



forestry, fisheries & the environment

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

Ref: EDMS- 206285

Enquiries: S. Mbethe/ M. Mnwana

E-mail: orvpermitting@dffe.gov.za

Tel: 021 493 7043/ 7050

CLARIFICATION FOR PERMISSIBLE USE PROVISIONS ON DRIVING IN THE COASTAL AREA WITHOUT THE NEED TO OBTAIN A PERMIT IN TERMS OF THE CONTROL OF USE OF VEHICLES IN THE COASTAL AREA REGULATIONS (GN R496 OF 27 JUNE 2014)

The purpose of this letter is to clarify the 'permissible use' provisions relating to driving in the coastal area in terms of the *Control of Use of Vehicles in the Coastal Area Regulations* (GN R496 of 27 June 2014) in Government Gazette 37761 (the "ORV Regulations"). This letter will specifically focus on **permissible uses** as they are set out in Regulation 3 of the ORV Regulations.

BACKGROUND

The Department of Forestry, Fisheries, and the Environment (hereinafter referred to as 'the Department') has received numerous enquiries from persons intending on driving in the coastal area for permissible uses in terms of Regulation 3 of the ORV Regulations. It appears as if there is some confusion among some stakeholders as to when a permit is required and when a permit is not required for driving in the coastal area.

NO ORV PERMIT AND NO DEPARTMENTAL LETTER IS REQUIRED IF A VEHICLE IS BEING USED FOR A PERMISSIBLE USE IN TERMS OF REGULATION 3.

A '**permissible use**' in terms of the ORV Regulations is the lawful use of a vehicle in the coastal area which is allowed without the need to obtain an ORV permit. In other words, an ORV permit or a letter from the Department is not required or obtained if you are undertaking a permissible use as set out in Regulation 3 of the ORV Regulations and includes the following:

- (a) the use by any person of a vehicle-
 - (i) on a public road;
 - (ii) on private land by the owner or with the written permission of the owner or lawful occupier of that land;
 - (iii) on a road within a coastal protected area where written permission has been granted by the management authority of that coastal protected area, or provided that such use is authorised in the protected area management plan or integrated management plan compiled by the management authority;
 - (iv) within a mining area as defined in section 1 of the Minerals and Petroleum Resources Development Act, 2002 (Act No. 28 of 2002);

- (v) in coastal public property within an operational harbour area that has already been physically modified from its original natural state; or
- (vi) in an emergency in order to safeguard human life or health, property or any aspect of the environment.
- (b) the use of a vehicle within a public launch site, or privately used launch site;
- (c) the use by a physically disabled person of an electrically propelled wheelchair that is specifically designed and manufactured for use by such person.
- (d) the use of a vehicle by an employee or agent of an organ of state acting in the course and scope of their employment or mandate, or by any person contracted by an organ of state, for the purposes of performing the public duties of that organ of state mandated by law; or
- (e) the use of a vehicle by members of the National Sea Rescue Institute for the purpose of performing the public duties of that organisation including authorised training exercises.

One of the permissible uses under Regulation 3 is the driving of a vehicle within a "Public Launch Site". This is a site that has been listed by a MEC as a Public Launch Site by notice in a Provincial Gazette in terms of the Public Launch Site Regulations (GN R 497 of 2014) in Government Gazette No. 37761, as a site that allows a vehicle to be used to launch a vessel in the coastal area but excludes a privately used launch site. To lawfully drive their vehicles on these sites, users are not required to obtain an ORV permit or any Departmental letter as it is a permissible use.

PERMISSIBLE USES AND ADHERING TO RULES OF PUBLIC LAUNCH SITES

Vehicles accessing public launch sites are subject to the conditions of vehicle use specified in the launch site operational plan for each public launch site. The driver of the vehicle is therefore responsible for obtaining the conditions of vehicular use of each public launch site from the relevant management body authority before accessing the coastal area at such site. Users of those sites are therefore still required to adhere to their rules and limits.

