



forestry, fisheries & the environment

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

EXEMPTION GRANTED FROM THE PROVISIONS OF SECTION 13 OF THE MARINE LIVING RESOURCES ACT, 1998 (ACT NO.18 OF 1998) (MLRA) TO COMMERCIAL FISHING RIGHTS HOLDERS WHOSE RIGHTS WERE GRANTED ON 28 FEBRUARY 2022 AND OTHER RELEVANT PERSONS SPECIFIED MORE FULLY HEREIN

1. INTRODUCTION

In terms of section 81(1) of the MLRA, *"If in the opinion of the Minister there are sound reasons for doing so, he or she may, subject to the conditions that he or she may determine, in writing exempt any person or group of persons or organ of state from a provision of this Act."*

On Tuesday, 28 December 2021, the Deputy Director-General: Fisheries Management, duly delegated in terms of section 79 of the MLRA (Delegated Authority), issued an exemption in terms of section 81(1) of the MLRA to fishing sectors wherein exemption/permits were due to expire on 31 December 2021; then current exemption holders; certain Fish Processing Establishments (FPE); certain importers and exporters; and foreign fishing vessels. That exemption was to allow for fishing and related activities, either directly or indirectly affected by the 2021/22 Fishing Rights Allocation Process (FRAP2021/22), to continue with fishing and related activities until the earlier of 31 March 2022 or the results of the allocation of Commercial Fishing Rights during the FRAP2021/22, which was at the time underway.

On 28 February 2022, the Department of Forestry, Fisheries and the Environment (the Department) concluded the FRAP2021/22 in the nine (9) commercial fishing sectors that were due for allocation and published the General Published Reasons for the decisions on the allocation of 2021/22 Fishing Rights and Quantum (GPRs) in the respective sectors. Therefore, the exemption issued on the 28 December 2021 has since expired as of 1 March 2022.

The Department notes that fishing seasons in sectors where new fishing rights have been allocated have either commenced or are due to commence shortly. With this in mind and given that the administrative processes to issue permits in terms of section 13 of the MLRA to new right holders will not be completed immediately, the Delegated Authority has decided to grant an exemption to certain persons in affected sectors in order to:

- a) Allow time for the Department to issue grant of right letters to successful applicants, load new rights and details on the Department's Marine Administrative System (MAST) and issue new fishing and FPE permits;
- b) ensure that business operations in the value chain are not adversely interrupted by the Department's administrative processes;
- c) allow fishing operations to continue in the interim;
- d) provide the Department with an opportunity to reconcile landing data for all fish landed under the previous exemption to date and to adjust percentage apportionments as indicated in the GPRs of the respective fisheries; and

- e) to provide time to the Department to clear any backlog created as a result of the FRAP process.

The Department is sympathetic to the fact that the country is still recovering from the impact of Covid-19. The impact of the pandemic on job losses continues to be felt by many South Africans and industry, including the fishing industry. Accordingly, in an attempt to cause minimal disturbance to fishing activities, minimize further loss of income in the fishing industry and in ensure a smooth transition to the new fishing rights dispensation, an exemption is hereby granted to certain categories of Successful Right Holders and Foreign Fishing Vessels in the manner outlined below and subject to the conditions contained in this exemption.

2. EXEMPTION IN THE HAKE DEEP-SEA TRAWL AND HAKE LONGLINE

All Category A Successful Rights Holders are hereby exempted from the provisions of section 13 of the MLRA in terms of section 81(1) of the MLRA and they may fish based on the quantum and proportions as determined for the current fishing season and in compliance with the conditions of their previous permits.

The Department does not aim to preclude Category B and C Successful Right Holders in fishing activities; however, some administrative processes need to be concluded including quota reconciliations from previous Right/Exemption Holders so as to ensure that the set annual Total Allowable Catch (TAC) is not exceeded as this may have far reaching, negative long term implications to the hake resource and access to international markets. All previous Right Holders are requested to submit their hake catch landings from 01 January 2022 until 03 March 2022 to Mr Mandisile Mqoqi via email (MMqoqi@dfre.gov.za) and Ms Regina Dyasi (MDyasi@dfre.gov.za) on or before 20 March 2022. The requested data will be used for quota reconciliations and issuing of new catch Permits. Successful Category B and C Right Holders may apply for catch permits from 1 April 2022, but will only be allowed to commence with their fishing and fishing related activities after the conclusion of the appeals process.

