, Goukamma and Robberg Marine Protected Areas; 3(1)(b) - Castle Rock Marine Protected Area; 3(1)(c) and 3(1)(d) - Langebaan Lagoon Marine Protected Area; 3(1)(e) - Sixteen Mile</p>	<p>Minister of Water and Environmental Affairs</p>	<p>Minister of Agriculture, Forestry and Fisheries:</p> <p>1. The administration of and the powers and duties provided for in the paragraphs referred to in Column 1 in so far as those matters relate to fisheries management including permitting, fishing rights, fisheries related research and enforcing the paragraphs with regard to the types of fishing specified therein.</p> <p>Minister of Water and Environmental Affairs:</p> <p>2. The administration of and the powers and duties provided for in the Declaration referred to in Column 1, in so far as those matters do not relate to the matters mentioned in item 1, remain with Minister of Water and Environmental Affairs.</p>

<p>Beach Marine Protected Area;</p> <p>3(1)(f) - Malgas Island, Jutten Island and Marcus Island Marine Protected Declaration referred to in Areas;</p> <p>3(1)(g) - Trafalgar Marine Protected Area and the restricted areas of the St Lucia and Maputaland Marine Protected Areas</p>		
<p>15. Regulations prescribing the management and protection measures for the Table Mountain Marine Protected Area, made in terms of section 77 of the Marine Living Resources Act, 1998 (Government Notice No. 695 of 4 June 2004):</p> <p>Regulations 1, 2, 3, 4, 5, 6(1), 6(3), 6(4), 8, 9, 11, 13, 14 and 15</p>	Minister of Water and Environmental Affairs	<p>Minister of Water and Environmental Affairs:</p> <p>The administration of and the powers and duties provided for in the regulations referred to in Column 1 remain with the Minister.</p>
<p>16. Regulations prescribing the management and protection measures for the Table Mountain Marine Protected Area, made in terms of section 77 of the Marine Living Resources</p>	Minister of Water and Environmental Affairs	<p>Minister of Agriculture, Forestry and Fisheries.</p> <p>1. The administration of and the powers and duties provided for in the regulations, referred to in Column 1, in so far as those matters relate to fisheries management including permitting, fishing rights, fisheries related research and enforcing the regulations with regard to the types of fishing specified therein.</p>

Act, 1998 (Government Notice No. 695 of 4 June 2004): Regulations 6(2) and 7		Minister of Water and Environmental Affairs: 2. The administration of and the powers and duties provided for in the regulations, referred to in Column 1, in so far as those matters do not relate to the matters mentioned in item 1, remain with Minister of Water and Environmental Affairs.
17. Regulations prescribing the management and protection measures for the Table Mountain Marine Protected Area, made in terms of section 77 of the Marine Living Resources Act, 1998 (Government Notice No. 695 of 4 June 2004): Regulations 10 and 12	Minister of Water and Environmental Affairs	Minister of Agriculture, Forestry and Fisheries: 1. The administration of and the powers and duties provided for in the regulations, referred to in Column 1, in so far as those matters relate to regulations 6(2) and 7 transferred to the Minister in Row 16 above. Minister of Water and Environmental Affairs: 2. The administration of and the powers and duties provided for in the Regulations, referred to in Column 1, in so far as those matters relate to powers and functions not referred to in item 1 above, remain with the Minister of Water and Environmental Affairs.
18. Regulations prescribing the management and protection measures for the Bird Island Group Marine Protected Area, made in terms of section 77 of the Marine Living Resources Act, 1998 (Government Notice No. 696 of 4 June 2004)	Minister of Water and Environmental Affairs	Minister of Water and Environmental Affairs: The administration of and the powers and duties provided for in the regulations referred to in Column 1 remain with the Minister.

