



DEPARTMENT OF FORESTRY, FISHERIES AND THE ENVIRONMENT

# **PUBLIC CONSULTATION**

## **FISHING RIGHTS ALLOCATION PROCESS**

Branch: Fisheries Management

13 – 21 October 2021



**forestry, fisheries  
& the environment**

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



# Agenda

	Item	Detail	Responsibility	Time
1	<b>Introduction</b>	Welcome and Introduction	DFFE	5 mins
2	<b>Meeting Protocol</b>	Meeting and Safety protocol	DFFE	5 mins
3	<b>Presentation</b>	Overview of FRAP process & timeframes	DFFE	5 mins
		Overview of Policies <ul style="list-style-type: none"> <li>• General Policy</li> <li>• Sector specific Policies</li> <li>• Transfer Policy</li> <li>• Fees</li> </ul>		60 mins
		Application Form and Process		15 mins
4	<b>Questions and Answers</b>	Q & A session	Facilitated	80 mins
5	<b>Conclusion</b>	Confirmation of process and next steps	DFFE	10 mins



# Meeting Protocol

## Kindly take note of the following:

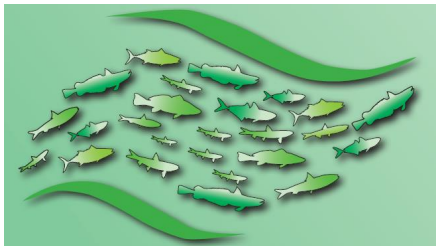
- Emergency exits.
- Toilet facilities.
- Covid protocol – please wear your masks and maintain social distancing.
- Switch off / silence cell phones.
- This session is being recorded for record keeping purposes.
- Please respect the presenter and reserve questions and comments until the end of the presentation.
- Please direct all questions through the facilitator and through the microphone
- **Please limit your input to specific points regarding the policies and where amendments are suggested, provide an alternative proposal.**
- Questions that are unable to be answered during this meeting will be responded to and circulated.



# Virtual Meeting Protocol

## Kindly take note of the following:

- This session is being recorded for record keeping purposes.
- Please record your name and surname (no nicknames or aliases).
- Please respect the presenter and reserve questions and comments until the end of the presentation.
- Please raise your hand if you would like to ask a question.
- You may also use the chat box.
- **Please limit your input to specific points regarding the policies and where amendments are suggested, provide an alternative proposal**
- Questions that are unable to be answered during this meeting will be responded to and circulated



# FRAP Process

**WE ARE  
HERE**



Public  
Consultation

Policy  
Amendments

Applications  
Open

Evaluation  
and  
Adjudication

Allocation of  
Fishing Rights

Appeals

13 – 25 Oct

By 31 Oct

Nov

Nov – Dec

By 31 Dec

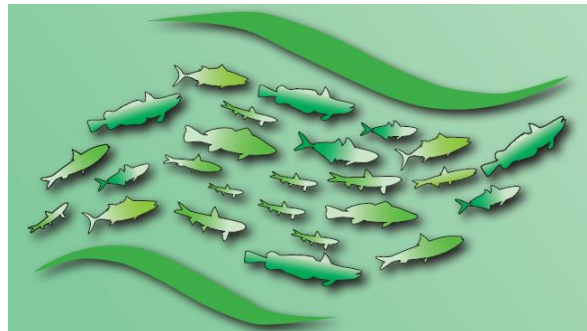
Jan 2022



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# DRAFT GENERAL POLICY ON THE ALLOCATION OF COMMERCIAL FISHING RIGHTS



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# Policy Overview: Draft General Policy on the Allocation of Commercial Fishing Rights

## Policy Contents

- **Part A:** Introduction.
  - Application of the General Policy, Profile of the South African Fishery, Purpose and Objectives.
- **Part B:** Commercial Fishing Rights Allocation Process.
  - Application Process, Exclusionary Criteria, Balancing Criteria, Granting of Commercial Fishing Rights and Access to Information.
- **Part C:** Effective Date and Policy Review.

# Policy Overview: Draft General Policy on the Allocation of Commercial Fishing Rights

## Part A

**Purpose of the General Policy:** guide the allocation and granting of commercial fishing rights prescribed by section 18 of the Marine Living Resources Act 18 of 1998 (“MLRA”) across all fisheries as is guided by each respective “Fishery sector specific policy”.

