

DEPARTMENT OF ENVIRONMENTAL AFFAIRS

NO. 1074

06 NOVEMBER 2015

**NATIONAL ENVIRONMENTAL MANAGEMENT: PROTECTED AREAS
ACT, 2003 (ACT NO. 57 OF 2003)****REGULATIONS FOR THE MANAGEMENT OF THE DWESA-CWEBE
MARINE PROTECTED AREA**

I, Bomo Edith Edna Molewa, Minister of Environmental Affairs, hereby publish the Regulations for the Management of the Dwesa-Cwebe Marine Protected Area, in terms of sections 48A(2) and 86(1)(a), (b), (c) and (d) of the National Environmental Management: Protected Areas Act, 2003 (Act No. 57 of 2003), as set out in the Schedule hereto.



**BOMO EDITH EDNA MOLEWA
MINISTER OF ENVIRONMENTAL AFFAIRS**

SCHEDULE

1. Definitions

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-

“abalone” means any species of the genus *Haliotis*;

“Act” means the National Environmental Management: Protected Areas Act, 2003 (Act No. 57 of 2003);

“alpha flag” means the “diver down” flag used to indicate that diving operations are in progress and other vessels must keep clear;

“cast net” means a circular net weighted at the circumference that is cast for the purpose of fishing;

“catch and release fishing” means the capturing and immediate release of a fish alive in the same area where it was caught without causing injury;

“Controlled Zone” means an area within a marine protected area where fishing or any other activity in terms of section 48A(1) of the Act may take place if authorised in terms of these regulations as contemplated in section 48A(2) of the Act;

“demarcation buoy” means any buoy installed to mark the boundaries of the Marine Protected Area or its zones;

“designated fish monitor” means a person appointed by the organ of state responsible for managing the Marine Protected Area;

“estuary” has the meaning assigned to it in section 1 of the Integrated Coastal Management Act;

“fish” means any aquatic plant or animal whether piscine or not, and any mollusc, crustacean, coral, sponge, holothurian or other echinoderm, reptile and includes their eggs, larvae and all juvenile stages, but does not include sea birds, seals or any marine mammal;

“fishing” or **“to fish”** means—

- (a) searching for, catching, taking or harvesting fish or an attempt to undertake any such activity;
- (b) engaging in any other activity which can reasonably be expected to result in the locating, catching, taking or harvesting of fish;

- (c) placing, searching for or recovering any fish aggregating device or associated gear, including radio beacons;
- (d) any operation in support or in preparation of any activity described in this definition; or
- (e) the use of an aircraft in relation to any activity described in this definition;

“hovercraft” means a craft that floats on a cushion of air and is capable of traversing water or land;

“Integrated Coastal Management Act” means the National Environmental Management: Integrated Coastal Management Act, 2008 (Act No. 24 of 2008);

“Marine Living Resources Act” means the Marine Living Resources Act, 1998 (Act No. 18 of 1998);

“Marine Protected Area” means the Dwesa-Cwebe Marine Protected Area as declared by the Minister in terms of section 22A of the Act;

“personal watercraft” means a vessel that uses an inboard motor powering a water jet pump as its primary source of propulsion, and is designed to be operated by a person or persons sitting, standing, or kneeling on rather than within the confines of a hull;

“recreational fishing” means, fishing done for leisure or sport and not for sale, barter, earnings or gain;

“Restricted Zone” means an area within the Marine Protected Area where no fishing may take place, but where any other activity in terms of section 48A(1) of the Act may take place if authorised in terms of these regulations as contemplated of section 48A(2) of the Act;

“SCUBA Diving” means swimming below the surface of the water with the aid of compressed or pumped air or other gasses;

“small-scale fishing” has the meaning ascribed to it in the Small-Scale Fishing Policy published in *Government Gazette* 35455 GN 474 of 20 June 2012 and small-scale fisher shall have the same meaning;

“spearfishing” means fishing with the use of a speargun;

“vessel” includes any canoe, lighter, floating platform, decked boat, hovercraft, personal watercraft, carrier vessel, vessel equipped with an inboard or outboard motor or any other craft, whether a surface craft or submarine; 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.