The whole		
<p>19. Declaration of Area as Marine Protected Area in terms of section 43 of the Marine Protected Areas Act, 1998 - Walker Bay Whale Sanctuary Marine Protected Area (Government Notice No. 473 of 29 May 2001: Paragraphs 1, 2 (Description of boundaries of marine protected area), 3(1), 3(2) (Stipulations: Marine protected area) and 4</p>	Minister of Water and Environmental Affairs	<p>Minister of Water and Environmental Affairs:</p> <p>The administration of and the powers and duties provided for in the Declaration referred to in Column 1 remain with the Minister.</p>
<p>20. Declaration of Area as Marine Protected Area issued in terms of section 43 of the Marine Protected Areas Act, 1998 - Walker Bay Whale Sanctuary Marine Protected Area (Government Notice No. 473 of 29 May 2001: Paragraphs 3(3) (Stipulations : Marine Protected Area)</p>	Minister of Water and Environmental Affairs	<p>Minister of Agriculture, Forestry and Fisheries:</p> <ol style="list-style-type: none"> 1. The administration of and the powers and duties provided for in the paragraph, referred to in Column 1, in so far as those matters relate to fisheries management including permitting, fishing rights, fisheries related research and enforcing the paragraph with regard to the types of fishing specified therein. <p>Minister of Water and Environmental Affairs:</p> <ol style="list-style-type: none"> 2. The administration of and the powers and duties provided for in the paragraph, referred to in Column 1, in so far as those matters do not relate to the matters mentioned in item 1, remain with Minister of Water and Environmental Affairs.

21.	Regulations prescribing the management and protection measures for the Aliwal Shoal Marine Protected Area, made in terms of section 77 of the Marine Living Resources Act, 1998 (Government Notice No. 697 of 4 June 2004): Regulations 1 to 6, 7(2), 7(4), 8, 9, 11, 13, 14 and 15	Minister of Water and Environmental Affairs	Minister of Water and Environmental Affairs The administration of and the powers and duties provided for in the regulations, referred to in Column 1 remain with the Minister.
22.	Regulations prescribing the management and protection measures for the Aliwal Shoal Marine Protected Area, made in terms of section 77 of the Marine Living Resources Act, 1998 (Government Notice No. 697 of 4 June 2004): Regulations 7(1) and 7(3)	Minister of Water and Environmental Affairs	Minister of Agriculture, Forestry and Fisheries: 1. The administration of and the powers and duties provided for in the regulations, referred to in Column 1, in so far as those matters relate to fisheries management including permitting, fishing rights, fisheries related research and enforcing the regulations with regard to the types of fishing specified therein. Minister of Water and Environmental Affairs: 2. The administration of and the powers and duties provided for in the regulations, referred to in Column 1, in so far as those matters do not relate to the matters mentioned in item 1, remain with Minister of Water and Environmental Affairs.
23.	Regulations prescribing the management and protection measures for the	Minister of Water and Environmental Affairs	Minister of Agriculture, Forestry and Fisheries: 1.The administration of and the powers and duties provided for in the regulations, referred to in Column 1, in so far as those matters relate to

<p>Aliwal Shoal Marine Protected Area, made in terms of section 77 of the Marine Living Resources Act, 1998 (Government Notice No. 697 of 4 June 2004):</p> <p>Regulations 10 and 12</p>		<p>regulations 7(1) and 7(3) transferred to the Minister in Row 22 above.</p> <p>Minister of Water and Environmental Affairs:</p> <p>2. The administration of and the powers and duties provided for in the regulations, referred to in Column 1, in so far as those matters relate to powers and functions not referred to in item 1 above, remain with the Minister of Water and Environmental Affairs.</p>
<p>24. Regulations prescribing the management and protection measures for the Pondoland Marine Protected Area, made in terms of section 77 of the Marine Living Resources Act, 1998 (Government Notice No. 694 of 4 June 2004):</p> <p>Regulations 1 to 6, 8, 9, 11, 13, 14, 15 and 16</p>	Minister of Water and Environmental Affairs	<p>Minister of Water and Environmental Affairs</p> <p>The administration of and the powers and duties provided for in the regulations, referred to in Column 1 remain with the Minister.</p>
<p>25. Regulations prescribing the management and protection measures for the Pondoland Marine Protected Area, made in terms of section 77 of the Marine Living Resources Act, 1998 (Government Notice No. 694 of 4</p>	Minister of Water and Environmental Affairs	<p>Minister of Agriculture, Forestry and Fisheries.</p> <p>1. The administration of and the powers and duties provided for in the regulation, referred to in Column 1, in so far as those matters relate to fisheries management including permitting, fishing rights, fisheries related research and enforcing the regulation with regard to the types of fishing specified therein.</p> <p>Minister of Water and Environmental Affairs:</p> <p>2. The administration of and the powers and</p>

