



forestry, fisheries & the environment

Department:
Forestry, Fisheries and the Environment
REPUBLIC OF SOUTH AFRICA

PUBLIC NOTICE

MARINE LIVING RESOURCES ACT, 1998 (ACT NO. 18 OF 1998)

CONSULTATION ON THE PROPOSED EXEMPTION TO BE ISSUED TO PREVIOUS ABALONE RIGHT HOLDERS FOR THE 2022/2023 ABALONE FISHING SEASON

The Deputy-Director General: Branch Fisheries Management of the Forestry, Fisheries and the Environment, Ms Sue Middleton, published the Draft "Exemption in terms of section 81 of the Marine Living Resources Act, 1998 (Act No. 18 of 1998) (MLRA) from the provisions of section 18 of the MLRA for the 2022/2023 abalone fishing season" dated 26 August 2022 on the Departmental website; <https://www.dffe.gov.za/legislation/publicnotices/frag> for public comment.

The primary purpose of the draft exemption is to enable those who held abalone rights prior to the Fishing Rights Allocation Process (FRAP) 2015/16, and whom have been granted annual exemptions since, to continue fishing subject to an exemption, pending a decision to be taken by the Department in terms of rights allocation in the commercial abalone fishing sector. A decision on future rights allocation can only be taken after scientific information has been received and public consultations have been held on the proposed way forward.

Members of the public are invited to submit comments on the draft exemption to the Deputy-Director General: Branch Fisheries Management within 30 (thirty) calendar days of the publication of this advert in the newspaper. Comments received after the closing date may not be considered.

By post to:

Department of Forestry, Fisheries & the Environment
The Deputy Director-General
Branch: Fisheries Management
Private Bag X2
Vlaeberg

By hand to:

Department of Forestry, Fisheries & the Environment
The Deputy Director-General
Branch: Fisheries Management
4th Floor Foretraust Building
Martin Hammerschlag Way

Cape Town
8002

Foretrust
Cape Town

By e-mail: mmdledle@dfre.gov.za

Enquiries: Mr. Msimelelo Mdledle 021 402 3422/3727 or 084 3040 170

A copy of the draft exemption can be downloaded from the Department's website: <https://www.dfre.gov.za/legislation/publicnotices/frag> or can be obtained electronically upon request by email to mmdledle@dfre.gov.za and a hard-copy can be accessed at the Department's offices at 4th Floor, Foretrust Building, Martin Hammerschlag Way, Foreshore, Cape Town.

Consultations on the proposed Exemption to be issued to previous abalone Right Holders for the 2022/2023 abalone fishing season, will take place on areas, venues and dates as reflected below:

TOWN	PROVINCE	TOWN FOR THE MEETING	VENUE	DATE
WEEK 1 TEAM A				
CAPE TOWN	WC	Cape Town	DFFE Offices, East Pier Building 1, East Pier Road, V&A Waterfront, Cape Town, 8001	10-Oct-22
FISH HOEK				
HOUT BAY				
ELSIES RIVER				
PAARL				
ROBERTSON				
SOMERSET WEST	WC	Somerset West	Somerset West Town Hall, 11 Main Road, Somerset west	11-Oct-22
SIR LOWRY'S PASS				
STRAND				
GRABOUW				
KLEINMOND	WC	KLEINMOND	Kleinmond Youth Hall, Protea Road, Back of Child & Youth care Office	12-Oct-22
BETTYS BAY				

HAWSTON	WC	HERMANUS	Hermanus, Sanndabaai Saal Hermanus, 71 Main Rd	13-Oct-22
HERMANUS				
STANFORD				

GANSBAAI	WC	GANSBAAI	Gansbaai, Blompark, Community Hall	14-Oct-22
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WEEK 2 TEAM A