2. Restricted and controlled zones within the Marine Protected Area

- (1) There are three Restricted Zones and three Controlled Zones within the Marine Protected Area determined using WGS 84 as detailed in Annexure 1 as follows:
 - (a) the Northern Restricted Zone consists of the area which stretches from the mouth of the Mpenzu estuary (point A2) up to and including the Mendu estuary (point A3) extending seaward to 500 meters from the high-water mark. This area includes the tidal portion of the Mbashe River upstream as far as a line drawn from the point where the northwestern boundary of the Dwesa Forest Reserve reaches the high-water mark of the river (point D1), to the point where the south-western boundary of the Cwebe Forest Reserve reaches the high-water mark of the river (point D2), and also includes the entire Mbhanyana, ku-Mpenzu, Mendwana and Mendu estuaries;
 - (b) the Southern Restricted Zone consists of the area which stretches from the northern border of the Dwesa cliffs (point A4) to the southern border of the Dwesa cliffs (point A5) extending seaward to 500 meters from the high-water mark;
 - (c) the Offshore Restricted Zone starts at 500 meters from the high-water mark between points A1 and A6 and extends up to 8 nautical miles offshore from the high-water mark with the offshore boundary determined by a straight line from point B1 to point B2;
 - (d) The Northern Controlled Zone extends from the eastern margin of the Ntlonyane Estuary Mouth (Point A1), including the whole of the Ntlonyane Estuary and the kwa-Suka Estuary to the western margin of the mouth of the ku-Mpenzu Estuary (point A2) and in a straight line out to 500 meters seaward from the high-water mark, but excluding both the ku-Mpezu and Mbhanyana estuaries;
 - (e) The Central Controlled Zone extends from the mouth of the Mendu estuary (point A3) to the northern border of the Dwesa Cliffs (point A4) in a straight line out to 500 meters seaward from the high-water mark; and
 - (f) The Southern Controlled Zone extends from the southern border of the Dwesa Cliffs (point A5) to a point 500 meters seaward from the coastal southern boundary of the Marine Protected Area (point A6).

3. Control of activities in Restricted Zones

No person may fish, or attempt to fish, in a Restricted Zone within the Marine Protected Area.

4. Control of activities in Controlled Zones

- (1) No person may fish or attempt to fish in a Controlled Zone of the Marine Protected Area unless they are in possession of a valid recreational or small-scale fishing permit or authorisation issued in terms of the Marine Living Resources Act that gives permission to fish within a Controlled Zone of the Marine Protected Area.
- (2) Spearfishing is prohibited.
- (3) No person may fish or attempt to fish from a vessel in a Controlled Zone.
- (4) No person may fish using a cast net or attempt to use a cast net to collect fish in a Marine Protected Area.
- (5) No person shall fish in the period between 19h00 in the evening and 06h00 of the following day in a Controlled Zone during 1 October to 31 March of any year; and in the period between 18h00 in the evening and 06h00 of the following day, during 1 April to 30 September in any year.

5. Small scale fishing in Controlled Zone

- (1) Any small-scale fisher authorised in terms of regulation 4(1) may only engage in fishing from the shore in a Controlled Zone.
- (2) A small-scale fisher authorised in terms of regulation 4(1) may only fish for the fish species, quantity, and size of fish using the method as specified in these regulations and in Annexure 2 to these regulations.
- (3) A maximum of 39 small-scale fishers in total per day may fish across all of the Controlled Zones as a whole.
- (4) All linefish may only be caught with a rod and reel or handline. No other method or gear may be used.
- (5) A cumulative daily bag limit of ten linefish per day shall apply to those species having a bag limit of ten or less, listed in Part A of Table 1 of Annexure 2 and a further cumulative bag limit of ten linefish per day shall apply to those species listed in Part B of Table 1 of Annexure 2.

