

# **P Vrancken *South Africa and the Law of the Sea* (2011)**

## **Chapter Eleven Update<sup>1</sup>**

### **Page 281, last three lines**

*The text should read as follows:*

South Africa's fisheries comprise of "more than 630 marine species of which a few species make up 90% of the catch".<sup>5</sup>

### **Page 281, footnote 4**

B. McLean & J. Glazewski "Marine environments, oceans law and governance" in N.D King, H.A. Strydom & F.P. Retief (eds) *Environmental Management in South Africa* 3<sup>rd</sup> ed (2018) 585.

### **Page 281, footnote 5**

*The footnote should read as follows:*

*Ibid.*

### **Page 282, footnote 7**

Replace "84–95. See" with "84–95; B. Phillips & M. Ramirez *Climate Change Impacts on Fisheries and Aquaculture a Global Analysis* (2018) 479–515; N. James et al "Effects of climate change on South African estuaries and associated fish species" (2018) 57 *Climate Research* 233–248. See".

### **Page 283, line 6**

*Add the following paragraph:*

Ten years later, the States participating in the UN Conference on Sustainable Development held in Rio de Janeiro (known as Rio 2012, Rio+20 or Earth Summit 2012) concluded the proceedings by adopting an outcome document entitled 'The Future We Want'.<sup>15A</sup> In that document, the States recognised that

oceans, seas and coastal areas form an integrated and essential component of the Earth's ecosystem and are critical to sustaining it, and that international law, as reflected in the [LOSC,] provides the legal framework for the conservation and sustainable use of the oceans and their resources. We stress the importance of the conservation and sustainable use of the oceans and seas and of their resources for sustainable development, including through their contributions to poverty eradication, sustained economic growth, food security and creation of sustainable livelihoods and decent work, while at the same time protecting biodiversity and the marine environment and addressing the impacts of climate change. We therefore commit to protect, and restore, the health, productivity and resilience of oceans and marine ecosystems, to maintain their biodiversity, enabling their conservation and sustainable use for present and future generations, and to effectively apply an ecosystem approach and the precautionary approach in the management, in accordance with international law, of activities having an impact on the marine environment, to deliver on all three dimensions of sustainable development.<sup>15B</sup>

The document also called for the negotiation of internationally agreed sustainable development goals (SDGs), which were adopted in 2015 as part of the 2030 Agenda for Sustainable Development.<sup>15C</sup> Among them, SDG 14 is to 'conserve and sustainably use the

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<sup>1</sup> The research assistance of Mr Hashali Hamukuaya is gratefully acknowledged.

oceans, seas and marine resources for sustainable development' and involves *inter alia* enhancing 'the conservation and sustainable use of oceans and their resources by implementing international law as reflected in the [LOSC], which provides the legal framework for the conservation and sustainable use of oceans and their resources'.<sup>15D</sup>

**Page 283, footnote 15A**

*After footnote 15, insert the following footnote:*

The document was annexed to UNGA Resolution A/RES/66/288 of 27 July 2012.

**Page 283, footnote 15B**

*After footnote 15A, insert the following footnote:*

Paragraph 158.

**Page 283, footnote 15C**

*After footnote 15D, insert the following footnote:*

UNGA Resolution A/RES/70/1 of 25 September 2015.

**Page 283, footnote 15D**

*After footnote 15C, insert the following footnote:*

Paragraph 14.c.

**Page 283, footnote 19**

Delete the last sentence.

**Page 284, line 2**

*Add the following:*

COFI adopted the International Plan of Action for the Management of Fishing Capacity, the International Plan of Action for the Conservation and Management of Sharks and the International Plan of Action for Reducing Incidental Catch of Seabirds in Longline Fisheries<sup>20A</sup> (all endorsed by the FAO Council in 1999)<sup>20B</sup> as well as the International Plan of Action to Prevent, Deter and Eliminate Illegal, Unreported and Unregulated Fishing (IPOA-IUU)<sup>20C</sup> (endorsed by the FAO Council in 2001),<sup>20D</sup> which is complemented by the 2005 Model Scheme on Port State Measures to Combat Illegal, Unreported and Unregulated Fishing.<sup>20E</sup>

**Page 284, line 23**

*Add the following sentence:*

Since 2013, South Africa is also a party to the 2010 Nagoya Protocol to the 1992 Convention on Biological Diversity, on Access to Genetic Resources and the Fair and Equitable Sharing of Benefits Arising from their Utilisation,<sup>26A</sup> the objective of which is

the fair and equitable sharing of the benefits arising from the utilization of genetic resources, including by appropriate access to genetic resources and by appropriate transfer of relevant technologies, taking into account all rights over those resources and to technologies, and by appropriate funding, thereby contributing to the conservation of biological diversity and the sustainable use of its components.<sup>26B</sup>

**Page 284, footnote 20A**

*After footnote 20, insert the following footnote:*

The three documents are available at <<http://www.fao.org/3/a-x3170e.pdf>>.

**Page 284, footnote 20B**

*After footnote 20A, insert the following footnote:*

FAO Doc. CL 116/REP para. 29.

**Page 284, footnote 20C**

*After footnote 20B, insert the following footnote:*

Available at <<http://www.fao.org/3/a-y1224e.pdf>>.

**Page 284, footnote 20D**

*After footnote 20C, insert the following footnote:*

FAO Doc. CL 120/REP para. 8.

**Page 284, footnote 20E**

*After footnote 20D, insert the following footnote:*

Available at <<http://www.fao.org/3/a0985t/a0985t00.pdf>>. South Africa has explicitly confirmed its commitment to applying the 1995 Code and the 4 international plans of action [para. 4.1 of the 2005 General Policy on the Allocation and Management of Long Term Commercial Fishing Rights published under Schedule A to GN 1146 of 2005 (GG 27796 of 22 July 2005)].

**Page 284, footnote 21**

*Add the following:*

Adopted: 5 June 1992; EIF: 29 December 1993.

**Page 284, footnote 22**

- (a) Replace “August 2009)]]” with “August 2009)], the 2015 National Biodiversity Strategy and Action Plan (2015–2025) [available at < <https://www.cbd.int/doc/world/za/za-nbsap-v2-en.pdf>>], the 2018 National Biodiversity Assessment [available at <<http://opus.sanbi.org/bitstream/20.500.12143/6362/3/NBA%202018%20Synthesis%20Report%20for%20download.pdf>>], the 2016 National Protected Areas Expansion Strategy [available at < [https://www.environment.gov.za/sites/default/files/docs/national\\_protectedareas\\_expansionstrategy2016\\_ofsouthafrica.pdf](https://www.environment.gov.za/sites/default/files/docs/national_protectedareas_expansionstrategy2016_ofsouthafrica.pdf)>] and the draft National Biodiversity Framework published for comments in 2018 [GN 1109 of 2018 (GG 41982 of 19 October 2018)]”.
- (b) Replace “210–232” with “210–232; S. Guggisberg *The Use of CITES for Commercially-Exploited Fish Species: A Solution to Overexploitation and Illegal, Unreported and Unregulated Fishing?* (2015); A. Paterson “Biological diversity” in King, Strydom & Retief (n. 4) 519–572”.

**Page 284, footnote 25**

*The footnote to read as follows:*

2226 UNTS 208, (2000) 39 ILM 1027. Adopted: 29 January 2000; EIF: 11 September 2003.

**Page 284, footnote 26A**

*After footnote 26, insert the following footnote:*

UNEP Doc. UNEP/CBD/COP/DEC/X/1 of 29 October 2010. Adopted: 29.10.2010; EIF: 12.10.2014.

**Page 284, footnote 26B**

*After footnote 26A, insert the following footnote:*

Article 1.

**Page 284, footnote 27**

*Add the following:*

Adopted: 03.03.1973; EIF: 01.07.1975.

**Page 285, footnote 28**

*The footnote to read as follows:*

The 1979 Bonn Amendment to Article XI CITES entered into force in 1987 while the 1983 Gaborone Amendment to Article XXI CITES entered into force in 2013. South Africa has only accepted the former.

**Page 285, footnote 29**

Replace “the Regulations on Bio-Prospecting, Access and Benefit-Sharing, 2008, made under s. 97(1)(d)–(h) NEMBA and published by GN R138 of 2008 [GG 30739 of 8 February 2008]” with “the Alien and Invasive Species Regulations, 2014, made under s. 97(1) NEMBA and published by GN R598 of 2014 [GG 37885 of 1 August 2014]; the Threatened or Protected Marine Species Regulations, 2017, made under s. 97(1)(b), (dA), (f), (fA), (g) and (h) NEMBA and published by GN R477 of 2017 [GG 40786 of 30 May 2017]; the Bioprospecting, Access and Benefit-Sharing Amendments Regulations, 2015, made under s. 97(1)(e)–(h) NEMBA and published by GN 447 of 2015 [GG 38809 of 19 May 2015]”.

**Page 285, footnote 31**

*Add the following:*

Adopted: 23.06.1979; EIF: 01.11.1983.

**Page 285, footnote 35**

*The footnote to read as follows:*

2258 UNTS 257. Adopted: 19 June 2001; EIF: 1 February 2004.

**Page 286, footnote 39**

Replace “891–919” with “891–919; Y. Tanaka *The International Law of the Sea* 3<sup>rd</sup> ed (2019) 298”.