**The powers to allocate** and grant commercial fishing rights in terms of section 18 of the MLRA are vested with the Minister.

*Status: 8 Delegated Authorities have been appointed*

Applies to the allocation of commercial fishing rights in the following commercial fishing sectors:

- |  |  |  |
|--|--|--|
| <ul style="list-style-type: none"><li>• Abalone</li><li>• Demersal Shark Longline</li><li>• Hake Deep Sea Trawl</li><li>• Hake Handline</li><li>• Hake Inshore Trawl</li><li>• Hake Longline</li><li>• Horse Mackerel</li><li>• KwaZulu-Natal Beach Seine</li><li>• KwaZulu-Natal Prawn Trawl</li><li>• Large Pelagic Longline</li><li>• Netfishing (Gillnets and Beach Seine)</li></ul> | <ul style="list-style-type: none"><li>• Oysters</li><li>• Patagonian Toothfish</li><li>• Seaweed</li><li>• Small Pelagics</li><li>• South Coast Rock Lobster</li><li>• Squid</li><li>• Traditional Linefish,</li><li>• Tuna Pole-Line</li><li>• West Coast Rock Lobster (Nearshore)</li><li>• West Coast Rock Lobster (Offshore)</li><li>• White Mussels</li></ul> | <p>unless the sector becomes managed under a fishing sector other than commercial fishing sector</p> |
|--|--|--|



# Policy Overview: Draft General Policy on the Allocation of Commercial Fishing Rights

## Part A

**Purpose and Objectives:** recognises the need to **ensure the optimal, long-term and justifiable use of marine living resources** in order to ensure **sustainable development** of the fishing sector to achieve **inclusive economic growth**, to **build capacity** within the Marine Living Resources Fund (MLRF) and to **create sustainable employment consistent** with the development objectives of National Government

This is primarily done through setting of :

- Total Allowable Catch (TAC) per targeted species or species group in a particular area
- Total Applied Effort (TAE) of units of time spent fishing, fishing gear, vessel or fishers, or
- Management tools (such as Precautionary Upper Catch Limit (PUCL)) or a combination thereof.

The **transformation of the fishing industry** is a constitutional and legislative imperative. The primary vehicle for the promotion of the transformation of the South African fishing industry is the Marine Living Resources Act of 1998 (MLRA)

- The MLRA requires decision-makers to give regard to the need to **restructure the fishing industry** in order to address **historical imbalances** and to **achieve substantive equity within all the sectors of the fishing industry**.

# Policy Overview: Draft General Policy on the Allocation of Commercial Fishing Rights

## Part B Application for Commercial Fishing Rights

### Teams

- The Minister or Delegated Authority may appoint teams and/or committees that will assist in the management and implementation of the commercial fishing rights allocation process.

### Policies and Application Forms

- The Minister will publicly announce the manner in which the Policies will be consulted on and on how Application Form will be submitted
  - The applicants must ensure that they meet all requirements prior to completion and submission of application forms.
  - No late applications will be accepted.

### Application Fee

- Applicants must pay the Application Fee to the MLRF before the submission of their Application Form and proof of payment must be submitted with the Application Form.
- *Please see Fees Policy section*

# Policy Overview: Draft General Policy on the Allocation of Commercial Fishing Rights

## Part B Application for Commercial Fishing Rights

### Management of Applications

- The applications will be sorted and categorized by fisheries sector in terms of the categories of the applicants per each fishery.
- Applications will be sorted into entities and individual applicants.
- Applications will be assessed by the Department in terms of the exclusionary and the balancing criteria.
- Applications from individual applicants who became deceased during the process of Assessment will be assessed in terms of the set criteria

#### Category A

Applicants who held rights in the fishery for which they are reapplying

#### Category B

Applicants who held rights in sectors other than the fishery that they are applying for

#### Category C

Applicants that have never held commercial fishing rights in any of the commercial fishery sectors – “new entrant” applications

