



STAATSKOERANT

VAN DIE REPUBLIEK VAN SUID-AFRIKA

REPUBLIC OF SOUTH AFRICA

GOVERNMENT GAZETTE

As 'n Nuusblad by die Poskantoor Geregistreer

Registered at the Post Office as a Newspaper

Verkoopprijs • Selling price
(AVB uitgesluit/GST excluded)
Plaaslik **50c** Local
Buitelands 70c Other countries
Posvry • Post free

Vol. 273

KAAPSTAD, 23 MAART 1988

No. 11201

CAPE TOWN, 23 MARCH 1988

KANTOOR VAN DIE STAATSPRESIDENT

STATE PRESIDENT'S OFFICE

No. 527. 23 Maart 1988

No. 527. 23 March 1988

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

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

No. 12 van 1988: Wet op Seevisserij, 1988.

No. 12 of 1988: Sea Fishery Act, 1988.

WET

Om voorsiening te maak vir die bewaring van die mariene-ekologie en die ordelike ontginning, benutting en beskerming van sekere mariene-hulpbronne; om te dien einde voorsiening te maak vir die uitoefening van beheer oor seevisserij; en om voorsiening te maak vir aangeleenthede wat daarmee in verband staan.

*(Engelse teks deur die Staatspresident geteken.)
(Goedgekeur op 14 Maart 1988.)*

INDELING VAN ARTIKELS

Artikel

1. Woordomskrywing

DEEL I

ALGEMENE BELEID VIR BEWARING EN OPTIMALE BENUTTING VAN SUID-AFRIKAANSE LEWENDE MARIENE-HULPBRONNE

2. Minister kan algemene beleid bepaal

DEEL II

TOEPASSING EN ADMINISTRASIE VAN WET

3. Toepassing van Wet
4. Delegering van bevoegdhede
5. Visserijbeheerbeamptes
6. Ere-visserijbeamptes

DEEL III

SEEVISSERY-ADVIESKOMITEE

7. Instelling van Seevisserij-advieskomitee
8. Samestelling van advieskomitee
9. Ampstermyn en ontruiming van amp deur lede of plaasvervangende lede van advieskomitee
10. Vergaderings van advieskomitee
11. Subkomitees
12. Toelaes en vergoeding van lede van advieskomitee en subkomitees en plaasvervangende lede van advieskomitee

ACT

To provide for the conservation of the marine ecology and the orderly exploitation, utilization and protection of certain marine resources; for that purpose to provide for the exercise of control over sea fishery; and to provide for matters connected therewith.

*(English text signed by the State President.)
(Assented to 14 March 1988.)*

ARRANGEMENT OF SECTIONS

Section

1. Definitions

PART I

GENERAL POLICY FOR CONSERVATION AND OPTIMAL UTILIZATION OF SOUTH AFRICAN LIVING MARINE RESOURCES

2. Minister may determine general policy

PART II

APPLICATION AND ADMINISTRATION OF ACT

3. Application of Act
4. Delegation of powers
5. Fishery control officers
6. Honorary fishery officers

PART III

SEA FISHERY ADVISORY COMMITTEE

7. Establishment of Sea Fishery Advisory Committee
8. Constitution of advisory committee
9. Term of office and vacating of office by members or alternate members of advisory committee
10. Meetings of advisory committee
11. Subcommittees
12. Allowances and remuneration of members of advisory committee and subcommittees and alternate members of advisory committee

Wet No. 12, 1988

WET OP SEEVISSERY, 1988

DEEL IV

BEDRYFSLIGGAME EN BELANGEGROEPE IN VERSKILLENDE VERTAK-
KINGS VAN VISBEDRYF

13. Erkenning van bedryfsliggame en belangegroepe deur Minister
14. Bevoegdhede van bedryfsliggame en belangegroepe

DEEL V

KWOTARAAD

15. Instelling van Kwotaraad
16. Samestelling van raad
17. Plaasvervangende lede, voorsitter en ondervoorsitter, amps-
termyn, ontheffing van amp, vul van vakatures, vergade-
rings, toelaes en vergoeding, en ontruiming van amp
18. Werkzaamhede van raad
19. Bepaling van maksimum massa vis beskikbaar vir kwotas
20. Opskorting, intrekking en vermindering van kwotas
21. Ondersoeke in verband met kwotas
22. Heroorweging van besluite van raad
23. Hou van register van kwotas
24. Oordraagbaarheid van kwotas

DEEL VI

VERLENING EN BEËINDIGING VAN ONTGINNINGSREGTE

25. Verlening en beëindiging van ontginningsregte deur Minister

DEEL VII

BEVORDERING VAN VISBEDRYF

26. Ontwikkeling van vissershawens en ander geriewe
27. Seevisseryfonds
28. Aanwending van fonds
29. Heffing op vis en visprodukte en sekere ander mariene-
hulpbronne

DEEL VIII

BEHEER OOR VANG, VERWERKING EN UITVOER VAN, EN BESKIK-
KING OOR, VIS

30. Lisensiëring van vissersbote, en persele, voertuie of vaar-
tuie as fabrieke
31. Lisensiëring van werktuie
32. Vrystelling van lisensiëring
33. Beskerming van vis
34. Mariene-reservate
35. Beperkings op hoeveelheid vis wat gevang of verwerk mag
word
36. Beheer oor beskikking oor vis
37. Beheer oor uitvoer van vis

DEEL IX

BEHEER OOR SEKERE ANDER MARIENE-HULPBRONNE

38. Beheer oor versameling en verwydering van waterplante en
skulpe
39. Uitreiking van permitte
40. Oordrag van permitte en appèl na Minister

SEA FISHERY ACT, 1988

Act No. 12, 1988

PART IV

INDUSTRIAL BODIES AND INTEREST GROUPS IN DIFFERENT BRANCHES
OF FISHING INDUSTRY

13. Recognition of industrial bodies and interest groups by Minister
14. Powers of industrial bodies and interest groups

PART V

QUOTA BOARD

15. Establishment of Quota Board
16. Constitution of board
17. Alternate members, chairman and vice-chairman, term of office, removal from office, filling of vacancies, meetings, allowances and remuneration, and vacating of office
18. Functions of board
19. Determination of maximum mass of fish available for quotas
20. Suspension, cancellation and reduction of quotas
21. Inquiries in connection with quotas
22. Reconsideration of decisions of board
23. Keeping of register of quotas
24. Transferability of quotas

PART VI

GRANTING AND TERMINATION OF RIGHTS OF EXPLOITATION

25. Granting and termination of rights of exploitation by Minister

PART VII

PROMOTION OF FISHING INDUSTRY

26. Development of fishing harbours and other facilities
27. Sea Fishery Fund
28. Appropriation of fund
29. Levy on fish and fish products and certain other marine resources

PART VIII

CONTROL OVER CATCHING, PROCESSING, EXPORT AND DISPOSAL OF
FISH

30. Licensing of fishing boats, and premises, vehicles or vessels as factories
31. Licensing of implements
32. Exemption from licensing
33. Protection of fish
34. Marine reserves
35. Restrictions on quantity of fish which may be caught or processed
36. Control over disposal of fish
37. Control over export of fish

PART IX

CONTROL OVER CERTAIN OTHER MARINE RESOURCES

38. Control over collection and removal of aquatic plants and shells
39. Issue of permits
40. Transfer of permits and appeal to Minister

Wet No. 12, 1988

WET OP SEEVISSERY, 1988

DEEL X

DIVERSE BEPALINGS

41. Vrystellings
42. Verkryging van inligting deur Minister
43. Aanvaarding of bekragtiging van konvensies, verdrae of ooreenkomste
44. Appèl deur veronregte persoon

DEEL XI

REGULASIES, TARIWE EN GELDE

45. Regulasies
46. Tariewe en gelde

DEEL XII

MISDRYWE EN STRAWWE, VERBEURDVERKLARING EN BESLAGLEG-
GING, EN BETALING VAN VERGOEDING AAN INFORMANT

47. Misdrywe en strawwe
48. Verbeurdverklaring en beslaglegging
49. Betaling van vergoeding aan informant

DEEL XIII

JURISDIKSIE, BEWYSLEWERING, BEPERKING VAN AANSPREEKLIK-
HEID, VREEMDE VAARTUIE IN VISSERYSONE, BEVOEGDHEDE VAN
VISSERYBEHEER- EN POLISIEBEAMPTES, EN TOEPASSING VAN WET

50. Jurisdiksie en bewyslewing
51. Beperking van aanspreeklikheid
52. Gebruik van vreemde vaartuie as vissersbote en fabrieke in visserysone
53. Bevoegdhede van visserybeheerbeamptes en polisiebeamp-
tes
54. Toepassing van Wet op Prince Edward-eilande, Walvisbaai
en sekere eilande en rotse

DEEL XIV

HERROEPING VAN WETTE, EN VOORBEHOUD, KORT TITEL EN IN-
WERKINGTREDING

55. Herroeping van wette en voorbehoud
56. Kort titel en inwerkingtreding

DAAR WORD BEPAAL deur die Staatspresident en die Par-
lement van die Republiek van Suid-Afrika, soos volg:—

Woordomskrywing.

1. In hierdie Wet, tensy uit die samehang anders blyk, bete-
ken—

- (i) “advieskomitee” die Seevissery-advieskomitee ingestel 5
ingevolge artikel 7; (i)
- (ii) “beampte” ’n beampte soos omskryf in artikel 1 (1)
van die Staatsdienswet, 1984 (Wet No. 111 van 1984);
(xxvi)
- (iii) “departement” die Departement van Omgewingsake; 10
(v)
- (iv) “direkteur-generaal” die Direkteur-generaal: Omge-
wingsake; (vi)
- (v) “fabriek” enige perseel, voertuig of vaartuig waarop of
waarin vis of visprodukte vir handelsdoeleindes gesout, 15
gedroog, gerook, verpak, verkoel, bevries, ingemaak
of op ’n ander wyse bewerk word, of vis vir handels-
doeleindes lewend gehou word, uitgesonderd ’n viswin-

SEA FISHERY ACT, 1988

Act No. 12, 1988

PART X

MISCELLANEOUS PROVISIONS

41. Exemptions
42. Obtaining of information by Minister
43. Adoption or ratification of conventions, treaties or agreements
44. Appeal by aggrieved person

PART XI

REGULATIONS, TARIFFS AND FEES

45. Regulations
46. Tariffs and fees

PART XII

OFFENCES AND PENALTIES, FORFEITURE AND SEIZURE, AND PAYMENT OF REMUNERATION TO INFORMANT

47. Offences and penalties
48. Forfeiture and seizure
49. Payment of remuneration to informant

PART XIII

JURISDICTION, EVIDENCE, LIMITATION OF LIABILITY, FOREIGN VESSELS IN FISHING ZONE, POWERS OF FISHERY CONTROL OFFICERS AND POLICE OFFICERS, AND APPLICATION OF ACT

50. Jurisdiction and evidence
51. Limitation of liability
52. Use of foreign vessels as fishing boats and factories in fishing zone
53. Powers of fishery control officers and police officers
54. Application of Act to Prince Edward Islands, Walvis Bay and certain islands and rocks

PART XIV

REPEAL OF LAWS, AND SAVINGS, SHORT TITLE AND COMMENCEMENT

55. Repeal of laws, and savings
56. Short title and commencement

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

1. In this Act, unless the context indicates otherwise—

Definitions.

- (i) "advisory committee" means the Sea Fishery Advisory Committee established in terms of section 7; (i)
- (ii) "aquatic plant" means any kind of plant, alga or other plant organism found in the sea or in or on the sea-shore; (xxxix)
- (iii) "board" means the Quota Board established by section 15; (xxiii)
- (iv) "catch" means to take out of the sea or the sea-shore in any manner whatsoever, to remove from the sea-shore, possess in a net, whether the net is in the water or not, possess in, upon or next to a vessel, or to land; (xxxii)
- (v) "department" means the Department of Environment Affairs; (iii)
- (vi) "director-general" means the Director-General: Environment Affairs; (iv)
- (vii) "exploiter" means a person to whom a right of exploitation has been granted in terms of section 25; (xviii)

Wet No. 12, 1988

WET OP SEEVISSERY, 1988

- kel, supermark, hotel, losieshuis, restaurant, verversings- of teekamer of eetplek, of 'n vissersboot waarin of waarop vis wat vanaf die vissersboot gevang word, vir die bewaring daarvan slegs ontderm, gesout of verkoel word; (viii) 5
- (vi) "fonds" die Seevisserijfonds bedoel in artikel 27; (xvii)
- (vii) "gesagvoerder" die persoon wat gesag voer of beheer het oor 'n vissersboot of vaartuig; (xxiii)
- (viii) "getyrvier" daardie gedeelte van 'n rivier waarin 'n styging en daling van die watervlak as gevolg van die 10 seegetye plaasvind; (xxxxi)
- (ix) "getystrandmeer" 'n strandmeer waarin 'n styging en daling van die watervlak as gevolg van die seegetye plaasvind; (xxxx)
- (x) "hierdie Wet" ook 'n regulasie of kennisgewing kragtens hierdie Wet uitgevaardig of uitgereik; (xxxix)
- (xi) "hoogwatermerk" die hoogste lyn wat die water van die see gedurende gewone storms wat in die stormagtigste tydperk van die jaar plaasvind, uitgesonderd 'n buitengewone of abnormale vloed, bereik; (xviii) 20
- (xii) "jaar" enige tydperk van 12 opeenvolgende maande; (xxxxiv)
- (xiii) "kwota" die maksimum massa vis van 'n bepaalde spesie wat aan 'n ontginner toegeken word wat hy gedurende 'n bepaalde tydperk en in 'n omskrewe gebied 25 kan vang; (xxx)
- (xiv) "kwotahouer" die persoon aan wie 'n kwota ingevolge artikel 18 toegeken is; (xxxi)
- (xv) "laagwatermerk" die laagste lyn tot waar die water van die see gedurende tydperke van gewone springgetye 30 sak; (xxii)
- (xvi) "lisensie" die dokument wat op aansoek periodiek deur die Staat uitgereik kan word en wat die gebruik magtig van 'n voorwerp wat ingevolge hierdie Wet gelisensieer moet word; (xx) 35
- (xvii) "Minister" die Minister van Omgewingsake en van Waterwese; (xxiv)
- (xviii) "ontginner" 'n persoon aan wie 'n ontginningsreg ingevolge artikel 25 verleen is; (vii)
- (xix) "ontginningsreg" 'n reg deur die Minister ingevolge artikel 25 op sekere voorwaardes verleen aan 'n persoon om vir 'n bepaalde tydperk toegang tot die see te hê ten einde vis te vang of waterplante of skulpe te versamel en te verwyder; (xxxiv) 40
- (xx) "permit" die dokument wat op aansoek periodiek deur die Staat uitgereik kan word en waarin die naam van die ontginner, die naam en nommer van die vissersboot (as daar is) en die spesies en maksimum massa vis, waterplante of skulpe wat gedurende 'n bepaalde tydperk en in 'n omskrewe gebied gevang of versamel en 50 verwyder mag word, asook die voorwaardes waarop die ontginningsreg verleen is, vermeld word; (xxvii)
- (xxi) "plaaslike owerheid" 'n instelling of liggaam bedoel in artikel 84 (1) (f) van die Wet op Provinsiale Bestuur, 1961 (Wet No. 32 van 1961), die Suid-Afrikaanse Ontwikkelingstrust ingestel by artikel 4 van die Ontwikkelingstrust en Grond Wet, 1936 (Wet No. 18 van 1936), en die Raad vir die Bewaring van Natalse Parke, Wild en Vis ingestel kragtens die Ordonnansie op die Bewaring van Natalse Parke, Wild en Vis, 1974 (Ordonnansie No. 15 van 1974), van Natal; (xxi) 60
- (xxii) "polisiebeampte" 'n lid van die Mag soos omskryf in artikel 1 van die Polisie Wet, 1958 (Wet No. 7 van 1958); (xxviii)
- (xxiii) "raad" die Kwotaraad ingestel by artikel 15; (iii) 65
- (xxiv) "regulasie" 'n regulasie kragtens hierdie Wet uitgevaardig; (xxxii)
- (xxv) "Republiek" die provinsies vermeld in artikel 1 van die Grondwet van die Republiek van Suid-Afrika, 1983

SEA FISHERY ACT, 1988

Act No. 12, 1988

- (viii) "factory" means any premises, vehicle or vessel on or in which fish or fish products are salted, dried, smoked, packed, chilled, frozen, canned or otherwise treated for commercial purposes, or fish is kept alive for commercial purposes, excluding a fish shop, supermarket, hotel, boarding house, restaurant, refreshment or tea room or eating house, or a fishing boat in or on which fish which is caught off such fishing boat is only gutted, salted or chilled for the preservation thereof; (v)
- 5 (ix) "fish" means every species of sea animal, whether vertebrate or invertebrate, including the spawn or larvae of such sea animal, excluding any seal or seabird; (xxxiii)
- 10 (x) "fisherman" means a person who catches or attempts to catch fish on a full-time or part-time basis, whether such fish is found in the sea or in or on the sea-shore, with the purpose of selling or attempting to sell or otherwise disposing or attempting to dispose of such fish at a consideration, including a person assisting therewith; (xxxvi)
- 15 (xi) "fishery control officer" means an incumbent of a post or rank referred to in section 5; (xxxix)
- 20 (xii) "fishing boat" means any vessel which is used for catching fish in the sea or the transport of such fish; (xxxvii)
- 25 (xiii) "fishing harbour" means a declared fishing harbour referred to in section 26 (1); (xxxviii)
- (xiv) "fishing industry" means the whole of the trade engaged in the catching, breeding or acquisition by any other means of fish, the processing thereof and the provision or delivery for trade purposes of such fish or fish products, excluding a fish shop, supermarket, hotel, boarding house, restaurant, refreshment or tea room or eating house; (xxxiv)
- 30 (xv) "fishing zone" means the territorial waters of the Republic and the fishing zone as defined in sections 2 and 3 of the Territorial Waters Act, 1963 (Act No. 87 of 1963), respectively; (xxxx)
- 35 (xvi) "fish product" means any product, whether in a processed form or not, wholly or partly derived from fish; (xxxv)
- 40 (xvii) "fund" means the Sea Fishery Fund referred to in section 27; (vi)
- (xviii) "high-water mark" means the highest line reached by the water of the sea during ordinary storms during the most stormy period of the year, excluding an exceptional or abnormal flood; (xi)
- 45 (xix) "implement" means any net or other apparatus or means used for or in connection with the catching of fish; (xxxiv)
- 50 (xx) "licence" means the document which may on application periodically be issued by the State and which authorizes the use of an object which has to be licensed in terms of this Act; (xvi)
- 55 (xxi) "local authority" means any institution or body referred to in section 84 (1) (f) of the Provincial Government Act, 1961 (Act No. 32 of 1961), the South African Development Trust established by section 4 of the Development Trust and Land Act, 1936 (Act No. 18 of 1936), and the Natal Parks, Game and Fish Preservation Board established under the Natal Parks, Game and Fish Preservation Ordinance, 1974 (Ordinance No. 15 of 1974), of Natal; (xxi)
- 60 (xxii) "low-water mark" means the lowest line to which the water of the sea recedes during periods of ordinary spring tides; (xv)
- 65 (xxiii) "master" means the person having command or control of a fishing boat or vessel; (vii)
- (xxiv) "Minister" means the Minister of Environment Affairs and of Water Affairs; (xvii)

Wet No. 12, 1988

WET OP SEEVISSERY, 1988

- (Wet No. 110 van 1983), die hawe en nedersetting Walvisbaai en die eilande en rotse in Bylae 2 vermeld; (xxxiii)
- (xxvi) "see" die water en die bedding van die see, met inbegrip van— 5
 (a) die strand; en
 (b) die water en die beddings van getyriwiere en getystrandmere; (xxv)
- (xxvii) "seemyl" die internasionale seemyl van 1 852 meter; (xxv) 10
- (xxviii) "skulp" die skulp of 'n gedeelte van die skulp van 'n seedier wat in die see of op die strand aangetref word; (xxxvii)
- (xxix) "strand" die water en die land tussen die laagwatermerk en die hoogwatermerk; (xxxvi) 15
- (xxx) "territoriale waters" die see binne 'n afstand van 12 seemyl vanaf die laagwatermerk; (xxxviii)
- (xxxi) "vaartuig" enige tipe vaartuig wat oor water kan vaar, hetsy selfaangedrewe of nie; (xxxiii)
- (xxxii) "vang" op enige wyse uit die see of die strand haal, van die strand verwyder, in 'n net besit, hetsy die net in die water is of nie, in, op of aan 'n vaartuig besit of aan land bring; (iv) 20
- (xxxiii) "vis" elke spesie gewerwelde of ongewerwelde seedier, met inbegrip van die kuit of larwes van so 'n seedier, uitgesonderd 'n rob of seevoël; (ix) 25
- (xxxiv) "visbedryf" die totale bedryf betrokke by die vang, teel of verkryging op enige wyse van vis, die verwerking daarvan, en die beskikbaarstelling of lewering vir handelsdoeleindes van sodanige vis of visprodukte, uitgesonderd 'n viswinkel, supermark, hotel, losieshuis, restaurant, verversings- of teekamer of eetplek; (xiv) 30
- (xxxv) "visproduk" enige produk, hetsy in 'n verwerkte vorm of nie, wat geheel of gedeeltelik uit vis verkry is; (xvi)
- (xxxvi) "visser" 'n persoon wat op 'n heeltydse of 'n deeltydse grondslag vis, hetsy dit in die see of in of op die strand voorkom, vang of probeer vang met die doel om sodanige vis te verkoop of te probeer verkoop of op 'n ander wyse teen vergoeding van die hand te sit of te probeer sit, met inbegrip van 'n persoon wat daarmee behulpsaam is; (x) 40
- (xxxvii) "vissersboot" enige vaartuig wat gebruik word vir die vang van vis in die see of die vervoer van sodanige vis; (xii)
- (xxxviii) "vissershawe" 'n verklaarde vissershawe bedoel in artikel 26 (1); (xiii) 45
- (xxxix) "visseryebeheerbeampte" 'n bekleër van 'n pos of rang bedoel in artikel 5; (xi)
- (xxxx) "visserysone" die territoriale waters van die Republiek en die visserysone soos omskryf in onderskeidelik artikels 2 en 3 van die Wet op Territoriale Waters, 1963 (Wet No. 87 van 1963); (xv) 50
- (xxxxi) "voertuig" enige vervoermiddel waarin, waarop of waarmee goedere vervoer kan word; (xxxii)
- (xxxxii) "voorgeskryf" of "voorgeskrewe" by regulasie voorgeskrif; (xxix) 55
- (xxxxiii) "waterplant" enige soort plant, alg of ander plantardige organisme wat in die see of in of op die strand voorkom; (ii) en
- (xxxxiv) "werktuig" enige net of ander toestel of middel wat vir die vang van vis gebruik word. (xix) 60

DEEL I

ALGEMENE BELEID VIR BEWARING EN OPTIMALE BENUTTING VAN SUID-AFRIKAANSE LEWENDE MARIENE-HULPBRONNE

Minister kan algemene beleid bepaal.

