

NOTICE 422 OF 2009**DEPARTMENT OF ENVIRONMENTAL AFFAIRS AND TOURISM****MARINE LIVING RESOURCES ACT, 1998 (ACT NO. 18 OF 1998)
DRAFT REGULATIONS ON THE MANAGEMENT AND PROTECTION
PRINCE EDWARD ISLANDS MARINE PROTECTED AREA**

I, Marthinus Christoffel Johannes van Schalkwyk, the Minister of Environmental Affairs and Tourism, hereby publish for comment, draft regulations under subsections (1)(b) and (2)(x)(i) of section 77 of the Marine Living Resources Act, 1998 (Act No. 18 of 1998) for the Prince Edward Islands Marine Protected Area in the Schedule hereto.

Any person who wishes to submit representations or comments in connection with the proposed regulations is invited to do so by 16h00 on 6 July 2009. All representations and comments must be submitted in writing to the Deputy Director-General of the Department of Environmental Affairs and Tourism, Branch Marine and Coastal Management:

By post to: The Deputy Director-General:

Environmental Affairs and Tourism: Marine and Coastal Management

Attention: Dr Alan Boyd, Private Bag X2, Roggebaai, 8012 or

Foretrust Building, Martin Hammerschlag Way, Foreshore,

CAPE TOWN, 8001

Tel: 021 402 3307

By fax to (+27 21 402 3009)

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MARTHINUS VAN SCHALKWYK

MINISTER OF ENVIRONMENTAL AFFAIRS AND TOURISM

SCHEDULE

Definitions

1. In these regulations any word or expression to which a meaning has been assigned in the Act bears that meaning and, unless the context otherwise indicates—

“AB” means the Abyss restricted zone;

“Act” means the Marine Living Resources Act, (Act No.18 of 1998), inclusive of amendments, regulations and notices promulgated thereunder;

“AR” means the Africana II Rise restricted zone;

“benthic” means on, in, or in close proximity to the seabed, and generally includes sedentary species;

“Controlled Zone” means an area within the Marine Protected Area where fishing is permitted;

“Islands” means the Prince Edward Island and Marion Island forming part of the Prince Edward Island group as defined in the Prince Edward Islands Act, 1948 (Act No. 43 of 1948);

“Marine Protected Area” means the Prince Edward Islands Marine Protected Area as declared by the Minister in terms of section 43 of the Act;

“PEI” means the Prince Edward Island restricted zone;

“restricted zone” means an area within the marine protected area where limited commercial fishing is permitted and includes the AB, AR, PEI and SIR restricted zones;

“Sanctuary Area” means an area within the marine protected area where fishing is prohibited and the passage and anchoring of vessels is restricted;

“SIR” means the Southwest Indian Ridge restricted zone;

“tooth fish” means *Dissostichus eleginoides* commonly known as the Patagonian tooth fish; and

“WGS 84” means the World Geodetic System of 1984 (G730), which is a geographic co-ordinate system used for the co-ordinates in these regulations.

Purpose of Regulations

2. The purpose of these regulations is:
- (a) To contribute to a national and global representative system of marine protected areas, by providing protection for unique species, habitats and ecosystem processes including foraging grounds and shelf areas with increased nutrients;
 - (b) To provide scientific reference points that can inform the management of the area;
 - (c) To facilitate integrated and ecologically sustainable management of marine resources of the area; and
 - (d) To reduce the ecological impacts of fisheries and other extractive industries including effects on by-catch species such as albatrosses and petrels.

Zonation within Marine Protected Area

3. The Marine Protected Area consists of a Sanctuary Area, four restricted zones and a Controlled Zone, which are determined by using WGS 84 as detailed in Annexure 1 and 2 as follows:
- (a) A Sanctuary Area extending 12 nautical miles seaward from the high water mark around the islands;
 - (b) Four restricted zones, indicated as PEI, SIR, AR, and AB; and
 - (c) A Controlled Zone, linking the four restricted zones.

Control of activities in Sanctuary Area

4. (1) No person may fish, or attempt to fish, in the Sanctuary Area within the Marine Protected Area.
- (2) Subject to subregulation (3), no person or vessel may enter the Sanctuary Area except under conditions of *force majeure*.
- (3) The following vessels may enter the Sanctuary Area:
- (a) South African government vessels;
 - (b) any fishing vessel authorised to fish in the Marine Protected Area in terms of the Act for the purpose of anchoring at designated anchoring sites detailed in Annexure 3; and
 - (c) Any foreign vessel undertaking research or other scheduled operations or emergency operations, authorised in terms of the Act or any other South African legislation.

- (4) A vessel referred to in sub-regulation (2) and (3) that is anchoring in or traversing the Sanctuary Area, must stow all fishing gear.