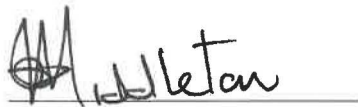
ARNISTON	WC	BREDASDORP	Arniston, Thusog Centre	18-Oct-22
BREDASDORP				
STRUISBAAI				
MOSSEL BAY				
STILBAAI	WC	MOSSEL BAY	Mossel Bay, Garden Court	19-Oct-22
HELDERBERG				
ST FRANCIS BAY				
HUMANSDORP	EC	HUMANSDORP	Humansdorp, Cape St Francis (Balobi), Triton Avenue Porthole Building, Port St, Francis	20-Oct-22
JEFFREYS BAY				
PORT ELIZABETH	EC	PORT ELIZABETH	The Department of Forestry, Fisheries and the Environment (DFFE) Offices, 21 Stanley Street, Gqeberha (Port Elizabeth)	21-Oct-22

WEEK 1 TEAM B

PORT NOLLOTH	NC	PORT NOLLOTH	Port Nolloth, Luvuyo Drop Inn Centre, Port NOLLOTH	11-Oct-22
HONDEKLIPBAY				
LAMBERTS BAY				
DORING BAAI	WC	LAMBERTS BAY	Lamberts Bay, 77 Voortrekker Road Harbour Office, Lambertsbay 8130	12-Oct-22
ELANDS BAAI				
LANGEBAAAN	WC	SALDANHA/ LANGEBAAAN/ VREDENBERG	Thusong Community Hall, 07 Antonio Sieni Street, Langebaan	13-Oct-22
SALDANHA				
VREDENBERG				
VELDDRIF				
ST HELENA BAY	WC	ATLANTIS	Atlantis, Avondale Public Library, Atlantis	14-Oct-22
CLAWILLIAMS				
ATLANTIS				

JOHANNESBURG	GP	Telephonically/ Virtual - The date to be confirmed with the stakeholders		
PRETORIA	GP	Telephonically/ Virtual - The date to be confirmed with the stakeholders		
KLERKSDORP	NW	Telephonically/ Virtual - The date to be confirmed with the stakeholders		

WEEK 2 TEAM B				
BUTTERWORTH	EC	BUTTERWORTH	Butterworth Library, 34 Sandford Street, Butterworth	19-Oct-22
Alice				
KEISKAMMAHOEK			Department of Forestry, Fisheries and the Environment office, Corner Independence Avenue and Circular Drive, Bisho	
EAST LONDON	EC	KING WILLIAM'S TOWN		20-Oct-22
LUSIKISIKI	EC	Telephonically/ Virtual - The date to be confirmed with the stakeholder(s)		
BALLITO	KZN	Telephonically/ Virtual - The date to be confirmed with the stakeholder(s)		



MS. SUE MIDDLETON

DEPUTY DIRECTOR GENERAL: FISHERIES MANAGEMENT

DATE: 7/10/2022

PUBLIC NOTICE

DEPARTMENT OF FORESTRY, FISHERIES AND THE ENVIRONMENT

MARINE LIVING RESOURCES ACT, 1998 (ACT NO. 18 OF 1998)

CONSULTATION ON THE PROPOSED EXEMPTION TO BE ISSUED TO PREVIOUS ABALONE RIGHT HOLDERS FOR THE 2022/2023 ABALONE FISHING SEASON

I, Sue Middleton, Deputy-Director General: Branch Fisheries Management of the Department of Forestry, Fisheries and the Environment hereby publish a Draft Exemption in terms of section 81 of the Marine Living Resources Act, 1998 (Act No. 18 of 1998) from the provisions of section 18 of the Marine Living Resources Act, 1998 (Act No. 18 of 1998) for the 2022/2023 abalone fishing season.