**Page 286, footnote 40**

*The footnote to read as follows:*

2167 UNTS 88, (1995) 34 ILM 1542, (1995) 29 LOSB 25. Adopted: 04.12.1995; EIF: 11.12.2001.

**Page 287, line 6**

*Add the following:*

The Conference of African Ministers of Fisheries and Aquaculture was established five years later. That body led the process of formulation of the 2014 Policy Framework and Reform Strategy for Fisheries and Aquaculture in Africa,<sup>47A</sup> which aims to create a conducive and enabling environment for the fisheries sector in order to create an equitable social and economic development in Africa. The document is complemented by the 2014 Pan-African Strategy on the Improvement of Fisheries and Aquaculture Data Collection, Analysis and Dissemination<sup>47B</sup> as well as the 2015 NEPAD Agency Fisheries and Aquaculture Programme.<sup>47C</sup>

The AIMS includes the adoption and implementation of ‘a Common Fisheries Policy for the conservation, management and exploitation of fish stocks in accordance with the ecosystems and precautionary approach for the whole [Combined Exclusive Maritime Zone of Africa], when established’.<sup>47D</sup> The AIMS also acknowledges that

[t]he effective implementation of the universal duty to cooperate in the conservation of marine living resources is required. This necessitates coordinated action by AU Member States, [regional economic communities/regional mechanisms] and Regional Fisheries Management Organizations (RFMOs) to ensure that the provisions of Articles 62, 63, 64, 117 and 118 of the UNCLOS are promoted and essentially met.<sup>47E</sup>

To that end, the AIMS identifies as priorities the need: to eliminate IUU fishing activities<sup>47F</sup> *inter alia* by developing effective communications and rapid response capabilities;<sup>47G</sup> to 'promote research, fisheries and aquaculture industry growth and development as well as marine conservation';<sup>47H</sup> and to produce 'regular data updates and trend analysis that interprets [the] information gathered'.<sup>47I</sup>

A few months before the UNGA adopted its 2030 Agenda, the AU Assembly adopted its Agenda 2063 'The Africa We Want',<sup>47J</sup> in which African States reiterated that they aspired to a prosperous Africa, based on inclusive growth and sustainable development. This will require the development of the African 'blue/ocean economy' where African fisheries are exploited for the benefit of Africans and the African maritime domain yields valuable minerals and renewable energy.<sup>47K</sup> It will also require Africa to be transformed in such a way that 'natural resources will be sustainably managed and the integrity and diversity of Africa's ecosystems conserved'.<sup>47L</sup>

The 2016 African Charter on Maritime Security and Safety and Development in Africa ('the Lomé Charter')<sup>47M</sup> has among its objectives the prevention and suppression of IUU fishing, the promotion of 'a flourishing and sustainable Blue/Ocean Economy', boosting the implementation of the AIMS and further sensitising coastal communities to the need for protecting the biodiversity.<sup>47N</sup> As a result, 'all measures for the sustainable exploitation of marine resources and optimization of the development opportunities of sectors related to the sea' fall within the scope of the Charter.<sup>47O</sup> The Charter compels States Parties to 'implement appropriate fisheries and aquaculture policies for the conservation, management and sustainable exploitation of fish stocks and other biological resources'.<sup>47P</sup> The States Parties must also 'carry out the necessary reforms for good governance in the fishery sector and the promotion of continental fishing and aquaculture to contribute to the creation of employment in the sector, reduce food insecurity and malnutrition and promote economic diversification'.<sup>47Q</sup> Moreover, the Charter compels States Parties to 'take appropriate measures to effectively combat IUU fishing activities within the framework of [their] respective national jurisdictions and to take legal steps aimed at prosecuting the perpetrators engaged in IUU fishing'.<sup>47R</sup>

**Page 287, footnote 47A**

*After footnote 47, insert the following footnote:*

Available at <[https://au.int/web/sites/default/files/documents/30266-doc-au-ibar\\_-\\_fisheries\\_policy\\_framework\\_and\\_reform\\_strategy.pdf](https://au.int/web/sites/default/files/documents/30266-doc-au-ibar_-_fisheries_policy_framework_and_reform_strategy.pdf)>.

**Page 287, footnote 47B**

*After footnote 47A, insert the following footnote:*

Available at <<https://www.au-ibar.org/component/jdownloads/finish/5-gi/1958-a-pan-african-strategy-on-the-improvement-of-fisheries-and-aquaculture-data-collection-analysis-and-dissemination>>.

**Page 287, footnote 47C**

*After footnote 47B, insert the following footnote:*

Available at <<https://www.nepad.org/file-download/download/public/15314>>.

**Page 287, footnote 47D**

*After footnote 47C, insert the following footnote:*  
Paragraph 35.

**Page 287, footnote 47E**

*After footnote 47D, insert the following footnote:*  
Paragraph 37.

**Page 287, footnote 47F**

*After footnote 47E, insert the following footnote:*  
See para. 36–38 and 43.

**Page 287, footnote 47G**

*After footnote 47F, insert the following footnote:*  
See para. 39.

**Page 287, footnote 47H**

*After footnote 47G, insert the following footnote:*  
Paragraph 41. See also para. 40 and 42.

**Page 287, footnote 47I**

*After footnote 47H, insert the following footnote:*  
Paragraph 44. See also para. 45.

**Page 287, footnote 47J**

*After footnote 47I, insert the following footnote:*  
AU Doc. Assembly/AU/Dec.565(XXIV) of 31 January 2015.

**Page 287, footnote 47K**

*After footnote 47J, insert the following footnote:*  
AU Agenda 2063 Framework Document (2015) 8–9.

**Page 287, footnote 47L**

*After footnote 47K, insert the following footnote:*  
*Ibid.*, 9.

**Page 287, footnote 47M**

*After footnote 47L, insert the following footnote:*  
AU Doc. Ext/Assembly/AU/1(VI). Adopted: 15 October 2016 ; EIF: not yet.

**Page 287, footnote 47N**

*After footnote 47M, insert the following footnote:*  
Article 3(a), (c), (g) and (j).

**Page 287, footnote 47O**

*After footnote 47N, insert the following footnote:*  
Article 4(c).

**Page 287, footnote 47P**

*After footnote 47O, insert the following footnote:*  
Article 20(1).

**Page 287, footnote 47Q**

*After footnote 47P, insert the following footnote:*  
Article 20(2).

**Page 287, footnote 47R**

*After footnote 47Q, insert the following footnote:*  
Article 20(3).

**Page 287, footnote 48**

*The footnote to read as follows:*

Adopted: 14.08.2001; EIF: 08.08.2003. Available at <[http://www.sadc.int/files/5613/5292/8363/Protocol\\_on\\_Fisheries2001.pdf](http://www.sadc.int/files/5613/5292/8363/Protocol_on_Fisheries2001.pdf)>.

**Page 288, line 11**

Replace “applies” with “applie[d]”.

**Page 288, footnote 57**

*Add the following:*

See further C. Forrest “Eastern seaboard” in P. Vrancken & M. Tsamenyi (eds) *The Law of the Sea: The African Union and its Member States* (2017) 84–91.

**Page 288, footnote 58**

Replace “1115]” with “1115]. See further M. Young & P. Vrancken “Western seaboard” in Vrancken & Tsamenyi (n. 57) 144–193”.

**Page 288, footnote 59**

*The footnote should read as follows:*

Available at <<https://iwlearn.net/resolveuid/ce27e23e68f34764abcd879f329b0b74>>.

**Page 289, line 1**

Replace “establishes” with “established” and “consists” with “consisted”.

**Page 289, line 4**

Replace “is” with “was” and “requires” with “required”.

**Page 289, line 9**

*Add the following:*

The Benguela Current Convention (BCC) was adopted in 2013.<sup>67A</sup> As was the case of the IABC, the area of application of the Convention includes, “all areas within the national sovereignty and jurisdiction in accordance with [LOSC], bounded by the high water mark along the coasts of the Parties” and, within that area, it applies to “all human activities, aircrafts [sic] and ships under jurisdiction or control of a Party to the extent that these activities or the operation of such aircraft or ship result in, or are likely to result in adverse impacts”.<sup>67B</sup> The objective of the Convention is “to promote a coordinated regional approach to the long-term conservation, protection, rehabilitation, enhancement and sustainable use of the Benguela Current Large Marine Ecosystem, to provide economic, environmental and social benefits”.<sup>67C</sup> In the process of implementing the Convention, the States Parties must be guided by the “cooperation, collaboration and sovereign equality principle”, the principle of “sustainable use and management of the marine resources”, “the precautionary principle”, the principle of “prevention, avoidance and mitigation of pollution”, the “polluter pays principle” and the principle of “protection of biodiversity in the marine environment and conservation of the marine ecosystem”.<sup>67D</sup> In contrast with the interim structure, the

permanent organisational structure consists of the Ministerial Conference, which is the highest decision-making body,<sup>67E</sup> the Commission,<sup>67F</sup> which has three permanent committees (the Ecosystem Advisory Committee, the Finance and Administration Committee and the Compliance Committee),<sup>67G</sup> and the Secretariat.<sup>67H</sup>

**Page 289, footnote 67A**

*After footnote 67, insert the following footnote:*

Adopted: 18.03.2013; EIF: 10.12.2015. Available at <[http://www.benguelacc.org/index.php/en/component/docman/doc\\_download/695-signedbenguela-current-convention-english](http://www.benguelacc.org/index.php/en/component/docman/doc_download/695-signedbenguela-current-convention-english)>.

**Page 289, footnote 67B**

*After footnote 67A, insert the following footnote:*

Article 3 BCC.

**Page 289, footnote 67C**

*After footnote 67B, insert the following footnote:*

Article 2 BCC.

**Page 289, footnote 67D**

*After footnote 67C, insert the following footnote:*

Article 4 BCC.

**Page 289, footnote 67E**

*After footnote 67D, insert the following footnote:*

Article 6 BCC.

**Page 289, footnote 67F**

*After footnote 67E, insert the following footnote:*

Articles 7–8 BCC.

**Page 289, footnote 67G**

*After footnote 67F, insert the following footnote:*

Articles 9–12 BCC.

**Page 289, footnote 67H**

*After footnote 67G, insert the following footnote:*

Article 13 BCC. See H. Hamukuaya, C. Attwood & N. Willemse “Transition to ecosystem-based governance of the Benguela current large marine” (2016) 17 *Environmental Development* 310–321; M. Gibbons & B. Govuza “The nature of international collaboration in the Benguela upwelling region, 2000–2016” (2019) 115(1) *South African Journal of Science* 1–5.