Control of activities in restricted zone

5. (1) Fishing for tooth fish in a restricted zone is capped at levels of legal fishing effort as recorded in terms of annual numbers of hooks deployed between 2002-2005 for each zone as detailed in Annexure 4 and may be reviewed by the Minister.
- (2) A permit may be issued in terms of section 83 of the Act if additional fishing effort specified in sub-regulation (1), is necessary for scientific purposes in a restricted zone.
- (3) Fishing methods, including but not limited to—
(a) bottom trawling; and
(b) gill netting,
which may cause damage to benthic habitats, benthic species or seabirds are prohibited in the restricted zones.
- (4) A commercial fishing vessel authorised in terms of the Act to fish in a restricted zone must carry a scientific observer on board.
- (5) A vessel, which is not in possession of a permit in terms of section 13 of the Act to fish for tooth fish and traversing the restricted zones—
(a) must stow all fishing gear, and
(b) may not carry fish on board.

Control of activities in Controlled Zone

6. (1) No person may fish or attempt to fish in the Controlled Zone, unless authorised in terms of the Act.
- (2) Fishing methods, including but not limited to—
(a) bottom trawling;
(b) gillnetting,
which may cause damage to benthic habitats, benthic species or seabirds are prohibited in the controlled zone.
- (3) A commercial fishing vessel authorised in terms of the Act to fish in the Marine Protected Area must carry a scientific observer on board.

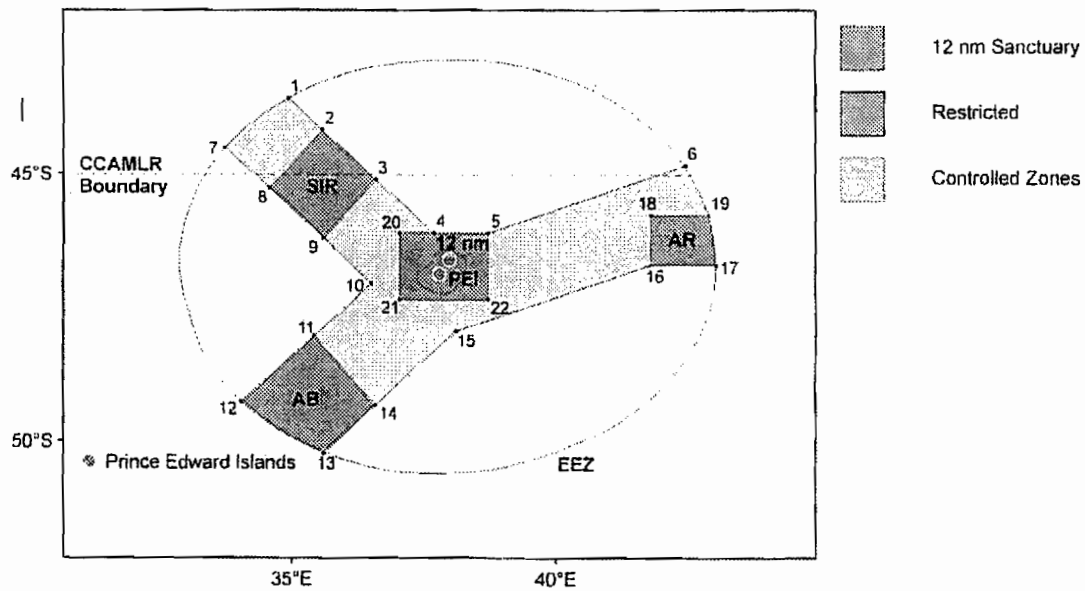
Offences and penalties

7. Any person who contravenes or fails to comply with a provision of these regulations is guilty of an offence and liable on conviction to a fine or to imprisonment for a period not exceeding two years.

Short title and commencement

8. These regulations are called the Prince Edward Islands Marine Protected Area Regulations and commence upon date of publication.

ANNEXURE 1
The Prince Edward Islands Marine Protected Area and its zonation



ANNEXURE 2

The exact geographic coordinates of the Prince Edward Islands Marine Protected Area and its different zones are indicated hereunder. Points 1-22 refer to Annexure 1.

Point	Latitude		Longitude		Point	Latitude		Longitude	
	Degrees	Minutes	Degrees	Minutes		Degrees	Minutes	Degrees	Minutes
1	43	34	34	56	12	49	16	34	3
2	44	10	35	35	13	50	14	35	36
3	45	6	36	36	14	49	20	36	35
4	46	6	37	42	15	47	57	38	7
5	46	6	38	44	16	46	42	41	48
6	44	50	42	27	17	46	42	43	2
7	44	30	33	44	18	45	46	41	48
8	45	16	34	35	19	45	46	42	53
9	46	12	35	36	20	46	6	37	3
10	47	3	36	31	21	47	21	37	3
11	48	2	35	25	22	47	21	38	44

ANNEXURE 3**Designated anchoring sites within the Sanctuary area**

Within the Sanctuary area of the Prince Edward Islands Marine Protected Area, anchoring is restricted to those areas within 3 nautical miles from the high water mark, around Marion Island only.

ANNEXURE 4**Legal Fishing effort for tooth fish in the restricted areas in terms of the average number of hooks set in each of the restricted areas from 2002 to 2005**

Restricted Area name	Average effort in hooks from 2002 to 2005
PEIs	554,912 hooks
AR	345,671 hooks
SIR	143,630 hooks
AB	0 hooks (not fished at all)
Total	1,044,213 hooks