Any person who wishes to comment on the draft exemption may submit written comments to the Department in the following manner:

Members of the public are invited to submit written comments or input, within 30 days from the date of the publication of this *Public Notice*, to any of the following addresses:

By post to: Department of Forestry, Fisheries and the Environment
The Deputy Director-General: Fisheries Management
Attention: Mr Msimelelo Mdledle, Private Bag X2, **VLAEBERG**, 8018
By hand at: 4th Floor Foretrust Building, Martin Hammerschlag Way, Foreshore, Cape Town
By e-mail: MMdledle@dfre.gov.za

Any enquiries in connection with the Notice can be directed to Mr Msimelelo Mdledle by phone at (021) 402 3422 or by mail at MMdledle@dfre.gov.za.

Comments or input received after the closing date may not be considered.

The Department of Forestry, Fisheries and the Environment complies with the Protection of Personal Information Act, 2013 (Act No. 4 of 2013). Comments received and responses thereto are collated into a comments and response report which will be made available to the public as part of the consultation process. If a commenting party has any objection to his or her name, or the name of the represented company/ organisation, being made publicly available in the comments and responses report, such objection should be highlighted in bold as part of the comments submitted in response to this Public Notice.



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Sue Middleton
DEPUTY DIRECTOR-GENERAL: FISHERIES MANAGEMENT
DATE: 26/08/2022

EXEMPTION IN TERMS OF SECTION 81 OF THE MARINE LIVING RESOURCES ACT, 1998 (ACT NO. 18 OF 1998) (THE MLRA)
FROM THE PROVISIONS OF SECTION 18 OF THE MLRA FOR THE 2022/2023 ABALONE FISHING SEASON



forestry, fisheries & the environment

Department:
Forestry, Fisheries and the Environment
REPUBLIC OF SOUTH AFRICA

Exemption: 41.2.1.3 (EXEMPT/S18/MLRA)
Enquiries: Mr Msimelelo Mdledle
Telephone: (021) 402 3422
Email: MMdledle@dffe.gov.za

Dear Sir/Madam

PROPOSED EXEMPTION IN TERMS OF SECTION 81 OF THE MARINE LIVING RESOURCES ACT, 1998 (ACT NO. 18 OF 1998) (THE MLRA) FROM THE PROVISIONS OF SECTION 18 OF THE MLRA FOR THE 2022/2023 ABALONE FISHING SEASON

1. BACKGROUND AND DISCUSSION

- 1.1 In terms of section 81(1) of the MLRA, *"No person shall undertake commercial fishing or small-scale fishing, engage in mariculture or operate a fish processing establishment unless a right to undertake or engage in such an activity or to operate such an establishment has been granted to such a person by the Minister."*
- 1.2 The 10-year abalone commercial fishing rights that were allocated to 304 applicants (264 divers plus 40 legal entities) during the 2004 Long-Term Rights Allocation Management Process (LTRAMP 2004) expired on 30 July 2014 and reverted to the state for re-allocation in terms of the provisions of section 18(6) of the MLRA. However, one (1) of the three hundred and four (304) commercial abalone rights was returned by the right holder and five (5) were revoked prior to their expiry.

- 1.3 The Department embarked on the 2015/2016 abalone Fishing Rights Allocation Process (FRAP 2015/16) and has not yet decided on the applications for allocation of abalone fishing rights which were submitted by the applicants during the FRAP 2015/16.
- 1.4 In terms of section 81(1) of the MLRA, *"If in the opinion of the Minister there are sound reasons for doing so, he or she may, subject to the conditions that he or she may determine, in writing exempt any person or group of persons or organ of state from a provision of this Act."* In terms of section 81(2) *"an exemption granted in terms of subsection (1) may at any time be cancelled or amended by the Minister."* The power to grant exemptions in terms of section 81 of the MLRA has been delegated to the Deputy Director General: Fisheries Management in terms of section 79(1)(a) of the MLRA.
- 1.5 The abalone commercial fishery has since the 2014/2015 abalone fishing season been managed on exemption from the provision of section 18 of the MLRA, which exemption has been, granted on a yearly basis in favour of the two hundred and ninety-eight (298) previous abalone Right Holders in terms of section 81(1) of the MLRA.