**Page 289, footnote 69**

Replace “<[www.swiofp.net/about](http://www.swiofp.net/about)>]” with “<[www.swiofp.net/about](http://www.swiofp.net/about)>]. See further Forrest (n. 57) 63–109”.

**Page 290, footnote 72**

*Add the following sentence:*

That area includes only the mainland EEZ east of Port Edward as well as a small section of the EEZ around the Prince Edward Islands.



**Page 290, footnote 76**

*Add the following:*

See further Forrest (n. 57) 100–102.

**Page 295, line 18**

Delete the word “and”.

**Page 295, line 20**

*Replace the line with the following:*

to achieve equity within all branches of the fishing industry;

- (k) the need to promote equitable access to and involvement in all aspects of the fishing industry and, in particular, to rectify past prejudice against women, the youth and persons living with disabilities;
- (l) the need to recognise approaches to fisheries management which contribute to food security, socio-economic development and the alleviation of poverty; and
- (m) the need to recognise that fish may be allocated through a multi-species approach.<sup>108</sup>

**Page 296, footnote 112**

Delete “[GN 112 of 2007 (GG 29617 of 9 February 2007)]”.

**Page 296, footnote 113**

Replace “96–110” with “96–110; McLean & Glazewski (n. 4) 585–586; A. Menon, M. Sowman & M. Bavinck “Rethinking capitalist transformation of fisheries in South Africa and India” (2018) 23(4) *Ecology and Society* 27”.

**Page 296, footnote 119**

Replace “above” with “above, where it was indicated that the SSA was repealed in 2016”.

**Page 297, footnote 126**

1. Replace “or (d)” with “(d)”.
2. Replace “interests are held by South African citizens” with “interests are held by South African citizens; or (e) a co-operative registered in terms of the Co-operatives Act, 2005 (Act 14 of 2005), of which all the members are South African citizens but, where any member is a juristic person, such person’s principal place of business must be in the Republic”.
3. Add the following:  
The Companies Act, 1973, was repealed by the Companies Act, 2008 (Act 71 of 2008), which came into effect in 2011.

**Page 297, footnote 133**

Replace “subsistence” with “small-scale”.

**Page 297, footnote 136**

Replace “151–160” with “151–160; McLean & Glazewski (n. 4) 585–586”.

**Page 298, line 9**

Replace “subsistence” with “small-scale”.

**Page 298, footnote 140**

*The footnote to read as follows:*

Section 8 MLRA. The bodies and groups recognised by the Minister are: the South African Association of Seafood Importers and Exporters (GN 479 of 2011 (GG 34341 of 3 June 2011)); the Fresh Tuna Exporters Association [GN 478 of 2011 (GG 34341 of 3 June 2011)];

the St Helenabaai Vissersgemeenskaps Forum [GN 480 of 2011 (GG 34341 of 3 June 2011)]; the South African Consolidated Recreational Anglers Association, the South African Underwater Fishing Federation, Recreational Fishing Services, the Cape Charter Boat Association, the South African Marine Linefish Management Association (SAMPLA), the South African Shore Angling Association, the South African Deep Sea Angling Association, Underwater Africa and the South African Federation of Sport and Sea Anglers [GN 135 of 2013 (GG 36183 of 1 March 2013)]; the Western Province Deep Sea Angling Association and the Border Deep Sea Angling Association [GN 701 of 2013 (GG 36630 of 8 July 2013)]; Kalk Bay Historical Fishers [GN 136 of 2015 (GG 38492 of 27 February 2015)]; the East of Cape Hangklip Lobster Association (GN 937 of 2019 (GG 42545 of 28 June 2019)); and the Nearshore Crayfishers Association [GN 989 of 2019 (GG 42584 of 19 July 2019)].

**Page 298, footnote 141**

*The footnote should read as follows:*

In terms of s. 1 MLRA, the term “small-scale fisher” means “a member of a small-scale fishing community engaged in fishing to meet food and basic livelihood needs, or directly involved in processing or marketing of fish, who: (a) traditionally operate in near-shore fishing grounds; (b) predominantly employ traditional low technology or passive fishing gear; (c) undertake single day fishing trips; and (d) is engaged in consumption, barter or sale of fish or otherwise involved in commercial activity, all within the small-scale fisheries sector”. In addition, the person must: “(a) be a South African citizen who associates with or resides in the relevant small-scale fishing community; (b) be at least 18 years of age; (c) historically have been involved in traditional fishing operations, which include catching, processing or marketing of fish for a cumulative period of at least 10 years; and (d) derive the major part of his or her livelihood from traditional fishing operations and be able to show historical dependence on fish, either directly or in a household context, to meet food and basic livelihoods needs” [reg. 4(1) of the 2015 Regulations Relating to Small-Scale Fishing [RSSF] [GN 229 of 2016 (GG 39790 of 8 March 2016)]. The term “small-scale fishing” must be interpreted accordingly and the term “small-scale fishing community” means “a group of persons who: (i) are, or historically have been, small-scale fishers; (ii) have shared aspirations and historical interests or rights in small-scale fishing; (iii) have a history of shared small-scale fishing and who are, but for the impact of forced removals, tied to particular waters or geographic area, and were or still are operating where they previously enjoyed access to fish, or continue to exercise their rights in a communal manner in terms of an agreement, custom or law; and (iv) regard themselves as a small-scale fishing community”.

**Page 299, line 1**

Replace “subsistence fishing” with “small-scale fishing”.

**Page 299, last line**

Replace “subsistence fishers” with “small-scale fishers”.

**Page 299, footnote 147**

*The footnote should read as follows:*

See the 2013 General Policy on the Allocation and Management of Fishing Rights [GN 750 of 2013 (GG 36675 of 17 July 2013)], the 2015 Policy on the Allocation and Management of Commercial Fishing Rights in the Abalone Fishery [GN 1137 of 2015 (GG 39417 of 16 November 2015)], the 2015 Policy on the Allocation and Management of Commercial

Fishing Rights in the Hake Inshore Trawl Fishery [GN 1129 of 2015 (GG 39417 of 16 November 2015)], the 2015 Policy on the Allocation and Management of Commercial Fishing Rights in the Horse Mackerel Fishery [GN 1130 of 2015 (GG 39417 of 16 November 2015)], the 2015 Policy on the Allocation and Management of Commercial Fishing Rights in the Kwazulu-Natal Sardine Beach Seine Fishery [GN 1131 of 2015 (GG 39417 of 16 November 2015)], the 2015 Policy on the Allocation and Management of Commercial Fishing Rights in the Large Pelagic Longline Fishery [GN 1128 of 2015 (GG 39417 of 16 November 2015)], the 2015 Policy on the Allocation and Management of Commercial Fishing Rights in the Patagonian Toothfish Fishery [GN 1133 of 2015 (GG 39417 of 16 November 2015)], the 2015 Policy on the Allocation and Management of Commercial Fishing Rights in the Seaweed Fishery [GN 1135 of 2015 (GG 39417 of 16 November 2015)], the 2015 Policy on the Allocation and Management of Commercial Fishing Rights in the West Coast Rock Lobster (Nearshore) Fishery [GN 1136 of 2015 (GG 39417 of 16 November 2015)], the 2015 Policy on the Allocation and Management of Commercial Fishing Rights in the West Coast Rock Lobster (Offshore) Fishery [GN 1134 of 2015 (GG 39417 of 16 November 2015)], and the 2015 Policy on the Allocation and Management of Fishing Rights in the Netfish Fishery [GN 1132 of 2015 (GG 39417 of 16 November 2015)]. With regard to small-scale fishing, see the 2012 Policy for the Small Scale Fisheries Sector in South Africa [PSSF] [GN 474 of 2012 (GG 35455 of 20 June 2012)], s. 19(1)(d) and (3) MLRA as well as reg. 4(3)–(4) RSSF.

**Page 300, lines 1–6**

*Replace the sentence with the following:*

In order to achieve the objective of section 9(2) of the Constitution and to ensure, in compliance with section 39(3) of the Constitution, that “[t]he Bill of Rights does not deny the existence of any other rights or freedoms that are recognised or conferred by common law, customary law or legislation, to the extent that they are consistent with the Bill”, the Minister must “establish areas or zones where small-scale fishers may fish”<sup>155</sup> and where “any other fishing or related activity or the exercise of any right of access” may be prohibited.<sup>156</sup> To that end, “the Department must set up a procedure to engage and consult with the small-scale fishing community”.<sup>156A</sup> The MLRA stresses that the Minister must perform his or her duty “subject to any law relating to marine protected areas”.<sup>156B</sup> However, the law only prevails over conflicting customary rights when it expressly states that this is the case.<sup>156C</sup>

**Page 300, lines 8–10**

*The text to read as follows:*

The Oceans and Coasts Branch (OCB) of the Department of Environment, Forestry and Fisheries is based in Cape Town. The OCB deals with the promotion, management and strategic leadership on ocean and coastal conservation in South Africa, including administrative and enforcement roles.<sup>157</sup> The OCB must comply with the

**Page 300, footnote 154**

*Replace the last sentence with the following:*

See further the PSSF.

**Page 300, footnote 156**

*Replace the contents of the footnote with the following:*

Section 19(1)(c) MLRA.

**Page 300, footnote 156A**

*After footnote 156, insert the following footnote:*

Regulation 5(1) RSSF. In terms of reg. 5(2), “the demarcation must: (a) be done in a manner that reduces conflict between small-scale fishing communities; and (b) take into account the mobility of each species in the allocated basket of species with sessile species requiring smaller fishing areas while nomadic and migratory species requiring larger areas”. A small-scale fishing community that meets the requirements of s. 1 MLRA and that contains at least 20 small-scale fishers may be formally recognised as a small-scale fishing community by the Minister [s. 19(1)(b) MLRA read with reg. 4(2) RSSF]. The process to be followed is spelled out in reg. 2(1)–(5) and 3 RSSF.