2. Die Minister kan van tyd tot tyd by kennisgewing in die *Staatkoerant* die algemene beleid met betrekking tot die bewa-

SEA FISHERY ACT, 1988

Act No. 12, 1988

- (xxv) "nautical mile" means the international nautical mile of 1 852 metres; (xxvii)
- (xxvi) "officer" means an officer as defined in section 1 (1) of the Public Service Act, 1984 (Act No. 111 of 1984); (ii)
- 5 (xxvii) "permit" means the document which may on application periodically be issued by the State and in which the name of the exploiter, the name and number of the fishing boat (if any) and the species and maximum mass of fish, aquatic plants or shells which may be caught or
- 10 collected and removed during a specified period and in a defined area, as well as the conditions on which the right of exploitation has been granted, are stated; (xx)
- (xxviii) "police officer" means a member of the Force as defined in section 1 of the Police Act, 1958 (Act No. 7 of 1958); (xxii)
- 15 (xxix) "prescribed" means prescribed by regulation; (xxxxii)
- (xxx) "quota" means the maximum mass of fish of a particular species allocated to an exploiter which he may catch during a specified period and in a defined area; (xiii)
- 20 (xxxi) "quota holder" means the person to whom a quota has been allocated in terms of section 18; (xiv)
- (xxxii) "regulation" means a regulation made under this Act; (xxiv)
- (xxxiii) "Republic" means the provinces mentioned in section 1 of the Republic of South Africa Constitution Act, 1983 (Act No. 110 of 1983), the harbour and settlement of Walvis Bay and the islands and rocks mentioned in Schedule 2; (xxv)
- 25 (xxxiv) "right of exploitation" means a right granted on certain conditions by the Minister to a person in terms of section 25 to have access to the sea for a specified period in order to catch fish or to collect and remove aquatic plants or shells; (xix)
- 30 (xxxv) "sea" means the water and the bed of the sea, including—
- 35 (a) the sea-shore; and
- (b) the water and the beds of tidal rivers and tidal lagoons; (xxvi)
- (xxxvi) "sea-shore" means the water and the land between the low-water mark and the high-water mark; (xxix)
- 40 (xxxvii) "shell" means the shell or portion of the shell of any sea animal found in the sea or on the sea-shore; (xxviii)
- (xxxviii) "territorial waters" means the sea within a distance of 12 nautical miles from the low-water mark; (xxx)
- 45 (xxxix) "this Act" includes any regulation or notice made or issued under this Act; (x)
- (xxxx) "tidal lagoon" means any lagoon in which a rise and fall of the water level takes place as a result of the tides; (ix)
- 50 (xxxxi) "tidal river" means that part of any river in which a rise and fall of the water level takes place as a result of the tides; (viii)
- (xxxxii) "vehicle" means any vehicle in, on or with which goods can be transported; (xxxxi)
- 55 (xxxxiii) "vessel" means any water-navigable craft of any type whatsoever, whether self-propelled or not; (xxxi) and
- (xxxxiv) "year" means any period of 12 consecutive months. (xii)

PART I

60 GENERAL POLICY FOR CONSERVATION AND OPTIMAL UTILIZATION OF SOUTH AFRICAN LIVING MARINE RESOURCES

2. The Minister may from time to time by notice in the *Gazette* determine the general policy with regard to the conser- Minister may determine general policy.

Wet No. 12, 1988

WET OP SEEVISSERY, 1988

ring en optimale benutting van die Suid-Afrikaanse lewende mariene-hulpbronne bepaal wat gevolg moet word met die oog op—

- (a) die beskerming van die mariene-ekologie; en
- (b) die bevordering, beskerming en volgehoue benutting 5 van die see, sy lewende hulpbronne en derivate daarvan, tot die grootste voordeel van die huidige en toekomstige inwoners van die Republiek, met inagneming van ekonomiese, sosiale en kulturele waardes.

DEEL II

10

TOEPASSING EN ADMINISTRASIE VAN WET

Toepassing van
Wet.

3. Hierdie Wet is nie van toepassing nie ten opsigte van—

- (a) vis wat in water voorkom wat nie te eniger tyd gedurende die jaar 'n deel van die see vorm nie;
- (b) die vang van vis in 'n getystrandmeer, getyriw of riviermonding langs die kus van die provinsie Natal of vanaf die strand langs genoemde kus, uitgesonderd die deel van genoemde kus in 'n gebied wat bestaan uit grond bedoel in artikel 21 (1) van die Ontwikkelings-trust en Grond Wet, 1936 (Wet No. 18 van 1936), of in 20 'n afgesonderde Swart gebied soos omskryf in artikel 49 van genoemde Wet; of
- (c) 'n gebied aangrensend aan die see wat kragtens die Wet op Nasionale Parke, 1976 (Wet No. 57 van 1976), tot 'n nasionale park of tot deel van so 'n park of kragtens die Meergebiede-ontwikkelingswet, 1975 (Wet No. 39 van 1975), tot 'n meer gebied verklaar is. 25

Delegering van be-
voegdthede.

4. (1) Die Minister kan—

- (a) 'n bevoegdheid by of kragtens hierdie Wet aan hom verleen, uitgesonderd die bevoegdheid om regulasies uit te vaardig en 'n bevoegdheid bedoel in paragraaf (b), aan 'n beampte van die departement deleger op die voorwaardes deur hom bepaal; en
- (b) by kennisgewing in die *Staatskoerant* 'n bevoegdheid by of kragtens hierdie Wet aan hom verleen ten opsigte van 'n bepaalde spesie vis, waterplante of skulpe, in die algemeen of met betrekking tot 'n omskrewe gebied, uitgesonderd die bevoegdheid om regulasies uit te vaardig, aan enige persoon, met inbegrip van 'n plaaslike owerheid of liggaam van persone, deleger. 40

(2) Iemand aan wie 'n bevoegdheid kragtens subartikel (1) gedelegeer is, kan met die skriftelike goedkeuring van die Minister daardie bevoegdheid deleger aan iemand aan wie die Minister dit sou kon gedelegeer het.

(3) Die direkteur-generaal kan 'n bevoegdheid by of kragtens hierdie Wet aan hom verleen, aan 'n beampte in die departement deleger op die voorwaardes deur hom bepaal. 45

(4) 'n Bevoegdheid ten opsigte van grond in 'n gebied bedoel in artikel 21 (1) van die Ontwikkelingstrust en Grond Wet, 1936 (Wet No. 18 van 1936), of in 'n afgesonderde Swart gebied soos omskryf in artikel 49 van genoemde Wet, word nie kragtens sub-artikel (1) of (2) gedelegeer nie tensy die Minister van Staatkundige Ontwikkeling en Beplanning daartoe instem. 50

Visseryebeheer-
beamptes.

5. (1) Die Minister kan, behoudens die bepalings van die Staatsdienswet, 1984 (Wet No. 111 van 1984), poste in die departement aanwys waarvan die bekleërs vir die doeleindes van hierdie Wet visseryebeheerbeamptes moet wees. 55

(2) Die Minister kan by kennisgewing in die *Staatskoerant* en met die instemming van—

- (a) die Administrateur van 'n provinsie, behoudens die bepalings van die Staatsdienswet, 1984 (Wet No. 111 van 1984), poste in daardie provinsie of 'n statutêre liggaam onder die beheer van so 'n Administrateur, aanwys; 60

SEA FISHERY ACT, 1988

Act No. 12, 1988

vation and optimal utilization of the South African living marine resources to be applied with a view to—

- (a) the protection of the marine ecology; and
- (b) the promotion, protection and sustained utilization of the sea, its living resources and derivatives thereof, to the greatest benefit of the present and future inhabitants of the Republic, regard being had to economic, social and cultural values.

PART II

APPLICATION AND ADMINISTRATION OF ACT

3. This Act shall not apply in respect of—

Application of Act.

- (a) fish found in water which does not at any time during the year form part of the sea;
- (b) the catching of fish in a tidal lagoon, tidal river or estuary along the coast of the province of Natal or from the sea-shore along the said coast, excluding that part of the said coast in an area which consists of land referred to in section 21 (1) of the Development Trust and Land Act, 1936 (Act No. 18 of 1936), or in a scheduled Black area as defined in section 49 of the said Act; or
- (c) an area bordering on the sea which has in terms of the National Parks Act, 1976 (Act No. 57 of 1976), been declared to be a national park or part of such park, or which has been declared a lake area under the Lake Areas Development Act, 1975 (Act No. 39 of 1975).

4. (1) The Minister may—

Delegation of powers.

- (a) delegate any powers conferred upon him by or under this Act, excluding the power to make regulations and a power referred to in paragraph (b), to any officer of the department on the conditions determined by him; and
- (b) by notice in the *Gazette* delegate, in respect of any particular species of fish, aquatic plants, or shells, in general or in respect of a defined area, any power conferred upon him by or under this Act, excluding the power to make regulations, to any person, including a local authority or body of persons.

(2) Any person to whom any power has been delegated under subsection (1) may, with the written approval of the Minister, delegate that power to any person to whom the Minister could have delegated it.

(3) The director-general may delegate any powers conferred upon him by or under this Act to an officer in the department on the conditions determined by him.

(4) No power in respect of land in an area referred to in section 21 (1) of the Development Trust and Land Act, 1936 (Act No. 18 of 1936), or in a scheduled Black area as defined in section 49 of the said Act, shall be delegated under subsection (1) or (2) unless the Minister of Constitutional Development and Planning consents thereto.

5. (1) The Minister may, subject to the provisions of the Public Service Act, 1984 (Act No. 111 of 1984), designate posts in the department of which the incumbents shall be fishery control officers.

Fishery control officers.

(2) The Minister may by notice in the *Gazette* and with the concurrence of—

- (a) the Administrator of a province, subject to the provisions of the Public Service Act, 1984 (Act No. 111 of 1984), designate posts in that administration or a statutory body under the control of such Administrator;

Wet No. 12, 1988

WET OP SEEVISSERY, 1988

- (b) die Suid-Afrikaanse Buro vir Standaard bedoel in artikel 2 van die Wet op Standaard, 1982 (Wet No. 30 van 1982), poste in daardie Buro aanwys;
 - (c) 'n plaaslike owerheid of statutêre liggaam, poste in so 'n plaaslike owerheid of statutêre liggaam aanwys; 5
 - (d) die Raad van Kuratore vir Nasionale Parke ingestel ingevolge artikel 5 (1) van die Wet op Nasionale Parke, 1976 (Wet No. 57 van 1976), poste in daardie Raad aanwys,
- waarvan die bekleërs visserybeheerbeamptes moet wees. 10
- (3) Die Minister kan by kennisgewing in die *Staatskoerant*—
- (a) met die instemming van die Minister van Verdediging, 'n besondere rang of range in die Suid-Afrikaanse Vloot; en
 - (b) met die instemming van die Minister van Justisie, 'n besondere rang of range in die Gevangenisdienste, 15
- aanwys waarvan die bekleërs visserybeheerbeamptes moet wees, en kan sodanige aanwysing aldus wysig of intrek.
- (4) Die Minister kan, met die instemming van die Minister van Finansies, die addisionele vergoeding bepaal (as daar is) wat betaalbaar is aan die bekleërs van poste aangewys kragtens subartikel (2). 20
- (5) Die bekleërs van poste aangewys kragtens subartikels (1) en (2) moet deur die direkteur-generaal of 'n ander beampte deur die direkteur-generaal vir dié doel aangewys, voorsien 25 word van 'n voorgeskrewe identiteitskaart, en so 'n bekleër moet, wanneer hy ingevolge hierdie Wet 'n bevoegdheid uitoefen of 'n plig of werksaamheid verrig, en op versoek van iemand wat daardeur geraak word, daardie identiteitskaart aan so iemand ter insae toon. 30

Ere-vissery-beamptes.

6. (1) Die direkteur-generaal kan enige persoon by skriftelike kennisgewing aan hom, as ere-visserybeampte aanstel.
- (2) 'n Ere-visserybeampte is bekleë met die voorgeskrewe bevoegdhede.
- (3) Die direkteur-generaal kan te eniger tyd, sonder om redes 35 te verstrek, die aanstelling van 'n ere-visserybeampte skriftelik intrek indien hy dit wenslik ag.
- (4) Iemand wat kragtens subartikel (1) aangestel word, moet deur die direkteur-generaal of 'n ander beampte deur die direkteur-generaal vir dié doel aangewys, voorsien word van 'n aanstellingssertifikaat, en so iemand moet, wanneer hy ingevolge hierdie Wet 'n bevoegdheid uitoefen of 'n plig of werksaamheid verrig, en op versoek van iemand wat daardeur geraak word, daardie sertifikaat aan so iemand ter insae toon. 40

DEEL III

45

SEEVISSERY-ADVIESKOMITEE

Instelling van Seevissery-advieskomitee.

7. Die Minister moet 'n komitee wat die Seevissery-advieskomitee genoem word, instel om hom van advies te dien met betrekking tot—
- (a) enige aangeleentheid waaroor hy ingevolge hierdie Wet 50 die advieskomitee moet raadpleeg;
 - (b) enige aangeleentheid wat die Minister na die advieskomitee vir ondersoek en advies verwys.

Samestelling van advieskomitee.

8. (1) Die advieskomitee bestaan uit die aantal persone, maar minstens vyf, wat die Minister aanstel en wat na sy oordeel oor 55 die nodige kundigheid in hul betrokke vakgebiede beskik om 'n wesenlike bydrae tot die advieskomitee se werksaamhede te lewer.
- (2) Die Minister stel vir elke lid van die advieskomitee 'n plaasvervangende lid aan, en 'n plaasvervangende lid aldus aangestel, kan 'n vergadering van die advieskomitee bywoon en aan die verrigtings aldaar deelneem tydens die afwesigheid, of vakature in die amp, van die lid vir wie hy as plaasvervangende lid aangestel is. 60

SEA FISHERY ACT, 1988

Act No. 12, 1988

- (b) the South African Bureau of Standards referred to in section 2 of the Standards Act, 1982 (Act No. 30 of 1982), designate posts in that Bureau;
- (c) a local authority or statutory body, designate posts in such local authority or statutory body;
- (d) the National Parks Board of Trustees established in terms of section 5 (1) of the National Parks Act, 1976 (Act No. 57 of 1976), designate posts in that Board, of which the incumbents shall be fishery control officers.
- (3) The Minister may by notice in the *Gazette*—
- (a) with the concurrence of the Minister of Defence, designate a particular rank or ranks in the South African Navy; and
- (b) with the concurrence of the Minister of Justice, designate a particular rank or ranks in the Prisons Service, of which the incumbents shall be fishery control officers, and may so alter or cancel such designation.
- (4) The Minister may, with the concurrence of the Minister of Finance, determine the additional remuneration (if any) which is payable to the incumbents of posts designated under subsection (2).
- (5) The incumbents of posts designated under subsections (1) and (2) shall be furnished by the director-general or any other officer designated by the director-general for that purpose with a prescribed identity card, and whenever such incumbent exercises any power or performs any duty or function in terms of this Act, he shall, at the request of any person affected thereby, produce that identity card to such person for inspection.
6. (1) The director-general may by written notice to any person, appoint such person as an honorary fishery officer. Honorary fishery officers.
- (2) An honorary fishery officer shall be invested with the prescribed powers.
- (3) The director-general may at any time, without giving reasons, withdraw the appointment of an honorary fishery officer in writing if he deems it desirable.
- (4) Any person appointed under subsection (1) shall be furnished by the director-general or any other officer designated by the director-general for that purpose with a certificate of appointment, and whenever such person exercises any power or performs any duty or function in terms of this Act, he shall, at the request of any person affected thereby, produce that certificate to such person for inspection.

PART III

SEA FISHERY ADVISORY COMMITTEE

7. The Minister shall establish a committee called the Sea Fishery Advisory Committee, to advise him in relation to— Establishment of Sea Fishery Advisory Committee.
- (a) any matter on which he has to consult the advisory committee in terms of this Act;
- (b) any matter which the Minister refers to the advisory committee for investigation and advice.
8. (1) The advisory committee shall consist of the number of persons, but at least five, appointed by the Minister who in his opinion possess the necessary expertise in their relevant fields of study to make a substantial contribution towards the functions of the advisory committee. Constitution of advisory committee.
- (2) The Minister shall appoint an alternate member for each member of the advisory committee, and any alternate member so appointed may attend and take part in the proceedings at any meeting of the advisory committee during the absence, or vacancy in the office, of the member for whom he has been appointed as alternate member.

Wet No. 12, 1988

WET OP SEEVISSERY, 1988

- (3) (a) Die Minister stel die voorsitter en ondervoorsitter van die advieskomitee aan vir die tydperk en onderworpe aan die voorwaardes deur hom bepaal.
- (b) Indien die voorsitter om die een of ander rede nie as voorsitter kan optree nie tree die ondervoorsitter as voorsitter op en verrig hy die werksaamhede van die voorsitter. 5

Ampstermyn en ontruiming van amp deur lede of plaasvervangende lede van advieskomitee.

9. (1) 'n Lid of plaasvervangende lid van die advieskomitee bekleë sy amp vir die tydperk, maar hoogstens drie jaar, wat die Minister ten tyde van sy aanstelling bepaal, en kan by die verstryking van sy ampstermyn weer aangestel word. 10

(2) 'n Lid of plaasvervangende lid van die advieskomitee ontruim sy amp indien hy—

- (a) insolvent raak;
- (b) geestelik versteurd raak; 15
- (c) aan 'n misdryf skuldig bevind word en tot gevangenisstraf sonder die keuse van 'n boete gevonnis word;
- (d) sonder verlof van die voorsitter van drie agtereenvolgende vergaderings van die advieskomitee afwesig is;
- (e) by skriftelike kennisgewing aan die Minister bedank; of 20
- (f) kragtens subartikel (3) van sy amp onthef word.

(3) Die Minister kan te eniger tyd 'n lid of plaasvervangende lid van die advieskomitee van sy amp onthef indien daar na sy oordeel gegronde redes bestaan om dit te doen.

(4) Indien 'n lid of plaasvervangende lid van die advieskomitee om die een of ander rede ophou om sy amp te bekleë, kan die Minister vir die onverstreke tydperk van sy ampstermyn 'n persoon in sy plek aanstel. 25

Vergaderings van advieskomitee.

10. (1) Die eerste vergadering van die advieskomitee word gehou op 'n tyd en plek deur die voorsitter bepaal, en daarna vergader die advieskomitee op die tye en plekke wat die advieskomitee van tyd tot tyd bepaal. 30

(2) Die voorsitter kan te eniger tyd 'n buitengewone vergadering van die advieskomitee belê op die tyd en plek deur hom bepaal. 35

(3) Die Minister bepaal die getal lede van die advieskomitee wat 'n kworum vir 'n vergadering uitmaak.

(4) Indien die voorsitter sowel as die ondervoorsitter van 'n vergadering van die advieskomitee afwesig is, kies die aanwesige lede iemand uit hul geledere om op die vergadering voor te sit. 40

(5) Die beslissing van die meerderheid van die lede van die advieskomitee wat op 'n vergadering aanwesig is, maak 'n besluit van die advieskomitee uit, en by 'n staking van stemme oor 'n aangeleentheid het die persoon wat voorsit, benewens sy beaardslagende stem 'n beslissende stem. 45

(6) Geen besluit deur die advieskomitee geneem of handeling op gesag van die advieskomitee verrig, is ongeldig nie bloot vanweë 'n vakature in die advieskomitee of omdat iemand wat nie geregtig was nie om as 'n lid van die advieskomitee sitting te neem, as so 'n lid sitting geneem het op die tydstop waarop die besluit geneem of die handeling gemagtig is, indien die besluit geneem of die handeling gemagtig is deur die meerderheid van die lede van die komitee wat toe aanwesig was en geregtig was om as lede sitting te neem. 50

(7) By die toepassing van hierdie artikel beteken "lid" ook 'n plaasvervangende lid wat by die betrokke vergadering van die advieskomitee aanwesig is tydens die afwesigheid, of vakature in die amp, van die lid vir wie hy as plaasvervangende lid aangestel is. 55

Subkomitees.

11. (1) Die advieskomitee kan een of meer subkomitees van die advieskomitee aanstel, wat, onderworpe aan die voorskrifte van die advieskomitee, die werksaamhede verrig wat die advieskomitee bepaal. 60

(2) 'n Subkomitee bestaan uit een of meer lede van die advieskomitee en, indien die advieskomitee dit nodig ag, een of meer persone wat die advieskomitee geskik ag, en die advieskomitee kan te eniger tyd so 'n subkomitee ontbind of hersaamstel. 65

SEA FISHERY ACT, 1988

Act No. 12, 1988

- (3) (a) The Minister shall appoint the chairman and vice-chairman of the advisory committee for the period and subject to the conditions determined by him.
- (b) If the chairman cannot act as chairman for one or other reason the vice-chairman shall act as chairman and shall execute the functions of the chairman.

9. (1) A member or alternate member of the advisory committee holds office for such period, but not exceeding three years, as the Minister may determine at the time of his appointment, and may be appointed again at the end of his term of office.

Term of office and vacating of office by members or alternate members of advisory committee.

(2) A member or alternate member of the advisory committee shall vacate his office if he—

- (a) becomes insolvent;
- (b) becomes mentally disturbed;
- (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 advisory committee without leave of the chairman;
- (e) resigns by written notice to the Minister; or
- (f) is removed from office under subsection (3).

(3) The Minister may at any time remove a member or alternate member of the advisory committee from office if in his opinion there are sufficient reasons for doing so.

(4) If a member or alternate member of the advisory committee ceases to hold office for some or other reason, the Minister may appoint a person in his place for the unexpired period of his term of office.

10. (1) The first meeting of the advisory committee shall be held at a time and place determined by the chairman, and thereafter the advisory committee shall meet at such times and places as the advisory committee may from time to time determine.

Meetings of advisory committee.

(2) The chairman may at any time convene a special meeting of the advisory committee at the time and place determined by him.

(3) The Minister shall determine the number of members of the advisory committee who shall form a quorum for a meeting.

(4) If both the chairman and the vice-chairman are absent from a meeting of the advisory committee, the members present shall elect a person from among their number to preside at the meeting.

(5) The decision of the majority of the members of the advisory committee present at a meeting shall constitute a decision of the advisory committee, and, in the event of an equality of votes on any matter, the person presiding shall have a casting vote in addition to his deliberative vote.

(6) No decision taken by the advisory committee or act performed under the authority of the advisory committee shall be invalid merely by reason of a vacancy on the advisory committee or because any person not entitled to sit as a member of the advisory committee, sat as such a member at the time when the decision was taken or the act was authorized, if the decision was taken or the act was authorized by the majority of the members of the advisory committee present at the time and who were entitled to sit as members.

(7) For the purposes of this section "member" includes an alternate member present at the relevant meeting of the advisory committee during the absence, or vacancy in the office, of the member for whom he has been appointed as alternate member.

11. (1) The advisory committee may constitute one or more subcommittees of the advisory committee, which may, subject to the directions of the advisory committee, perform such functions of the advisory committee as the advisory committee may determine.

Subcommittees.

(2) A subcommittee shall consist of one or more members of the advisory committee and, if the advisory committee deems it necessary, one or more persons whom the advisory committee may deem fit, and the advisory committee may at any time dissolve or reconstitute such subcommittee.

Wet No. 12, 1988

WET OP SEEVISSERY, 1988

(3) Een van die lede van 'n subkomitee word deur die advieskomitee as voorsitter van die subkomitee aangewys.

Toelaes en vergoeding van lede van advieskomitee en subkomitees en plaasvervangende lede van advieskomitee.