- (6) A small-scale fisher may fish for invertebrate species in a Controlled Zone as detailed in Table 2 of Annexure 2, except for abalone.
- (7) In addition to any linefish species in Table 1 of Annexure 2, a small-scale fisher may, despite Table 2 of Annexure 2, only fish for sand prawns, mud prawns and mud crabs, in those estuaries forming part of a Controlled Zone. No other invertebrate species may be fished for or collected in any estuary.

6. Monitoring and reporting of catch

- (1) A list of the names of small-scale fishers contemplated in regulation 5(3) and who are authorised to fish on a particular day, must be provided by 12h00 on the previous day to the organ of state responsible for managing the Marine Protected Area.
- (2) Each small-scale fisher must declare their total daily catch to a designated fish monitor.

7. Recreational fishing in Controlled Zone

- (1) Any person in possession of a valid recreational fishing permit may only fish in a Controlled Zone in the following areas:
 - (a) from the shore within the Southern Controlled Zone;
 - (b) from the shore within the Northern Controlled Zone, from point A2 to point C2 at the western bank of the mouth of the Mbhayana Estuary and
 - (c) from the shore within the Northern Controlled Zone, Point C1 to the north-eastern inshore boundary of the Marine Protected Area (Point A1).
- (2) Subject to sub-regulation (3), any person in possession of a valid recreational fishing permit may only engage in daily catch and release fishing in the areas specified in sub-regulation (1) above.
- (3) In addition to daily catch and release fishing, any person in possession of a valid recreational fishing permit may, for a maximum of 4 days within any calendar month in the areas specified in sub-regulation (1) above, keep a maximum of one fish per day.
- (4) A recreational fisher may not fish for or attempt to fish for or collect bait organisms within the Marine Protected Area.

- (5) Any person undertaking catch and release fishing may only use single barbless hooks and must release fish immediately after capture.
- (6) A recreational fisher may only fish using one rod and reel at a time.
- (7) Any fish caught by a recreational fisher in that part of the Marine Protected Area which lies adjacent to the Dwesa-Cwebe provincial nature reserve, may not be taken out of the Dwesa-Cwebe provincial nature reserve.
- (8) The Minister may on application, authorise one recreational catch and release fishing competition per calendar year in one of the areas specified in sub-regulation (1), which authorisation may be issued subject to conditions and may authorise a maximum number of recreational fishers.

8. SCUBA diving

- (1) No person may operate or attempt to operate a SCUBA diving business in the Marine Protected Area without a permit.
- (2) Application for a permit referred to in sub-regulation (1) must be made to the Minister.
- (3) Any vessel that has deployed divers in the Marine Protected Area must display an alpha flag.

9. Restriction of activities

No person may undertake any activity listed in section 48A(1) of the Act in the Marine Protected Area, unless specifically authorised to do so in terms of these regulations.

10. Use of vessels

- (1) Fishing gear on board a vessel that enters or traverses any part of the Marine Protected Area, or in possession of any person that enters or is present in a Restricted Zone or a part of the Marine Protected Area where they are not authorised in terms of regulation 4 to fish, must be stowed in the following manner:
 - (a) in the case of line fishing—
 - (i) from a vessel, all hooks, lures, and weights are disconnected from the line, all the line is reeled onto

the reel or rolled up, and that rolled up line, hooks, lures, bait and weights on the vessel are placed away in the cabin, wheel house or console of the vessel;