**Page 300, footnote 156B**

*After footnote 156A, insert the following footnote:*

Section 19(1)(a) MLRA.

**Page 300, footnote 156C**

*After footnote 156B, insert the following footnote:*

See *Gongqose & Others v S*; *Gongqose & Others v Minister of Agriculture, Forestry and Fisheries & Others* [2016] ZAECMHC 1 para. 33; *Gongqose & Others v Minister of Agriculture, Forestry and Fisheries & Others*; *Gongqose & Others v State & Others* 2018 5 SA 104 SCA, 2018 2 SACR 367 SCA, 2018 3 All SA 307 SCA para. 22–23.

**Page 301, line 14**

Replace “subsistence fishing permits” with “small-scale rights and permits”.

**Page 301, footnote 158**

*The second sentence to read as follows:*

See further M. Kidd “Administrative law and implementation of environmental law” in King, Strydom & Retief (n. 4) 209–252.

**Page 301, footnote 159**

Replace “1 SCA” with “1 SCA; *WWF South Africa v Minister of Agriculture, Forestry and Fisheries & Others* 2018 4 All SA 889 WCC, 2019 2 SA 403 WCC; *Gongqose* (n. 156C)”.

**Page 301, footnote 160**

Replace “239 SCA” with “239 SCA; *Coastal Links Langebaan & Others v Minister of Agriculture, Forestry and Fisheries & Others* 2017 2 All SA 46 WCC”.

**Page 301, footnote 161**

Replace “(n. 109)” with “(n. 109); *West Coast Rock Lobster Association & Others v Minister of Environmental Affairs and Tourism & Others* 2011 1 All SA 487 SCA”.

**Page 301, footnote 162**

Replace “531 SCA” with “531 SCA; *Bengwenyama Minerals (Pty) Ltd & Others v Genorah Resources (Pty) Ltd & Others* 2011 4 SA 113 CC; *Louw & Others v Davids & Others* 2018 ZASCA 70”.

**Page 301, footnote 165**

Replace “SCA. See” with “SCA; *WWF South Africa* (n. 159). See”.

**Page 302, last line**

Replace “establishment” with “establishment<sup>179A</sup>” and “mariculture,” with “mariculture,<sup>179B</sup>”.

**Page 302, footnote 176**

Replace “Annexure 1 MLRA” with “Annexure 1 MLRR”.

**Page 302, footnote 179A**

*After footnote 179, insert the following footnote:*

See the 2015 Policy on the Allocation and Management of Rights to Operate Fish Processing Establishments [GN 1138 of 2015 (GG 39417 of 16 November 2015)].

**Page 302, footnote 179B**

*After footnote 179A, insert the following footnote:*

Provisions relating specifically to mariculture are contained in reg. 60–73 MLRR. See further the 2013 National Aquaculture Policy Framework for South Africa [GN 763 of 2013 (GG 36920 of 11 October 2013)].

**Page 302, footnote 180**

*The footnote should read as follows:*

Section 18(1) MLRA.

**Page 303, footnote 182**

Delete “as well as reg. 2 MLRR”.

**Page 303, footnote 186**

Replace “86–116” with “86–116; McLean & Glazewski (n. 4) 598–599”.

**Page 304, footnote 192**

*Add the following:*

See also the 2011 Criteria for Allocating Rights for Abalone Ranching or Stock Enhancement Pilot Projects [GN 352 of 2010 (GG 34241 of 21 April 2010)].

**Page 305, lines 12–14**

*The three lines should be replaced as follows:*

The declaration of marine protected areas (MPAs) is another instrument available to properly manage the country’s marine living resources. The process is governed by the NEMPAA,<sup>197</sup> which requires that

**Page 305, footnote 197**

*The footnote should read as follows:*

Before it was repealed by s. 90 NEMPAA, marine protected areas were governed in terms of s. 43 MLRA.

**Page 305, footnote 200**

Replace “RAMSAR in 1983” with “RAMSAR [(1982) 22 ILM 698; adopted: 3 December 1982; EIF: 10 October 1986] in 1983” and “RAMSAR in 1992” with “RAMSAR [997 IELMT 9/13; adopted: 28 May 1987; EIF: 1 May 1994] in 1992”.

**Page 305, footnote 201**

*The first sentence should read as follows:*

Available at < <https://www.ramsar.org/sites/default/files/documents/library/sitelist.pdf>>.

**Page 306, lines 6–13**

*The lines should be replaced as follows:*

Many MPAs were declared in terms of section 43(1) of the MLRA before that provision was repealed.<sup>205</sup> MPAs are now declared in terms of section 22A of the NEMPAA, by notice published in the Government Gazette,

- (a) to conserve and protect marine and coastal ecosystems;
- (b) to conserve and protect marine and coastal biodiversity;
- (c) to conserve and protect a particular marine or coastal species, or specific population and its habitat;
- (d) if the area contains scenic areas or to protect cultural heritage;
- (e) to facilitate marine and coastal species management by protecting migratory routes and breeding, nursery or feeding areas, thus allowing species recovery and to enhance species abundance in adjacent areas;
- (f) to protect and provide an appropriate environment for research and monitoring in order to achieve the objectives of this Act; or
- (g) to restrict or prohibit activities which is likely to have an adverse effect on the environment.<sup>205A</sup>

**Page 306, line 14**

Replace “Those areas are the” with “The areas are the Orange Shelf Edge MPA,<sup>205B</sup> the Namaqua Fossil Forest MPA,<sup>205C</sup> the Namaqua National Park MPA,<sup>205D</sup> the Childs Bank MPA,<sup>205E</sup> the Benguela Muds MPA,<sup>205F</sup> the Cape Canyon MPA,<sup>205G</sup> the”.

**Page 306, line 15**

Replace “MPA,<sup>210</sup>” with “MPA,<sup>210</sup> the Castle Rock MPA,<sup>210A</sup>”.

**Page 306, line 16**

Replace “the Table” with “the Robben Island MPA,<sup>210B</sup> the Table”.

**Page 306, last line**

Replace “the Still Bay MPA,<sup>216</sup> the Goukamma” with “the South East Atlantic Seamounts MPA,<sup>215A</sup> the Browns Bank Corals MPA,<sup>215B</sup> the Agulhas Bank Complex MPA,<sup>215C</sup> the Agulhas Muds MPA,<sup>215D</sup> the Stilbaai MPA,<sup>216</sup> the Southwest Indian Seamount MPA,<sup>216A</sup> the Goukamma”.

**Page 306, footnote 203**

*Add the following sentence:*

The Park’s integrated management plan was approved in 2011 [see GN 4 of 2012 (GG 34909 of 6 January 2012)].

**Page 306, footnote 204**

(a) *Replace the first sentence with the following:*

Adopted: 21 June 1985; EIF: 30 May 1996. Available at <<http://www.ecolex.org/server2neu.php/libcat/docs/TRE/Full/En/TRE-000821.pdf>>.

(b) Replace “183–217” with “183–217; D. Dzidzornu “Marine environmental protection under the Nairobi and Abidjan regimes: Working toward functional revitalization?” (2012) 26 OY 381–415”.

**Page 306, footnote 205**

*The footnote should read as follows:*

By s 90 NEMPAA. The MPAs were declared: “(a) for the protection of fauna and flora or a particular species of fauna or flora and the physical features on which they depend; (b) to facilitate fishery management by protecting spawning stock, allowing stock recovery,

enhancing stock abundance in adjacent areas, and providing pristine communities for research; or (c) to diminish any conflict that may arise from competing uses in that area”.

**Page 306, footnote 205A**

*After footnote 205, insert the following footnote:*

Section 22A(2) NEMPAA.

**Page 306, footnote 205B**

*After footnote 205A, insert the following footnote:*

Declared by GN 769 of 2019 [GG 42478 of 23 May 2019]. Regulations made in terms of s. 48A(2) and 86(1)(a)–(d) NEMPAA were published by GN R791 of 2019 [GG 42479 of 23 May 2019].

**Page 306, footnote 205C**

*After footnote 205B, insert the following footnote:*

Declared by GN 767 of 2019 [GG 42478 of 23 May 2019]. Regulations made in terms of s. 48A(2) and 86(1)(a)–(d) NEMPAA were published by GN R786 of 2019 [GG 42479 of 23 May 2019].

**Page 306, footnote 205D**

*After footnote 205C, insert the following footnote:*

Declared by GN 768 of 2019 [GG 42478 of 23 May 2019]. Regulations made in terms of s. 48A(2) and 86(1)(a)–(d) NEMPAA were published by GN R787 of 2019 [GG 42479 of 23 May 2019].

**Page 306, footnote 205E**

*After footnote 205D, insert the following footnote:*

Declared by GN 764 of 2019 [GG 42478 of 23 May 2019]. Regulations made in terms of s. 48A(2) and 86(1)(a)–(d) NEMPAA were published by GN R785 of 2019 [GG 42479 of 23 May 2019].

**Page 306, footnote 205F**

*After footnote 205E, insert the following footnote:*

Declared by GN 762 of 2019 [GG 42478 of 23 May 2019]. Regulations made in terms of s. 48A(2) and 86(1)(a)–(d) NEMPAA were published by GN R782 of 2019 [GG 42479 of 23 May 2019].

**Page 306, footnote 205G**

*After footnote 205F, insert the following footnote:*

Declared by GN 766 of 2019 [GG 42478 of 23 May 2019]. Regulations made in terms of s. 48A(2) and 86(1)(a)–(d) NEMPAA were published by GN R784 of 2019 [GG 42479 of 23 May 2019].

**Page 306, footnote 210A**

*After footnote 210, insert the following footnote:*

Paragraph 2(1) DMPA.