3. EXEMPTION IN THE SMALL PELAGIC (ANCHOVY AND SARDINE)

All Category A Small Pelagic (Anchovy and Sardine) successful Right Holders are hereby exempted from the provisions of section 13 of the MLRA in terms of Section 81(1) of the MLRA. All successful Rights Holders are further encouraged to apply for their permits under the newly allocated rights as soon as possible as per their nominated vessels as contained in the respective "*General Published Reasons for the Decisions on the Allocation of Rights and Quanta in the Small Pelagic (Sardine) Fishery: 2021/22*" and "*General Published Reasons for the Decisions on the Allocation of Rights and Quanta in the Small Pelagic (Anchovy) Fishery: 2021/22*".

All catch landings should be forwarded to Mr. Johan de Goede via email JdeGoede@dfre.gov.za and as stipulated in the previous permit conditions. The Total Allowable Catches (TAC) for Anchovy (222750t) and Sardine (30015t), for the 2022 season will apply. The GPRs provide the percentages granted per successful Anchovy and Sardine applicants. Successful Category B and C Right Holders may apply for catch permits from 1 April 2022, but will only be allowed to commence with their fishing and fishing related activities after the conclusion of the appeals process.

4. EXEMPTION IN THE SOUTH COAST ROCK LOBSTER (SCRL)

The new (Category B and C) South Coast Rock Lobster (SCRL) rights allocated under FRAP 2021/2022 will commence from 1 October 2022. Successful applicants in Category A in the South Coast Rock Lobster sector are exempt from section 13 of the MLRA and can continue fishing subject to the conditions of their expired 2021/2022 catch permits until 30 April 2022. Category A Successful Right Holders in the South Coast Rock Lobster sector shall start applying now for their catch permits in order to harvest the balance of their allocation for the 2021/2022 fishing season and to continue fishing from 1 May 2022 until 30 September 2022. Category B and C Successful Right Holders shall apply for catch permits prior to the opening of the new season on 1 October 2022.

5. EXEMPTION IN THE KWAZULU-NATAL CRUSTACEAN PRAWN TRAWL (KZNCT)

Category A Successful Right Holders in the KwaZulu-Natal Crustacean Prawn Trawl sector are exempt from section 13 of the MLRA and can continue fishing subject to the conditions of their expired 2021 catch permits until 30 April 2022; however, they must align with the effort allocation granted under FRAP 2021/2022 (i.e. one unit of effort/one vessel per applicant). Successful Category B and C Right Holders may apply for catch permits from 1 April 2022, but will only be allowed to commence with their fishing and fishing related activities after the conclusion of the appeals process.

6. EXEMPTION IN THE SQUID, TRADITIONAL LINEFISH, TUNA POLE-LINE AND THE DEMERSAL SHARK LONGLINE

Category A Successful Right Holders in the Squid, Traditional Linefish, Tuna Pole-Line and the Demersal Shark Longline are exempted from the requirements of section 13 of the MLRA, in terms of section 81 of the MLRA until 30 April 2022. Category A Successful Right Holders may resume fishing operations, subject to the conditions of their previous permits, and in accordance with the effort allocations published in the sector specific General Published Reasons for allocations. Successful Category B and C Right Holders may apply for catch permits from 1 April 2022, but will only be allowed to commence with their fishing and fishing related activities after the conclusion of the appeals process.

7. EXEMPTION GRANTED IN THE HAKE HANDLINE, WHITE MUSSELS, OYSTERS AND LARGE PELAGIC LONGLINE FISHING SECTORS

All previous Exemption Holders in the Hake Handline, White Mussels, Oysters and Large Pelagic Longline fishing sectors are hereby further exempted from the provisions of section 18 and 13 of the MLRA to continue fishing under this exemption until 30 April 2022. These Exemption Holders shall adhere to the current permit conditions.

8. MISCELLANEOUS

This exemption applies to Transshipment (local), Prohibited Deepwater Species (land, possess and sell) and High Seas vessel license, exemption holders are required to submit applications to CSC. A copy of the application and the proof of payment submitted must be onboard the vessel at all times for the duration of this exemption.