- (ii) from the shore, all hooks, lures, and weights are disconnected from the line, all the line is reeled onto the reel or rolled up, and that rolled up line, hooks, lures, bait and weights are placed away in a bag or container;
 - (b) in the case of purse-seine fishing, the boom shall be lowered as far as possible so that the vessel cannot be used for fishing but so that the skiff is accessible for use in emergency situations;
 - (c) in the case of a trawl fishing, all nets, trawl boards and weights shall be disconnected from their towing or hauling wires, ropes or rigid frames and either stowed below deck or securely lashed to some part of the superstructure of the fishing vessel;
 - (d) in the case of rock lobster fishing, all traps shall be on board and tied down; and all dinghies shall be on board and securely lashed to some part of the superstructure of the fishing vessel;
 - (e) in the case of fishing with traps other than rock lobster traps, all traps shall be on board and tied down; and
 - (f) in the case of longline fishing, all gear shall be covered and the cover secured.
- (2) Any motorised vessel that enters or traverses the Marine Protected Area may not stop or move at less than 5 knots at any time while in the Marine Protected Area.
 - (3) Any motorised vessel entering or traversing the Marine Protected Area with fishing gear on board must have a Global Positioning System (GPS) Mapping Device with an active trail operational on the vessel, prior to entering and while traversing the Marine Protected Area and such GPS data may not be deleted from this device for forty eight hours after passing through the Marine Protected Area.
 - (4) A vessel required by law to have a Vessel Monitoring System must, when entering or traversing the Marine Protected Area with fishing gear on board, ensure that the Vessel Monitoring System is active.

- (5) No person may use or attempt to use any type of personal watercraft or hovercraft within the Marine Protected Area.

11. Scientific research permit

- (1) No person may undertake any scientific research within the Marine Protected Area, except on the authority of a scientific research permit issued by the Minister.
- (2) Application for a scientific research permit in terms of sub-regulation (1) must be made to the Minister in accordance with the provisions of section 83 of the Marine Living Resources Act or any regulations published under the Integrated Coastal Management Act.

12. Suspension, amendment and cancellation of permits

- (1) Subject to sub-regulations (2) and (3), a permit issued under these regulations may be suspended, cancelled or amended at any time.
- (2) A permit issued in terms of these regulations may be suspended, cancelled or amended, if—
 - (a) the Minister is satisfied on the basis of information that was not considered when the permit was issued, that it is necessary or desirable to suspend, cancel or amend the permit to prevent deterioration or further deterioration of the environment within the Marine Protected Area;
 - (b) other similar permits held by other persons have also been reviewed and the suspension, cancellation or amendment does not unfairly discriminate against the holder in relation to other holders of similar permits;
 - (c) the permit holder is in breach of a condition contained in the permit;
 - (d) the permit holder provided incorrect or false information in the application for the permit;
 - (e) the holder of a permit has been convicted of an offence in terms of the Act, the National Environmental Management Act or a specific environmental management act or any regulations issued thereunder; or
 - (f) the reason for the issuing of the permit no longer exists.

- (3) A permit issued in terms of these regulations may be amended—
- (a) if an error needs to be corrected or rectified;
 - (b) at the request of the applicant;
 - (c) for the proper management and implementation of these regulations; or
 - (d) where the conditions or circumstances have changed since the original permit was issued.

13. Offences and penalties

In addition to any offence contained in section 89 of the Act, any person who contravenes or fails to comply with—

- (a) regulations 3, 4, 5, 6, 7(1) to 7(7), 8(1), 8(3), 9, 10 or 11(1);
- (b) a condition mentioned in a permit or authorisation issued in terms of these regulations; or
- (c) a prohibition, instruction, rule or order imposed, given or issued under these regulations;

is guilty of an offence and liable in the case of a first conviction to a fine not exceeding R5 million or to imprisonment for a period not exceeding five years and in the case of a second or subsequent conviction to a fine not exceeding R10 million or imprisonment for a period not exceeding 10 years or in both instances to both a fine and such imprisonment.

14. Withdrawal and repeal

The declaration of the Dwesa-Cwebe Marine Protected Area as contained in stipulation 2(7) of the declaration notice named Declaration of Areas as Marine Protected Areas in *Government Gazette* 21948, Notice No. 1429 of 29 December 2000 is hereby withdrawn and repealed.

15. Short title and commencement

These regulations are called the Dwesa-Cwebe Marine Protected Area Regulations and commence on 1 December 2015.