12. Die direkteur-generaal kan aan 'n lid en 'n plaasvervangende lid van die advieskomitee, en 'n lid van 'n subkomitee, wat nie in die heeltidse diens van die Staat is nie, uit geld wat die Parlement vir die doel bewillig, die toelaes en vergoeding betaal wat die Minister in die algemeen of in 'n besondere geval, met die instemming van die Minister van Finansies bepaal. 5

DEEL IV

BEDRYFSLIGGAME EN BELANGEGROEPE IN VERSKILLENDIGE VERTAKKINGS VAN VISBEDRYF 10

Erkenning van bedryfsliggame en belangegroep deur Minister.

13. Die Minister kan by kennisgewing in die *Staatskoerant* enige bedryfsliggame of belangegroep in 'n vertakking van die visbedryf wat na die oordeel van die Minister verteenwoordigend is van die betrokke vertakking, as bedryfsliggame of belangegroep van daardie vertakking erken. 15

Bevoegdheid van bedryfsliggame en belangegroep.

14. 'n Bedryfsliggame of belangegroep erken kragtens artikel 13, het die bevoegdheid om die advieskomitee van inligting te voorsien en advies te dien ten opsigte van enige aangeleentheid in die visbedryf waarvoor die advieskomitee hom raadpleeg. 20

DEEL V

KWOTARAAD

Instelling van Kwotaraad.

15. Daar is 'n raad wat die Kwotaraad genoem word en 'n regspersoon is.

Samestelling van raad.

16. Die raad bestaan uit die getal lede wat die Minister aanstel, maar 'n persoon wat op enige wyse 'n direkte of indirekte belang in of by die visbedryf het, of wie se gade of kind so 'n belang het, of 'n persoon in diens van die Staat, mag behoudens artikel 17 (2) nie as 'n lid of plaasvervangende lid in die raad aangestel word nie. 30

Plaasvervangende lede, voorsitter en ondervoorsitter, ampstermyn, onthefing van amp, vul van vakatures, vergaderings, toelaes en vergoeding, en ontruiming van amp.

17. (1) Die bepalinge van artikels 8 (2) en (3), 9 (1), (3) en (4), 10 en 12 is *mutatis mutandis* op die raad van toepassing, en by sodanige toepassing word 'n verwysing in genoemde artikels na die advieskomitee of subkomitee uitgelê as 'n verwysing na die raad. 35

(2) Die voorsitter van die raad moet—
(a) 'n regter, afgetrede regter of senior advokaat van die Hooggeregshof van Suid-Afrika; of
(b) 'n landdros of afgetrede landdros met minstens 10 jaar ondervinding as 'n landdros, 40

wees.
(3) (a) 'n Lid of plaasvervangende lid van die raad ontruim sy amp indien hy of sy gade of kind 'n direkte of indirekte belang op enige wyse in of by die visbedryf bekom of daardie lid by die Staat in diens tree. 45

(b) Die bepalinge van artikel 9 (2) is *mutatis mutandis* van toepassing ten opsigte van 'n lid of plaasvervangende lid van die raad.

Werkzaamheid van raad.

18. (1) Die werkzaamheid van die raad is om—
(a) riglyne vir die bepaling van kwotas aan te beveel by die Minister vir sy goedkeuring; en
(b) kwotas op aansoek aan ontginners in die verskillende vertakkinge van die visbedryf, behoudens subartikel (3) en artikel 19, en ooreenkomstig die goedgekeurde riglyne toe te ken. 55

(2) Aansoek om die toekenning van kwotas moet op die voorgeskrewe vorm gedoen word.

(3) Kwotas aan vreemde moondhede wat binne die visserysone, uitgesonderd die territoriale waters, visvangaktiwiteite wil beoefen, kan slegs deur die Minister toegeken word. 60

SEA FISHERY ACT, 1988

Act No. 12, 1988

(3) One of the members of a subcommittee shall be designated by the advisory committee as chairman of the subcommittee.

12. The director-general may pay to a member and alternate member of the advisory committee, and a member of a subcommittee, who is not in the full-time employment of the State, from moneys appropriated by Parliament for the purpose, the allowances and remuneration which the Minister may determine in general or in a specific case, with the concurrence of the Minister of Finance.

Allowances and remuneration of members of advisory committee and subcommittees and alternate members of advisory committee.

PART IV

INDUSTRIAL BODIES AND INTEREST GROUPS IN DIFFERENT BRANCHES OF FISHING INDUSTRY

13. The Minister may, by notice in the *Gazette*, recognize 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 branch, as industrial body or interest group of that branch.

Recognition of industrial bodies and interest groups by Minister.

14. An industrial body or interest group recognized under section 13, shall have the power to furnish information and to advise the advisory committee in respect of any matter in the fishing industry on which it is consulted by the advisory committee.

Powers of industrial bodies and interest groups.

PART V

QUOTA BOARD

15. There shall be a board called the Quota Board, which shall be a juristic person.

Establishment of Quota Board.

16. The board shall consist of the number of members appointed by the Minister, but any person who has a direct or indirect interest in any manner whatsoever in the fishing industry, or whose spouse or child has such an interest, or a person in the employment of the State, shall subject to section 17 (2) not be appointed as a member or alternate member of the board.

Constitution of board.

17. (1) The provisions of sections 8 (2) and (3), 9 (1), (3) and (4), 10 and 12 shall apply *mutatis mutandis* to the board, and for the purposes of such application a reference in the said sections to the advisory committee or subcommittee shall be construed as a reference to the board.

Alternate members, chairman and vice-chairman, term of office, removal from office, filling of vacancies, meetings, allowances and remuneration, and vacating of office.

(2) The chairman of the board shall be—
(a) a judge, retired judge or senior advocate of the Supreme Court of South Africa; or
(b) a magistrate or retired magistrate of at least 10 years experience as a magistrate.

(3) (a) A member or alternate member of the board shall vacate his office if he or his spouse or child acquires a direct or indirect interest in any manner whatsoever in the fishing industry or that member is employed by the State.

(b) The provisions of section 9 (2) are applicable *mutatis mutandis* to a member or alternate member of the board.

18. (1) The functions of the board are to—
(a) recommend to the Minister for his approval guide-lines for the determination of quotas; and
(b) allocate quotas on application to exploiters in the different branches of the fishing industry, subject to subsection (3) and section 19, and in accordance with the approved guide-lines.

Functions of board.

(2) Application for the allocation of quotas shall be made on the prescribed form.

(3) Quotas to foreign states desiring to exercise fishing activities within the fishing zone, excluding the territorial waters, may only be allocated by the Minister.

Wet No. 12, 1988

WET OP SEEVISSERY, 1988

Bepaling van maksimum massa vis beskikbaar vir kwotas.

Opskorting, intrekking en vermindering van kwotas.

Ondersoeke in verband met kwotas.

19. Die Minister moet van tyd tot tyd, na oorleg met die advieskomitee, die maksimum massa vis van 'n bepaalde spesie wat beskikbaar is vir die toekenning van kwotas deur die raad, op die voorwaardes wat hy goedvind, bepaal.

20. (1) Indien 'n kwotahouer— 5
- (a) in of in verband met sy aansoek om die toekenning van 'n kwota, inligting verstrek wat nie juis of volledig is nie; 10
 - (b) 'n voorwaarde onderworpe waaraan 'n permit uitgereik is, oortree of versuim om daaraan te voldoen; 10
 - (c) 'n bepaling van hierdie Wet oortree of versuim om daaraan te voldoen;
 - (d) te eniger tyd skuldig bevind word aan enige misdryf of om 'n ander rede nie 'n geskikte persoon is om die bedrywighede met betrekking tot die kwota wat aan hom 15 toegeken is, uit te oefen nie,

kan die raad die kwotahouer by wyse van 'n skriftelike kennisgewing per aangetekende pos aan sy jongste bekende adres gestuur, versoek om binne 'n tydperk van 21 dae vanaf die datum van die kennisgewing, skriftelik redes aan te voer waarom die 20 kwota wat aan hom toegeken is, nie opgeskort, ingetrek of verminder moet word nie.

(2) Indien by verstryking van die tydperk in subartikel (1) bedoel, geen redes aangevoer is nie of die raad van oordeel is dat die redes wat aangevoer is, nie grondig of aanvaarbaar is nie, na 25 gelang van die geval, en dat die betrokke kwota opgeskort, ingetrek of verminder behoort te word, moet die raad by die Minister aanbeveel dat hy—

- (a) die betrokke kwota opskort; 30
- (b) die betrokke kwota intrek met ingang van 'n sekere datum; of
- (c) die betrokke kwota verminder.

(3) Die Minister kan—

- (a) die betrokke kwota opskort vir die tydperk deur hom bepaal; 35
- (b) die betrokke kwota intrek vanaf 'n datum deur hom bepaal;
- (c) die betrokke kwota verminder; of
- (d) besluit om die kwota nie op te skort, in te trek of te verminder nie. 40

(4) By die opskorting van 'n kwota kragtens subartikel (3) (a), word die kwotahouer vir die tydperk waarvoor die kwota aldus opgeskort is, geag nie 'n kwotahouer te wees nie.

(5) 'n Opskorting, intrekking of vermindering van 'n kwota moet deur die direkteur-generaal in die register bedoel in artikel 45 23 aangeteken word.

21. (1) Die raad kan met betrekking tot die toekenning van kwotas die direkteur-generaal versoek om enige ondersoek in te stel ten einde die raad in staat te stel om sy werksaamhede behoorlik te verrig. 50

(2) Vir die doeleindes van so 'n ondersoek kan die direkteur-generaal 'n komitee aanstel om die ondersoek te doen.

(3) So 'n komitee kan—

- (a) iemand wat na sy oordeel in staat is om inligting van wesenlike belang te verstrek omtrent die onderwerp 55 van die ondersoek, of wat vermoed word 'n register, boek, stuk of saak in sy besit of bewaring of onder sy beheer te hê wat op daardie onderwerp betrekking kan hê, gelas om voor so 'n komitee met sodanige register, boek, stuk of saak te verskyn; 60
- (b) iemand wat by die ondersoek teenwoordig is, hetsy hy kragtens paragraaf (a) gelas is of kon gewees het, oproep en hom 'n eed opleë of van hom 'n bevestiging aanneem; en
- (c) iemand wat kragtens paragraaf (b) opgeroep is, onder- 65 vra of vereis dat hy 'n register, boek, stuk of saak bedoel in paragraaf (a) voorlê.

SEA FISHERY ACT, 1988

Act No. 12, 1988

19. The Minister shall from time to time, after consultation with the advisory committee, determine, on the conditions that he may deem fit, the maximum mass of fish of a particular species which is available for the allocation of quotas by the board.

Determination of maximum mass of fish available for quotas.

20. (1) If a quota holder—

- (a) furnishes information which is not true or complete in connection with his application for the allocation of a quota;
- (b) contravenes or fails to comply with a condition subject to which a permit has been issued;
- (c) contravenes a provision of this Act or fails to comply therewith;
- (d) is at any time convicted of any offence or for any other reason is not a proper person to perform the business with regard to the quota allocated to him,

Suspension, cancellation and reduction of quotas.

the board may request the quota holder by way of a written notice sent by registered post to his last known address, to furnish reasons in writing within a period of 21 days from the date of the notice, why the quota which has been allocated to him, should not be suspended, cancelled or reduced.

(2) If after the lapse of the period referred to in subsection (1), no reasons have been furnished or the board is of the opinion that the reasons furnished are not well-founded or acceptable, as the case may be, and that the relevant quota should be suspended, cancelled, or reduced, the board shall recommend to the Minister that he—

- (a) suspends the quota in question;
- (b) cancels the quota in question with effect from a certain date; or
- (c) reduces the quota in question.

(3) The Minister may—

- (a) suspend the quota in question for the period determined by him;
- (b) cancel the quota in question from a date determined by him;
- (c) reduce the quota in question; or
- (d) decide not to suspend, cancel or reduce the quota.

(4) On the suspension of a quota under subsection 3 (a), the quota holder shall be deemed not to be a quota holder for the period for which the quota has been so suspended.

(5) A suspension, cancellation or reduction of a quota shall be recorded by the director-general in the register referred to in section 23.

21. (1) The board may with regard to the allocation of quotas request the director-general to inquire into any matter in order to enable the board to perform its functions properly.

Inquiries in connection with quotas.

(2) For the purposes of such inquiry the director-general may appoint a committee to conduct the inquiry.

(3) Such committee 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 possession or custody or control any register, book, document or thing which may have a bearing on that subject, to appear before such committee with such register, book, document or thing;
- (b) call upon, and administer an oath to, or accept an affirmation from, any person present at the inquiry, whether he has been or could have been ordered under paragraph (a);
- (c) interrogate or require any person who has been called upon under paragraph (b) to produce a register, book, document or thing referred to in paragraph (a).

(4) An order for the attendance before such committee shall be in the form determined by such committee, and shall be signed by the chairman, who shall be appointed for the purpose of the inquiry by the director-general.

Wet No. 12, 1988

WET OP SEEVISSERY, 1988

(4) 'n Lasgewing om voor so 'n komitee te verskyn, moet in die vorm wees wat so 'n komitee bepaal, en word deur die voorsitter, wat vir die doel van die ondersoek deur die direkteur-generaal aangestel word, onderteken.

(5) Die regsreëls met betrekking tot privilegie wat geld in die geval van 'n persoon wat gedagvaar is om voor 'n geregshof getuie af te lê of 'n register, boek, stuk of 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).

10

Heroorweging van besluite van raad.

22. (a) Indien enige persoon hom veronreg ag deur 'n besluit van die raad met betrekking tot die toekenning of nie-toekenning van 'n kwota, moet die raad, op skriftelike versoek van sodanige persoon aan die raad binne 30 dae na die bekendmaking van sodanige besluit, sodanige besluit heroorweeg, en die besluit van die raad na sodanige heroorweging is finaal.

15

(b) Enige persoon bedoel in paragraaf (a) is geregtig om voor die raad te verskyn en aangehoor te word, hetsy persoonlik of deur middel van 'n verteenwoordiger, en om self getuie af te lê en ander persone as getuies te roep.

20

Hou van register van kwotas.

23. Die direkteur-generaal moet 'n register hou van alle kwotas wat ingevolge artikel 18 toegeken word, en sodanige register moet die voorgeskrewe besonderhede bevat, en is op die voorgeskrewe plekke en tye vir insae deur die publiek beskikbaar.

25

Oordraagbaarheid van kwotas.

24. (1) 'n Kwota of 'n gedeelte van 'n kwota toegeken ingevolge artikel 18 is oordraagbaar ooreenkomstig die riglyne wat die Minister, na oorleg met die Raad op Mededinging ingestel by artikel 3 van die Wet op die Handhawing en Bevordering van Mededinging, 1979 (Wet No. 96 van 1979), bepaal en openbaar maak op 'n wyse wat hy geskik ag.

30

(2) Riglyne bedoel in subartikel (1) kan voorsiening maak vir die oordrag van kwotas—

(a) in die visbedryf in die algemeen; of

35

(b) ten opsigte van 'n bepaalde vertakking van die visbedryf.

(3) Indien 'n kwotahouer sy kwota of 'n gedeelte daarvan aan 'n ander persoon wil oordra, moet hy minstens 21 dae voor die datum waarop beoog word om die oordrag te laat plaasvind, by die direkteur-generaal op die voorgeskrewe wyse om sodanige oordrag aansoek doen en die voorgeskrewe inligting verstrek.

40

(4) Indien die beoogde oordrag voldoen aan die riglyne bedoel in subartikel (1), kan die direkteur-generaal die aansoek goedkeur en die register bedoel in artikel 23 dienooreenkomstig wysig.

45

DEEL VI

VERLENING EN BEÏNDIGING VAN ONTGINNINGSREGTE

Verlening en beëindiging van ontginningsregte deur Minister.

25. (1) Die Minister ken op aansoek op die voorgeskrewe wyse 'n ontginningsreg toe aan 'n persoon wat by die datum van inwerkingtreding van hierdie Wet of in 'n vertakking van die visbedryf toegang tot die see of die strand gehad het, of sodanige toegang gehad het in die bedryf om waterplante of skulpe te versamel, en sodanige toekenning geskied op grond van sodanige persoon se historiese prestasie in gemelde bedryf.

55

(2) Nuwe toetreders tot enige vertakking van die bedrywe in subartikel (1) genoem, moet op die voorgeskrewe wyse om die verlening deur die Minister van 'n ontginningsreg aansoek doen, en die Minister kan sodanige aansoek goedkeur onderworpe aan die voorwaardes deur hom bepaal of dit weier.

60

(3) 'n Ontginningsreg—

(a) word vir 'n bepaalde tydperk deur die Minister op die voorwaardes deur hom bepaal, verleen, en die ontginer moet voor die verstryking van sodanige tydperk, op

SEA FISHERY ACT, 1988

Act No. 12, 1988

(5) The law relating to privilege as applicable to a person summoned to give evidence or to 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).

22. (a) If any person is aggrieved by a decision of the board with regard to the allocation or non-allocation of a quota, the board shall, at the written request of such person to the board within 30 days after the publication of such decision, reconsider such decision, and the decision of the board after such reconsideration shall be final. Reconsideration of decisions of board.
- 10
- (b) Any person referred to in paragraph (a) shall be entitled to appear before the board and be heard, whether personally or by means of a representative, and to give evidence himself and call other persons as witnesses.
- 15

23. The director-general shall keep a register of all quotas allocated under section 18, and such register shall contain the prescribed particulars, and shall be available for inspection by the public at the prescribed places and times. Keeping of register of quotas.

20

24. (1) A quota or a part of a quota allocated in terms of section 18 is transferable in accordance with the guide-lines determined by the Minister after consultation with the Competition Board established by section 3 of the Maintenance and Promotion of Competition Act, 1979 (Act No. 96 of 1979), and announced in a manner that he may deem fit. Transferability of quotas.

25

(2) Guide-lines referred to in subsection (1) may provide for the transfer of quotas—

- 30 (a) in the fishing industry in general; or
- (b) in respect of a particular branch of the fishing industry.
- (3) If a quota holder desires to transfer his quota or a part thereof to any other person, he shall, at least 21 days prior to the date on which the transfer is proposed to take place, apply in the prescribed manner to the director-general for such transfer and supply the prescribed information.
- 35
- (4) If the proposed transfer complies with the guide-lines referred to in subsection (1), the director-general may approve the application and amend the register referred to in section 23 accordingly.
- 40

PART VI

GRANTING AND TERMINATION OF RIGHTS OF EXPLOITATION

25. (1) The Minister shall on application in the prescribed manner grant a right of exploitation to a person who at the date of commencement of this Act either had access to the sea in any branch of the fishing industry or had such access in the industry of collecting aquatic plants or shells, and such grant shall be made on the basis of such person's historical performance in the said industry. Granting and termination of rights of exploitation by Minister.
- 45
- (2) New entrants to any branch of the industries referred to in subsection (1), shall apply to the Minister for the granting of a right of exploitation in the prescribed manner, and the Minister may approve such application subject to the conditions determined by him or refuse it.
- 50
- (3) A right of exploitation—
- 55 (a) shall be granted by the Minister for a specified period on the conditions determined by him, and the exploiter

Wet No. 12, 1988

WET OP SEEVISSERY, 1988

die voorgeskrewe wyse aansoek doen om die verlenging van sodanige reg;

- (b) word slegs vervreem met die vooraf verkreeë goedkeuring van die Minister op die voorwaardes deur hom bepaal, en sodanige vervreemding kan slegs geskied indien die kwota (as daar is), of 'n gedeelte daarvan wat met die ontginningsreg verband hou, ook aan dieselfde persoon oorgedra word; en
- (c) kan deur die Minister opgeskort of beëindig word indien hy van oordeel is dat 'n skuldigbevinding van 'n ontginning aan 'n oortreding ingevolge hierdie Wet, sodanig is dat sy voortgesette deelname nie langer in belang van of die betrokke hulpbron of die betrokke bedryf of die hulpbron en bedryf is nie.

DEEL VII

15

BEVORDERING VAN VISBEDRYF

Ontwikkeling van vissershawens en ander geriewe.

26. (1) (a) Behoudens paragraaf (b) 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 vissershawen verklaar.
- (b) Indien die Minister 'n handelshawe of 'n gedeelte van so 'n hawe tot 'n vissershawen wil verklaar, moet hy vooraf die goedkeuring van die Minister van Vervoerwese daarvoor kry.

(2) Die Minister kan binne of buite 'n vissershawen, in die see, op die strand of op aanliggende grond, uit geld wat die Parlement vir dié doel bewillig, geboue, werke of geriewe wat na die Minister se oordeel nodig is om die belange van die visbedryf te bevorder, oprig of aanskaf en in stand hou en die gebruik daarvan beheer, of toelaat dat sodanige geboue, werke en geriewe deur iemand anders opgerig, aangeskaf, in stand gehou of beheer word.

Seevissery-fonds.

27. (1) Die Seevisserynavorsingsfonds ingestel by artikel 19 van die Wet op Seevisserye, 1973 (Wet No. 58 van 1973), bly voortbestaan, onder die naam die Seevisseryfonds, ondanks die herroeping van genoemde Wet deur artikel 55, en in daardie fonds moet gestort word—

- (a) geld ten opsigte van heffings wat uit hoofde van die bepalings van artikel 29 ingevorder word;
- (b) geld wat die Parlement vir die verwesenliking van die oogmerke van die fonds bewillig;
- (c) rente op beleggings;
- (d) geld wat die fonds met die goedkeuring van die Minister en met die instemming van die Minister van Finansies, uit 'n ander bron toeval; en
- (e) rente gevorder kragtens artikel 29 (2) (d).

(2) (a) Die fonds word deur die direkteur-generaal met die instemming van die Minister van Finansies geadminestreer ooreenkomstig 'n raming of 'n aanvullende of hersiene raming van inkomste en uitgawes wat die Minister 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.

(b) Die direkteur-generaal is die rekenpligtige beampte belas met die verantwoording van geld ontvang in, en betalings gemaak uit, die fonds.

(3) Die direkteur-generaal moet geld in die fonds wat nie vir onmiddellike gebruik benodig is nie, by die Openbare Beleggingskommissaris belê.

(4) '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) Die Ouditeur-generaal ouditeer jaarliks die boeke en rekeninge van die fonds.

SEA FISHERY ACT, 1988

Act No. 12, 1988

shall, before the lapse of such period, apply in the prescribed manner for the extension of such right;

- 5 (b) shall only be alienated with the prior approval of the Minister on the conditions determined by him, and such alienation may only take place if the quota (if any), or a portion thereof connected with the right of exploitation, is also transferred to the same person; and
- 10 (c) may be suspended or terminated by the Minister if he is of the opinion that a conviction of an exploiter of an offence in terms of this Act, is such that his continued participation is no longer in the interest of either the resource in question or the industry in question or the resource and the industry.

PART VII

15 PROMOTION OF FISHING INDUSTRY

26. (1) (a) Subject to paragraph (b) 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 sea-shore, to be a fishing harbour. Development of fishing harbours and other facilities.
- 20 (b) If the Minister desires to declare a commercial harbour or a portion of such harbour to be a fishing harbour, he shall obtain the prior approval of the Minister of Transport therefor.
- (2) The Minister may within or outside any fishing harbour, in the sea, on the sea-shore or on adjacent land, from funds appropriated for that purpose by Parliament, erect or acquire and maintain and control the use of buildings, works and facilities which in the opinion of the Minister are necessary for the promotion of the interests of the fishing industry, and may allow that such buildings, works and facilities be erected, acquired, maintained or controlled by another person.