# Policy Overview: Draft General Policy on the Allocation of Commercial Fishing Rights

## Part B

### Exclusionary Criteria

- **Improper Lodgement:** Improperly submitted applications will be excluded
- **Materially Defective Applications** will be excluded
- **Attempting to improperly influence the Delegated Authority or Minister.**
- **Not meeting requirements** in that the Applicant or any of its members / directors / shareholders has entered into a plea bargain /a contravention of the MLRA, regulations or permit conditions / has been convicted in terms of the MLRA, regulations or permit conditions/ has had a fishing right or permit cancelled or revoked
- **Paper Quota risk** (Category A & B applicants ) will be excluded
- **The Department may revoke commercial fishing rights held by right holders who fail to utilise their rights in the first two years after being granted their rights.**



# Policy Overview: Draft General Policy on the Allocation of Commercial Fishing Rights

## Part B

## Balancing Criteria

Applications that pass through the exclusionary criteria will be assessed and subjected to a weighted scoring criteria / balancing criteria in accordance with the sector specific policies, based on

Category A	Category B	Category C
<ul style="list-style-type: none"><li>• Multi-sector involvement</li><li>• Fishing experience and knowledge</li><li>• Investment</li><li>• Reliance</li><li>• Compliance</li><li>• Access to suitable vessel</li><li>• Fishing performance</li><li>• Transformation</li><li>• Job creation</li></ul>	<ul style="list-style-type: none"><li>• Multi-sector involvement</li><li>• Fishing experience and knowledge</li><li>• Investment</li><li>• Reliance</li><li>• Compliance</li><li>• Access to suitable vessel</li><li>• Fishing performance</li><li>• Transformation</li><li>• Job creation</li></ul>	<ul style="list-style-type: none"><li><del>• Multi-sector involvement</del></li><li>• Fishing experience and knowledge</li><li>• Investment</li><li>• Reliance</li><li>• Compliance</li><li>• Access to suitable vessel</li><li><del>• Fishing performance</del></li><li>• Transformation</li><li>• Job creation</li></ul>



# Policy Overview: Draft General Policy on the Allocation of Commercial Fishing Rights

## Part B Granting of Commercial Fishing Rights

### **Total Allowable Catch (TAC), Total Applied Effort (TAE) or a combination thereof**

- The Minister /Delegated Authority will determine a global TAC or TAE annually in each fishery.
- TAC, TAE are determined considering: the latest fishery sector specific stock assessment report, the history, resource users, sustainability of the operations of right holders and the viability of the fishery.
- The right holder's allocation may decrease or increase should the annual local commercial portions of the determined TAC / TAE decrease or increase
- A portion of the commercial TAC, TAE may be reserved for appeals

# Policy Overview: Draft General Policy on the Allocation of Commercial Fishing Rights

## Part B Granting of Commercial Fishing Rights

### Provisional decision

- The Delegated Authority may issue a **provisional** successful list, then invite comment on it, and thereafter issue a **final** successful list.

### Fisheries Transformation Council

- The Minister may allocate commercial fishing rights to the Fisheries Transformation Council (“the Council”) once it is established

### Applicant involvement and relationship with other applicants

- Entity and their subsidiaries involvement – may not be granted more than one right in a sector
- Brother-Sister Cooperation – if two or more companies are owned and controlled by the same shareholders, a fishing right may be allocated to one of the companies, or right may be divided
- Same household individuals - may not be granted more than one right in a sector

# Policy Overview: Draft General Policy on the Allocation of Commercial Fishing Rights

## Part B Granting of Commercial Fishing Rights

### Final Decisions and Announcement thereof

- “Commercial fishing rights” allocated under the MLRA **are not property rights** and should be understood as **statutory permission to harvest a marine living resource for a specified period of time**.

### Form of Right Holders

- Only South African persons may hold commercial fishing rights (Section 18 of the MLRA)
- The following South African persons will be considered dependent on the Fishery Sector Specific policies:
  - a South African citizen;
  - a company;
  - a close corporation;
  - co-operatives; and
  - Trust
- *Note: individuals may apply in the Traditional Linefish sector*



# Policy Overview: Draft General Policy on the Allocation of Commercial Fishing Rights

## Part B Granting of Commercial Fishing Rights

### Duration of right

- Commercial fishing rights will be granted in all the sectors for a period **not exceeding 15 years**.
- The duration of rights will be determined by the Delegated Authority taking into account, amongst other things, the level of **transformation** in the fishery, the **capital intensity** of the fishery, the need to encourage **further investment** and **economic growth**, the current knowledge of the **biological status** of the target species and the **performance** of participants in the fishery.