9. FOREIGN FISHING VESSELS

This exemption applies to foreign fishing vessels currently inside or which intend to enter, the South African EEZ at any time during the period of this exemption, in that such vessel is exempted from requiring a permit in terms of section 13 of the MLRA subject to the following conditions:

- a) Prior to entering the South African EEZ, all foreign fishing vessels, including carrier/reefer vessels and transshipment vessels, shall be required to submit an application through the IOTC AREP online system and further to submit the same application to Customer Service Center (CSC). A copy of the application and the proof of payment submitted, must be kept onboard the vessel for the duration of this exemption.
- b) Any foreign vessel described above must comply with the current permit conditions;
- c) No vessel listed in any International Unreported and Unregulated (IUU) fishing list may enter the South African EEZ.

10. TRANSFER OF FISHING EXEMPTION

This exemption shall not be transferred to any other person and where the Exemption Holder is a company or close corporation, no share/members interest may be transferred/sold at any time during the validity period of this exemption.

11. ADDITIONAL EXEMPTION CONDITIONS

- a) All Successful Right Holders are advised to start applying for catch permit(s); fish processing establishment permit (s) in terms of section 13 of the MLRA and local fishing vessel licence(s) in terms of section 23 of the MLRA from 01 April 2022 onwards. Successful Category B and C Right Holders may apply for catch permits from 1 April 2022, but will only be allowed to commence with their fishing and fishing related activities after the conclusion of the appeals process.
- b) Application forms, requirements for catch permit(s), fish processing establishment(s) and vessel licence(s) can be obtained from the Department's Customer Service Centre, Ground Floor, Foretrust Building, Martin Hammerschlag Way, Foreshore, Cape Town; or, through the online permit-application system at: cscapplications@dfre.gov.za. Alternatively, the sector specific enquiries may be directed to the relevant officials (Table 1. Below)

TABLE 1. CONTACT DETAILS FOR SECTOR SPECIFIC OFFICIALS

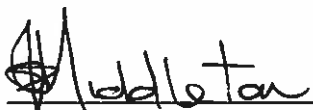
SECTOR	NAME(S)	CONTACT DETAILS
Small Pelagic (Anchovy and Sardine)	Mr. Qayiso Mketsu Mr. Johan de Goede	QMketsu@dfre.gov.za JdeGoede@dfre.gov.za
Hake Deep-Sea Trawl	Mr. Mandisile Mqoqi Ms. Regina Dyasi	MMqoqi@dfre.gov.za MDyasi@dfre.gov.za
Hake Longline	Mr. Mandisile Mqoqi Ms. Regina Dyasi	MMqoqi@dfre.gov.za MDyasi@dfre.gov.za
KwaZulu-Natal Crustacean Prawn Trawl	Ms. Wendy West Ms. Risha Govender	WWest@dfre.gov.za RGovender@dfre.gov.za
South Coast Rock Lobster	Ms. Wendy West Ms. Risha Govender	WWest@dfre.gov.za RGovender@dfre.gov.za

Squid	Mr. Benjamin Mdledle Ms. Siphokazi Mayalo	BMdledle@dffe.gov.za SMayalo@dffe.gov.za
Traditional Linefish	Mr. Benjamin Mdledle Ms. Siphokazi Mayalo	BMdledle@dffe.gov.za SMayalo@dffe.gov.za
Tuna Pole-Line	Mr. Qayiso Mketsu Mr. Johan de Goede	QMketsu@dffe.gov.za JdeGoede@dffe.gov.za

- c) Catches and/or landings made from 01 January 2022 to 30 April 2022 will form part of the 2022 allocation and all catch landings data, levies on the landed fish must be paid and be up to date.
- d) Sector specific permit conditions should be obtained from CSCapplications@dffe.gov.za
- e) Failure to comply with sections of the permit conditions, the relevant policies, the MLRA, the Regulations, may result in the institution of legal proceedings (civil or criminal), including but not limited to proceedings in terms of section 28 of the MLRA.
- f) The Successful applicants must, keep a certified copy of this exemption and the grant of right letter on their approved vessels, available for inspection at any given time
- g) The Department reserves the right to refuse issuing any Permit if the conditions of the previous issued Permit, or of this Exemption, have not been adhered to.

12. VALIDITY PERIOD

This exemption is valid until 30 April 2022.



Ms Sue Middleton

DEPUTY DIRECTOR-GENERAL: FISHERIES MANAGEMENT

DATE: 03/03/2022

Issued by the Department of Forestry, Fisheries and the Environment
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