

Environmental Law

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SOUTH AFRICA

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Climate Change Act signed into law but not operative

Over six years in the making, the President signed the Climate Change Act 22 of 2024 into law on 23 July 2024

However, the Act has yet to come into operation and will commence on a date to be proclaimed by the President in the Government Gazette.

Look out for future alerts as we unpack the potential impacts of the Act on specific sectors.

Alecia Pienaar



The ban on drones in angling

The fishing industry has experienced a drastic transformation since the introduction of drone technology and other remote-controlled devices in fishing practices. These innovative tools have revolutionised traditional recreational fishing methods as they are used to carry bait or lures to further locations and previously inaccessible fishing spots. This essentially allows the fishing range to be extended and enhances the efficiency of fishing expeditions.

Recreational fishing is subject to a recreational fishing permit which is endorsed with the method or type of fishing permitted, which could either be angling, spearfishing or cast/throw net, amongst others.

Since the public notice was issued in 2022 on the use of drones in recreational angling, anglers have been frustrated with the ban on drones in angling, especially among enthusiasts who feel that technology enhances the fishing experience. This restriction has also negatively affected businesses in the fishing industry that sell drones, bait carrying remote controlled boats and other remotely operated devices, due to the decline in sales.

Despite these concerns, the prohibition on the use of drones in angling remains in place in an effort to promote sustainable fishing practices for recreational fishing, which was confirmed in the recent case of *Gannet Works (Pty) Ltd and Others v Middleton Sue NO and Another* (Case no 492/2023) [2024] ZASCA 112 (16 July 2024) (Gannet Works).

Laws governing drone use in fishing

The fishing industry is predominantly regulated in terms of the Marine Living Resources Act 18 of 1998 (Act) and its regulations. This legal framework governs various aspects of marine resource management for long-term sustainable utilisation of marine living resources and includes specific provisions regarding the use of technology, such as drones, in fishing.

The Supreme Court of Appeal (SCA) recently addressed the application of the Act in the context of drone fishing and upheld the ban on drone fishing for angling in *Gannet Works*.

We reported on the facts and arguments in the matter which originally came before the High Court in 2022 in our alert here. The SCA has since held that while “*recreational fishing*” encompasses any fishing activity done for leisure or sport without commercial intent, “*angling*” is specifically defined as recreational fishing that involves the manual operation of a rod, reel, and line, or separate lines, each with no more than 10 hooks.

This definition expressly excludes the use of any craft capable of self-sustained movement through the atmosphere, such as drones.

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The ban on drones in angling

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Consequences

These restrictions have had economic repercussions for companies that sell bait-carrying drones, such as Gannet Works, which has experienced a significant loss in revenue due to the ban on the use of drones in recreational angling. However, the use of drones in other recreational fishing practices is not prohibited. Permits for recreational fishing endorsed by methods using drones, other than for angling, would therefore be permitted under the Act.

The effect of this judgment is that the use of motorized devices, including bait-carrying drones, bait-carrying remote-controlled boats and other remotely operated vehicles, such as drones and motorized electric reels, is prohibited for angling. While recreational fishing can be broad, angling is a more narrowly defined activity with stricter manual operation requirements. The SCA confirmed that since drones fall outside the scope of the definition of "manual", they cannot be legally permitted for recreational angling under the Act.

Conclusion

This ban on drones for angling can be viewed as a control measure to prevent over-fishing, protect marine ecosystems and safeguard natural resources, which is in addition to recreational fishing permits, bag limits and closed seasons.

In terms of the public notice published 4 February 2022 by the Chief Director: Fisheries Operations Support, the use of certain fishing devices such as drones in angling is illegal. Violations will be prosecuted, and drones by fishermen for angling will be forfeited in favour of the state.

In the event of non-compliance, the Act also provides for suspension and cancellation of rights, licenses and permits issued in terms of the Act. Failure to comply with the Act or conditions of permits or authorisations is also an offence for which a fine up to R2million or imprisonment of up to 5 years can be imposed upon conviction.

It is therefore crucial for anglers to understand the potential consequences of committing environmental offences under the Act, which is in place to ensure sustainable fishing practices.

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BBBEE STATUS: LEVEL ONE CONTRIBUTOR

Our BBBEE verification is one of several components of our transformation strategy and we continue to seek ways of improving it in a meaningful manner.

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