**Page 306, footnote 210B**

*After footnote 210A, insert the following footnote:*

Declared by GN 774 of 2019 [GG 42478 of 23 May 2019]. Regulations made in terms of s. 48A(2) and 86(1)(a)–(d) NEMPAA were published by GN R794 of 2019 [GG 42479 of 23 May 2019].

**Page 306, footnote 215A**

*After footnote 215, insert the following footnote:*

Declared by GN 773 of 2019 [GG 42478 of 23 May 2019]. Regulations made in terms of s. 48A(2) and 86(1)(a)–(d) NEMPAA were published by GN R792 of 2019 [GG 42479 of 23 May 2019]. The MPA comprises of two separate areas: the Argentina and Protea Seamount and the Slope Seamount.

**Page 306, footnote 215B**

*After footnote 215A, insert the following footnote:*

Declared by GN 765 of 2019 [GG 42478 of 23 May 2019]. Regulations made in terms of s. 48A(2) and 86(1)(a)–(d) NEMPAA were published by GN R783 of 2019 [GG 42479 of 23 May 2019].

**Page 306, footnote 215C**

*After footnote 215B, insert the following footnote:*

Declared by GN 758 of 2019 [GG 42478 of 23 May 2019]. Regulations made in terms of s. 48A(2) and 86(1)(a)–(d) NEMPAA were published by GN R780 of 2019 [GG 42479 of 23 May 2019].

**Page 306, footnote 216A**

*After footnote 216, insert the following footnote:*

Declared by GN 775 of 2019 [GG 42478 of 23 May 2019]. Regulations made in terms of s. 48A(2) and 86(1)(a)–(d) NEMPAA were published by GN R795 of 2019 [GG 42479 of 23 May 2019]. The MPA comprises two separate areas: the North Zone and the Natal Seamount Zone.

**Page 307, line 1**

- (a) Replace “MPA,<sup>219</sup> the” with “MPA,<sup>219</sup> the Agulhas Front MPA,<sup>219A</sup> the Port Elizabeth Corals,<sup>219B</sup> the”
- (b) Replace “Bird Island MPA,<sup>221</sup> the” with “Addo Elephant National Park MPA,<sup>221</sup> the Amathole Offshore MPA,<sup>221A</sup> the”.

**Page 307, line 3**

- (a) Replace “MPA,<sup>226</sup> the” with “MPA,<sup>226</sup> the Protea Banks MPA,<sup>226A</sup> the”.
- (b) Replace “MPA,<sup>227</sup> the St Lucia” with “MPA,<sup>227</sup> the uThukela MPA,<sup>227A</sup>”.

**Page 307, line 4**

Replace “MPA<sup>228</sup> and the Maputaland MPA,<sup>229–230</sup>” with “the iSimangaliso MPA<sup>228</sup> and the Prince Edward Islands MPA.<sup>230</sup>”.

**Page 307, lines 4–9**

The sentence should be deleted.

**Page 307, line 10**

Replace “to (i)” with “to: (i)”.

**Page 307, line 14**

Replace “MPA,<sup>236</sup> and (iv)” with “MPA,<sup>236</sup> (iv)”.

**Page 307, last line**

Replace “degradation.<sup>237</sup> In most MPAs, those objectives are to be achieved by means of” with “degradation;<sup>237</sup> (v) “contribute to a national, regional and global representative system



of marine protected areas by conserving and protecting coastal and offshore benthic and pelagic ecosystems”;<sup>237A</sup> (vi) “facilitate species management by protecting an area of life history importance for migratory species including turtles, seabirds and large pelagic fish”;<sup>237B</sup> (vii) “conserve and protect ecologically sensitive biodiversity and the ecological processes”;<sup>237C</sup> (viii) “protect and regulate a scenic area and its marine wildlife to support sustainable nature-based tourism and a functionally connected coastal-marine system to retain a land-ocean ‘sense of place’”;<sup>237D</sup> (ix) “protect and provide an appropriate reference environment for research and monitoring particularly research on habitat impacts and recovery, and also to promote and contribute to environmental education protect and provide an appropriate environment for research and monitoring and to promote and contribute to environmental education”;<sup>237E</sup> (x) “protect an area of significant cultural heritage, contributing to the tourism value of a South African National Heritage Site and a World Heritage Site”.<sup>237F</sup>

**Page 307, footnote 219A**

*After footnote 219, insert the following footnote:*

Declared by GN 761 of 2019 [GG 42478 of 23 May 2019]. Regulations made in terms of s. 48A(2) and 86(1)(a)–(d) NEMPAA were published by GN R779 of 2019 [GG 42479 of 23 May 2019]. The MPA comprises two separate areas: the North Zone and the Natal Seamount Zone.

**Page 307, footnote 219B**

*After footnote 219A, insert the following footnote:*

Declared by GN 770 of 2019 [GG 42478 of 23 May 2019]. Regulations made in terms of s. 48A(2) and 86(1)(a)–(d) NEMPAA were published by GN R789 of 2019 [GG 42479 of 23 May 2019]. The MPA comprises two separate areas: the North Zone and the Natal Seamount Zone.

**Page 307, footnote 221**

*The footnote should read as follows:*

Declared by GN 757 of 2019 [GG 42478 of 23 May 2019]. Regulations made in terms of s. 48A(2) and 86(1)(a)–(d) NEMPAA were published by GN R777 of 2019 [GG 42479 of 23 May 2019]. The MPA is called “Addo Elephant Marine Protected Area” in the declaration notice, but “Addo Elephant National Park Marine Protected Area” in the regulation notice.

**Page 307, footnote 221A**

*After footnote 221, insert the following footnote:*

Declared by GN 763 of 2019 [GG 42478 of 23 May 2019]. Regulations made in terms of s. 48A(2) and 86(1)(a)–(d) NEMPAA were published by GN R778 of 2019 [GG 42479 of 23 May 2019].

**Page 307, footnote 222**

*The footnote should read as follows:*

Declared by GN 1073 of 2015 [GG 39379 of 6 November 2015]. Regulations made in terms of s. 48A(2) and 86(1)(a)–(d) NEMPAA were published by GN 1074 of 2015 [GG 39379 of 6 November 2015].

**Page 307, footnote 226A**

*After footnote 226, insert the following footnote:*

Declared by GN 771 of 2019 [GG 42478 of 23 May 2019]. Regulations made in terms of s. 48A(2) and 86(1)(a)–(d) NEMPAA were published by GN R793 of 2019 [GG 42479 of 23 May 2019].

**Page 307, footnote 227**

*The footnote should read as follows:*

Declared by GN 759 of 2019 [GG 42478 of 23 May 2019]. Regulations made in terms of s. 48A(2) and 86(1)(a)–(d) NEMPAA were published by GN R781 of 2019 [GG 42479 of 23 May 2019].

**Page 307, footnote 227A**

*After footnote 227, insert the following footnote:*

Declared by GN 776 of 2019 [GG 42478 of 23 May 2019]. Regulations made in terms of s. 48A(2) and 86(1)(a)–(d) NEMPAA were published by GN R790 of 2019 [GG 42479 of 23 May 2019]. The notices use uThukela and Uthukela interchangeably.

**Page 307, footnote 228**

*The footnote should read as follows:*

Declared by GN 772 of 2019 [GG 42478 of 23 May 2019]. Regulations made in terms of s. 48A(2) and 86(1)(a)–(d) NEMPAA were published by GN R788 of 2019 [GG 42479 of 23 May 2019].

**Page 307, footnote 229**

The footnote should be deleted.

**Page 307, footnote 230**

*The footnote should read as follows:*

Declared by GN 426 of 2013 [GG 36575 of 21 June 2013]. See the 2013 Regulations for the Management of the Prince Edward Islands Marine Protected Area [GN 422 of 2013 (GG 36572 of 21 June 2013)]. See further WWF *Towards the Development of a Marine Protected Area at the Prince Edward Islands* (2008).

**Page 307, footnotes 231–233**

The footnotes should be deleted.

**Page 307, footnote 236**

- (a) Delete “Aliwal Shoal MPAR, reg. 2(3)”.
- (b) Replace “MPAR.” with “MPAR. See also the Schedule to the Agulhas Bank Complex MPA declaration notice (n. 215C).”.

**Page 307, footnote 237**

Delete “2(3) Bird Island MPAR and reg.”.

**Page 307, footnote 237A**

*After footnote 237, insert the following footnote:*

See the Schedule to the Aliwal Shoal MPA declaration notice (n. 227).

**Page 307, footnote 237B**

*After footnote 237A, insert the following footnote:*

See the Schedule to the Agulhas Front MPA declaration notice (n. 219A).

**Page 307, footnote 237C**

*After footnote 237B, insert the following footnote:*

See the Schedule to the Namaqua Fossil Forest MPA declaration notice (n. 205C).

**Page 307, footnote 237D**

*After footnote 237C, insert the following footnote:*

See the Schedule to the Addo Elephant National Park MPA declaration notice (n. 221).

**Page 307, footnote 237E**

*After footnote 237D, insert the following footnote:*

See the Schedule to the Agulhas Muds MPA declaration notice (n. 215D).

**Page 307, footnote 237F**

*After footnote 237E, insert the following footnote:*

See the Schedule to the Robben Island MPA declaration notice (n. 210B).