### Appeals

- Delegated Authority will where necessary **set aside a portion of the TAC, TAE or a combination thereof for appeals**.
- The unallocated portion of the TAC or TAE that has been set aside for appeals, will be allocated proportionally to all successful applicants and appellants. The allocations of successful applicants may be adjusted upwards or downwards depending on the outcome of the appeals process.
- Appellants may approach the Courts for judicial review within 180 days

# Policy Overview: Draft General Policy on the Allocation of Commercial Fishing Rights

## Part B Granting of Commercial Fishing Rights

### Payment of Grant of Right fee

- The Grant-of-Right fee is payable by all successful applicants upon the granting of their commercial fishing rights (paid in full within 60 days of receipt ).
- Prospective applicants may comment on the fees as published in the Govt Gazette of 13 Sept 2021

### Transfer of fishing rights

- Transfer of fishing right granted in terms of the MLRA will be dealt with in accordance with the Policy for the Transfer of Fishing Right and Part Thereof and Fishery Sector Specific Policy.
- Shares transferred during the exemption period should not result in the applicant benefitting because of such transfers happened after the expiry of their rights.

### Exercise of fishing right

- Fishing right may only be exercised once a fishing permit has been issued.

# Policy Overview: Draft General Policy on the Allocation of Commercial Fishing Rights

## Part C

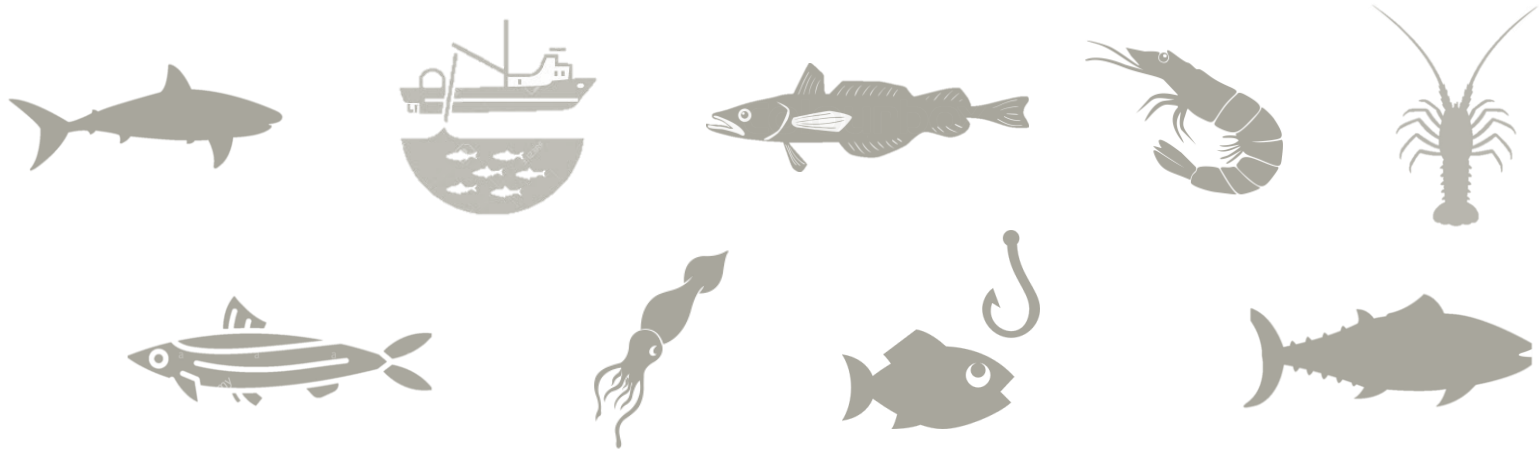
### Effective Date and Policy Review

**Effective Date** - This policy will be effective on the date it is gazetted by the Minister.

### Monitoring and Evaluation of the Policy

- To ensure the effectiveness of the General Policy and Fishery Specific Policies the Department will institute a number of **formal performance measuring exercises** during the right period.
- Criteria for the Performance Review will be determined after the allocation of commercial fishing rights in consultation with right-holders. The following **broad performance-related criteria** may be used:
  - **Transformation;**
  - **Investments; and**
  - **By-catch mitigation** compliance with applicable laws and regulations.
- Research and ongoing monitoring by the Department and Stakeholders will be important
- During the performance measuring exercise, any Right Holder that contravened any condition upon which the Right was granted for, may result in the initiation of legal proceedings.