27. (1) The Sea Fisheries Research Fund established by section 19 of the Sea Fisheries Act, 1973 (Act No. 58 of 1973), shall continue to exist, under the name the Sea Fishery Fund, notwithstanding the repeal of the said Act by section 55, and into that fund there shall be paid— Sea Fishery Fund.

- (a) moneys in respect of levies collected by virtue of the provisions of section 29;
- 40 (b) moneys appropriated by Parliament for the realization of the objects of the fund;
- (c) interest on investments;
- (d) moneys which, with the approval of the Minister and with the concurrence of the Minister of Finance, may accrue to the fund from any other source; and
- 45 (e) interest recovered under section 29 (2) (d).
- (2) (a) The fund shall be administered by the director-general with the concurrence of the Minister of Finance, in accordance with an estimate or a supplementary or revised estimate of revenue and expenditure approved by the Minister 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 (b) The director-general shall be the accounting officer charged with the responsibility of accounting for moneys received and expenditure incurred by the fund.
- 55 (3) The director-general shall invest moneys in the fund not required for immediate use with the Public Investment Commissioners.
- 60 (4) 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.
- (5) The Auditor-General shall annually audit the books and accounts of the fund.

Wet No. 12, 1988

WET OP SEEVISSERY, 1988

Aanwending van
fonds.

28. (1) Die Minister kan uit geld wat in die fonds beskikbaar is, navorsing en ontwikkeling doen in verband met seevisserij, met inbegrip van navorsing en ontwikkeling met betrekking tot—

- (a) die benutting, bewaring en beskerming van die lewende 5
hulpbronne van die see;
- (b) die benutting van die see en die strand vir sover dit nodig mag wees ten einde die lewende hulpbronne van die see te beskerm;
- (c) verbeterde metodes van visvang; 10
- (d) die teel van vis of die kweek van waterplante; en
- (e) die vervaardiging van visprodukte of produkte wat geheel of gedeeltelik uit waterplante verkry is en die verpakking, verwerking en bemarking van sodanige produkte. 15

(2) Die Minister kan uit geld wat in die fonds beskikbaar is, navorsing en ontwikkeling beoog in subartikel (1) deur enige bevoegde Staatsinstelling of ander persoon of liggaam laat doen, of geldelike bystand in verband daarmee verleen op die voorwaardes deur hom, met die instemming van die Minister van Finansies, bepaal. 20

(3) Geld in die fonds word vir die doeleindes genoem in hierdie artikel aangewend deur die Minister op aanbeveling van die advieskomitee, en met die instemming van die Minister van Finansies. 25

Heffing op vis en
visprodukte en sekere
ander mariene-hulpbronne.

29. (1) Die Minister kan, na oorleg met die advieskomitee en met die instemming van die Minister van Finansies, by kennisgewing in die *Staatskoerant*, ten opsigte van alle vis of vis van 'n spesie in die kennisgewing vermeld wat deur vissers aan land gebring word, en 'n produk daarvan, en waterplante en skulpe wat 30
versamel en vanaf die strand of uit die see verwyder word, 'n heffing oplê.

(2) So 'n kennisgewing—

- (a) moet die bedrag van die heffing, die name van die ontginners of deelnemers in die betrokke bedryf deur wie 35
die heffing betaalbaar is, en die naam van die persoon wat met die invordering daarvan belas is, bevat, en kan sodanige ander voorskrifte deur die Minister bevat (met inbegrip van die wyse waarop die massa van vis of visprodukte vir die doeleindes van die berekening van 40
die heffing bepaal moet word) wat hy vir die invordering van die heffing en die inbetaling daarvan in die fonds nodig ag, en die Minister kan so 'n kennisgewing aldus intrek of wysig;
- (b) kan verskillende heffings oplê ten opsigte van verskil- 45
lende spesies vis, verskillende visprodukte, waterplante of skulpe, of verskillende ontginners of deelnemers in die betrokke bedryf, of verskillende gebiede;
- (c) kan 'n vrystelling van betaling van die heffing bevat ten opsigte van vis, visprodukte, waterplante en skulpe wat 50
by 'n plek of in 'n gebied in die kennisgewing vermeld aan land gebring word, indien die opbrengs van die heffing na die oordeel van die Minister nie die koste van invordering van so 'n heffing regverdig nie;
- (d) kan voorskryf dat rente teen die koers wat in die kennisgewing bepaal word, betaalbaar is op enige heffing 55
wat ontvang word ná die datum waarop sodanige heffing betaalbaar was; en
- (e) kan vir 'n oortreding van, of versuim om te voldoen aan, die bepalinge van die kennisgewing strawwe voorskryf wat nie dié strawwe by artikel 47 voorgeskryf, te 60
bowe gaan nie.

(3) Die direkteur-generaal kan die bedrag ten opsigte van 'n heffing en enige rente wat ingevolge 'n kennisgewing kragtens subartikel (1) verskuldig en betaalbaar is, by aksie in 'n be- 65
voegde hof verhaal.

(4) Die direkteur-generaal kan by kennisgewing gestuur per aangetekende pos—

- (a) enige persoon wat vir die betaling van 'n heffing aanspreeklik is, gelas om die besonderhede in die kennis-

SEA FISHERY ACT, 1988

Act No. 12, 1988

28. (1) The Minister may, from moneys available in the fund, undertake research and development in connection with sea fishery, including research and development with relation to—

Appropriation
of fund.

- 5 (a) the utilization, conservation and protection of the living resources of the sea;
- (b) the utilization of the sea and the sea-shore in so far as they may be necessary to protect the living resources of the sea;
- (c) improved methods for the catching of fish;
- 10 (d) the breeding of fish or the cultivation of aquatic plants; and
- (e) the manufacturing of fish products or products wholly or partially obtained from aquatic plants and the packing, processing and marketing of such products.

15 (2) The Minister may, from moneys available in the fund, arrange for the undertaking of research and development contemplated in subsection (1) by any competent institution of State or any person or body, or grant financial assistance in connection therewith on the conditions determined by him with the concurrence of the Minister of Finance.

(3) The moneys in the fund shall be appropriated for the purposes referred to in this section by the Minister on the recommendation of the advisory committee and with the concurrence of the Minister of Finance.

25 29. (1) The Minister may, after consultation with the advisory committee and with the concurrence of the Minister of Finance, by notice in the *Gazette* impose a levy on all fish or fish of a species specified in the notice which is landed by fishermen, and any product thereof, and aquatic plants and shells collected and removed from the sea-shore or the sea.

Levy on fish and fish
products and certain
other marine re-
sources.

(2) Such a notice—

- 35 (a) shall contain the amount of the levy, the names of the exploiters or participants in the industry in question by whom the levy is payable and the name of the person charged with the recovery thereof, and may contain such other directions by the Minister as he may deem necessary for the collection of the levy and the payment thereof into the fund (including the manner in which the mass of fish or fish products shall be determined for the purposes of the calculation of the levy), and the Minister may so withdraw or amend such notice;
- 40 (b) may impose different levies in respect of different species of fish, different fish products, aquatic plants or shells, or different exploiters or participants in the relevant industry, or different areas;
- 45 (c) may contain an exemption from payment of the levy in respect of fish, fish products, aquatic plants or shells landed at a place or in an area specified in the notice, if the proceeds of the levy, in the opinion of the Minister, would not justify the expenses of collecting such levy;
- 50 (d) may prescribe that interest is payable at the rate determined in the notice on any levy which is received after the date on which such levy was payable; and
- 55 (e) may prescribe penalties which do not exceed the penalties prescribed by section 47, for any contravention of or failure to comply with the provisions of the notice.

(3) The director-general may recover the amount in respect of a levy and any interest which is due and payable in terms of a notice under subsection (1), in a competent court of law.

60 (4) The director-general may by notice sent by registered post—

- (a) direct any person who is liable for payment of a levy, to furnish the director-general with the particulars men-

Wet No. 12, 1988

WET OP SEEVISSERY, 1988

- gewing vermeld binne 'n tydperk in die kennisgewing vermeld aan die direkteur-generaal te verstrek; en
- (b) vereis dat enige persoon wat vir die betaling van 'n heffing aanspreeklik is, opgewas aan die direkteur-generaal moet verstrek, en die vorm waarin en die tye 5 wanneer die opgewas verstrek moet word, die besonderhede wat die opgewas moet bevat en die state wat die opgewas moet vergesel, voorskryf.

DEEL VIII

BEHEER OOR VANG, VERWERKING EN UITVOER VAN, EN 10
BESIKKING OOR, VIS

Lisensiëring van visserbote, en persele, voertuie of vaartuie as fabriek.

30. (1) Behoudens die bepalings van artikel 52 mag niemand 'n vaartuig as 'n vissersboot of, na gelang van die geval, 'n perseel, voertuig of vaartuig as 'n fabriek gebruik nie, tensy dit ingevolge hierdie artikel gelisensieer is. 15
- (2) Iemand wat 'n vaartuig, perseel of voertuig as 'n vissersboot of 'n fabriek, na gelang van die geval, wil gebruik, moet op die voorgeskrewe wyse by die direkteur-generaal aansoek doen om die uitreiking van 'n lisensie daarvoor aan hom.
- (3) Indien die direkteur-generaal oortuig is dat die aansoeker 20 'n reg het op die betrokke vaartuig, perseel of voertuig, moet hy, behoudens die bepalings van subartikel (4), die aansoek goedkeur, en teen betaling van die voorgeskrewe gelde die lisensie in die naam van die betrokke aansoeker uitreik onderworpe aan die voorwaardes in of ingevolge subartikel (5) bepaal. 25
- (4) (a) Die direkteur-generaal kan 'n aansoek om 'n lisensie afkeur indien hy oortuig is dat—
- (i) inligting wat in die aansoek verstrek is, nie juis of volledig is nie; of
 - (ii) die betrokke vaartuig nie vir gebruik as 'n 30 vissersboot bestem is nie.
- (b) Indien die Minister oortuig is dat—
- (i) dit in belang van die visbedryf of 'n betrokke hulpbron in die visbedryf is dat die verdere lisensiëring van vaartuie as visserbote in die algemeen of ten 35 opsigte van 'n bepaalde gebied of plek, nie toegelaat moet word nie;
 - (ii) die hawegeriewe in 'n bepaalde vissershawe onvoldoende is om meer visserbote te akkommodeer as die aantal visserbote wat reeds van daardie ge- 40 riewe gebruik maak; of
 - (iii) die hawe-, landings-, bergings- of hanteringsgeriewe in 'n bepaalde vissershawe onvoldoende is om meer as die vangste vanaf visserbote wat reeds van daardie hawe gebruik maak, bevredigend te 45 behartig,
- kan hy die direkteur-generaal gelas om, totdat hy anders gelas, geen verdere vaartuie in die algemeen of, na gelang van die geval, ten opsigte van daardie gebied, plek of vissershawe te lisensieer nie. 50
- (5) (a) 'n Lisensie is geldig vir die tydperk daarin vermeld, welke tydperk deur die direkteur-generaal bepaal word.
- (b) 'n Lisensie word deur die direkteur-generaal uitgereik onderworpe aan die voorwaardes deur hom bepaal, 55 met inbegrip van voorwaardes met betrekking tot—
- (i) die toekenning van 'n registrasienommer aan 'n vissersboot en die wyse waarop dit op daardie vaartuig vertoon moet word;
 - (ii) die gebruik van die hawe-, landings-, bergings- of 60 hanteringsgeriewe in 'n bepaalde vissershawe;
 - (iii) die gebied waarbinne of die plek waar die vaartuig as vissersboot gebruik mag word;
 - (iv) vis wat behoort tot 'n bepaalde spesie wat deur middel van die gebruik van daardie vissersboot nie 65 gevang mag word nie; en

SEA FISHERY ACT, 1988

Act No. 12, 1988

tioned in the notice within a period specified in the notice; and

- 5 (b) require any person who is liable for payment of a levy, to render returns to the director-general, and prescribe the form in which and the times when the returns shall be rendered, the particulars the returns shall contain and the statements which shall accompany the returns.

PART VIII

CONTROL OVER CATCHING, PROCESSING, EXPORT AND DISPOSAL OF FISH

10

30. (1) Subject to the provisions of section 52, no person may use any vessel as a fishing boat or, as the case may be, any premises, vehicle or vessel as a factory unless it has been licensed in terms of this section.

Licensing of fishing boats, and premises, vehicles or vessels as factories.

- 15 (2) Any person desiring to use any vessel, premises or vehicle as a fishing boat or a factory, as the case may be, shall apply in the prescribed manner to the director-general for the issue of a licence to him therefor.

- 20 (3) If the director-general is convinced that the applicant has a right to the vessel, premises or vehicle in question, he shall, subject to the provisions of subsection (4), approve the application, and upon payment of the prescribed fee issue the licence in the name of the applicant in question subject to the conditions determined in or in terms of subsection (5).

- 25 (4) (a) The director-general may refuse to approve an application for a licence if he is satisfied that—

- (i) information furnished in the application is incorrect or incomplete; or
(ii) the vessel in question is not intended for use as a fishing boat.

30

- (b) If the Minister is satisfied that—

- (i) it is in the interest of the fishing industry or a resource in question in the fishing industry, that the further licensing of vessels as fishing boats, in general or in respect of a specified area or place, should not be allowed;
(ii) the harbour facilities in a specified fishing harbour are inadequate to accommodate more fishing boats than the number already making use of those facilities; or
(iii) the harbour, landing, storing or handling facilities in a particular fishing harbour are inadequate to deal satisfactorily with more than the catch of the fishing boats already making use of that harbour,

35

40

45

he may direct the director-general to discontinue, until he directs otherwise, the licensing of further vessels in general or, as the case may be, in respect of that area, place or fishing harbour.

50

- (5) (a) A licence is valid for the period mentioned therein, which period shall be determined by the director-general.

- (b) A licence is issued by the director-general subject to the conditions determined by him, including conditions with relation to—

55

- (i) the allocation of a registration number to a fishing boat and the manner in which it shall be displayed on that vessel;

- (ii) the use of the harbour, landing, storing or handling facilities in a particular fishing harbour;

60

- (iii) the area within which or the place where the vessel may be used as a fishing boat;

- (iv) fish belonging to a particular species which may not be caught by means of the use of that fishing boat; and

Wet No. 12, 1988

WET OP SEEVISSERY, 1988

- (v) die ander aangeleenthede wat die Minister in die algemeen of ten opsigte van 'n bepaalde vissersboot bepaal.
- (6) Die lisensiehouer van 'n gelisensieerde vissersboot moet binne 21 dae na— 5
- (a) die verandering van sy naam of adres;
 - (b) 'n verandering aan die betrokke vissersboot, met inbegrip van 'n verandering van die naam daarvan, op so 'n wyse dat die beskrywing daarvan in die lisensie onjuis of ontoepaslik is; of 10
 - (c) hy die vaartuig verkoop of opgehou het om dit as vissersboot te gebruik, skriftelik besonderhede van so 'n verandering aan die direkteur-generaal verstrek.
- (7) Die direkteur-generaal kan— 15
- (a) by versuim van 'n lisensiehouer van 'n vissersboot om aan die bepalings van subartikel (6) te voldoen; of
 - (b) in die geval van 'n tweede of daaropvolgende skuldigebevinding van sodanige lisensiehouer aan 'n misdryf in-gevolge hierdie Wet ten opsigte van 'n vissersboot, 20
- by kennisgewing per aangetekende pos gestuur aan sy jongste bekende adres, die betrokke lisensie intrek of vir die tydperk wat hy goedgevind, opskort.
- (8) Indien die eienaar of huurder van 'n vaartuig wat in 'n vreemde Staat geregistreer is, 'n Suid-Afrikaanse burger is of, in 25 die geval van 'n maatskappy, 'n maatskappy soos omskryf in artikel 1 van die Maatskappywet, 1973 (Wet No. 61 van 1973), is of, in die geval van 'n beslote korporasie, 'n korporasie soos omskryf in artikel 1 van die Wet op Beslote Korporasies, 1984 (Wet No. 69 van 1984), is, of die eienaar of huurder is van enige vaar- 30 tuig wat toegelaat is om in die visserysone, uitgesonderd die territoriale waters, vis te vang, kan die Minister, ondanks die bepalings van artikel 52 en op aansoek van sodanige eienaar of huurder, die direkteur-generaal gelas om 'n lisensie of permit, na gelang van die geval, ten opsigte van daardie vaartuig vir die 35 tydperk en gebied deur die Minister bepaal, uit te reik.
- 31.** Die Minister kan by kennisgewing in die *Staatskoerant* die gebruik van 'n werktuig vir die vang van vis of vis wat tot 'n bepaalde spesie behoort, binne 'n omskrewe gebied verbied tensy die werktuig op die voorgeskrewe wyse gelisensieer is. 40
- 32.** (1) Die Minister kan by kennisgewing gestuur per aangetekende pos aan 'n eienaar van 'n werktuig bedoel in artikel 31 of 'n werktuig wat behoort tot 'n bepaalde kategorie werktuie, sodanige eienaar op die voorwaardes in die kennisgewing vermeld, van die bepalings van artikel 31 vrystel. 45
- (2) Die Minister kan te eniger tyd 'n vrystelling kragtens subartikel (1) verleen, intrek of die voortgesette geldigheid van die vrystelling onderworpe maak aan voorwaardes deur hom bepaal, hetsy deur die oplegging van verdere of nuwe voorwaardes of deur die intrekking of wysiging van bestaande voorwaardes. 50
- 33.** (1) Die Minister kan, na oorleg met die advieskomitee, by kennisgewing in die *Staatskoerant* verbied dat—
- (a) vis of vis wat tot 'n bepaalde spesie behoort—
 - (i) in die algemeen of in 'n omskrewe gebied, onbepaald of gedurende 'n vermelde tydperk; 55
 - (ii) deur 'n vermelde persoon of 'n persoon wat behoort tot 'n bepaalde kategorie deelnemers in die visbedryf, gevang of gesteur word;
 - (b) vis in die algemeen of vis wat tot 'n bepaalde spesie behoort, op 'n ander plek as 'n vermelde plek, aan land gebring word; 60
 - (c) enigiemand vir eie gebruik of vir 'n ander doel meer as 'n vermelde hoeveelheid vis of vis wat tot 'n bepaalde spesie behoort of meer as 'n vermelde hoeveelheid volgens massa, vang, van een plek na 'n ander verwyder, in besit hê, vir verkoop aanbied of op enige ander wyse van die hand sit, en kan in so 'n kennisgewing voor- 65

Lisensiëring
van werktuie.Vrystelling van
lisensiëring.Beskerming
van vis.

SEA FISHERY ACT, 1988

Act No. 12, 1988

(v) such other matters as the Minister may determine in general or in respect of a particular fishing boat.

(6) The licensee of a licensed fishing boat shall within 21 days after—

- 5 (a) the changing of his name or address;
(b) an alteration to the fishing boat in question, including the change of the name thereof, in such a manner that the description thereof in the licence is incorrect or in-applicable; or
10 (c) he has sold the vessel or ceased to use it as a fishing boat,
furnish the director-general with particulars of such change in writing.

(7) The director-general may—

- 15 (a) if the licensee of a fishing boat fails to comply with the provisions of subsection (6); or
(b) in the case of a second or subsequent conviction of such licensee of any offence in terms of this Act in respect of a fishing boat,
20 by notice sent by registered post to his last known address, cancel or suspend the licence in question for such period as he may deem fit.

(8) If the owner or lessee of a vessel registered in a foreign state is a South African citizen or, in the case of a company, is a
25 company as defined in section 1 of the Companies Act, 1973 (Act No. 61 of 1973), or, in the case of a close corporation, is a corporation as defined in section 1 of the Close Corporations Act, 1984 (Act No. 69 of 1984), or is the owner or lessee of any boat which is permitted to catch fish in the fishing zone, excluding the territorial waters, the Minister may, notwithstanding the
30 provisions of section 52 and on the application of such owner or lessee, direct the director-general to issue a licence or permit, as the case may be, in respect of that vessel for such period and area as may be determined by the Minister.

35 31. The Minister may by notice in the *Gazette* prohibit the use of any implement for the catching of fish or fish belonging to a particular species, within a defined area, unless the implement is licensed in the prescribed manner. Licensing of implements.

40 32. (1) The Minister may by notice sent by registered post to an owner of an implement referred to in section 31 or an implement belonging to a particular category of implements, exempt such owner from the provisions of section 31 on the conditions set out in the notice. Exemption from licensing.

45 (2) The Minister may at any time cancel an exemption granted under subsection (1) or make the continued validity of the exemption subject to conditions determined by him, either by imposing further or new conditions or by the cancellation or amendment of existing conditions.

50 33. (1) The Minister may, after consultation with the advisory committee, by notice in the *Gazette* prohibit— Protection of fish.

- (a) the catching or disturbing of fish or fish belonging to a particular species—
(i) in general or in a defined area, indefinitely or for a specified period;
55 (ii) by a specified person or a person belonging to a particular category of participants in the fishing industry;
(b) the landing of fish in general or fish belonging to a particular species, at a place other than a specified place;
60 (c) any person from catching, removing from one place to another, possessing, offering for sale or disposing of in any other manner, for own use or for another purpose, more than a specified quantity of fish or fish belonging to a particular species or more than a specified quantity

- waardes bepaal onderworpe waaraan enige vis wat ge-
vang mag word, gevang moet word;
- (d) vis wat tot 'n bepaalde spesie behoort en wat kleiner as 'n bepaalde grootte is of wat nie aan 'n ander bepaalde biologiese kenmerk voldoen nie, gevang of besit word; 5
 - (e) vis of vis wat tot 'n bepaalde spesie behoort of 'n produk daarvan, van een plek na 'n ander verwyder word, met die oog op die beskerming van die betrokke vis-bron, behalwe op gesag van 'n permit van die direkteur-generaal ooreenkomstig die voorwaardes deur 10 hom in die permit bepaal;
 - (f) vis of vis wat tot 'n bepaalde spesie behoort deur iemand anders as 'n visser aan wie 'n lisensie ingevolge hierdie Wet uitgereik is, gevang word;
 - (g) vissersbote, met inbegrip van vissersbote van vreemde 15 state wat gemagtig is om in die visserysone, uitgesonderd die territoriale waters, vis op enige wyse te vang, vis vang tensy—
 - (i) die gesagvoerder van sodanige vissersboot spesifieke inligting soos in die kennisgewing omskryf 20 aan die direkteur-generaal verstrek oor die tipe vissersboot, statistieke oor die vangs en vangspoging sowel as die geografiese posisie van die betrokke boot tydens vangste;
 - (ii) 'n deur die direkteur-generaal aangewese waar- 25 nemer of leerling-waarnemer op die vissersboot teenwoordig is; en
 - (iii) die totale vangs of 'n gedeelte van die vangs deur so 'n vissersboot in 'n hawe in die Republiek deur die direkteur-generaal bepaal, aan land gebring 30 word;
 - (h) skeepsvoorrade, uitgesonderd mediese voorrade, sonder die goedkeuring van die Minister van Finansies aan 'n vissersboot, fabriek of vaartuig wat in 'n vreemde staat geregistreer of gelisensieer is en as vissersboot of 35 fabriek gebruik word, voorsien word of die voorsiening daarvan gereël word.
- (2) 'n Kennisgewing ingevolge subartikel (1) (h) kan, met die goedkeuring van die Minister van Finansies, 'n heffing oplê op skeepsvoorrade waarop dit betrekking het en die wyse waarop 40 en die persoon deur wie dit ingevorder moet word, bepaal.
- (3) 'n Kennisgewing ingevolge subartikel (1) is van toepassing op plaaslike sowel as vreemde vissersbote: Met dien verstande dat die Minister in daardie kennisgewing op die voorwaardes deur hom bepaal, vrystelling kan verleen van die bepalings van 45 so 'n kennisgewing ten opsigte van bepaalde hoeveelhede vis wat vir 'n vermelde doel gevang word.