**Page 308**

*The page should read as follows:*

The management of an MPA may be assigned “only to a suitable national organ of [S]tate”,<sup>238</sup> which must manage the area “exclusively for the purpose for which it was declared”<sup>239</sup> and in accordance with “the management plan for the area”<sup>240</sup> as well as the NEMPAA, the NEMBA, NEMA “and any other applicable national legislation”.<sup>241</sup> It is forbidden in MPAs to:

- (a) fish or attempt to fish;
- (b) take or destroy any fauna or flora;
- (c) undertake any dredging or extraction of sand, rock, gravel or minerals unrelated to any activities referred to in section 48(1);
- (d) discharge or deposit waste or any other polluting matter;
- (e) in any manner which results in an adverse effect on the marine environment, disturb, alter or destroy the natural environment or disturb or alter the water quality or abstract sea water;
- (f) carry on any activity which may have an adverse effect on the ecosystem of the area;
- (g) construct or erect any building or other structure on or over any land or water within such a marine protected area;
- (h) carry on marine aquaculture activities;
- (i) engage in bio-prospecting activities;
- (j) sink or scuttle any platform, vessel or other structure; or
- (k) undertake mineral exploration, and production of petroleum and other fossil fuels.<sup>242</sup>

**Page 308, footnote 238**

*The footnote should read as follows:*

Section 38(1)(aB) NEMPAA.

**Page 308, footnote 239**

*The footnote should read as follows:*

Section 40(1)(a) NEMPAA.

**Page 308, footnote 240**

*The footnote should read as follows:*

Section 40(1)(b)(i) NEMPAA.

**Page 308, footnote 241**

*The footnote should read as follows:*

Section 40(1)(b)(ii) NEMPAA.

**Page 308, footnote 242**

*The footnote should read as follows:*

Section 48A(1) NEMPAA.

**Page 309, lines 1–6**

*The text should read as follows:*

Additional prohibitions and restrictions are often contained in the regulations of a specific MPA.

**Page 310, lines 3–7**

*The text should read as follows:*

The abovementioned areas represent 5.4% of South Africa’s maritime zones.<sup>264</sup>

**Page 310, footnote 264**

See Polity “DEFF: Barbara Creecy, Address by Minister of Environment, Forestry and Fisheries, at the Ecologic Awards, Table Bay Cape Town (05/06/19)”, available at <<https://www.polity.org.za/article/daff-barbara-creecy-address-by-minister-of-environment-forestry-and-fisheries-at-the-ecologic-awards-table-bay-cape-town-050619-2019-06-06>>.

**Page 310, footnote 265**

*Add the following at the end:*

See *S v Brown & Others* 2019 2 All SA 552 ECP.

**Page 310, footnote 268**

*Add the following at the end:*

See *Coastal Links* (n. 160).

**Page 310, footnote 270**

*Add the following at the end:*

See *Coastal Links* (n. 160).

**Page 310, footnote 271**

*Add the following at the end:*

See *WWF South Africa* (n. 159).

**Page 312, lines 13–14**

*The two lines should be replaced as follows:*

South Africa is a party to the 2009 FAO Agreement on Port State Measures to Prevent, Deter and Eliminate Illegal, Unreported and Unregulated Fishing (PSMA).<sup>288</sup> The latter requires that each party, “in its capacity as a port State, apply th[e] Agreement in respect of vessels not entitled to fly its flag that are seeking entry to its ports or are in one of its ports”,<sup>288A</sup> with regard to “fishing conducted in marine areas that is illegal, unreported or unregulated” (IUU) and “to fishing related activities in support of such fishing”.<sup>288B</sup> The PSMA requires that South Africa “designate and publicise the ports to which vessels may request entry pursuant to th[e] Agreement”.<sup>288C</sup> Entry into ports may only be allowed after specific information has been provided.<sup>288D</sup> As a rule, when South Africa

has sufficient proof that a vessel seeking entry into its port has engaged in IUU fishing or fishing related activities in support of such fishing, in particular the inclusion of a vessel

on a list of vessels having engaged in such fishing or fishing related activities adopted by a relevant regional fisheries management organization in accordance with the rules and procedures of such organization and in conformity with international law,

it must deny that vessel entry into its ports<sup>288E</sup> unless it wants to inspect it and take “appropriate actions in conformity with international law which are at least as effective as denial of port entry in preventing, deterring and eliminating IUU fishing and fishing related activities in support of such fishing”.<sup>288F</sup> South Africa must “inspect the number of vessels in its ports required to reach an annual level of inspections sufficient to achieve the objective of th[e] Agreement”<sup>288G</sup> and, during the inspections, the inspectors are expected to carry out a minimum of functions.<sup>288H</sup> The reports containing the results of the inspections must be transmitted to the relevant stakeholders, including the flag States of the inspected vessels.<sup>288I</sup> Where, following an inspection in a South African port, “there are clear grounds for believing that a vessel has engaged in IUU fishing or fishing related activities in support of such fishing”, South Africa must

- (a) promptly notify the flag State and, as appropriate, relevant coastal States, regional fisheries management organizations and other international organizations, and the State of which the vessel’s master is a national of its findings; and
- (b) deny the vessel the use of its port for landing, transshipping, packaging and processing of fish that have not been previously landed and for other port services, including, inter alia, refuelling and resupplying, maintenance and drydocking, if these actions have not already been taken in respect of the vessel, in a manner consistent with th[e] Agreement ...<sup>288J</sup>

#### **Page 312, line 15**

Insert an indent at the beginning of the line.

#### **Page 312, footnote 286**

- (a) Replace “86; *Chaisir*” with “86; *Grand Prince*” (*Belize v France*) 2001 ITLOS Reports 17; *Chaisir*”.
- (b) Replace “74; D.J.” with “74; *Virginia G*” (*Panama v Guinea-Bissau*) 2014 ITLOS Reports 4; D.J.”

#### **Page 312, footnote 287**

*Add the following at the end:*

See further J. Harrison “Article 73” in A. Proelss (ed.) *United Nations Convention on the Law of the Sea – A Commentary* (2017) 556–563.

#### **Page 312, footnote 288**

- (a) *Insert the following at the beginning of the footnote:*  
(2016) 55 ILM 1159, (2017) 2 JOLGA 114. Adopted: 22.11.2009; EIF: 05.06.2016.
- (b) Replace “811–820” with “811–820; E. de Coning & E. Witbooi “Towards a new ‘fisheries crime’ paradigm: South Africa as an illustrative example” (2015) 60 MP 208–215; P. Vrancken, E. Witbooi & J. Glazewski “Introduction and overview: Transnational organised fisheries crime” (2019) 105 MP 116–122; G. Stølsvik “The development of the fisheries crime concept and processes to address it in the international arena” (2019) 105 MP 123–128; P. Vrancken “State jurisdiction to investigate and try fisheries crime at sea” (2019) 105 MP 129–139; H.J. van As & P.J. Snijman “Challenges and possible solutions concerning the inspection/investigation dichotomy in the context of transnational organised fisheries crime: A South African perspective” (2019) 105 MP 140–150; J. Glazewski “Legal and practical challenges around restitution, secrecy and

asset recovery in transnational fisheries crime: A case study of *United States v Bengis*, 2013” (2019) 105 MP 151–157; M. Isaacs & E. Witbooi “Fisheries crime, human rights and small-scale fisheries in South Africa: A case of bigger fish to fry” (2019) 105 MP 158–168; C. Stringer & T. Harré “Human trafficking as a fisheries crime? An application of the concept to the New Zealand context” (2019) 105 MP 169–176”.

**Page 312, footnote 288A**

*After footnote 288, insert the following footnote:*

Article 3(1), which also provides for exceptions. See further art. 3(2).

**Page 312, footnote 288B**

*After footnote 288A, insert the following footnote:*

Article 3(3). Illegal, unreported or unregulated (IUU) fishing is defined in art. 1(e) of the Agreement as the activities set out in para. 3 of the IPOA-IUU. The latter defines: (a) ‘illegal fishing’ as the activities ‘conducted by national or foreign vessels in waters under the jurisdiction of a State, without the permission of that State, or in contravention of its laws and regulations’, ‘conducted by vessels flying the flag of States that are parties to a relevant regional fisheries management organisation but operate in contravention of the conservation and management measures adopted by that organisation and by which the States are bound, or relevant provisions of the applicable international law’; or ‘in violation of national laws or international obligations, including those undertaken by cooperating States to a relevant regional fisheries management organisation’; (b) ‘unreported fishing’ as the fishing activities ‘which have not been reported, or have been misreported, to the relevant national authority, in contravention of national laws and regulations’; or ‘undertaken in the area of competence of a relevant regional fisheries management organisation which have not been reported or have been misreported, in contravention of the reporting procedures of that organisation’; and (c) ‘unregulated fishing’ as the fishing activities ‘in the area of application of a relevant regional fisheries management organisation that are conducted by vessels without nationality, or by those flying the flag of a State not party to that organisation, or by a fishing entity, in a manner that is not consistent with or contravenes the conservation and management measures of that organisation’; or ‘in areas or for fish stocks in relation to which there are no applicable conservation or management measures and where such fishing activities are conducted in a manner inconsistent with State responsibilities for the conservation of living marine resources under international law’.

**Page 312, footnote 288C**

*After footnote 288B, insert the following footnote:*

Article 7(1).

**Page 312, footnote 288D**

*After footnote 288C, insert the following footnote:*

Article 8(1).

**Page 312, footnote 288E**

*After footnote 288D, insert the following footnote:*

Article 9(4). See, however, art. 10.

**Page 312, footnote 288F**

*After footnote 288E, insert the following footnote:*

Article 9(5). In terms of art. 20(1), a flag State that is a party to the PSMA must “require the vessels entitled to fly its flag to cooperate with the port State in inspections carried out pursuant to th[e] Agreement”. Article 20(2) goes further when it requires that, “[w]hen a Party has clear grounds to believe that a vessel entitled to fly its flag has engaged in IUU fishing or fishing related activities in support of such fishing and is seeking entry to or is in the port of another State, it shall, as appropriate, request that State to inspect the vessel or to take other measures consistent with th[e] Agreement”.

**Page 312, footnote 288G**

*After footnote 288F, insert the following footnote:*

Article 12(1).

**Page 312, footnote 288H**

*After footnote 288G, insert the following footnote:*

Article 13(1).