# SECTOR SPECIFIC POLICIES



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# Sector Policies: Crosscutting Topics

## Granting of Rights

- Fishing rights are granted in terms of section 18 of the MLRA.
- All rights granted shall be valid from the date of allocation for the period stipulated, whereafter the right shall automatically terminate and revert back to the State.

## Transfer of Rights Allocated in this Fishery

- The Minister may approve the transfer of fishing rights in a whole or in part.
- Rights granted within a fishery shall not be transferred within the first 2/ 3 years (sector specific) of being granted.
- Rights can only be transferred in terms of the draft Transfer Policy.

**Appeals** - As set out in General Policy

**Monitoring and Evaluation** - As set out in General Policy

## Permit Conditions –

- Will be issued annually, co-determined with Right Holder's representative associations / stakeholders
- Revision may also take place ad hoc during the season as and when it may be necessary.

# Sector Policies: Crosscutting Topics

## Contraventions

- Contraventions of the following kind:
  - **failure to utilise their fishing right** for any two consecutive fishing seasons during the period for which the Right has been granted without a reasonable explanation;
  - **breach of the provisions of the MLRA**, Regulations, Permit Conditions, the Transfer Policy and other related Acts included in the Permit Conditions by the Right Holder, or its employees (whether permanent, full-time or part-time), its contractors, agents or advisers and the skipper of the vessel;
  - During the performance measuring exercise, any Rights Holder that has been found to have **contravened any condition** upon which the Right was granted for;

may result in the initiation of legal proceedings (which may include initiation of section 28 proceedings in terms of the MLRA and/or civil or criminal proceedings).

# Sector Policies: Crosscutting Topics

## Management Measures across sectors include:

- Ecosystem approach to fisheries
- Observer programme
- Spatial Management
- Optimum Utilisation
- Promoting Sustainability
- Observer at sea
- Land based monitoring
- Vessels and fishing effort
- Permitting
- Law enforcement
- Tools to adjust effort
- Consolidation of Right Holders
- Co management
- Recommendation of tRFMOs



# Sector Policies: Crosscutting Topics

## Over arching sectoral objectives (summary)

- Aid in the recovery and ecologically sustainable use of the resource
- Improve the quality of jobs through permanent employments, promote transformation and broaden meaningful participation
- Promote the interests of applicants who rely heavily on the fishery as their main source of income
- Broaden access to fishery while minimising economic disruption (e.g. job losses)
- Promote transformation through efficient allocation of fishing rights to HDIs
- Promote local economic development through encouraging investments in processing and marketing infrastructure
- Promote meaningful participation by all Right Holders and eliminate paper quotas
- Promote SMMEs and job creation
- Conserve marine resources for present and future generations
- Apply precautionary measures in management of resources
- Promote adherence to fair labour practises
- Promote food security and poverty alleviation
- Facilitate the recovery of over exploited and collapsed fish stocks





# DRAFT POLICY ON THE ALLOCATION AND MANAGEMENT OF COMMERCIAL FISHING RIGHTS: DEMERSAL SHARK



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# Policy Overview: Demersal Shark

**Sector is effort controlled with 6 fishing right (vessels) allocated in 2013.**

- Transformation profile:
  - 63% of the rights were allocated to blacks / black-owned and controlled entities.
  - 50% of rights were allocated to females or female-owned and controlled entities.

Between 2007 and 2020 an average of 98% (ranging between 88 to 100 %) of the total catch was made by 4 vessels.

## **Form of Right Holder:**

- South African Close Corporation (legal entity)
- South African Company (legal entity)

**Duration of Right:** 15 years

## **Allocation**

- Proportion of TAE will be allocated in respect of number of vessels to each right holder.
- Allocation will remain consistent for duration of right but measures such as species, size, area limits, catch limits may fluctuate depending on the assessment of the resource status
- TAE / TAC is determined by the Delegated Authority considering the history, resource users, sustainability of the operations of right holders, and the viability of the fishery.