Mariene-reservate.

34. (1) Die Minister kan by kennisgewing in die *Staatskoerant*—

- (a) 'n gebied as 'n mariene-reservaat afsonder vir die be- 50 skerming binne sodanige reservaat van vis in die algemeen of vis wat tot 'n bepaalde spesie behoort of enige waterplant; en
 - (b) in die kennisgewing 'n naam aan sodanige reservaat toeken. 55
- (2) 'n Kennisgewing kragtens subartikel (1)—
- (a) moet 'n beskrywing van die grense van die gebied wat afgesonder word, bevat;
 - (b) kan voorskryf welke vis of waterplante, as daar is, ge-
vang of versamel of nie gevang of versamel mag word 60
nie; en
 - (c) kan voorwaardes waarop sodanige vis gesteur of ge-
vang mag word, bepaal.
- (3) Die voorskrifte bedoel in subartikel (2) (b) moet geskied ooreenkomstig 'n bestuursplan wat ten opsigte van 'n mariene- 65 reservaat deur die Minister goedgekeur is.
- (4) Die direkteur-generaal kan in 'n mariene-reservaat enige handeling verrig of laat verrig en enige maatreël tref wat nie met

SEA FISHERY ACT, 1988

Act No. 12, 1988

- according to mass, and may in such a notice determine conditions subject to which fish which may be caught, shall be caught;
- 5 (d) the catching or possessing of fish belonging to a particular species and which is less than a specified size or which does not conform to any other specified biological characteristic;
- 10 (e) the removal from one place to another of fish or fish belonging to a particular species or a product thereof, with a view to the protection of the relevant fish resource, except on the authority of a permit issued by the director-general and in accordance with the conditions determined by him in the permit;
- 15 (f) the catching of fish or fish belonging to a particular species by any person other than a fisherman to whom a licence has been issued in terms of this Act;
- 20 (g) fishing boats, including fishing boats of foreign states which are authorized to fish in any manner in the fishing zone, excluding the territorial waters, from catching fish unless—
- (i) the master of such fishing boat furnishes the director-general with specific information as set out in the notice, concerning the type of fishing boat, statistics relating to the catch and catching efforts as well as the geographical position of the relevant boat during catches;
- 25 (ii) an observer or learner-observer designated by the director-general is present on the fishing boat; and
- 30 (iii) the total catch or a portion of the catch by such a fishing boat is landed in a harbour in the Republic determined by the director-general;
- (h) the supply or arrangements for the supply of ships' stores, excluding medical supplies, without the approval of the Minister of Finance, to a fishing boat, factory or vessel registered or licensed in a foreign state and used as a fishing boat or factory.
- 35

(2) A notice under subsection (1) (h) may, with the approval of the Minister of Finance, impose a levy on ships' stores to which it applies and may determine the manner in which and the person by whom the levy shall be collected.

40

(3) A notice under subsection (1) is applicable to both local and foreign fishing boats: Provided that the Minister may in that notice on the conditions determined by him grant exemption from the provisions of such notice in respect of specified quantities of fish caught for a specified purpose.

45

34. (1) The Minister may by notice in the *Gazette*—

Marine reserves.

- (a) set aside an area as a marine reserve for the protection within such reserve, of fish in general or fish belonging to a particular species or any aquatic plant; and
- 50 (b) assign a name to such reserve in the notice.

(2) A notice under subsection (1)—

- (a) shall contain a description of the boundaries of the area which is set aside;
- 55 (b) may stipulate which fish or aquatic plants, if any, may be caught or collected or may not be caught or collected; and
- (c) may determine the conditions on which such fish may be disturbed or caught.

(3) The stipulations contemplated in subsection (2) (b) shall be made according to a management plan approved by the Minister in respect of a marine reserve.

60

(4) The director-general may in a marine reserve perform any act or allow the performance of any act and take any measures

Wet No. 12, 1988

WET OP SEEVISSERY, 1988

die oogmerke waarvoor die reservaat afgesonder is, onbestaanbaar is nie.

(5) Geen mariene-reservaat of 'n gedeelte daarvan mag aan afsondering onttrek word nie behalwe met die goedkeuring, by besluit, van die Parlement, en die Minister moet by kennisgewing in die *Staatskoerant* van sodanige onttrekking kennis gee. 5

Beperkings op hoeveelheid vis wat gevang of verwerk mag word.

35. (1) Ondanks andersluidende bepalings van hierdie Wet kan die Minister na oorleg met die advieskomitee, by kennisgewing in die *Staatskoerant*—

- (a) (i) die lisensiehouers ten opsigte van vissersbote, met 10 inbegrip van vissersbote van vreemde moondhede, verbied—
 - (aa) om gedurende enige bepaalde tydperk vis of vis wat tot 'n bepaalde spesie behoort te vang; 15 of
 - (bb) om gesamentlik 'n groter hoeveelheid as 'n vermelde hoeveelheid van enige vis of vis wat tot 'n bepaalde spesie behoort, gedurende enige of 'n vermelde jaar of ander tydperk, in die algemeen of binne 'n omskrewe gebied te 20 vang;
- (ii) verbied dat vis of vis wat tot 'n bepaalde spesie behoort, in die algemeen of binne 'n omskrewe gebied gevang word behalwe deur—
 - (aa) 'n persoon in die kennisgewing vermeld (in 25 subartikel (2) 'n gemagtigde persoon genoem) en in die hoeveelheid, gedurende die tydperk en ooreenkomstig die ander voorwaardes in die kennisgewing vermeld; of
 - (bb) 'n persoon wat in besit is van 'n permit deur 30 die Minister uitgereik wat hom magtig om gedurende die tydperk en ooreenkomstig die ander voorwaardes in die permit vermeld, 'n vermelde hoeveelheid vis of vis wat tot 'n bepaalde spesie behoort, te vang; 35
- (b) die lewering van vis in die algemeen of in 'n omskrewe gebied, vis wat tot 'n bepaalde spesie behoort of 'n produk daarvan, aan 'n persoon of persone wat tot 'n bepaalde kategorie persone behoort, verbied of reël, ongeag of die lewering geskied deur iemand wat die vis 40 gevang of van iemand anders verkry het;
- (c) (i) die eienaar van 'n fabriek of 'n fabriek wat tot 'n bepaalde kategorie fabriek in die kennisgewing vermeld, behoort of 'n ander persoon in beheer van so 'n fabriek, verbied om— 45
 - (aa) gedurende enige of 'n vermelde jaar of ander tydperk enige vis, vis wat tot 'n bepaalde spesie behoort of 'n vermelde produk daarvan, in daardie fabriek te ontvang, te verwerk of te vervaardig; of 50
 - (bb) gesamentlik 'n groter hoeveelheid as 'n vermelde hoeveelheid vis, vis wat tot 'n bepaalde spesie behoort of 'n vermelde produk daarvan gedurende enige of 'n vermelde jaar of ander tydperk in daardie fabriek te ontvang, te verwerk of te vervaardig; 55
- (ii) verbied dat vis, vis wat tot 'n bepaalde spesie behoort of 'n vermelde produk daarvan, na gelang van die geval, ontvang, verwerk of vervaardig word, behalwe in— 60
 - (aa) 'n fabriek in die kennisgewing vermeld (in subartikel (2) 'n gemagtigde fabriek genoem) en in die hoeveelheid, gedurende die tydperk en ooreenkomstig die ander voorwaardes in die kennisgewing vermeld; of 65
 - (bb) 'n fabriek ten opsigte waarvan 'n permit deur die Minister uitgereik is wat die ontvangs of verwerking van vis of vis wat tot 'n bepaalde

SEA FISHERY ACT, 1988

Act No. 12, 1988

which are not incompatible with the objects for which the reserve has been set aside.

(5) No marine reserve or any part thereof shall be withdrawn from such setting aside except with the approval, by resolution, of Parliament, and the Minister shall by notice in the *Gazette* give notice of such withdrawal.

35. (1) Notwithstanding anything to the contrary contained in this Act, the Minister may, after consultation with the advisory committee, by notice in the *Gazette*—

Restrictions on quantity of fish which may be caught or processed.

- 10 (a) (i) prohibit the licensees in respect of fishing boats, including fishing boats of foreign countries, from—
 - (aa) catching during the course of any specified period any fish or fish belonging to a particular species; or
 - 15 (bb) catching jointly during the course of any or a specified year or any other period, in general or within a defined area, a greater quantity than a specified quantity of any fish or fish belonging to a particular species;
- 20 (ii) prohibit the catching of fish or fish belonging to a particular species, in general or within a defined area, except by—
 - 25 (aa) a person mentioned in the notice (in subsection (2) referred to as an authorized person) and in the quantity, during the period and in accordance with the other conditions set out in the notice; or
 - 30 (bb) a person who is in possession of a permit issued by the Minister which authorizes him to catch a specified quantity of fish or fish belonging to a particular species, during the period and in accordance with the other conditions set out in the permit;
- 35 (b) prohibit or regulate the delivery of any fish, in general or within a defined area, fish belonging to a particular species or a product thereof, to any person or persons belonging to a particular category of persons, irrespective of whether the delivery takes place by a person who caught the fish or who acquired it from some other person;
- 40 (c) (i) prohibit the owner of a factory or a factory belonging to a particular category of factories specified in the notice, or another person in charge of such a factory, from—
 - 45 (aa) receiving, processing or manufacturing in that factory during the course of any or a specified year or any other period, any fish, fish belonging to a particular species or a specified product thereof; or
 - 50 (bb) jointly receiving, processing or manufacturing in that factory during the course of any or a specified year or any other period, a greater quantity of any fish, fish belonging to a particular species or any specified product thereof, than a quantity specified;
- 55 (ii) prohibit the receiving, processing or manufacturing, as the case may be, of fish, fish belonging to a particular species or a specified product thereof, except in—
 - 60 (aa) a factory specified in the notice (in subsection (2) referred to as an authorized factory) and in the quantity, during the period and in accordance with the other conditions specified in the notice; or
 - 65 (bb) a factory in respect of which a permit has been issued by the Minister, authorizing the receiving or processing in the quantity, during the

Wet No. 12, 1988

WET OP SEEVISSERY, 1988

spesie behoort of die vervaardiging van 'n ver-
melde produk daarvan, in die hoeveelheid,
gedurende die tydperk en ooreenkomstig die
ander voorwaardes in die permit vermeld,
magtig.

- (d) 'n persoon of persone wat tot 'n bepaalde kategorie persone behoort, verbied om in die algemeen of in 'n omskrewe gebied en buite 'n tydperk bedoel in paragraaf (a) (i) (aa) van hierdie subartikel, 'n vissersboot of ander vaartuig te gebruik vir die vang of die verwerking van vis wat tot 'n bepaalde spesie behoort of vir die vervaardiging van 'n vermelde produk daarvan. 10
- (2) Indien 'n gemagtigde persoon bedoel in subartikel (1) (a) (ii) (aa), 'n persoon aan wie 'n permit bedoel in subartikel (1) (a) (ii) (bb) uitgereik is, die eienaar of persoon in beheer van 'n 15
gemagtigde fabriek bedoel in subartikel (1) (c) (ii) (aa) of die houer van 'n permit ten opsigte van 'n fabriek bedoel in subartikel (1) (c) (ii) (bb)—
- (a) enige voorwaarde ingevolge die betrokke kennisgewing of permit, na gelang van die geval, oortree of versuim 20
om daaraan te voldoen; of
- (b) skuldig bevind word aan enige ander misdryf ingevolge hierdie Wet,
- kan die Minister by kennisgewing per aangetekende pos gestuur 25
aan so 'n persoon—
- (i) die betrokke magtiging intrek;
- (ii) die betrokke permit intrek; of
- (iii) die hoeveelheid vis wat ingevolge die betrokke magtiging of permit gevang, ontvang of verwerk kan word, 30
verminder.

Beheer oor beskik-
king oor vis.

36. (1) Die Minister kan by kennisgewing in die *Staatskoerant*—

- (a) 'n visser verbied om vis of vis wat tot 'n bepaalde spesie behoort, aan 'n ander persoon as 'n persoon wat deur die Minister vir die doel goedgekeur is of wat tot 'n bepaalde kategorie persone wat deur hom goedgekeur is, behoort, te lewer of om sodanige vis in die gewone loop van handel vir verkoop aan te bied en te lewer, behalwe op gesag van 'n permit deur die Minister uitgereik; 40
- (b) 'n goedgekeurde persoon of 'n persoon wat behoort tot 'n goedgekeurde kategorie persone bedoel in paragraaf (a) verbied om vis of vis wat tot 'n bepaalde spesie behoort, van 'n ander persoon as 'n visser wat dit mag vang, te verkry; 45
- (c) 'n goedgekeurde persoon of 'n persoon wat behoort tot 'n goedgekeurde kategorie persone bedoel in paragraaf (a), 'n ander persoon of die eienaar of persoon in beheer van 'n fabriek, verbied om vis of vis wat tot 'n bepaalde spesie behoort of 'n produk daarvan wat hy verkry het, van die hand te sit op 'n ander wyse as op gesag van 'n permit deur die Minister uitgereik; 50
- (d) 'n persoon of persone wat tot 'n bepaalde kategorie persone behoort, verbied om vis wat tot 'n bepaalde spesie behoort of 'n produk daarvan, vir eie gebruik of 55
vir verkoop van iemand anders as die goedgekeurde persoon of 'n persoon wat behoort tot 'n goedgekeurde kategorie persone bedoel in paragraaf (a) te verkry;
- (e) 'n goedgekeurde persoon of 'n persoon wat behoort tot 'n goedgekeurde kategorie persone bedoel in paragraaf (a) verbied om gedurende 'n vermelde tydperk meer as 60
'n vermelde hoeveelheid vis wat tot 'n bepaalde spesie behoort of 'n produk daarvan, van die hand te sit; en
- (f) 'n goedgekeurde persoon of 'n persoon wat behoort tot 'n goedgekeurde kategorie persone bedoel in paragraaf (a) verbied om vis wat tot 'n bepaalde spesie behoort of 65
'n produk daarvan, van iemand te verkry of aan iemand te lewer.

SEA FISHERY ACT, 1988

Act No. 12, 1988

period and in accordance with the other conditions specified in the permit, of fish or fish belonging to a particular species or the manufacturing of a specified product thereof;

- 5 (d) prohibit any person or persons belonging to a particular category of persons from using, in general or in any defined area and outside any period referred to in paragraph (a) (i) (aa) of this subsection, any fishing boat or
10 other vessel for the catching or processing of fish belonging to a particular species or for the manufacturing of a specified product thereof.

- (2) If an authorized person referred to in subsection (1) (a) (ii) (aa), a person to whom a permit referred to in subsection (1) (a) (ii) (bb) has been issued, the owner or person in charge of an
15 authorized factory referred to in subsection (1) (c) (ii) (aa) or the holder of a permit in respect of a factory referred to in subsection (1) (c) (ii) (bb)—

- (a) contravenes or fails to comply with any condition stipulated in the notice in question or permit, as the case
20 may be; or
(b) is convicted of any other offence in terms of this Act, the Minister may by notice sent by registered post to such person—
(i) cancel the authority in question;
25 (ii) cancel the permit in question; or
(iii) reduce the quantity of fish which may in terms of the authority or permit in question be caught, received or processed.

36. (1) The Minister may by notice in the *Gazette*—
30 (a) prohibit any fisherman from delivering any fish or fish belonging to a particular species to any person other than a person approved by the Minister for this purpose or belonging to a particular category of persons so approved by him, or from offering for sale and delivering any such fish in the ordinary course of trade, except under the authority of a permit issued by the Minister;
35 (b) prohibit an approved person or a person belonging to an approved category of persons referred to in paragraph (a) from acquiring fish or fish belonging to a particular species from any person other than a fisherman entitled to catch it;
(c) prohibit an approved person or a person belonging to an approved category of persons referred to in paragraph (a), any other person or the owner or person in charge of a factory, from disposing of fish or fish belonging to a particular species or any product thereof acquired by him, otherwise than under the authority of a permit issued by the Minister;
45 (d) prohibit a person or persons belonging to a particular category of persons, from acquiring fish belonging to a particular species or a product thereof, for own use or for sale, from any person other than the person approved or a person belonging to an approved category of persons referred to in paragraph (a);
50 (e) prohibit an approved person or a person belonging to an approved category of persons referred to in paragraph (a), from disposing during a specified period more than a specified quantity of fish belonging to a particular species or a product thereof; and
55 (f) prohibit an approved person or a person belonging to an approved category of persons referred to in paragraph (a), from acquiring from or delivering to any person fish belonging to a particular species or a product thereof.
60
65

Control over disposal of fish.

Wet No. 12, 1988

WET OP SEEVISSERY, 1988

- (2) (a) 'n Kennisgewing kragtens subartikel (1) kan in die algemeen of ten opsigte van 'n omskrewe gebied van toepassing wees.
- (b) Die Minister kan onderworpe aan die voorwaardes deur hom bepaal, iemand skriftelik van die een of ander bepaling van 'n kennisgewing kragtens subartikel (1) vrystel.
- (3) 'n Kennisgewing kragtens subartikel (1) (a) of (c) kan die gelde voorskryf wat betaal moet word ten opsigte van die uitreiking van 'n permit in daardie subartikel bedoel.
- (4) 'n Permit bedoel in subartikel (1) (a) of (c) kan die tydperk waarvoor dit geldig is, die hoeveelheid vis of visprodukte wat verkoop, gelewer of van die hand gesit mag word, die wyse en voorwaardes waarop dit aldus verkoop, gelewer of van die hand gesit mag word en die gelde betaalbaar by die uitreiking van die permit, vermeld.
- (5) Indien die houer van 'n permit bedoel in subartikel (1) (a) of (c)—
- (a) enige voorwaarde waarop die permit uitgereik is, oortree of versuim om daaraan te voldoen; of
- (b) skuldig bevind word aan 'n misdryf ingevolge hierdie Wet of die Wet op Standaarde, 1982 (Wet No. 30 van 1982), wat op die betrokke vis of visprodukte betrekking het,
- kan die Minister by kennisgewing per aangetekende pos aan die houer van so 'n permit gestuur—
- (i) enige voorwaarde van die permit wysig;
- (ii) die hoeveelheid vis of visprodukte wat ingevolge die permit gelewer of van die hand gesit kan word, verminder; of
- (iii) die permit intrek.
- (6) Indien die skuldigbevinding uit hoofde waarvan stappe ingevolge subartikel (5) gedoen is, tersyde gestel word, vervel sodanige stappe op die datum waarop die skuldigbevinding tersyde gestel word.
- (7) (a) Die Minister kan, op versoek van alle partye wat by 'n ooreenkoms betrokke is, indien die partye nie oor 'n prys kan ooreenkom nie, die minimum prys bepaal waarteen vissers vis wat tot 'n bepaalde spesie behoort of 'n produk daarvan, aan 'n kwotahouer kan lewer.
- (b) 'n Bepaling van 'n minimum prys deur die Minister kragtens paragraaf (a) is afdoende.

Beheer oor uitvoer
van vis.

37. (1) Die Minister kan, behoudens die bepalinge van enige wet wat op die in- en uitvoer van goedere betrekking het en met die oog op die beskerming en benutting van enige vispulpbron, by kennisgewing in die *Staatskoerant* verbied dat vis, vis wat tot 'n bepaalde spesie behoort of 'n bepaalde visprodukt, in die algemeen of na 'n bepaalde land of gebied uitgevoer word—
- (a) behalwe op gesag van 'n permit deur hom uitgereik; of
- (b) tensy dit vir uitvoer goedgekeur word deur 'n persoon deur hom vir dié doel aangewys.
- (2) Die Minister kan 'n persoon wat vis uitvoer of uitgevoer het, by kennisgewing per aangetekende pos aan hom gestuur, gelas om op vermelde tye aan die direkteur-generaal of 'n ander persoon in die kennisgewing vermeld, vermelde besonderhede binne 'n vermelde tydperk te verstrek met betrekking tot vis of visprodukte wat so 'n persoon vir uitvoer beskikbaar het.
- (3) In 'n permit bedoel in subartikel (1) (a) kan bepaal word—
- (a) die hoeveelheid vis of visprodukte wat uitgevoer kan word;
- (b) die tydperk waarbinne, die plek vanwaar, die land of gebied waarheen en die wyse waarop die uitvoer moet geskied; en
- (c) die ander voorwaardes wat die Minister goedvind.
- (4) Die bepalinge van artikel 36 (5) en (6) is *mutatis mutandis* van toepassing ten opsigte van 'n permit uitgereik kragtens subartikel (1) (a), die uitvoer van enige vis of visprodukt ooreenkomstig so 'n permit en die uitreiking van 'n permit.

SEA FISHERY ACT, 1988

Act No. 12, 1988

- (2) (a) A notice under subsection (1) may apply in general or in respect of any defined area.
- (b) The Minister may in writing and subject to the conditions determined by him, exempt any person from any provision of a notice under subsection (1).
- (3) A notice under subsection (1) (a) or (c) may prescribe the fees which are payable in respect of the issue of a permit referred to in that subsection.
- (4) A permit referred to in subsection (1) (a) or (c) may specify the period for which it shall be valid, the quantity of fish or fish products which may be sold, delivered or disposed of for sale, the manner in which and conditions on which it may be so sold, delivered or disposed of and the fees payable at the issue of the permit.
- (5) If the holder of a permit referred to in subsection (1) (a) or (c)—
- (a) contravenes or fails to comply with any condition on which the permit was issued; or
- (b) is convicted of an offence in terms of this Act or the Standards Act, 1982 (Act No. 30 of 1982), pertaining to the fish or fish products in question,
- the Minister may by notice sent by registered post to the holder of such permit—
- (i) amend any condition of the permit;
- (ii) reduce the quantity of fish or fish products which in terms of the permit may be delivered or disposed of for sale; or
- (iii) cancel the permit.
- (6) If the conviction by virtue of which steps were taken in terms of subsection (5) is set aside, such steps shall become annulled on the date on which the conviction is set aside.
- (7) (a) The Minister may, at the request of all parties involved in an agreement, if the parties cannot agree on a price, determine the minimum price at which fishermen may deliver fish belonging to a particular species or a product thereof, to a quota holder.
- (b) A determination of a minimum price by the Minister under paragraph (a) is final.