**Page 312, footnote 288I**

*After footnote 288H, insert the following footnote:*

Article 15. In terms of art. 20(4), “[w]here, following port State inspection, a flag State Party receives an inspection report indicating that there are clear grounds to believe that a vessel entitled to fly its flag has engaged in IUU fishing or fishing related activities in support of such fishing, it shall immediately and fully investigate the matter and shall, upon sufficient evidence, take enforcement action without delay in accordance with its laws and regulations”.

**Page 312, footnote 288J**

*After footnote 288I, insert the following footnote:*

Article 18(1). See also art. 18(2)–(3).

**Page 315, lines 4–5**

Replace “MCM” with “[OCB]”.

**Page 317, footnote 316**

Replace “(2008)” with “(2008); D.A. Govender “Conceptual analysis of strategies to combat organised crime in South Africa” (2015) 7(2) *Insight of Africa* 120–136. See further *Brown* (n. 265); *S v Blignaut & Others* 2018 1 SACR 587 ECP”.

**Page 318, footnote 327**

*Add the following at the end:*

See further *Savoi & Others v National Director of Public Prosecutions & Another* 2014 5 BCLR 606 CC, 2014 1 SACR 545 CC, 2014 5 SA 317 CC 36.

**Page 318, footnote 329**

*Add the following at the end:*

See further T. Geldenhuys *et al Criminal Procedure Handbook* (2014) 162.

**Page 319, line 28**

Replace “Boat Based” with “Boat-Based”.

**Page 319, lines 29–30**

Replace “by the Regulations for the Management of Boat Based Whale Watching and Protection of Turtles, 2008 (WWR)” with “by the relevant provisions of the Threatened or Protected Marine Species Regulations, 2017 (TOPSR)”.

**Page 319, footnote 332**

*Add the following at the end:*

See further Asset Recovery Inter-Agency Network Southern Africa *Casebook on Money Laundering and Proceeds of Crime* (2019) 24–25.

**Page 319, footnote 334**

Replace “193b” with “193b. See also *National Director of Public Prosecutions v Johnny Besaphi Maila* 2018 ZALMPPHC 70 para. 27; *National Director for Public Prosecutions v Moyane and Another* 2017 ZAGPPHC 368 para. 24”.

**Page 319, footnote 335**

Replace “197g” with “197g. See also *National Director of Public Prosecutions v Kulati* 2018 ZAECGHC 127 para. 19”.

**Page 319, footnote 340**

*The footnote should read as follows:*

Published by GN R479 of 2017 [GG 40878 of 31 May 2017]. The previous policy was published by GN 722 of 2008 [GG 31209 of 4 July 2008].

**Page 319, footnote 341**

(a) *The first sentence should read as follows:*

Made in terms of s. 97(1)(b), (dA), (f), (fA), (g) and (h) NEMBA and published by GN R477 of 2017 [GG 40876 of 30 May 2017]. The TPOSR repealed the Regulations for the Management of Boat Based Whale Watching and Protection of Turtles, 2008.

(b) *Add the following at the end of the footnote:*

See further McLean & Glazewski (n. 4) 612–613.

**Page 320, lines 6–8**

Replace “that watching ‘whales and dolphins from sea-going vessels is a fast-growing activity across the world’ and ‘has become the most acceptable sustainable use of the cetacean resource compatible with Agenda 21” with “that ‘[w]hale watching is recognised as having substantial social, economic and educational benefits’ and that ‘whale watching has for many years been used as an intervention to address the knowledge gap that is needed to inform the management of conservation areas as well as the sustainability of activities such as tourism and fishing”.

**Page 320, lines 9–10**

Replace “to ‘grow the South African BBWW industry through the allocation of a greater number of permits’ while transforming it” with “supplement the regulations to manage the South African boat-based whale and dolphin watching industry through the allocation of a sustainable number of permits while transforming it”.

**Page 320, lines 11–19**

*The text should read as follows:*

Those are also some of the objectives of the TOPSR.<sup>346</sup> In terms of the latter, boat-based whale and dolphin watching is a restricted activity,<sup>347</sup> the carrying of which requires a specific



type of permit.<sup>348</sup> The permits are issued for specific areas “based on the best available scientific evidence and having regard to the precautionary principle”.<sup>349</sup> A range of compulsory conditions must be attached to the issuing of permits, including:

- (a) a person under the control or supervision of the permit-holder may not feed or swim with whales or dolphins;
- (b) the permit-holder, or a crew member or client under the control or supervision of the permit-holder, may not enter a closed or restricted area;
- (c) boat-based whale and dolphin watching may only be undertaken on a boat-based whale and dolphin watching vessel;
- (d) the permit-holder may only use the vessel or vessels specified on the permit, and may not use more than one vessel at a time;
- (e) if the permit-holder intends to use a different vessel or vessels from what has been specified on the permit, he or she must obtain written permission from the issuing authority to change the nominated vessel;
- (f) the permit-holder must display the permit in a visible place on the vessel when engaging in operations or services; and
- (g) when advertising boat-based whale and dolphin watching operations or services, reference must be made to the permit number.<sup>350</sup>

A person is guilty of an offence if that person contravenes any provision of the TOPSR and/or “permits, facilitates or allows any other person to contravene any of the provisions of” the TOPSR.<sup>351</sup> Upon conviction, that person is liable to:

- (a) imprisonment for a period not exceeding 5 years; or
- (b) a fine not exceeding R5 million; or
- (c) both a fine and such imprisonment; and
- (d) in the case of a second or subsequent conviction, a fine not exceeding R10 million or imprisonment for a period not exceeding 10 years, or both such fine and imprisonment.<sup>352</sup>

**Page 320, footnote 343**

(a) *Insert the following after the first sentence:*

Adopted: 19 November 1956; EIF: 4 May 1959.

(b) Replace “See P.W.” with “See *Whaling in the Antarctic (Australia v Japan: New Zealand intervening)* 2014 ICJ Reports 226. See further P.W.”.

**Page 320, footnote 344**

Replace “2” with “3”.

**Page 320, footnote 346**

*The footnote should read as follows:*

See reg. 71(1)(a) and (c) TOPSR. In *Ocean Ecological Adventures (Pty) Ltd v Minister of Environmental Affairs & Others* [2019 3 All SA 259 WCC], the Court held that “[t]ransformation is not listed as a criterion which could give rise to circumstances in which permits must be refused in terms of Regulation 72. Overall, there is nothing in the Regulations to suggest that transformation [is] a factor of such importance that the Minister [can] employ it as a general trumping requirement, or the sole criterion in considering the ‘substance of an application’, either when comparing new entrants with other new entrants, existing permit holders with existing permit holders or new entrants with existing permit holders” [at 90].

**Page 320, footnote 347**

*The footnote should read as follows:*

See reg. 3(d) TOPSR.

**Page 320, footnote 348**

*The footnote should read as follows:*

See reg. 4 and 5(c) TOPSR.

**Page 321, footnote 349**

*The footnote should read as follows:*

See reg. 67(3) TOPSR. The areas, which are listed in Annexure 6, are, from the north-west to the north-east: Port Nolloth; Lambert's Bay; St Helena Bay - Sandy Point; Saldanha Bay; Cape Town; Hout Bay; Cape Point – Kalkbaai; Gordons Bay; Hermanus; Gans Bay; Kleinbaai; Arniston and Struis Bay; Stilbaai; Mossel Bay; Knysna; Plettenberg Bay; Cape St Francis; Port Elizabeth; Kenton-on-Sea; Port Alfred; East London; the Kei-Umgazi rivers; the Umgazi-Umtanvuna rivers; Shelley Beach; Durban; Richards Bay; St Lucia; and Sodwana Bay.

**Page 321, footnote 350**

*The footnote should read as follows:*

Regulation 73(1) TOPSR. See also reg. 23(1) TOPSR.

**Page 321, footnote 351**

*The footnote should read as follows:*

Regulation 80 TOPSR.

**Page 321, footnote 352**

*The footnote should read as follows:*

Regulation 81 TOPSR.

**Page 321**

Delete the text.

**Page 321, footnotes 353–356**

Delete the footnotes.

**Page 322, lines 1–8**

Delete the text.

**Page 322, lines 10–16**

*The text should read as follows:*

is complemented by the relevant provisions of the TOPSR.<sup>364</sup> In terms of the latter, boat-based whale and dolphin watching is a restricted activity,<sup>365</sup> the carrying of which requires a specific type of permit.<sup>366</sup> The permits are issued for specific areas “based on the best available scientific evidence and having regard to the precautionary principle”.<sup>367</sup> A range of compulsory conditions must be attached to the issuing of permits, including:

- (a) the permit-holder may not take a person to free-dive with white sharks without a permit specifically authorising such free diving;
- (b) the permit-holder, or a crew member or client under the control or supervision of the permit-holder, may not dump any material into the sea other than to attract sharks in the manner provided for in the permit;
- (c) the permit-holder, or a crew member or client under the control or supervision of the permit-holder, may not dive outside the cage, touch, tag or interfere with any sharks;
- (d) when attracting a white shark for the purpose of this permit, the permit-holder, or a crew member or client under the control or supervision of the permit-holder, may not allow a shark to take the bait;
- (e) attracting may only be conducted within the areas stipulated in the permit;

- (f) white shark cage diving may only be undertaken on a white shark cage diving vessel;
- (g) the permit-holder may only use the vessel or vessels specified on the permit, and may not use more than one vessel at a time;
- (h) if the permit-holder intends to use a different vessel from what has been specified on the permit, he or she must obtain written permission from the issuing authority to change the nominated vessel;
- (i) the permit-holder must display the permit in a visible place on the vessel when engaging in operations or services; and
- (j) when advertising white shark cage diving reference must be made to the permit number.<sup>368</sup>

**Page 322, footnotes 357–362**

Delete the footnotes.

**Page 322, footnote 363**

*The footnote should read as follows:*

Published by GN R478 of 2017 [GG 40878 of 31 May 2017]. The previous policy was published by GN 723 of 2008 [GG 31210 of 4 July 2008].