June 2004): Regulation 7		duties provided for in the regulation, referred to in Column 1, in so far as those matters do not relate to the matters mentioned in item 1, remain with Minister of Water and Environmental Affairs.
26. Regulations prescribing the management and protection measures for the Pondoland Marine Protected Area, made in terms of section 77 of the Marine Living Resources Act, 1998 (Government Notice No. 694 of 4 June 2004): Regulation 10 and 12	Minister of Water and Environmental Affairs	Minister of Agriculture, Forestry and Fisheries. 1. The administration of and the powers and duties provided for in the regulations, referred to in Column 1, in so far as those matters relate to regulation 7 transferred to the Minister in Row 25 above. Minister of Water and Environmental Affairs: 2. The administration of and the powers and duties provided for in the regulations, referred to in Column 1, in so far as those matters relate to powers and functions not referred to in item 1 above, remain with Minister of Water and Environmental Affairs.
27. Regulations on the Stilbaai Marine Protected Area, made in terms of section 77 of the Marine Living Resources Act, 1998 (Government Notice No. R.1108 of 17 October 2008): Regulations 1 to 4, 6, 7, 8 and 10	Minister of Water and Environmental Affairs	Minister of Water and Environmental Affairs The administration of and the powers and duties provided for in the regulations, referred to in Column 1 remain with the Minister.
28. Regulations on the Stilbaai Marine Protected Area, made in terms of section 77 of the Marine Living	Minister of Water and Environmental Affairs	Minister of Agriculture, Forestry and Fisheries. 1. The administration of and the powers and duties provided for in the regulations, referred to in Column 1, in so far as those matters relate to fisheries management

<p>Resources Act, 1998 (Government Notice No. R.1108 of 17 October 2008):</p> <p>Regulation 5</p>		<p>including permitting, fishing rights, fisheries related research and enforcing the regulation with regard to the types of fishing specified therein.</p> <p>Minister of Water and Environmental Affairs:</p> <p>2. The administration of and the powers and duties provided for in the regulation, referred to in Column 1, in so far as those matters do not relate to the matters mentioned in item 1, remain with Minister of Water and Environmental Affairs.</p>
<p>29. Regulations on the Stilbaai Marine Protected Area, made in terms of section 77 of the Marine Living Resources Act, 1998 (Government Notice No. R.1108 of 17 October 2008):</p> <p>Regulation 9</p>	<p>Minister of Water and Environmental Affairs</p>	<p>Minister of Agriculture, Forestry and Fisheries.</p> <p>1. The administration of and the powers and duties provided for in the regulation, referred to in Column 1, in so far as those matters relate to regulation 5 transferred to the Minister in Row 28 above.</p> <p>Minister of Water and Environmental Affairs:</p> <p>2. The administration of and the powers and duties provided for in the regulation, referred to in Column 1, in so far as those matters relate to powers and functions not referred to in item 1 above, remain with the Minister of Water and Environmental Affairs.</p>
<p>30. Notice Declaring the Stilbaai Marine Protected Area, issued in terms of section 43 of the Marine Living Resources Act, 1998 (Government Notice No. R.1109 of 17 October 2008):</p> <p>The whole</p>	<p>Minister of Water and Environmental Affairs</p>	<p>Minister of Water and Environmental Affairs</p> <p>The administration of and the powers and duties provided for in the Notice referred to in Column 1 remain with the Minister.</p>