37. (1) The Minister may, subject to the provisions of any other law pertaining to the import and export of goods and with a view to the protection and utilization of any fish resource, by notice in the *Gazette* prohibit that fish, fish belonging to a particular species or a particular fish product be exported in general or to a specified country or area—
- (a) except on the authority of a permit issued by him; or
- (b) unless it has been approved for export by a person assigned by him for that purpose.
- (2) The Minister may by notice sent to him by registered post order any person who exports or has exported fish, to furnish the director-general or any other person mentioned in the notice, at specified times, with the particulars mentioned within a specified period in respect of fish or fish products which such person has available for export.
- (3) A permit referred to in subsection (1) (a) may determine—
- (a) the quantity of fish or fish products which may be exported;
- (b) the period within which, the place from where, the country or area to where and the manner in which the export shall take place; and
- (c) such other conditions as the Minister may deem fit.
- (4) The provisions of section 36 (5) and (6) are applicable *mutatis mutandis* in respect of a permit issued in terms of subsection (1) (a), the export of any fish or fish products in accordance with such permit and the issue of a permit.

Control over export of fish.

DEEL IX

BEHEER OOR SEKERE ANDER MARIENE-HULPBRONNE

Beheer oor versameling en verwydering van waterplante en skulpe.

38. (1) Ondanks die bepalings van die Strandwet, 1935 (Wet No. 21 van 1935), en behoudens die bepalings van enige regulasie kragtens artikel 45 uitgevaardig, mag niemand, tensy hy die houer is van 'n permit deur die Minister uitgereik en anders as ooreenkomstig die voorwaardes in die permit vermeld, waterplante of skulpe uit die see of van die strand versamel en verwyder of laat versamel en verwyder nie, behalwe vir eie gebruik en in die voorgeskrewe hoeveelhede. 10

(2) Die Minister kan, onderworpe aan die voorwaardes en teen betaling van die gelde deur hom met die instemming van die Minister van Finansies bepaal, op aansoek van enige persoon 'n permit uitreik vir die versameling en verwydering van waterplante of skulpe uit die see of van die strand: Met dien verstande 15 dat—

(a) voordat hy 'n permit uitreik ten opsigte van 'n gebied wat geleë is binne of grens aan die regsgebied van 'n plaaslike owerheid, hy daardie plaaslike owerheid moet raadpleeg; 20

(b) indien hy van oordeel is dat die uitreiking van so 'n permit inbreuk sal maak op die algemene publiek se genot van die see of die strand of op die regte van 'n belanghebbende in die betrokke gebied, hy die aansoeker moet gelas om— 25

(i) skriftelik aan so 'n belanghebbende kennis van sy aansoek te gee; en

(ii) aan die publiek van sy aansoek kennis te gee in 'n Afrikaanse en Engelse nuusblad wat in omloop is in die betrokke gebied, 30

waarin hulle versoek word om enige besware teen sy aansoek binne 'n vermelde tydperk van minstens 30 dae vanaf die datum van die kennisgewing skriftelik aan die direkteur-generaal vir die Minister se beslissing voor te lê. 35

(3) 'n Permit, konsessie of ooreenkoms met betrekking tot die versameling of verwydering van waterplante of skulpe uit die see of van die strand of 'n delegering van 'n bevoegdheid aan 'n plaaslike owerheid in verband daarmee kragtens die Strandwet, 1935 (Wet No. 21 van 1935), die Wet op Seevisserye, 1940 (Wet No. 10 van 1940), of die Wet op Seevisserye, 1973 (Wet No. 58 van 1973), wat onmiddellik voor die inwerkingtreding van hierdie Wet nog van krag was, word geag onderskeidelik 'n permit of delegering te wees wat ingevolge hierdie Wet uitgereik of gedoen is. 45

Uitreiking van permitte.

39. (1) 'n Permit wat aan 'n persoon uitgereik word ter magtiging van die verrigting van 'n handeling wat kragtens hierdie Wet op gesag van so 'n permit verrig kan word, word—

(a) vir 'n onbepaalde of bepaalde tydperk uitgereik;

(b) uitgereik onderworpe aan die voorwaardes deur die 50 Minister of die direkteur-generaal, na gelang van die geval, bepaal, wat in die permit vermeld moet word;

(c) uitgereik onderworpe aan die betaling van die voorgeskrewe gelde (as daar is), of die gelde wat by ooreenkoms met die goedkeuring van die Minister van Finansies bepaal word, na gelang van die geval. 55

(2) 'n Permit in subartikel (1) bedoel, kan te eniger tyd deur die Minister of die direkteur-generaal, na gelang van wie dit uitgereik het, gewysig of ingetrek word.

Oordrag van permitte en appèl na Minister.

40. (1) Ondanks andersluidende wetsbepalings, mag geen persoon aan wie 'n lisensie of permit ingevolge 'n bepaling van hierdie Wet uitgereik is, sodanige lisensie of permit sonder die toestemming van die direkteur-generaal, en dan alleen onderworpe aan die voorwaardes deur hom bepaal, aan 'n ander persoon oordra nie. 60

(2) Enige persoon wat ooreenkomstig die bepalings van hierdie Wet om die uitreiking van 'n lisensie of permit deur die di-

SEA FISHERY ACT, 1988

Act No. 12, 1988

PART IX

CONTROL OVER CERTAIN OTHER MARINE RESOURCES

38. (1) Notwithstanding the provisions of the Sea-shore Act, 1935 (Act No. 21 of 1935), and subject to the provisions of any regulation made under section 45, no person shall collect and remove or cause to be collected and removed any aquatic plants or shells from the sea or the sea-shore, except for his own use and in the prescribed quantities, without being the holder of a permit issued by the Minister and otherwise than in accordance with the conditions contained in the permit.

Control over collection and removal of aquatic plants and shells.

(2) The Minister may, subject to such conditions and on payment of such fees as determined by him with the concurrence of the Minister of Finance, on application by any person, issue a permit for the collection and removal of aquatic plants or shells from the sea or the sea-shore: Provided that—

(a) before issuing a permit in respect of an area situated in or bordering on the area of jurisdiction of a local authority, he shall consult that local authority;

(b) if he is of opinion that the issue of a permit will encroach upon the enjoyment of the sea or the sea-shore by the general public or upon the rights of an interested person in the area concerned, he shall direct the applicant to—

(i) notify the interested person in writing of his application; and

(ii) cause a notice drawing the attention of the public to his application to be published in an Afrikaans and English newspaper circulating in the area in question,

in which they are requested to submit in writing to the director-general for the Minister's decision within a specified period of at least 30 days from the date of the notice, any objections to his application.

(3) A permit, concession or agreement with relation to the collection or removal of aquatic plants or shells from the sea or from the sea-shore or a delegation of any power to a local authority in respect thereof in terms of the Sea-shore Act, 1935 (Act No. 21 of 1935), the Sea Fisheries Act, 1940 (Act No. 10 of 1940), or the Sea Fisheries Act, 1973 (Act No. 58 of 1973), which was still in force immediately before the commencement of this Act, shall be deemed respectively to be a permit issued or a delegation made in terms of this Act.

39. (1) A permit issued to any person authorizing the performance of any act which under this Act may be performed under the authority of such permit, shall—

Issue of permits.

(a) be issued for an indefinite or specified period;

(b) be issued subject to the conditions determined by the Minister or the director-general, as the case may be, which shall be contained in the permit;

(c) be issued subject to the payment of the prescribed fees (if any), or the fees determined by agreement with the approval of the Minister of Finance, as the case may be.

(2) A permit referred to in subsection (1) may at any time be amended or cancelled by the Minister or the director-general, according to who issued it.

40. (1) Notwithstanding any provision to the contrary contained in any law, no person to whom a licence or permit has been issued in terms of any provision of this Act, may transfer such licence or permit to any other person without the consent of the director-general, and then only subject to the conditions determined by him.

Transfer of permits and appeal to Minister.

(2) Any person who has applied in accordance with the provisions of this Act for the issue of a licence or permit by the direc-

Wet No. 12, 1988

WET OP SEEVISSERY, 1988

rekteur-generaal aansoek gedoen het en hom veronreg ag deur 'n besluit van die direkteur-generaal met betrekking tot—

- (a) die weiering om ooreenkomstig sodanige aansoek 'n lisensie of 'n permit uit te reik; of
- (b) 'n voorwaarde waarop sodanige lisensie of permit uit- 5
gereik is,

kan op die voorgeskrewe wyse en binne die voorgeskrewe tydperk by die Minister teen sodanige besluit appèl aanteken, en sodanige persoon moet die redes verstrekk op grond waarvan daar geappelleer word.

(3) Die Minister moet 'n appèl kragtens subartikel (2) aanteken, oorweeg en kan die besluit bekragtig, tersyde stel of wysig onderworpe aan die voorwaardes deur hom bepaal, en die direkteur-generaal moet die appellant skriftelik van sodanige bekragtiging, tersydestelling of wysiging in kennis stel. 15

DEEL X

DIVERSE BEPALINGS

Vrystellings.

41. (1) Die Minister kan, onderworpe aan die voorwaardes deur hom bepaal—

- (a) 'n persoon wat wetenskaplike ondersoek, proefneming 20
of navorsing doen; of
- (b) 'n bepaalde kategorie persone wat 'n handeling kragtens 'n ander wet moet of kan verrig wat 'n oortreding van hierdie Wet sou wees of tot gevolg kan hê,

skriftelik vrystel van enige van of al die bepalings van hierdie 25
Wet by die doen van sodanige ondersoek, proefneming of navorsing of die verrigting van sodanige handeling, en kan 'n vrystelling aldus verleen te eniger tyd aldus intrek of wysig.

(2) Indien daar na die Minister se oordeel gegronde redes bestaan om dit te doen, kan hy, onderworpe aan die voorwaardes 30
deur hom bepaal, enige persoon of plaaslike owerheid skriftelik van 'n bepaling van hierdie Wet vrystel, en hy kan 'n vrystelling aldus verleen, te eniger tyd intrek of wysig.

Verkryging van inligting deur Minister.

42. Die Minister kan, behoudens die bepalings van die Wet op Statistieke, 1976 (Wet No. 66 van 1976), iemand of 'n bepaalde 35
kategorie persone wat 'n onderneming bedryf of 'n bedrywigheid beoefen wat in verband staan met die vang, vervoer, behandeling, verwerking, verkoeling, bevriesing, versameling of verwydering, na gelang van die geval, van vis, visprodukte, waterplante of skulpe, gelas om binne die tydperk in die lasgewing 40
bepaal, die inligting met betrekking tot daardie onderneming of bedrywigheid aan hom te verstrekk wat aldus bepaal word en wat vir die doeleindes van die uitvoering van die bepalings van hierdie Wet nodig geag word.

Aanvaarding of bekragtiging van konvensies, verdrae of ooreenkomste.

43. (1) Die Staatspresident kan by proklamasie in die *Staatskoerant* by hierdie Wet enige Bylae voeg waarin 'n vertaling inbegryp is van 'n konvensie, verdrag of ooreenkoms met betrekking tot seeviissery-aangeleenthede wat deur die Republiek aangeneem is of namens die Republiek aanvaar of bekragtig is. 45

(2) Die Staatspresident kan alles doen wat nodig is— 50

- (a) om namens die Republiek enige wysiging van 'n konvensie, verdrag of ooreenkoms bedoel in subartikel (1) te bekragtig of te laat bekragtig; of
- (b) om namens die Republiek enige konvensie, verdrag of ooreenkoms wat van tyd tot tyd ter vervanging van 'n 55
konvensie, verdrag of ooreenkoms wat namens die Republiek aanvaar of bekragtig is, te bekragtig of te laat bekragtig; en

kan by proklamasie in die *Staatskoerant*—

- (i) die toepaslike Bylae by hierdie Wet wysig om gevolg te 60
gee aan enige wysiging wat kragtens paragraaf (a) bekragtig is; en
- (ii) die konvensie, verdrag of ooreenkoms wat in die toepaslike Bylae by hierdie Wet verskyn, vervang deur die konvensie, verdrag of ooreenkoms wat kragtens para- 65
graaf (b) bekragtig is.

SEA FISHERY ACT, 1988

Act No. 12, 1988

rector-general, and who feels aggrieved by the decision of the director-general in relation to—

- (a) the refusal to issue a licence or permit in accordance with such application; or
- 5 (b) a condition on which such licence or permit has been issued,

may appeal against such decision to the Minister in the prescribed manner and within the prescribed period, and such person shall furnish the reasons on the basis of which the appeal is
10 made.

(3) The Minister shall consider an appeal under subsection (2) and may, subject to the conditions determined by him, ratify, set aside or amend the decision, and the director-general shall notify the appellant of such ratification, setting aside or amendment in writing.
15

PART X

MISCELLANEOUS PROVISIONS

41. (1) The Minister may, subject to the conditions determined by him, exempt in writing— Exemptions.

- 20 (a) any person who conducts scientific investigation, experimentation or research; or
- (b) a particular category of persons who may or shall perform any act under any other law which would be or might result in a contravention of this Act,

25 from any of or all the provisions of this Act in conducting such investigation, experimentation or research or in the performance of any such act, and may at any time so cancel or amend an exemption so granted by him.

(2) If in the opinion of the Minister there are sound reasons
30 for doing so, he may, subject to the conditions determined by him, in writing exempt any person or local authority from a provision of this Act, and he may at any time cancel or amend an exemption so granted.

42. The Minister may, subject to the provisions of the Statistics Act, 1976 (Act No. 66 of 1976), direct any person or particular category of persons carrying on any business or engaging in any activity in connection with the catching, transportation, treating, processing, refrigeration, freezing, collection or removal, as the case may be, of fish, fish products, aquatic plants
40 or shells, to furnish him within the period specified in the direction with such information in respect of that business or activity as may be so specified and may be considered necessary for the purposes of the administration of the provisions of this Act. Obtaining of information by Minister.

43. (1) The State President may by proclamation in the *Gazette* add to this Act any Schedule in which a translation of any convention, treaty or agreement relating to sea fishery matters which has been accepted by the Republic or adopted or ratified on behalf of the Republic is included. Adoption or ratification of conventions, treaties or agreements.

(2) The State President may do all things necessary—

- 50 (a) to ratify or cause to be ratified on behalf of the Republic any amendment of any convention, treaty or agreement referred to in subsection (1); or
- (b) to ratify or cause to be ratified on behalf of the Republic any convention, treaty or agreement which may
55 from time to time be adopted in substitution of a convention, treaty or agreement accepted or ratified on behalf of the Republic; and

may by proclamation in the *Gazette*—

- 60 (i) amend the appropriate Schedule to this Act to give effect to any amendment ratified under paragraph (a); and
- (ii) substitute for the convention, treaty or agreement appearing in the appropriate Schedule to this Act, the convention, treaty or agreement which has been ratified in terms of paragraph (b).
65

Wet No. 12, 1988

WET OP SEEVISSERY, 1988

(3) Die Minister moet 'n afskrif van enige proklamasie wat kragtens subartikel (1) of (2) uitgevaardig word, in die Parlement ter Tafel lê binne 14 dae na publikasie van sodanige proklamasie in die *Staatskoerant* as die Parlement dan in gewone sessie is, of as die Parlement dan nie in gewone sessie is nie, binne 14 dae na die aanvang van sy eersvolgende sessie. 5

Appel deur veronregte persoon.

44. Enige persoon wat hom veronreg ag deur 'n beslissing van 'n persoon aan wie 'n bevoegdheid kragtens artikel 4 (1), (2) of (3) gedelegeer is, kan op die voorgeskrewe wyse en binne die voorgeskrewe tydperk na die direkteur-generaal of die Minister, 10 na gelang van wie die bevoegdheid gedelegeer het, appelleer en moet die voorgeskrewe inligting ten tyde van die appel voorsien.

DEEL XI

REGULASIES, TARIWE EN GELDE

Regulasies.

45 (1) Die Minister kan regulasies uitvaardig met betrekking 15 tot—

- (a) 'n aangeleentheid wat ingevolge hierdie Wet by regulasie voorgeskryf moet of kan word;
- (b) die aard en samestelling van enige werktuig of toestel wat vir of in verband met die vang van vis en die hante- 20 ring of massabepaling daarvan by 'n fabriek gebruik kan of moet word of nie gebruik mag word nie;
- (c) die metodes waarvolgens vis of vis wat tot 'n bepaalde spesie behoort, gevang moet word of nie gevang mag word nie; 25
- (d) die wyse waarop die grootte van vis vir die doeleindes van hierdie Wet vasgestel moet word;
- (e) die metode van massabepaling van vis wat gevang is, die toestand of vorm waarin sodanige vis moet wees wanneer dit aan land gebring en die massa bepaal word 30 en die toestelle wat vir die aanlandbring of die massabepaling gebruik moet word;
- (f) die wyse waarop grensbakens, seeboeie, kennisgewings, aanplakborde of ander tekens wat in verband met die vang of beskerming van vis aangebring, in 35 stand gehou, aangewend, beskerm en beheer moet word;
- (g) die omstandighede waaronder vis wat gevang is in die see teruggeplaas moet word of nie teruggeplaas mag word nie of uit 'n werktuig losgelaat moet word of nie 40 losgelaat mag word nie;
- (h) die beskikking oor vis waarop beslag gelê is of wat verbeur is of verbeurd verklaar is ingevolge hierdie Wet;
- (i) die beheer oor en die bestuur van 'n vissershawe;
- (j) die gebruik van 'n vissershawe of 'n gedeelte daarvan 45 deur ander vaartuie as vissersbote of fabriekke wat ingevolge hierdie Wet gelisensieer is;
- (k) 'n verbod op die binnegaan of toegang tot 'n vissershawe van vissersbote of vaartuie wat in 'n vreemde staat geregistreer of gelisensieer is of aan 'n 50 vreemde staat of die burgers daarvan behoort of waarin 'n vreemde staat of die burgers daarvan 'n behorende belang het of wat 'n vreemde staat of die burgers daarvan huur;
- (l) die reëling en beheer van vissery-ontwikkeling en -na- 55 vorsing, vis, visbronne, visvangtegnieke of die see-omgewing;
- (m) enige ander aangeleentheid wat hy vir die bewaring of beskerming van vis of visvoedsel wenslik ag;
- (n) die maak van opnames en die insameling van inligting 60 betreffende—
 - (i) die behoeftes en vraag ten opsigte van visprodukte;
 - (ii) die potensiaal van visbronne; en
 - (iii) die vang, vervoer, behandeling, verwerking, ver- 65 koeling, bevriësing of verwydering van vis, visprodukte, waterplante of skulpe,

SEA FISHERY ACT, 1988

Act No. 12, 1988

(3) The Minister shall lay a copy of any proclamation issued under subsection (1) or (2), on the Table in Parliament within 14 days after publication of such proclamation in the *Gazette* if Parliament is then in ordinary session or, if Parliament is not then in ordinary session, within 14 days after the commencement of its next ensuing ordinary session.

44. Any person who feels aggrieved by a decision of a person to whom any power has been delegated under section 4 (1), (2) or (3), may appeal in the prescribed manner and within the prescribed period to the director-general or the Minister, according to who delegated the power, and shall furnish the prescribed information at the time of appeal.

Appeal by aggrieved person.

PART XI

REGULATIONS, TARIFFS AND FEES

- 15 45. (1) The Minister may make regulations with regard to—
- (a) any matter which in terms of this Act shall or may be prescribed by regulation;
 - (b) the nature and construction of any implement or apparatus which may or shall be used in connection with the catching of fish and the handling, or determination of the mass, thereof at a factory or which may not be so used;
 - (c) the methods whereby fish or fish belonging to a particular species shall be caught or may not be caught;
 - 20 (d) the manner in which the size of fish shall for the purposes of this Act be determined;
 - 25 (e) the method by which the mass of fish which has been caught shall be determined, the condition or form in which such fish shall be when landed and the mass is determined, and the apparatuses which shall be used for the landing, or the determination of the mass, of fish;
 - 30 (f) the manner in which boundary beacons, buoys, notices, notice boards or other marks used in connection with the catching or protection of fish shall be placed, maintained, used, protected and controlled;
 - 35 (g) the circumstances in which fish which has been caught shall be returned to the sea or may not be returned to the sea or shall be released from an implement or may not be released;
 - 40 (h) the disposal of fish seized or forfeited or declared forfeited in terms of this Act;
 - (i) the control over and management of a fishing harbour;
 - (j) the use of a fishing harbour or any part thereof by vessels other than fishing boats or factories licensed in terms of this Act;
 - 45 (k) the prohibition from entering or access to any fishing harbour of any fishing boats or other vessels registered or licensed in any foreign state or owned by the citizens thereof or in which a foreign state or its citizens have a controlling interest or which a foreign state or its citizens hold under charter;
 - 50 (l) the regulation and control of fishery development and fishery research, fish, fish resources, fishing techniques or the marine environment;
 - 55 (m) any other matter which he may deem desirable for the conservation or protection of fish or fish food;
 - (n) the making of surveys and the gathering of information regarding—
 - 60 (i) the requirements and demand in respect of fish products;
 - (ii) the potential of fish resources; and
 - (iii) the catching, transport, treating, processing, refrigeration, freezing or removal of fish, fish products, aquatic plants or shells,
 - 65

Regulations.

Wet No. 12, 1988

WET OP SEEVISSERY, 1988

met inbegrip van regulasies wat voorsiening maak vir—
(aa) die registrasie van persone wat betrokke is by enige van genoemde bedrywighede;

(bb) die inspeksie van enige vissersboot of fabriek;

(cc) die versameling van gegewens deur persone wat by genoemde bedrywighede betrokke is, die aantekeninge wat gehou moet word en die opgawes wat deur daardie persone aan die direkteur-generaal verstrekk moet word en die tye wanneer die opgawes verstrekk moet word; 10

(o) die samestelling, kworum, werksaamhede en prosedure by vergaderings van 'n komitee kragtens artikel 21 (2) deur die direkteur-generaal aangestel, die ampstermyn van die lede daarvan en, met die instemming van die Minister van Finansies, die toelaes en vergoeding betaalbaar aan sodanige lede wat nie in die heeltjydse diens van die Staat is nie; 15

(p) die identifisering van vis of visprodukte wat verpak word, ten einde beheer oor die benutting van 'n visbron uit te oefen; en 20

(q) die uitvoering van die bepalinge van 'n konvensie, verdrag of ooreenkoms met betrekking tot seevissery-aangeleenthede wat namens die Republiek aanvaar of bekragtig is of deur die Republiek aangeneem is.

(2) Verskillende regulasies kan kragtens subartikel (1) uitgevaardig word ten opsigte van verskillende gebiede of verskillende spesies vis of verskillende visprodukte of die ander aangeleenthede wat die Minister nodig ag. 25

(3) 'n Regulasie kragtens subartikel (1) uitgevaardig, kan bepaal dat iemand wat 'n bepaling daarvan oortree of versuim om daaraan te voldoen, aan 'n misdryf skuldig is en by skuldigbevinding strafbaar is met 'n boete van hoogstens R6 000 of met gevangenisstraf vir 'n tydperk van hoogstens twee jaar of met sodanige boete sowel as sodanige gevangenisstraf. 30

Tariewe en gelde.

46. Die Minister kan, met die instemming van die Minister van Finansies, die gelde bepaal wat betaalbaar is ten opsigte van— 35

(a) die uitreiking van 'n lisensie of permit wat ingevolge hierdie Wet vereis word en ten opsigte waarvan gelde betaalbaar is; 40

(b) die gebruik van 'n vissershawe of die geriewe wat in so 'n hawe beskikbaar is; en

(c) heffings op vis, visprodukte of die ander mariene-hulpbronne waarop hierdie Wet betrekking het.