# Policy Overview: Demersal Shark

## Access to a suitable vessel

- has a **minimum maximum** South African Maritime Safety Authority (SAMSA) registered length overall of more than **20 metres**
- has a functioning **vessel monitoring system** at the time of applying for a vessel licence if the application is successful;
- is **registered and certified by SAMSA** as being suitable for fishing; and
- is geared for **demersal shark longline fishing**.

**Quantum Allocation Method** – An allocation of 4 to 6 fishing vessels is being considered

## New Entrants

- The Department will consider new entrants that demonstrate knowledge, skills and capacity to fish and process demersal shark

# DRAFT POLICY ON THE ALLOCATION AND MANAGEMENT OF COMMERCIAL FISHING RIGHTS: HAKE DEEP SEA TRAWL FISHERY



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# Policy Overview: Hake Deep Sea Trawl Fishery

## Management measures to be considered/implemented during the next Rights cycle (2022- 2037)

- The Department is considering implementing changes in the hake TAC sectoral apportionment:
  - **Longline** apportionment **increased** from 6.551% to **10%** of the hake TAC, subject to further investigation on possible impacts on resource dynamics
  - **Handline** apportionment set aside in its entirety for allocation to **small scale**
- TAC decrease “**cushion**” for SMMEs/smaller Right Holders
- **Roll overs** will be discouraged
- **Transfer** of hake quota between hake-directed sectors (e.g. from inshore trawl to deepsea trawl) will be discouraged
- Change in the **fishing season** from the current 1 January – 31 December to 1 March – 28/29 February. The intention is to implement this change in alignment with the new hake OMP (Operational Management Procedure) that will be developed during 2022 and implemented in 2023.
- Efforts will be directed at **removing vessels smaller than 30m** from the fishery for safety considerations





# Policy Overview: Hake Deep Sea Trawl Fishery

## **Currently 30 Right Holders, with 51 vessels collectively**

- Currently the most valuable of South Africa's fisheries, contributing about R 8.5 billion
- Fishery sustains about 12 400 jobs (direct and indirect). 90% of these jobs are held by persons from historically disadvantaged communities, while 40% are held by women.
- The majority of employees are employed on a full-time, year-round basis, with fixed salaries and employment benefits.

## **Form of Right Holder**

- South African Close Corporation (legal entity)
- South African Company (legal entity)

## **Duration of Right: 15 years**

## **Allocation**

- This fishery is regulated by the determination of a TAC.
- Delegated Authority will determine the TAC considering the history, resource users, sustainability of the operations of right holders, and the viability of the fishery.
- The right holder's allocation may decrease or increase should the annual local commercial portions of determined TAC decrease or increase respectively.





# Policy Overview: Hake Deep Sea Trawl Fishery

## New Entrants

- Department will consider new entrants that demonstrate knowledge, skills and capacity to fish and process hake.

## Quantum Allocation Method –

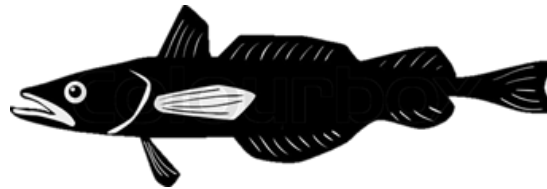
- Aims to balance the objectives of broadening access to the fishery through the **introduction of new entrants** against improving the allocations to the smaller Right Holders (and HDI groups in particular) to facilitate their meaningful participation in the fishery throughout the value chain.
- **Appeals Reserve** - 10% of the sector TAC will be set aside to accommodate successful appeals against the Delegated Authorities decisions.
- **Minimum Allocation** - The Department is exploring an approach to set a meaningful minimum allocation to promote meaningful participation in the fishery and minimise paper quota risks.