Annexure 1

Code	Long. deg. E	Lat. deg. S
B2	28.927889	-32.417491
A6	28.825605	-32.315705
A5	28.844888	-32.300685
A3	28.876499	-32.281558
A4	28.857563	-32.295541
A2	28.913639	-32.244141
A1	28.956906	-32.194139
B1	29.060997	-32.29691
D1	28.884759	-32.237547
D2	28.879507	-32.227093
C1	28.94966	-32.210149
C2	28.927814	-32.227707

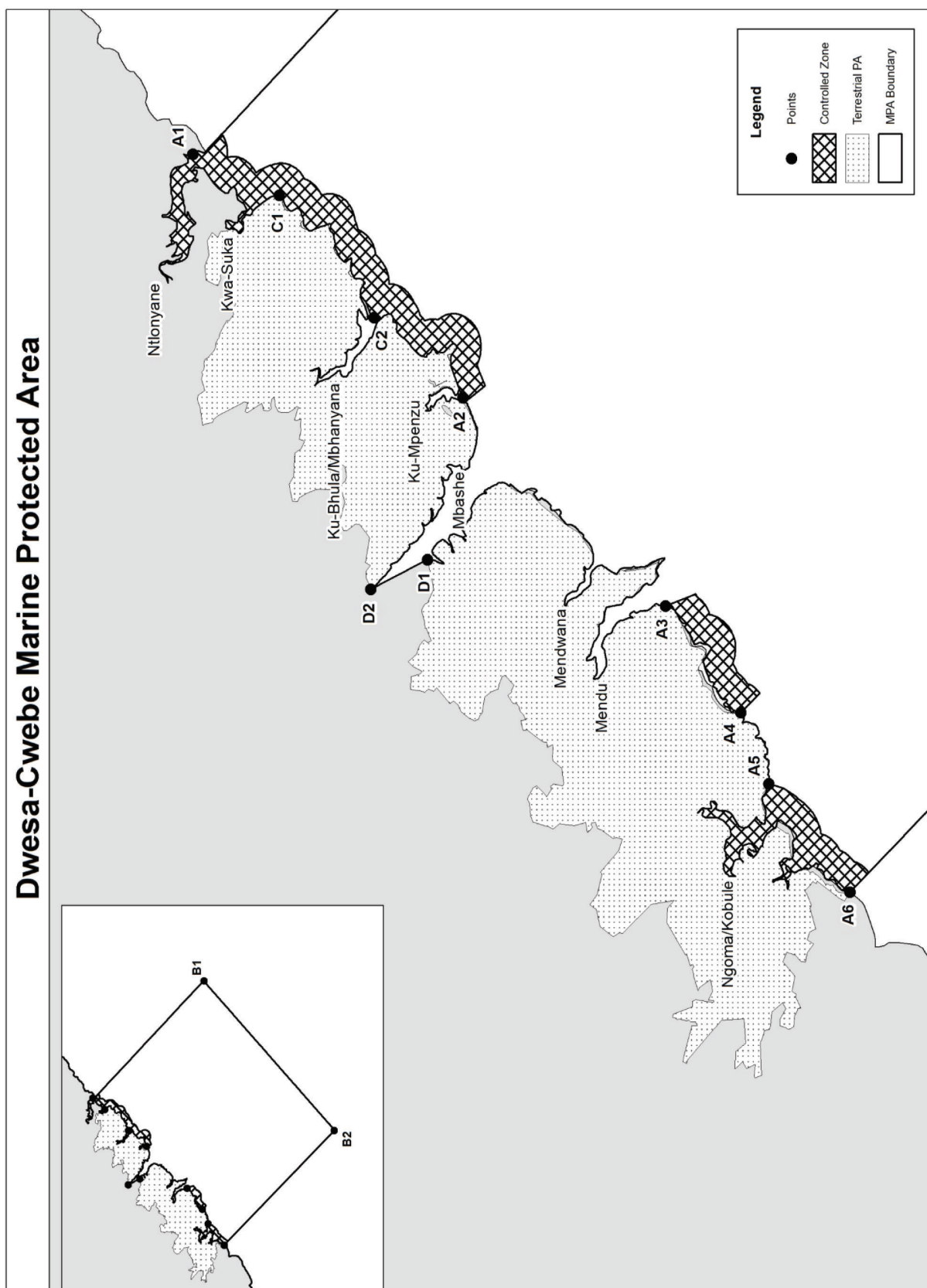


Fig. 1. Zonation for the Dwesa-Cwebe Marine Protected Area.