DEEL XII

45

MISDRYWE EN STRAWWE, VERBEURDVERKLARING EN BESLAGLEGGING, EN BETALING VAN VERGOEDING AAN INFORMANT

Misdrywe en strawwe.

47. (1) Enige persoon wat—

(a) vis vang of doodmaak deur middel van gif of 'n bedwelmende stof; 50

(b) vis vang of doodmaak deur 'n stof in die see te laat ontplof;

(c) vis vang deur middel van 'n ander werktuig as 'n werktuig wat ten opsigte daarvan voorgeskryf is;

(d) vis vang volgens 'n ander metode as 'n metode wat ten opsigte daarvan voorgeskryf is; 55

(e) vis wat kleiner is as die grootte wat ten opsigte daarvan voorgeskryf is, of wat nie voldoen nie aan die ander biologiese vereistes of kenmerke wat ten opsigte daarvan voorgeskryf is, vang of besit; 60

(f) vis of enige gedeelte daarvan waarvan die vangs deur hierdie Wet verbied is, besit, verkoop, vir verkoop uitstal of te koop aanbied;

(g) die bepalinge van artikels 30 (1) en (6), 31 en 38 (1) of van 'n kennisgewing kragtens artikel 33, 35 of 36 uitge- 65

SEA FISHERY ACT, 1988

Act No. 12, 1988

including regulations providing for—

- (aa) the registration of persons involved in any of the said activities;
- (bb) the inspection of any fishing boat or factory;
- 5 (cc) the collection of data by persons involved in the said activities, the records which shall be kept and the returns which shall be rendered to the director-general by such persons and the times when such returns shall be submitted;
- 10 (o) the constitution, quorum, functions and procedure at meetings of a committee appointed by the director-general under section 21 (2), the term of office of the members thereof and, with the concurrence of the Minister of Finance, the allowances and remuneration payable to such members not in the full-time employment of the State;
- 15 (p) the identification of fish or products of fish which are packed, in order to exercise control over the utilization of a fish resource; and
- 20 (q) the application of the provisions of any convention, treaty or agreement with relation to sea fishery matters which has been adopted or ratified on behalf of the Republic or has been accepted by the Republic.

(2) Different regulations may be made under subsection (1) in respect of different areas or different species of fish or different fish products or such other matters as the Minister may deem necessary.

(3) A regulation made under subsection (1) may provide that a person who contravenes or fails to comply with a provision thereof, shall be guilty of an offence and on conviction be liable to a fine not exceeding R6 000 or imprisonment for a period not exceeding two years or to both such fine and such imprisonment.

46. The Minister may, with the concurrence of the Minister of Finance, determine the fees payable in respect of—

- 35 (a) the issuing of any licence or permit required in terms of this Act and in respect of which fees are payable;
- (b) the use of a fishing harbour or the facilities available in such harbour; and
- 40 (c) levies on fish, fish products or the other marine resources to which this Act is applicable.

PART XII

OFFENCES AND PENALTIES, FORFEITURE AND SEIZURE, AND PAYMENT OF REMUNERATION TO INFORMANT

47. (1) Any person who—
- 45 (a) catches or kills fish by means of any poison or narcotic substance;
 - (b) catches or kills fish by detonating any substance in the sea;
 - 50 (c) catches fish by means of any implement other than an implement prescribed in respect thereof;
 - (d) catches fish by means of any method other than a method prescribed in respect thereof;
 - 55 (e) catches or has in his possession any fish of which the size is less than the size prescribed in respect thereof or which does not comply with the other biological requirements or characteristics prescribed in respect thereof;
 - (f) possesses, sells or displays or offers for sale any fish or any portion of fish the catching of which is prohibited by this Act;
 - 60 (g) contravenes the provisions of sections 30 (1) and (6), 31 and 38 (1) or of a notice issued in terms of section 33,

Offences and penalties.

Wet No. 12, 1988

WET OP SEEVISSERY, 1988

- reik, oortree of versuim om aan 'n lasgewing in artikel 21 (3) (a) bedoel, te voldoen;
- (h) sonder dat hy die houer is van 'n permit soos in hierdie Wet bepaal, 'n handeling verrig waarvoor 'n permit vereis word, of 'n voorwaarde waarop die permit uitgereik is, oortree of versuim om daaraan te voldoen; 5
 - (i) eetbare en bemarkbare dooie vis in die see terugplaas of op 'n ander plek weggooi;
 - (j) lewende vis uit- of invoer, behalwe ingevolge 'n permit wat deur die Minister of sy gedelegeerde vir sodanige uit- of invoer uitgereik is, of anders as ooreenkomstig die voorwaardes waarop die permit uitgereik is; 10
 - (k) iets wat skadelik is of skadelik mag wees vir vis, visvoedsel of waterplante of wat die ekologiese balans in enige gebied van die see mag versteur of verander of 15 wat die bemarkbaarheid van vis of waterplante nadelig mag beïnvloed of wat die vang van vis mag belemmer, in die see stort of inlaat of toelaat dat dit in die see gestort of ingelaat word;
 - (l) versuim om aan 'n eis of bevel van 'n visserybeheerbeampte, polisiebeampte of ere-visserybeampte kragtens hierdie Wet te voldoen, of in antwoord op so 'n eis of bevel vals inligting verstrek;
 - (m) teen 'n visserybeheerbeampte, polisiebeampte of ere-visserybeampte by die uitoefening van 'n bevoegdheid of die verrigting van 'n plig ingevolge hierdie Wet, weerstand bied of hom daarby belemmer; 25
 - (n) valslik voorgee dat hy 'n visserybeheerbeampte of ere-visserybeampte is;
 - (o) 'n vissersboot sonder die toestemming van die eienaar of gesagvoerder daarvan gebruik; 30
 - (p) toelaat dat 'n vissersboot waarvan hy die lisensiehouer is, gebruik word vir die vang van vis in stryd met die bepalings van hierdie Wet, 35

is aan 'n misdryf skuldig en by skuldigbevinding strafbaar met 'n 35 boete van hoogstens R15 000 of met gevangenisstraf vir 'n tydperk van hoogstens vyf jaar of met sodanige boete sowel as sodanige gevangenisstraf.

- (2) (a) Indien 'n persoon skuldig bevind word aan 'n misdryf ingevolge hierdie Wet, moet die hof op staande voet 40 ondersoek instel aangaande die monetêre waarde van die voordeel wat hy as gevolg van daardie misdryf kon behaal het en die bedrag daarvan bepaal, en, benewens 'n ander straf wat ten opsigte van daardie misdryf opgelê word, 'n boete oplê gelyk aan die bepaalde bedrag 45 en, by wanbetaling daarvan, gevangenisstraf vir 'n tydperk van hoogstens een jaar.
- (b) 'n Landdroshof is bevoeg om 'n bykomende straf bedoel in paragraaf (a) op te lê, selfs al sou daardie straf, hetsy alleen of saam met 'n ander straf deur die hof opgelê, die strafbevoegdheid van 'n landdroshof oorskry. 50

Verbeurdverklaring
en beslaglegging.

48. (1) Die hof wat 'n persoon aan 'n misdryf ingevolge hierdie Wet skuldig bevind, kan benewens 'n ander straf wat hy mag oplê—

- (a) in die geval van 'n eerste skuldigbevinding, vis, water- 55 plante, skulpe of 'n werktuig ten opsigte waarvan die misdryf gepleeg is of wat in verband met die pleeg daarvan gebruik is, of die regte van die veroordeelde daarop, aan die Staat verbeurd verklaar; en
- (b) in die geval van 'n tweede of daaropvolgende skuldig- 60 bevinding, 'n aldus gebruikte vissersboot, vaartuig of voertuig of die regte van die veroordeelde daarop, aan die Staat verbeurd verklaar, en 'n registrasie, lisensie of permit wat ingevolge hierdie Wet ten opsigte van die veroordeelde gedoen of aan hom uitgereik of verleen 65 is, intrek of vir die tydperk wat die hof goedvind, opskort.

SEA FISHERY ACT, 1988

Act No. 12, 1988

- 35 or 36 or fails to comply with an order referred to in section 21 (3) (a);
- (h) without being the holder of a permit as provided by this Act, performs any act for which a permit is required or contravenes or fails to comply with a condition on which the permit was issued;
- (i) returns to the sea or abandons in any other place any edible and marketable dead fish;
- (j) exports or imports any live fish, except in terms of a permit issued by the Minister or his delegate, or otherwise than in accordance with the conditions on which the permit was issued;
- (k) dumps or allows to enter or permits to be dumped or discharged in the sea anything which is or may be injurious to fish, fish food or aquatic plants, or which may disturb or change the ecological balance in any area of the sea, or which may detrimentally affect the marketability of fish or aquatic plants, or which may hinder the catching of fish;
- (l) fails to comply with any requirement or order by a fishery control officer, police officer or honorary fishery officer under this Act, or gives any false information in response to such a requirement or order;
- (m) resists or hinders any fishery control officer, police officer or honorary fishery officer in the exercise of any power or the performance of any duty in terms of this Act;
- (n) falsely represents himself to be a fishery control officer or an honorary fishery officer;
- (o) uses any fishing boat without the consent of the owner or master thereof;
- (p) allows any fishing boat of which he is the licensee to be used for the catching of fish in contravention of the provisions of this Act,
- shall be guilty of an offence and liable on conviction to a fine not exceeding R15 000 or to imprisonment for a period not exceeding five years or to both such fine and such imprisonment.

- (2) (a) If any person is convicted of an offence in terms of this Act, the court shall summarily enquire into and determine the monetary value of any advantage which he may have gained in consequence of that offence, and, in addition to any other punishment that may be imposed in respect of that offence, impose a fine equal to the amount so determined and, in default of payment thereof, imprisonment for a period not exceeding one year.
- (b) A magistrate's court shall have jurisdiction to impose an additional penalty referred to in paragraph (a), even though that penalty may, either alone or together with any other punishment imposed by the court, exceed the punitive jurisdiction of a magistrate's court.

48. (1) The court convicting any person of an offence in terms of this Act may, in addition to any other penalty it may impose—

Forfeiture and seizure.

- (a) in the case of a first conviction, declare any fish, aquatic plants, shells or implement in respect of which the offence was committed or which was used in connection with the commission thereof, or any rights of the convicted person thereto, to be forfeited to the State; and
- (b) in the case of a second or subsequent conviction, declare such fishing boat, vessel or vehicle so used, or any rights of the convicted person thereto, to be forfeited to the State, and cancel, or suspend for such period as the court may think fit, any registration done in respect of the convicted person or any licence or permit issued or granted to him in terms of this Act.

Wet No. 12, 1988

WET OP SEEVISSERY, 1988

- (2) (a) 'n Verbeurdverklaring ingevolge subartikel (1) doen nie afbreuk aan regte wat 'n ander persoon as die veroordeelde op daardie boot, vaartuig, voertuig of werktuig mag hê nie, indien bewys word dat hy alle redelike 5
stappe gedoen het om die gebruik daarvan in verband met die misdryf te voorkom of nie die pleging van die misdryf kon verhoed het nie.
- (b) Die bepalinge van artikel 35 (4) van die Strafproseswet, 1977 (Wet No. 51 van 1977), is *mutatis mutandis* ten opsigte van sodanige regte van toepassing. 10
- (3) Vis, waterplante, skulpe, 'n vissersboot, vaartuig, voertuig of werktuig of 'n reg daarop wat kragtens die bepalinge van hierdie artikel aan die Staat verbeur is, kan verkoop of vernietig word of die Minister kan gelas wat anders daarmee gedoen moet word. 15

Betaling van vergoeding aan informant.

49. Die direkteur-generaal kan uit geld wat die Parlement vir die doel bewillig, en met die instemming van die Minister van Finansies, 'n kontantbedrag wat na die oordeel van die direkteur-generaal onder die omstandighede redelik en billik is, betaal aan enige persoon, uitgesonderd 'n persoon in diens van die 20
Staat, wat enige inligting of bewysstuk met betrekking tot 'n misdryf ingevolge hierdie Wet aan hom verskaf, ongeag of sodanige inligting of bewysstuk tot 'n vervolging en skuldigbevinding in 'n bevoegde hof aanleiding gee. 25

DEEL XIII

25

JURISDIKSIE, BEWYSELEWERING, BEPERKING VAN
AANSPREEKLIKHEID, VREEMDE VAARTUIE IN VISSERYSONE,
BEVOEGDHEDE VAN VISSERYBEHEER- EN POLISIEBEAMPTES, EN
TOEPASSING VAN WET

Jurisdiksie en bewyselewering.

50. (1) Indien 'n persoon daarvan aangekla word dat hy 'n 30
misdryf ingevolge hierdie Wet op of in die see gepleeg het, is 'n hof wie se regsgebied aan die see grens of 'n deel daarvan insluit in die omgewing waar die misdryf na bewering gepleeg is, bevoeg om die aanklag te verhoor, en word die misdryf vir alle doeleindes wat in verband staan met of voortspruit uit die ver- 35
hoor van die aanklag, geag in die regsgebied van bedoelde hof gepleeg te wees.

(2) Indien 'n vissersboot, vaartuig of voertuig in verband met 'n misdryf ingevolge hierdie Wet gebruik is, of indien vis of 'n werktuig ten opsigte waarvan of deur middel waarvan 'n misdryf 40
ingevolge hierdie Wet gepleeg is, op 'n vissersboot, vaartuig of voertuig gevind word, of daar bewys word dat dit daarop of daarin was, word elkeen wat aan boord van so 'n vissersboot of vaartuig of in of op die voertuig was toe die misdryf gepleeg is, geag skuldig te wees aan daardie misdryf, tensy hy bewys lewer 45
dat hy nie die misdryf gepleeg het nie, nie aan die pleging daarvan deelgeneem het nie en nie die pleging daarvan kon verhoed het nie.

(3) By 'n vervolging weens 'n oortreding van hierdie Wet—

(a) gegrond op 'n handeling wat na bewering verrig is bin- 50
ne 'n bepaalde gebied, word die betrokke handeling geag binne daardie gebied verrig te wees;

(b) word die gegewens verkry deur middel van 'n instrument of kaart wat gebruik is om afstand of diepte te be-
paal, geag juis te wees, 55

tensy die teendeel bewys word.

(4) Indien by 'n vervolging weens 'n misdryf ingevolge hierdie Wet bewys word dat in 'n gebied in die see binne 'n afstand van agt kilometer vanaf 'n fabriek, met inbegrip van 'n ander fabriek as dié in artikel 1 omskryf, of enige ander installasie, vis of vis- 60
voedsel skade aangedoen is of aangedoen word of die vis gevrek het of besig is om te vrek of die bemarkbaarheid daarvan of van waterplante benadeel is of benadeel word, of die ekologiese balans versteur is of versteur word of verander is of verander word, word vermoed, totdat die teendeel bewys word, dat dit 65

SEA FISHERY ACT, 1988

Act No. 12, 1988

- (2) (a) A declaration of forfeiture in terms of section (1) shall not affect any rights which any person other than the convicted person may have to such boat, vessel, vehicle or implement, if it is proved that he had taken all reasonable steps to prevent the use thereof in connection with the offence or could not have prevented the commission of the offence.
- (b) The provisions of section 35 (4) of the Criminal Procedure Act, 1977 (Act No. 51 of 1977), shall *mutatis mutandis* apply in respect of any such rights.
- (3) Any fish, aquatic plants, shells, fishing boat, vessel, vehicle or implement or any right thereto forfeited to the State under the provisions of this section, may be sold or destroyed or may be dealt with in such other manner as the Minister may direct.
- 15 49. The director-general may, from moneys appropriated by Parliament for the purpose and with the concurrence of the Minister of Finance, pay to any person, excluding a person in the employment of the State, who furnished him with any information or material of proof with relation to an offence in terms of
- 20 this Act, irrespective of whether such information or material of proof has led to a prosecution and conviction before a competent court, a remuneration in cash which, in the opinion of the director-general, is reasonable and fair in the circumstances.
- Payment of remuneration to informant.

PART XIII

25 JURISDICTION, EVIDENCE, LIMITATION OF LIABILITY, FOREIGN VESSELS IN FISHING ZONE, POWERS OF FISHERY CONTROL OFFICERS AND POLICE OFFICERS, AND APPLICATION OF ACT

50. (1) If any person is charged with having committed any offence in terms of this Act on or in the sea, any court whose area of jurisdiction borders on or includes any part of the sea in the vicinity where the offence has allegedly been committed, shall be competent to try the charge, and the offence shall, for all purposes connected with or consequential upon the trial of the charge, be deemed to have been committed within the area of jurisdiction of that court.
- 35 (2) If any fishing boat, vessel or vehicle has been used in connection with any offence in terms of this Act, or if any fish or implement in respect of or by means of which an offence in terms of this Act has been committed, is found or proved to have been upon or in any fishing boat, vessel or vehicle, any person who was on board such fishing boat or vessel or in or on the vehicle at the time when the offence was committed, shall be deemed to be guilty of that offence, unless he proves that he did not commit the offence, did not take part in the commission thereof and could not have prevented the commission thereof.
- 45 (3) In any prosecution for a contravention of this Act—
- (a) based on any act alleged to have been performed in a particular area, the act in question shall be deemed to have been performed in such area;
- 50 (b) any information obtained by means of any instrument or chart used to determine any distance or depth, shall be deemed to be correct, unless the contrary is proved.
- (4) If in any prosecution for an offence in terms of this Act it is proved that in any area in the sea within a distance of eight kilometres from any factory, including any factory other than that defined in section 1, or any other installation, any fish or fish food has been or is being injured or has died or is dying or the marketability thereof or of aquatic plants has been or is being adversely affected, or the ecological balance has been or is being disturbed or changed, it shall be presumed, until the con-
- Jurisdiction and evidence.

Wet No. 12, 1988

WET OP SEEVISSERY, 1988

veroorsaak is of veroorsaak word deur iets wat vanuit daardie fabriek of installasie in die see ingelaat is.

(5) By 'n vervolging weens 'n misdryf ingevolge hierdie Wet is dit geen verweer dat die beskuldigde nie van die een of ander feit kennis gedra het nie, of nie opsetlik opgetree het nie.

5

Beperking van aanspreeklikheid.

51. (1) Die Staat, die Minister, 'n lid van die raad of 'n persoon in diens van die Staat is nie aanspreeklik nie uit hoofde van enigiets wat te goeder trou kragtens die bepalings van hierdie Wet gedoen is.

(2) Die Staat, die Minister of 'n persoon in diens van die Staat is nie aanspreeklik nie (behalwe in die geval van 'n opsetlike handeling of versuim aan die kant van so iemand) teenoor 'n persoon wat, behalwe by die verrigting van 'n plig of werksaamheid ingevolge hierdie Wet of 'n ander wet—

(a) gebruik maak van 'n vliegtuig, vissersboot, vaartuig of 15 voertuig wat die eiendom of onder die beheer is van die Staat;

(b) in 'n vissershawe of op 'n eiland aanwesig is; of

(c) 'n vissersboot of vaartuig of ander goed in 'n vissershawe laat of van die geriewe van 'n vissershawe 20 gebruik maak,

of teenoor die gade of 'n afhanklike van so iemand, vir verlies of skade as gevolg van liggaamlike beserings, lewensverlies of verlies van of skade aan eiendom wat veroorsaak is deur of voortspuit uit of op enige wyse in verband staan met die gebruik van 25 'n vliegtuig, vissersboot, vaartuig of voertuig 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).

Gebruik van vreemde vaartuie as vissersbote en fabriek in visserysone.

52. (1) Behoudens die bepalings van artikels 29, 31, 33 en 35, 30 kan die Staatspresident op die voorwaardes deur hom bepaal met 'n vreemde staat 'n ooreenkoms aangaan wat voorsiening maak dat 'n vaartuig wat in daardie vreemde staat geregistreer is, behoudens die bepalings van hierdie artikel binne die visserysone, uitgesonderd die territoriale waters, as vissersboot of fabriek gebruik mag word. 35

(2) Indien 'n ooreenkoms beoog in subartikel (1) voorsiening maak dat 'n vaartuig wat in die betrokke vreemde staat geregistreer is binne die visserysone, uitgesonderd die territoriale waters, as vissersboot of fabriek gebruik mag word, kan die 40 Minister die direkteur-generaal gelas om op aansoek van die eienaar van daardie vaartuig 'n permit ten opsigte van daardie vaartuig uit te reik waarby magtiging verleen word dat dit aldus as vissersboot of fabriek gebruik word.

(3) 'n Permit beoog in subartikel (2) word uitgereik vir die 45 tydperk, onderworpe aan die voorwaardes en beperkings en teen betaling van die gelde wat deur die Minister met die instemming van die Minister van Finansies bepaal word, en die Minister kan, na goeddunke, sodanige permit te eniger tyd in-trek en sodanige voorwaardes, beperkings of gelde te eniger tyd 50 aldus wysig of verander.

(4) 'n Persoon wat 'n vaartuig wat in 'n vreemde staat geregistreer is—

(a) binne die territoriale waters;

(b) sonder dat 'n permit ingevolge subartikel (2) ten op- 55 sigte daarvan uitgereik is, binne die visserysone, uitgesonderd die territoriale waters;

(c) binne die visserysone, uitgesonderd die territoriale waters, strydig met of sonder om te voldoen aan 'n voorwaarde of beperking waarop 'n permit ingevolge 60 subartikel (2) ten opsigte daarvan uitgereik is,

as 'n vissersboot of fabriek gebruik, is aan 'n misdryf skuldig en by skuldigbevinding strafbaar met 'n boete van hoogstens R100 000 of met gevangenisstraf vir 'n tydperk van hoogstens 65 sewe jaar of met sodanige boete sowel as sodanige gevangenis- 65 straf.

SEA FISHERY ACT, 1988

Act No. 12, 1988

trary is proved, that it has been or is being caused by something discharged from that factory or installation into the sea.

(5) In any prosecution for an offence in terms of this Act, it shall be no defence that the accused had no knowledge of some 5 fact or other or did not act intentionally.

51. (1) The State, the Minister, a member of the board or any person in the employment of the State shall not be liable by virtue of anything done in good faith under the provisions of this Act. Limitation of liability.

10 (2) The State, the Minister or any person in the employment of the State 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 duty or function in terms of this Act or any other law—

- 15 (a) makes use of any aircraft, fishing boat, vessel or vehicle which is the property or under the control of the State;
 (b) is present in any fishing harbour or on an island; or
 (c) leaves any fishing boat or vessel or any other property in a fishing harbour or makes use of the facilities of a
 20 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 aircraft, fishing
 25 boat, vessel or vehicle 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).

52. (1) Subject to the provisions of sections 29, 31, 33 and 35, the State President may on the conditions determined by him 30 enter into an agreement with a foreign state whereby a vessel registered in that foreign state are permitted, subject to the provisions of this section, to operate as a fishing boat or factory within the fishing zone, excluding the territorial waters. Use of foreign vessels as fishing boats and factories in fishing zone.

(2) If an agreement contemplated in subsection (1) provides 35 that a vessel registered in the foreign state in question may be used as a fishing boat or factory within the fishing zone, excluding the territorial waters, the Minister may direct the director-general to issue on application by the owner of that vessel a permit in respect of that vessel authorizing it to be so used as a
 40 fishing boat or factory.