## Suitable vessel

- Is registered by the South African Maritime Safety Authority (SAMSA) as having a minimum registered length of about **30m**;
- Is geared to fish using the **trawling** method;
- Is fitted with a departmental approved and functioning **vessel monitoring system**
- Is a South African flagged vessel



# DRAFT POLICY ON THE ALLOCATION AND MANAGEMENT OF COMMERCIAL FISHING RIGHTS: HAKE LONGLINE FISHERY



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# Policy Overview: Hake Longline Fishery

## Currently 109 Right Holders, with 40 - 50 vessels collectively

- Transformation profile
  - Black ownership per Right Holder 40% - 100%.
  - Overall black shareholding is 84.69% and female ownership averages 46.2%.
- The Hake Longline directly sustains 1 500 - 2 000 jobs

## Form of Right Holder

- South African Close Corporation (legal entity)
- South African Company (legal entity)

## Duration of Right: 15 years

## Allocation

- This fishery is regulated by the determination of a **TAC**.
- Delegated Authority will determine the TAC considering the history, resource users, sustainability of the operations of right holders, and the viability of the fishery.
- The right holder's allocation may decrease or increase should the annual local commercial portions of determined TAC decrease or increase respectively.



# Policy Overview: Hake Longline Fishery

## Suitable vessel

- Is registered by SAMSA as having a **minimum** **maximum** registered length of about **30m**;
- Is geared to fish using the **longline** method;
- Is fitted with a departmental approved and functioning **vessel monitoring system**
- Is a South African flagged vessel

## Quantum Allocation Method

- As per Hake Deep Sea Trawl

## New Entrants

- Whilst being mindful of the dynamics of the sector in respect of investment, performance, economic stability and business growth, the Department will consider new entrants
- New entrant's applicants will have to demonstrate that they have knowledge, skills and capacity to fish and process hake.



# DRAFT POLICY ON THE ALLOCATION AND MANAGEMENT OF COMMERCIAL FISHING RIGHTS: KZN CRUSTACEAN TRAWL POLICY



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# Policy Overview: KZN Crustacean Trawl

- Name to be changed to **KZN Crustacean Trawl** to accurately reflect the fishery profile
- Sector is TAE controlled. In 2014 rights were allocated for 7 years to six fishing companies.
- **Transformation profile** (2013 process):
  - Percentage of the TAE held by black people was 84%;
  - The shares held by black people: 84%; and women: 39%.

## Form of Right Holder:

- South African Close Corporation (legal entity)
- South African Company (legal entity)
- Cooperatives
- Individuals will not be considered. Applicants to be consider in Categories A, B, C

**Duration of Right:** for a period not exceeding 15 years

## Suitable vessel

- is rigged to trawl for prawns (bottom trawling with single net stern, or boom-operated twin or triple nets)
- is capable of fishing in the deep-water trawl area >7 nautical miles offshore; and
- has a functioning vessel monitoring system.



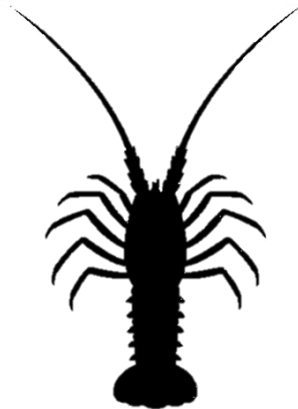
# Policy Overview: KZN Crustacean Trawl

**Vessel limit and new entrants** - Having regard to the following:

- **capital intensity** of the fishery and the need to maintain economic stability of the fishery;
  - **operational challenges** experienced by the fishery (e.g. poor catch volumes, unfavourable size mix, **high operation costs**, difficult fishing conditions owing to oceanography);
  - **variability and unpredictability** of the resource that limits the profitability of the fishery;
  - lack of scientifically reliable **stock assessments**;
  - high discarded **by-catch percentage**;
  - relatively **small size** of the offshore trawl grounds has been reduced with the declaration of the uThukela MPA and most of the grounds are already heavily trawled;
  - uncertain impacts of **climate change** on the resource; and
  - uncertainty in certain biological aspects of the target species e.g. reasons for absence of mature individuals for some species, recruitment processes, density-dependent effects of trawling;
- 
- The number vessels accommodated in the rights allocation process within this fishery will not exceed **7 vessels**.
  - Effort allocations will be made on a preliminary basis until the appeals process has been finalised.
  - New entrants to the fishery will be considered and those with fishing experience and access to suitable infrastructure will be preferred and accommodated within the 7 vessel TAE allocation.