2. INTENDED DECISION

- 2.1 In reaching my proposed decision I have considered amongst others, the following:
- 2.1.1 the MLRA, and the Regulations promulgated thereunder, the pending outcomes of the abalone FRAP 2015/16;
- 2.1.2 the economic and social impacts that may arise if the previous abalone exemption holders (i.e., previous right holders) are denied access to the abalone resource in the interim; and
- 2.1.3 the need for additional time to consider options and appropriate measures for the future sustainable management of the abalone resource.
- 2.2 For the aforementioned reasons and acting in terms of section 81 of the MLRA, I hereby intend to grant the previous 2021/2022 Abalone exemption holders (being those who held rights in the commercial

abalone fishing sector prior to FRAP 2015/16) with an exemption from the provisions of section 18 of the MLRA for the 2022/2023 abalone fishing season.

2.3 This exemption is granted subject to the following conditions:

2.3.1 The exemption holder is required to obtain a permit in terms of section 13 of the MLRA prior to commencing fishing;

2.3.2 a certified copy of this exemption must be kept by the Exemption Holder when fishing and be made available for inspection at any time;

2.3.3 in the case of an Exemption Holder which is a juristic person the Department must be informed within 30 days of the death of a shareholder or member of the Exemption Holder as the case may be;

2.3.4 in the event of the death of an Exemption Holder who is a natural person, the executor of the deceased estate shall notify the Department within 30 days of the death of the Exemption Holder;

2.3.5 at any time during the validity of the Exemption:

2.3.5.1 upon the death of an Exemption Holder who is a natural person, a family member of the Exemption Holder may apply for an exemption to be issued to him or her, so that he or she may continue to harvest the Exemption Holder's allocation, for the remainder of the validity period of this exemption, provided that the family member is able to show dependence on the Exemption Holder's allocation; and

2.3.5.2 where the Exemption Holder is a company or close corporation, the shareholding or member's interest held by a shareholder or member who passes away, may be transferred or sold with the written permission of the Department;

2.3.6 In taking a decision in terms of paragraph 2.3.5, the requirements and conditions of the Commercial Fishing Rights Transfer Policy must be considered.

3. **VALIDITY PERIOD**

This exemption is valid for the 2022/ 2023 abalone fishing season.

4. **APPEAL**

- 3.1 Kindly note that in terms of the provisions of section 80 of the MLRA and Regulation 5 of the General Regulations promulgated thereunder (GNR 111 of 2 September 1998), you may within 30 days of receipt of the final exemption, if issued, appeal to the Minister against the decision of the delegated authority. The subject and grounds for the appeal must be clearly indicated and such appeal must be submitted to the Department as follows:

APPEAL: EXEMPTION IN TERMS OF SECTION 81 OF THE MARINE LIVING RESOURCES ACT, 1998 (ACT NO. 18 OF 1998) (THE MLRA) FROM THE PROVISIONS OF SECTION 18 OF THE MLRA FOR THE 2022/2023 ABALONE FISHING SEASON

Minister of Forestry, Fisheries and the Environment

Attention: Ms Chivonne Weber

Foretrust Building,

Martin Hammerschlag Way, Foreshore

CAPE TOWN, 8001

Email: CWeber@dfre.gov.za

- 3.2 A second copy of your appeal should simultaneously be lodged with the Deputy Director: Small Invertebrates and Seaweed Management, Mr. Odwa Dubula at CSCapplications@dfre.gov.za.

Yours faithfully



Sue Middleton

DEPUTY DIRECTOR-GENERAL: FISHERIES MANAGEMENT

DATE: 26/8/2022



PROPOSED EXEMPTION IN TERMS OF SECTION 81 OF THE MARINE LIVING RESOURCES ACT, 1998 (ACT NO. 18 OF 1998) (THE MLRA) FROM THE PROVISIONS OF SECTION 18 OF THE MLRA FOR THE 2022/2023 ABALONE FISHING SEASON