(3) A permit contemplated in subsection (2) shall be issued for such period, subject to such conditions and restrictions and against payment of such fees as may be determined by the Minister with the concurrence of the Minister of Finance, and the
 45 Minister may at any time and at his own discretion cancel such permit and so amend or alter such conditions, restrictions or fees.

(4) Any person who uses a vessel registered in a foreign state as a fishing boat or factory—

- 50 (a) within the territorial waters;
 (b) within the fishing zone, excluding the territorial waters, without a permit being issued in terms of subsection (2);
 55 (c) within the fishing zone, excluding the territorial waters, in contravention of or non-compliance with any condition on which a permit has been issued in terms of subsection (2) in respect thereof,

shall be guilty of an offence and liable on conviction to a fine not exceeding R100 000 or to imprisonment for a period not exceed-
 60 ing seven years or to both such fine and such imprisonment.

Wet No. 12, 1988

WET OP SEEVISSERY, 1988

Bevoegdhede van
visserybeheer-
beamptes en poli-
siebeamptes.

53. (1) 'n Visserybeheerbeampte wat in die algemeen of in 'n besondere geval deur die Minister daartoe gemagtig is, en 'n polisiebeampte kan—

- (a) aan boord gaan van 'n vissersboot of vaartuig, of 'n fabriek binnegaan, 'n perseel of plek wat vir die opberging of verkoop van vis, visprodukte, waterplante of skulpe gebruik word, betree en 'n voertuig bestyg wat vir die vervoer of verkoop van vis, visprodukte, waterplante of skulpe gebruik word, en op daardie vissersboot, perseel, plek, vaartuig of voertuig of in daardie fabriek die handelinge verrig wat hy nodig ag om vas te stel of die bepalings van hierdie Wet nagekom is of word;
- (b) 'n werktuig of voorwerp ondersoek waaromtrent hy redelike gronde het om te vermoed dat dit gebruik word of bestem is om gebruik te word by die vang of hanteling van vis, die verwerking van visprodukte of die versameling van waterplante of skulpe;
- (c) behoudens die bepalings van subartikel (3), as hy redelike gronde het om te vermoed dat 'n misdryf ingevolge hierdie Wet ten opsigte van vis, visprodukte, waterplante of skulpe gepleeg is, of ten opsigte van of deur middel van 'n werktuig gepleeg is of gepleeg gaan word, en dat die vis, visprodukte, waterplante of skulpe of werktuig op 'n perseel, plek, vissersboot, vaartuig of voertuig of in 'n fabriek is, te eniger tyd daardie perseel, plek, vissersboot, vaartuig, voertuig of fabriek betree en deursoek, en iemand wat hom daarop of daarin bevind, deursoek, en beslag lê op daardie vis, visprodukte, waterplante of skulpe, werktuig, vissersboot, vaartuig of voertuig, sowel as op enige boeke of ander stukke wat op of in daardie perseel, plek, vissersboot, vaartuig of voertuig of in daardie fabriek is;
- (d) as hy redelike gronde het om te vermoed dat 'n vissersboot, perseel, plek, vaartuig, voertuig of fabriek in verband met 'n misdryf ingevolge hierdie Wet gebruik is of gebruik word, of dat vis, visprodukte, waterplante of skulpe of 'n werktuig waaromtrent daar redelike gronde bestaan vir 'n vermoede dat 'n misdryf ingevolge hierdie Wet ten opsigte van of deur middel daarvan gepleeg is, op 'n vissersboot, perseel, plek, vaartuig of voertuig of in 'n fabriek is of was, eis dat die persone op daardie vissersboot, perseel, plek, vaartuig of voertuig of in daardie fabriek hul name en adresse aan hom verstrek of dat die lisensiehouer van sodanige vissersboot die name en adresse van die gesagvoerder en die lede van die bemanning van daardie vissersboot aan hom verstrek;
- (e) met 'n voorgeskrewe teken die gesagvoerder van 'n vissersboot gelas om die vissersboot tot stilstand te bring of na 'n hawe deur die visserybeheerbeampte of polisiebeampte aangedui, te vaar;
- (f) die gesagvoerder van 'n vissersboot gelas om dit op 'n bepaalde tydstop uit 'n vissershawe te verwyder of om dit nie in 'n vissershawe te bring nie—
 - (i) indien die vissersboot 'n vissersboot bedoel in hierdie subartikel is; of
 - (ii) indien, ongeag waar die vissersboot geregistreer is, 'n persoon wat 'n bemanningslid van daardie vissersboot is of te eniger tyd was, te eniger tyd skuldig bevind is ingevolge 'n wet wat in die Republiek van toepassing is of was aan 'n misdryf wat op daardie vissersboot gepleeg is terwyl dit binne die visserysone was; of
 - (iii) indien, ongeag waar die vissersboot geregistreer is, 'n visserybeheerbeampte of polisiebeampte op redelike gronde daarvan oortuig is dat daardie vissersboot te eniger tyd binne die visserysone ge-

SEA FISHERY ACT, 1988

Act No. 12, 1988

53. (1) A fishery control officer generally or specially authorized thereto by the Minister, and a police officer may—

Powers of fishery control officers and police officers.

- 5 (a) board any fishing boat or vessel, enter any factory, any premises or place used for the storage or sale of fish, fish products, aquatic plants or shells and enter any vehicle used for the transport or sale of fish, fish products, aquatic plants or shells, and perform on such fishing boat, premises, place, vessel or vehicle or in that factory such acts as may be necessary to ascertain whether the provisions of this Act were or are being complied with;
- 10
- 15 (b) examine any implement or object which he has reasonable grounds to suspect is being used or intended for use in the catching or handling of fish, the processing of fish products or the collection of aquatic plants or shells;
- 20 (c) subject to the provisions of subsection (3), if he has reasonable grounds to suspect that an offence in terms of this Act has been committed in respect of fish, fish products, aquatic plants or shells or has been or is about to be committed in respect of or by means of any implement, and that such fish, fish products, aquatic plants, shells or implement is upon any premises or at any place or upon any fishing boat, vessel or vehicle or in any factory, at any time enter upon and search such premises, place, fishing boat, vessel, vehicle or factory and search any person thereupon or therein, and seize any such fish, fish products, aquatic plants or shells, implement, fishing boat, vessel or vehicle, as well as
- 25
- 30 any books or other documents on or in such premises, place, fishing boat, vessel or vehicle or in such factory;
- 35 (d) if he has reasonable grounds to suspect that any fishing boat, premises, place, vessel, vehicle or factory has been or is being used in connection with any offence in terms of this Act, or that any fish, fish products, aquatic plants or shells, or implement as to which there are reasonable grounds for suspecting that an offence in terms of this Act has been committed in respect thereof or by means thereof, is or has been on any fishing boat, premises, place, vessel or vehicle or in any factory, require the persons on such fishing boat, premises, place, vessel or vehicle or in such factory, to furnish him with their names and addresses or require the licensee of such fishing boat to furnish him with the names and addresses of the master and of the members of the crew of such fishing boat;
- 40
- 45 (e) by a prescribed signal order the master of a fishing boat to stop such boat or to sail to a harbour indicated by the fishery control officer or police officer;
- 50 (f) order the master of a fishing boat to remove it at a specified time from a fishing harbour or not to bring it into a fishing harbour—
- 55 (i) if the fishing boat is a fishing boat referred to in this subsection; or
- 60 (ii) if, irrespective of where the fishing boat is registered, any person who is or at any time was a member of the crew of such fishing boat, was at any time convicted, in terms of a law which is or was in force in the Republic, of any offence committed on such fishing boat while it was within the fishing zone; or
- (iii) if, irrespective of where the fishing boat is registered, the fishing control officer or police officer is satisfied, upon reasonable grounds, that such

Wet No. 12, 1988

WET OP SEEVISSERY, 1988

bruik is in verband met 'n bedrywigheid wat 'n misdryf ingevolge die een of ander wet uitgemaak het;

- (g) enige persoon ondervra wat na sy oordeel moontlik in staat is om inligting te verstrek wat hy verlang, en vir die doel vereis dat 'n vissersboot, vaartuig of voertuig tot stilstand gebring word;
- (h) van enige persoon vereis dat hy fakture, afleweringsbriewe of ander stukke in sy besit in verband met vis of visprodukte wat die onderwerp van 'n strafsak ingevolge hierdie Wet uitmaak of na sy oordeel mag uitmaak, aan hom toon, en na goeddunke op sodanige fakture, afleweringsbriewe of ander stukke beslag lê vir voorlegging aan en beskikking daaroor deur 'n hof;
- (i) van 'n persoon wat werksaam is op 'n vissersboot, vaartuig of voertuig of by of in 'n fabriek, vereis om hom te help met die ondersoek van 'n houer of werktuig, of vis, op daardie vissersboot, vaartuig of voertuig of in daardie fabriek, ten einde vas te stel of die bepalings van hierdie Wet in verband daarmee nagekom is.

(2) 'n Visseryebeheerbeampte word by die uitoefening van sy bevoegdhede kragtens subartikel (1) geag 'n vredesbeampte te wees soos omskryf in artikel 1 van die Strafproseswet, 1977 (Wet No. 51 van 1977).

(3) Wanneer 'n visseryebeheerbeampte of polisiebeampte sy bevoegdhede kragtens hierdie artikel uitoefen, mag hy 'n woonhuis slegs ooreenkomstig die bepalings van die Strafproseswet, 1977, betree of deursoek.

(4) Die bevoegdhede by subartikel (1) verleen, kan, ten opsigte van 'n vissersboot wat ingevolge hierdie Wet gelisensieer is of 'n vaartuig wat as 'n vissersboot in die visserysone gebruik word, en ten opsigte van 'n persoon of vis of 'n werktuig daarop, ook buite die visserysone uitgeoefen word.

(5) Vis, visprodukte, waterplante of skulpe of 'n werktuig waarop kragtens subartikel (1) (c) beslag gelê is, word aan die Staat verbeur: Met dien verstande dat—

- (a) ingeval die vis, visprodukte, waterplante of skulpe of werktuig die onderwerp van 'n vervolging uitmaak, die hof die verbeuring kan ophef; en
- (b) in 'n ander geval die Minister die verbeuring kan ophef, indien die eienaar van die vis, visprodukte, waterplante, skulpe of werktuig, na gelang van die geval, binne 30 dae na die beslaglegging die Minister oortuig dat geen misdryf ten opsigte van die vis, visprodukte, waterplante of skulpe of deur middel van die werktuig deur hom of deur iemand anders met sy medewete of toestemming gepleeg is nie:

Met dien verstande voorts dat vis, visprodukte, waterplante of skulpe waarop aldus beslag gelê is, te eniger tyd na die beslaglegging verkoop of vernietig mag word, en indien die verbeuring ingevolge paragraaf (a) of (b) opgehef word, die opbrengs van die verkoping (as daar is) aan die eienaar oorhandig word.

54. Hierdie Wet is ook van toepassing op—

- (a) die Prince Edward-eilande soos omskryf in artikel 1 van die Wet op die Prince Edward-eilande, 1948 (Wet 55 No. 43 van 1948);
- (b) die hawe en nedersetting Walvisbaai; en
- (c) die eilande en rotse vermeld in Bylae 2.

DEEL XIV

HERROEPING VAN WETTE, EN VOORBEHOUD, KORT TITEL EN INWERKINGTREDING

55. (1) Behoudens die bepalings van subartikel (2) word die wette in Bylae 1 vermeld hierby herroep vir sover in kolom 3 daarvan aangedui.

Toepassing van
Wet op Prince
Edward-eilande,
Walvisbaai en
sekere eilande
en rotse.

Herroeping
van wette, en
voorbehoud.

SEA FISHERY ACT, 1988

Act No. 12, 1988

fishing boat was at any time used within the fishing zone in connection with any activity that constituted an offence in terms of any law;

- 5 (g) question any person who, in his opinion, may be capable of furnishing any information which he may require, and for that purpose require a fishing boat, vessel or vehicle to be stopped;
- 10 (h) require any person to produce to him any invoices, delivery notes or other documents in his possession in connection with any fish or fish products which are or in his opinion may be the subject of any criminal case in terms of this Act, and in his discretion seize such invoices, notes or other documents for submission to and disposal of by a court;
- 15 (i) require any person employed on a fishing boat, vessel or vehicle or at or in a factory, to assist him in the examination of any container, implement or fish on such fishing boat, vessel or vehicle or in such factory, in order to ascertain whether the provisions of this Act have been complied with in connection therewith.

(2) A fishery control officer shall in the exercise of his powers under subsection (1), be deemed to be a peace officer as defined in section 1 of the Criminal Procedure Act, 1977 (Act No. 51 of 1977).

- 25 (3) Whenever any fishery control officer or police officer exercises any of his powers under this section, he may only enter or search a dwelling in accordance with the provisions of the Criminal Procedure Act, 1977.

(4) The powers conferred by subsection (1) may, in respect of any fishing boat licensed in terms of this Act or any vessel used as a fishing boat in the fishing zone, and in respect of any person or any fish or implement thereon, be exercised also outside the fishing zone.

(5) Any fish, fish products, aquatic plants or shells or implement seized under subsection (1) (c), shall be forfeited to the State: Provided that—

- (a) in the event of the fish, fish products, aquatic plants or shells or implement forming the subject of a prosecution, the court may set aside the forfeiture; and
- 40 (b) in any other case the Minister may set aside the forfeiture, if the owner of the fish, fish products, aquatic plants or shells or implement, as the case may be, satisfies the Minister, within 30 days after the seizure, that no offence was committed by him or by any other person with his knowledge or consent, in respect of the fish, fish products, aquatic plants or shells or by means of the implement:

Provided further that fish, fish products, aquatic plants or shells so seized may be sold or destroyed at any time after the seizure, and if the forfeiture is set aside in terms of paragraph (a) or (b), the proceeds of the sale (if any) shall be handed over to the owner.

54. This Act shall also apply to—

- 55 (a) the Prince Edward Islands as defined in section 1 of the Prince Edward Islands Act, 1948 (Act No. 43 of 1948);
- (b) the harbour and settlement of Walvis Bay; and
- (c) the islands and rocks mentioned in Schedule 2.

Application of Act to Prince Edward Islands, Walvis Bay and certain islands and rocks.

PART XIV

60 REPEAL OF LAWS, AND SAVINGS, SHORT TITLE AND COMMENCEMENT

55. (1) Subject to the provisions of subsection (2) the laws mentioned in Schedule 1 are hereby repealed to the extent indicated in column 3 thereof.

Repeal of laws, and savings.

Wet No. 12, 1988

WET OP SEEVISSERY, 1988

(2) 'n Registrasie van, of 'n lisensie ten opsigte van, 'n vissersboot, fabriek of werktuig en 'n 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 of vergunning kragtens die ooreenstemmende bepaling van hierdie Wet (as daar is) te wees vir die onverstreke gedeelte van die tydperk waarvoor dit geldig sou gewees het indien hierdie Wet nie aangeneem was nie. 5

Kort titel en
inwerkingtreding.

56. (1) Hierdie Wet heet die Wet op Seevisserij, 1988, en tree 10 in werking op 'n datum wat die Staatspresident by proklamasie in die *Staatskoerant* bepaal.

(2) Verskillende datums kan ingevolge subartikel (1) ten opsigte van verskillende bepalings van hierdie Wet bepaal word.

SEA FISHERY ACT, 1988

Act No. 12, 1988

(2) A registration of, or any licence in respect of, a fishing boat, factory or implement and any 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 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.

56. (1) This Act shall be called the Sea Fishery Act, 1988, and shall come into operation on a date fixed by the State President by proclamation in the *Gazette*. Short title and commencement.

(2) Different dates may be determined in terms of subsection (1) in respect of different provisions of this Act.

Wet No. 12, 1988

WET OP SEEVISSERY, 1988

Bylae 1

No. en jaar van wet	Kort titel	In hoeverre herroep
Wet 58 van 1973	Wet op Seevisserye, 1973	Die geheel.
Wet 57 van 1975	Algemene Regswysigingswet, 1975	Artikels 44 en 45.
Wet 22 van 1976	Wysigingswet op Seevisserye, 1976	Die geheel.
Wet 99 van 1977	Wysigingswet op Seevisserye, 1977	Die geheel.
Wet 86 van 1978	Visnywerheid-ontwikkelingswet, 1978	Vir sover dit nog nie by 'n vorige Wet herroep is nie.
Wet 61 van 1979	Wysigingswet op Seevisserye, 1979	Die geheel.
Wet 33 van 1983	Wysigingswet op Seevisserye, 1983	Die geheel.

Bylae 2

Naam of beskrywing van eiland	Ligging
1. Bird-eiland	Algoabaai.
2. Stag-eiland	Algoabaai.
3. Seal-eiland	Algoabaai.
4. Black Rocks	Algoabaai.
5. St. Croix-eiland	Algoabaai.
6. Brenton Rock	Algoabaai.
7. Jahlleel-eiland (ook bekend as Jackell-eiland)	Algoabaai.
8. Seal Point	Naby Krommebaai, distrik Humansdorp.
9. Cape Seal	Plettenbergbaai.
10. Walkerpunt en Robstene	Distrik Knysna.
11. Robeiland	Mosselbaai.
12. Rotse by Ratelriviermond	Distrik Bredasdorp.
13. Voëlstone	Naby Buffeljacht, distrik Bredasdorp.
14. Quoin Rock	Distrik Bredasdorp.
15. Dyer-eiland	Distrik Bredasdorp.
16. Geysereiland	Distrik Bredasdorp.
17. Seal Rock (ook bekend as Voëlstone)	Frikkeesbaai, distrik Caledon.
18. Robeiland	Valsbaai.
19. Duikerklip	Houtbaai.
20. Robbersteen (ook bekend as Seal Ledges)	Distrik Bellville.
21. Vogelsteen	Bloubergstrand, distrik Kaap.
22. Dasseneiland	Distrik Malmesbury.
23. Yzerklip (ook bekend as Meeuw Rock)	Distrik Malmesbury.
24. Jutten-eiland	Saldanhabaai.
25. Marcus-eiland	Saldanhabaai.
26. Malagas-eiland (ook bekend as Malgas-eiland)	Saldanhabaai.
27. Meeuweneiland (ook bekend as Meeu-eiland)	Saldanhabaai.
28. Schaapeneiland	Saldanhabaai.
29. Vondeling-eiland	Naby Saldanhabaai.
30. Jacobsrots	Naby Saldanhabaai.
31. Paternoster-rotse (ook bekend as Paternoster-eiland)	By Groot-Paternosterpunt, naby Saldanhabaai, distrik Hopefield.
32. Pikkewyneiland (ook bekend as Lambertsbaai-eiland)	Lambertsbaai.
33. Olifantsrots	Naby Olifantsriviermond, distrik Vanrhynsdorp.
34. Little Roastbeef-eiland	In Dernburgbaai, kus van Suidwes-Afrika.
35. Sinclair-eiland	Naby Bakerbaai, kus van Suidwes-Afrika.
36. Plumpudding-eiland	Naby Bakerbaai, kus van Suidwes-Afrika.
37. Pomona-eiland	Naby Jammerbaai, kus van Suidwes-Afrika.
38. Albatros-rots	Naby Prince of Wales-baai, kus van Suidwes-Afrika.
39. Possession-eiland	Naby Elizabethbaai, kus van Suidwes-Afrika.
40. Long-eiland	Naby Wolfbaai, kus van Suidwes-Afrika.
41. Halifax-eiland	Naby Luderitzbaai.
42. Penguin-eiland (ook bekend as Pikkewyn-eiland)	Luderitzbaai.
43. Seal-eiland (ook bekend as Robeiland)	Luderitzbaai.
44. Ichaboe-eiland	Naby Douglasbaai, kus van Suidwes-Afrika.
45. Mercury-eiland	Spencerbaai, kus van Suidwes-Afrika.
46. Hollamsbird-eiland	Kus van Suidwes-Afrika.

SEA FISHERY ACT, 1988

Act No. 12, 1988

Schedule 1

No. and year of law	Short title	Extent of repeal
Act 58 of 1973	Sea Fisheries Act, 1973	The whole.
Act 57 of 1975	General Laws Amendment Act, 1975	Sections 44 and 45.
Act 22 of 1976	Sea Fisheries Amendment Act, 1976	The whole.
Act 99 of 1977	Sea Fisheries Amendment Act, 1977	The whole.
Act 86 of 1978	Fishing Industry Development Act, 1978	In so far as it has not been repealed by any previous Act.
Act 61 of 1979	Sea Fisheries Amendment Act, 1979	The whole.
Act 33 of 1983	Sea Fisheries Amendment Act, 1983	The whole.

Schedule 2

Name or description of island	Situation
1. Bird Island	Algoa Bay.
2. Stag Island	Algoa Bay.
3. Seal Island	Algoa Bay.
4. Black Rocks	Algoa Bay.
5. St. Croix Island	Algoa Bay.
6. Brenton Rock	Algoa Bay.
7. Jahleel Island (also known as Jackell Island)	Algoa Bay.
8. Seal Point	Near Krommebaai, Humansdorp district.
9. Cape Seal	Plettenberg Bay.
10. Walker Point and Seal Ledges	Knysna district.
11. Seal Island	Mossel Bay.
12. Rocks at mouth of Ratel River	Bredasdorp district.
13. Voëlstone	Near Buffeljacht, Bredasdorp district.
14. Quoin Rock	Bredasdorp district.
15. Dyer Island	Bredasdorp district.
16. Geyser Island	Bredasdorp district.
17. Seal Rock (also known as Voëlsteen)	Frikiesbaai, Caledon district.
18. Seal Island	False Bay.
19. Duikerklip	Hout Bay.
20. Robbersteen (also known as Seal Ledges)	Bellville district.
21. Vogelsteen	Blouberg Beach, Cape district.
22. Dassen Island	Malmesbury district.
23. Yzerklip (also known as Meeuw Rock)	Malmesbury district.
24. Jutten Island	Saldanha Bay.
25. Marcus Island	Saldanha Bay.
26. Malagas Island (also known as Malgas Island)	Saldanha Bay.
27. Meeuwen Island (also known as Meeu Island)	Saldanha Bay.
28. Schaapen Island	Saldanha Bay.
29. Vondeling Island	Near Saldanha Bay.
30. Jacob's Rock	Near Saldanha Bay.
31. Paternoster Rocks (also known as Paternoster Island)	At Great Paternoster Point, near Saldanha Bay, Hopefield district.
32. Penguin Island (also known as Lambert's Bay Island)	Lambert's Bay.
33. Elephant Rock	Near mouth of Olifants River, Vanrhynsdorp district.
34. Little Roastbeef Island	In Dernburg Bay, coast of South West Africa.
35. Sinclair Island	Near Baker Bay, coast of South West Africa.
36. Plumpudding Island	Near Baker Bay, coast of South West Africa.
37. Pomona Island	Near Jammer Bay, coast of South West Africa.
38. Albatross Rock	Near Prince of Wales Bay, coast of South West Africa.
39. Possession Island	Near Elizabeth Bay, coast of South West Africa.
40. Long Islands	Near Wolf Bay, coast of South West Africa.
41. Halifax Island	Near Luderitz Bay.
42. Penguin Island (also known as Pikewyn Island)	Luderitz Bay.
43. Seal Island (also known as Rob Island)	Luderitz Bay.
44. Ichaboe Island	Near Douglas Bay, coast of South West Africa.
45. Mercury Island	Spencer Bay, coast of South West Africa.
46. Hollamsbird Island	Coast of South West Africa.