**Page 322, footnote 364**

*The footnote should read as follows:*

The TOPSR repealed the Regulations for the Management of White Shark Cage Diving, 2008.

**Page 322, footnote 365**

*The footnote should read as follows:*

See reg. 3(e) TOPSR.

**Page 322, footnote 366**

*The footnote should read as follows:*

See reg. 4 and 5(d) TOPSR.

**Page 322, footnote 367**

*The footnote should read as follows:*

See reg. 68(3) TOPSR. The areas, which are listed in Annexure 7, are, from the west to the east: Seal Island in False Bay; Dyer Island off Gansbaai; Quoin Rock off Quoin Point; Seal Island in Mossel Bay; and Algoa Bay.

**Page 323, footnote 368**

*The footnote should read as follows:*

Regulation 73(2) TOPSR. See also reg. 23(1) TOPSR.

**Pages 323–324**

Delete the text.

**Page 323, footnotes 369–377**

Delete the footnotes.

**Page 324, footnotes 378–384**

Delete the footnotes.

**Page 325, footnote 389**

Replace “143–158” with “143–158; R. Rayfuse “Article 118” in Proelss (n. 287) 817–830”.

**Page 326, footnote 393**

*Replace the first sentence with the following:*

2221 UNTS 120, (1994) 33 ILM 968. Adopted: 24 November 1993; EIF: 24 April 2003.

**Page 326, footnote 396**

Replace “183–193” with “183–193; E. Morgera “Fair and equitable benefit-sharing in a new international instrument on marine biodiversity: A principled approach towards partnership building?” (2018–2019) 5 *Maritime Safety and Security Law Journal* 48–77.

**Page 326, footnote 398**

*Replace the first sentence with the following:*

801 UNTS 101. Adopted: 23 October 1969.

**Page 327, footnote 402**

*Replace the second sentence with the following:*

It is available at <[http://www.fao.org/fileadmin/user\\_upload/legal/docs/madrid2-e.pdf](http://www.fao.org/fileadmin/user_upload/legal/docs/madrid2-e.pdf)>.

**Page 327, footnote 403**

*Replace the first sentence with the following:*

2221 UNTS 189, (2002) 41 ILM 257. Adopted: 20 April 2001; EIF: 13 April 2003.

**Page 329, footnote 419**

*The footnote should read as follows:*

673 UNTS 63, (1967) 6 ILM 293. Adopted: 14 May 1966; EIF: 21 March 1969.

**Page 329, lines 18–19**

*The lines should read as follows:*

On the other side of the continent, South Africa is a party to the 1993 Agreement for the Establishment

**Page 329, footnote 427**

*The footnote should read as follows:*

1927 UNTS 329. Adopted: 25 November 1993; EIF: 27 March 1996. South Africa is not a signatory of the 2006 South Indian Ocean Fisheries Agreement (SIOFA) [adopted: 7 July 2006; EIF: 21 June 2012; available at <[http://www.fao.org/fileadmin/user\\_upload/legal/docs/035t-e.pdf](http://www.fao.org/fileadmin/user_upload/legal/docs/035t-e.pdf)>].

**Page 330, line 9**

*Add the following:*

South Africa is not a party to the 2006 South Indian Ocean Fisheries Agreement.<sup>434A</sup>

**Page 330, footnote 434**

*Add the following:*

See further C. Forrest “Eastern seaboard” in P Vrancken & M Tsamenyi (eds) *The Law of the Sea – The African Union and its Member States* (2017) 95–99.

**Page 330, footnote 434A**

*After footnote 434, insert the following footnote:*

Adopted: 7 July 2006; EIF: 21 June 2012. Available at <[http://www.fao.org/fileadmin/user\\_upload/legal/docs/035t-e.pdf](http://www.fao.org/fileadmin/user_upload/legal/docs/035t-e.pdf)>. See Forrest (n. 434) 99–100.

**Page 330, footnote 435**

*The footnote should read as follows:*

1819 UNTS 360. Adopted: 10 May 1993; EIF: 20 May 1994. See art. 6(1) SBTC.

**Page 332, line 18**

Replace “(PM)” with “(PM)<sup>455A</sup>”.

**Page 332, footnote 455A**

*After footnote 455, insert the following footnote:*

Adopted: 8 September 1997; EIF: 10 February 2000. Available at <[http://www.sadc.int/files/3313/5292/8366/Protocol\\_on\\_Mining.pdf](http://www.sadc.int/files/3313/5292/8366/Protocol_on_Mining.pdf)>.

**Page 333, line 20**

Replace “Minister of Mineral Resources, may” with “Minister of Minerals and Energy,<sup>464A</sup> may”.

**Page 333, footnote 460**

*Add the following:*

See further I. Watson et al “Terrestrial and deep seabed mining” in King, Strydom & Retief (n. 4) 873–970.

**Page 333, footnote 462**

Replace “J.D. Wells *et al.* “Terrestrial minerals” in Strydom & King (n. 4) 546–548” with “Watson et al (n. 460) 915–918”.

**Page 333, footnote 464A**

*After footnote 464, insert the following footnote:*

The Minerals and Petroleum Board was established by s. 57 MPRDA and its functions include advising the Minister on “the sustainable development of the nation’s mineral and petroleum resources” and on “the transformation and downscaling of the minerals and petroleum industries” [s. 58(1)(ii)–(iii) MPRDA].

**Page 334, lines 1–2**

Replace “determine and levy, any fee or consideration payable in terms of any relevant Act of Parliament” with “prescribe and levy, any fee payable in terms of th[e] Act”.

**Page 334, lines 9–20**

*The text should read as follows:*

The MPRDA forbids any person to

prospect for<sup>369</sup> or remove, mine,<sup>470</sup> conduct technical co-operation operations, reconnaissance operations,<sup>471</sup> explore for and produce any mineral or petroleum or commence with any work incidental thereto on any area without:

(a) an environmental authorisation;<sup>471A</sup>

(b) a reconnaissance permission, prospecting right, permission to remove, mining right, mining permit, retention permit, technical co-operation permit, reconnaissance permit, exploration right or production right, as the case may be ... .

**Page 334, last line**

*Add the following after the last line:*

The MPRDA allows the Minister,

having regard to the national interest, the strategic nature of the mineral in question and the need to promote the sustainable development of the nation's mineral resources [to]:

- (a) prohibit or restrict the granting of any reconnaissance permission, prospecting right, mining right or mining permit in respect of land identified by the Minister for such period and on such terms and conditions as the Minister may determine; or
- (b) restrict the granting of any reconnaissance permission, reconnaissance permit, prospecting right, mining right or mining permit in respect of a specific mineral or mining permit in respect of a specific mineral or minerals or class of minerals identified by the Minister for such period and on such terms and conditions as the Minister may determine.<sup>472A</sup>

The MPRDA is complemented by the Mineral and Petroleum Resources Development Regulations, 2004,<sup>472B</sup> and the 2018 Broad-Based Socio-Economic Empowerment Charter for the Mining and Minerals Industry (Mining Charter).<sup>472C</sup>

**Page 334, footnote 470**

*The footnote should read as follows:*

In terms of s. 1 MPRDA, the term “mine”, when used as a verb, means “the mining of any mineral, in or under the earth, water or any residue deposit, whether by underground or open working or otherwise and includes any operation or activity incidental thereto, in, on or under the relevant mining area”.

**Page 334, footnote 471**

Replace “exploration operation” with “exploration operation other than [the] acquisition and processing of new seismic data”.

**Page 334, footnote 471A**

*After footnote 471, insert the following footnote:*

In terms of s. 1 MPRDA read with s. 1 NEMA, the term “environmental authorisation” means “the authorisation by a competent authority of a listed activity or specified activity in terms of [NEMA], and includes a similar authorisation contemplated in a specific environmental management Act”.

**Page 334, footnote 472**

*The footnote should read as follows:*

Section 5A MPRDA.

**Page 334, footnote 472A**

*After footnote 472, insert the following footnote:*

Section 49(1) MPRDA. A restriction regarding the whole EEZ of the mainland ‘on the granting of applications for technical co-operation permit, exploration right and production right’ in terms of s. 76, 79 and 83 MPRDA was proclaimed by GN 657 of 2018 [GG 41743 of 28 June 2018].

**Page 334, footnote 472B**

*After footnote 472A, insert the following footnote:*

Published by GN 527 of 2004 [GG 26275 of 23 April 2004].

**Page 334, footnote 472C**

*After footnote 472B, insert the following footnote:*

Published by GN 1002 of 2018 [GG 41934 of 27 September 2018].

**Page 335, line 12**

Replace “Area.<sup>477</sup> In” with “Area<sup>477</sup> as amended in 2013,<sup>477A</sup> the 2010 Regulations on Prospecting and Exploration for Polymetallic Sulphides in the Area<sup>477B</sup> and the 2012

Regulations on Prospecting and Exploration for Cobalt-Rich Ferromanganese Crusts in the Area.<sup>477C</sup> In”

**Page 335, footnote 477**

- (a) Replace “UN Doc.” with “ISBA Doc.”.
- (b) Delete the second and third sentences.

**Page 335, footnote 477A**

*After footnote 477, insert the following footnote:*

ISBA Doc. ISBA/19/C/17.

**Page 335, footnote 477B**

*After footnote 477A, insert the following footnote:*

ISBA Doc. ISBA/16/A/12/Rev.1.

**Page 335, footnote 477C**

*After footnote 477B, insert the following footnote:*

ISBA Doc. ISBA/18/A/11. See also the 2013 Decision of the Assembly of the International Seabed Authority concerning overhead charges for the administration and supervision of exploration contracts [ISBA Doc. ISBA/19/A/12].

**Page 336, footnote 482**

Replace “323–351” with “323–351; G. Xue *The Use of Compensation Funds, Insurance and Other Financial Security in Environmental Liability Schemes* (2019)”.