This letter does not grant access to the privately used launch sites / private property without the permission of the relevant private launch site / property owner(s). The onus is on the driver of the vehicle to obtain such permission before using a vehicle at privately used launch sites.

DUTY TO AVOID ADVERSE IMPACTS ON THE COASTAL ENVIRONMENT

The Department reminds those driving in the coastal area as permissible uses in terms of Regulation 3 that in doing so, they are still under a duty to avoid causing adverse impacts to the coastal environment.

In terms of section 58(1) of the National Environmental Management: Integrated Coastal Management Act 24 of 2008 read together with section 28(1) of the National Environmental Management Act 107 of 1998, every person who may cause significant pollution or degradation of the coastal environment, including causing an adverse effect on the coastal environment, must take reasonable measures to prevent such pollution or degradation from occurring, continuing or recurring, or, in so far as such harm to the coastal environment is authorised by law or cannot reasonably be avoided or stopped, to minimise and rectify such pollution or degradation of the coastal environment.

The authorities may take criminal enforcement actions against those who fail to exercise the duty of care in terms of the National Environmental Management Act (NEMA), even against those who were driving under permissible uses.

PROVINCIAL DEPARTMENTS CONTACT DETAILS FOR QUERIES AND ASSISTANCE

We trust that the above information assists you in complying with the regulations and please feel free to contact the following people should you have any further queries in this regard:

KWAZULU-NATAL PROVINCE

Department of Economic Development, Tourism and Environmental Affairs (EDTEA)

Mr. Omar Parak at 082 330 2136/ 0333559438, e-mail-omar.parak@kznedtea.gov.za

Mr. Alfred Matsheke at 082 330 2114, e-mail-alfred.matsheke@kznedtea.gov.za

EASTERN CAPE PROVINCE

Department of Economic Development, Environmental Affairs and Tourism (DEDEAT)

Ms. Pumla Mzazi-Geja at 082 775 2206/043 605 7256, email: phumla.mzazi@dedea.gov.za

Mr. Xolani Nikelo at 073 079 5827/043 605 7105, email: Xolani.Nikelo@dedea.gov.za

Mr. Ricky Hannan at 043 707 4098, email: Ricky.Hannan@dedea.gov.za

WESTERN CAPE PROVINCE

Department of Environmental Affairs and Development Planning (DEA&DP)

Ms. leptieshaam Bekko at 078 744 9205/ 0214833370, email : leptieshaam.Bekko@westerncape.gov.za

Ms. Mercia Liddle at 021 483 4627, email: Mercia.Liddle@westerncape.gov.za

NORTHERN CAPE PROVINCE

Department of Agriculture, Environmental Affairs, Rural Development, and Land Reform

Mr. Bronwen Cornelissen at 082 525 3288/ 0277188800, email: bronwen.dtec@gmail.com

Ms. Adeleen Cloete at 027 718 8800, email: adeleen.denc@gmail.com

OCEANS AND COASTS COMPLIANCE AND ENFORCEMENT CHIEF DIRECTORATES

Directorate: Oceans, Coasts & Biosecurity Compliance

Ms. Carina Malherbe at 079 699 5350, email: cmalherbe@dfpe.gov.za

Advocate Tandise Jacobs at 083 506 9679/021 814 8047, email: Tjacobs@dfpe.gov.za

Mr. Bongumenzi Gumbi at 071 609 0792/021 493 7121, email: BGumbi@dfpe.gov.za

Oceans and Coasts Enforcement

Mr. Mzondeleli Dzulane at 071 605 2201, email: MDzulane@dfpe.gov.za

Ms. Bongiwe Makangume 081 720 1586, email: BMakangume@dfpe.gov.za

Mr. Saliegh Jacobs at 083 382 2627, email: SJacobs@dfpe.gov.za

Yours faithfully



ACTING DIRECTOR: COASTAL DEVELOPMENT AND COORDINATION

DATE: 11/05/2023