Annexure 2

Table 1. Species that may be caught by a holder of a small scale fishing permit

PART A: INDIVIDUAL BAG LIMIT SPECIES - LINEFISH SPECIES					
Scientific name	Common name	Min (mmTL)	Max (mmTL)	Daily Bag limit	Closed season
<i>Argyrosomus japonicus</i>	Dusky kob	600	1000	1	-
<i>Diplodus capensis</i>	Blacktail	200		5	-
<i>Pachymetopon grande</i>	Bronze bream	300		2	-
<i>Pomatomus saltatrix</i>	Shad/Elf	300		4	1 October – 30 November
Family: Mugilidae	Harder/mullet	-	-	50	-
<i>Neoscorpis lithophilus</i>	Stonebream	-	-	5	-
<i>Sarpa salpa</i>	Strepie	150	-	10	-
<i>Pomadasys commersonnii</i>	Spotted grunter	400	-	5	-
<i>Dichistius multifasciatus</i>	Banded galjoen	-	-	5	-
<i>Pomadasys olivaceum</i>	Piggy	70.5	-	10	-
<i>Rhabdosargus holubi</i>	Cape stumpnose	200	-	5	-
<i>Dichistius capensis</i>	Galjoen	350	-	2	15 October – last day of

						February the following year
Acanthopagrus berda	Riverbream	250	-	5	-	
Lichia amia	Garrick	700	-	2	-	
Sparodon durbanensis	White musselcracker	600	-	2	-	
Elops machnata	Ladyfish/ kingspringer	-	-	5	-	
Polysteganus praeorbitalis	Scotsman	400	-	1	-	
Diplodus cervinus	Zebra	300	-	5	-	
Rhabdosargus sarba	Natal stumpnose	250	-	5		

PART B: CUMULATIVE BAG LIMIT OF 10					
Plotosus nkunga	Eeltail barbel	-	-	-	-
Galeichthys feliceps	White barbel	-	-	-	-
Chirodactylus brachydactylus	Butterfish	-	-	-	-
Plectorhinchus flavomaculatus	Lemon fish	-	-	-	-
Dinoperca petersi	Cavebass	-	-	-	-
Platycephalus indicus	Bartailed flathead	-	-	-	-

Table 2. Invertebrate species that may be collected by a holder of a small scale fishing permit

INVERTABRATE SPECIES			
Closed	Closed Season	Daily bag limit	Collection method
East Coast Rock Lobster (Panulirus Homarus)	1 Nov to 28 Feb	8	Collection of lobsters in berry is prohibited irrespective of season
Crabs (hermit crabs, mud crabs, mole crabs)	None	6	Only collection by hand, rod and/or line
Limpets (Family: Patelidae)	None	15	
Octopus (Family: Octopodinae)	None	2	Only collection by hand, rod and/or line
Periwinkle/topshell/tubanshell (Littorina, Oxytele, Turbo)	None	50	
Seaworms (Phylum: Platyhelminthes, Nemertea, Sipunculida and Annelida)	None	10 individuals or 250 ml container	Only collection by hand or suction pump
Red bait (Pyura spp.)	None	2kg without the shell	Only collection by hand or by an implement with a blade or flat edge not exceeding 12 mm in width
Mussels (Aulacomya spp., Mytilus spp., Choromytilus spp., Perna spp.)	None	30	Only collection by hand or by an implement with a blade or flat edge not exceeding 12 mm in width
Prawns (sand prawns, mud prawns)	None	50	Only collection by hand or suction pump
Oyster (Pinctada spp., Stiostrongia spp., Ostrea spp., Saccostrea spp.)	None	25	Only collection by hand or by an implement with a blade or flat edge not exceeding 40 mm and not less than 1m in length
Other invertebrates (Alikreukel, chitons and armidillos)	None	6	Collection only by hand