31. Regulations for the Management of the Amathole Marine Protected Area, made in terms of section 77 of the Marine Living Resources Act, 1998 (Government Notice No. R.731 of 16 September 2011) The whole	Minister of Water and Environmental Affairs	Minister of Water and Environmental Affairs The administration of and the powers and duties provided for in the regulations referred to in Column remain with the Minister.
32. Declaration of Amathole Marine Protected Area, issued in terms of section 43 of the Marine Living Resources Act, 1998 (Government Notice No. R.730 of 16 September 2011) The whole	Minister of Water and Environmental Affairs	Minister of Water and Environmental Affairs The administration of and the powers and duties provided for in the Declaration referred to in Column 1 remain with the Minister.
33. Regulations in terms of sections 7(5), 9(3), 12(2) and (3), 39(2), 45, 47, 50(1), 77 and 80(2) of the Marine Living Resources Act, 1998 (Government Notice No. R.1111 of 2 September 1998) The whole	Minister of Agriculture, Forestry and Fisheries	Minister of Agriculture, Forestry and Fisheries The administration of and the powers and duties provided for in the Regulations referred to in Column 1 remain with the Minister.
34. Regulations for the	Minister of Agriculture,	Minister of Agriculture, Forestry and Fisheries

Protection of Wild Abalone (<i>Haliotis</i>), made in terms of section 77 of the Marine Living Resources Act, 1998 (Government Notice No. R.62 of 1 February 2008) The whole	Forestry and Fisheries	The administration of and the powers and duties provided for in the Regulations referred to in Column 1 remain with the Minister.
35. Regulations for the Management of Boat Based Whale Watching and Protection of Turtles, made in terms of section 77 of (the Marine Living Resources Act, 1998 (Government Notice No. R.725 of 4 July 2008) The whole	Minister of Water and Environmental Affairs	Minister of Water and Environmental Affairs The administration of and the powers and duties provided for in the Regulations referred to in Column 1 remain with the Minister
36. Regulations for the Management of White Shark Cage Diving, made in terms of section 77 of the Marine Living Resources Act, 1998 (Government Notice No. R. 724 of 4 July 2008) The whole	Minister of Water and Environmental Affairs	Minister of Water and Environmental Affairs The administration of and the powers and duties provided for in the Regulations referred to in Column 1 remain with the Minister.

EXPLANATORY MEMORANDUM

- On 10 May 2009 the President announced the appointment of Ministers and Deputy Ministers in terms of sections 91(2) and 93(1) of the Constitution of the Republic of South Africa, 1996 (the Constitution).

Prepared by:

Since the Ministers' portfolios differed from the Ministers' portfolios before the President took the oath on 9 May 2009, it was necessary to align the administration of legislation and powers and functions entrusted by legislation to the new portfolios of Ministers announced by the President.

2. The administration and the powers and functions entrusted by the Marine Living Resources Act, 1998 (Act No. 18 of 1998), pertaining to mariculture, were transferred from the Minister of Water and Environmental Affairs to the Minister of Agriculture Forestry and Fisheries by Proclamation No. 44 on 1 July 2009.
3. The administration and the powers and functions entrusted by the Marine Living Resources Act, 1998: pertaining to fisheries (excluding marine protected areas and the regulations related to Boat-based Whale Watching and White Shark Cage Diving), were transferred from the Minister of Water and Environmental Affairs to the Minister of Agriculture Forestry and Fisheries by Proclamation No. 1 of 10 February 2010.
4. The Proclamation of 10 February 2010 resulted in confusion as to the extent and exact nature of the transfer of functions, particularly in relation to regulations under the Marine Living Resources Act, 1998 (Act No. 18 of 1998) that were not mentioned in the 10 February Proclamation. This Proclamation, which is done in terms of section 97 of the Constitution, seeks to provide clarity on the exact nature and extent of the transfer of powers and functions under the Marine Living Resources Act, 1998 (Act No. 18 of 1998) including regulations. In some instances where the same Minister appears in both columns 2 and 3, this indicates that no transfer has taken place, thus providing clarity as to the nature of the transfer in the 10 February Proclamation. Section 97 of the Constitution provides that the "President by proclamation may transfer to a member of the Cabinet—
 - (a) the administration of any legislation entrusted to another member; or
 - (b) any power or function entrusted by legislation to another member."