# DRAFT POLICY ON THE ALLOCATION AND MANAGEMENT OF COMMERCIAL FISHING RIGHTS: SOUTH COAST ROCK LOBSTER



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# Policy Overview: South Coast Rock Lobster (SCRL)

- There are currently **8** SCRL fishing vessels that harvest the current 2020/2021 TAC of 337 t.
- **Transformation profile (2005/2006)**
  - More than 60% of the right holders in the fishery had more than 50% black shareholding;
  - TAC and TAE held by blacks was 72.22% and 72.18%, respectively
  - Shareholding/member interest held by women was 18.42%.

## Form of Right Holder

- South African Close Corporation
- South African Company (legal entity)
- Cooperatives
- Individuals will not be considered. Applicants to be consider in Categories A, B, C

**Duration of Right:** for a period not exceeding 15 years

## Suitable vessel

- has a **minimum** SAMSA registered length of approximately **25 metres**;
- has a functioning vessel monitoring system;
- capable of deploying lines of approximately one-mile-long and 100 traps, storing at least 1 000 traps, carrying the necessary winches and carrying approximately 30 or more crew members



# Policy Overview: South Coast Rock Lobster (SCRL)

## Quantum Allocation Method

The mechanism for allocating quantum will consist of a combined analysis of:

- the previous TAC held by the Category A applicants;
- the degree of utilisation of the TAC by Category A applicants;
- the redistribution of TAC among Category A applicants to improve the allocations of Category A applicants that held historically smaller quantum, to assist in more meaningful participation in the fishery;
- the allocation of TAC to Category B and C applicants that is in line with allocations held by Category A applicants during the previous long-term rights; and
- the degree to which the applicant has achieved the Department's objectives.
- Should the resource recover, the TAC may be increased during the rights period. In this instance, the Department will use a sliding scale approach in respect of the allocation of additional quantum that gives preference to right holders with smaller allocations.

The resource is in a state of recovery and since 2008 the TAC has fluctuated by no more than 5% inter-annually between 317 tons and 363 tons.

The Department is considering not to increase the number of vessels during the allocation process.







# Policy Overview: South Coast Rock Lobster (SCRL)

## New Entrants

- As a capital-intensive fishery, the Category A applicants have had to make large investments in the fishery in infrastructure (e.g. vessels, processing facilities) and marketing over the last 15 years to establish economically viable entities.
- Whilst being mindful of the dynamics of the sector which has been established under the previous long-term rights in respect of investment, performance, economic stability and business growth, the Department will consider the inclusion of new entrants.



# DRAFT POLICY ON THE ALLOCATION AND MANAGEMENT OF COMMERCIAL FISHING RIGHTS: SMALL PELAGIC (ANCHOVY & SARDINE)



forestry, fisheries  
& the environment

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





# Policy Overview: Small Pelagic

- **Largest South African fisheries (despite recent low sardine catches)**
- The country's second-most important in terms of value, with an estimated wholesale catch value of R2.4 billion in 2014 that is estimated to be around R5.5 billion at present
- Employs approx 5800 people (4300 on a permanent basis and 1500 on a seasonal basis)
- 95% of workers in this sector are historically disadvantaged persons.
- In 2020 there were 22 Permitted **Fish Processing Establishments (FPEs)** associated with the Small Pelagic sector. Of these 5 are large, combined fishmeal and canning plants and 1 is a cannery only plant, with all 6 being owned by previous RHs.
- Of the 115 Long-term Rights holders, 76 were granted Rights to both sardine and anchovy and 39 were granted Rights to sardine only. By the end of 2020, Rights had been mainly consolidated to 61 to both sardine and anchovy Rights and 24 for sardine only.
- Number of vessels declined from **95** in 2006 to **63** in 2020
- 75 % previous right holders did not own vessels, therefore catch is caught and processed using agreements with independent entities.





# Policy Overview: Small Pelagic

## Form of Right Holder:

- South African Close Corporation (legal entity)
- South African Company (legal entity)

**Duration of Right:** for a period not exceeding 15 years

## Suitable vessel

- SAMSA registered and of a length between **15-40 m** (vessels smaller or larger than this range may be considered).
- Has a functioning Vessel Monitoring System (VMS).
- Is geared for **purse-seining**.
- Is not being detained or has not been confiscated under the MLRA.
- To promote **value adding**, any newly built vessel that enters the sector after Rights have been allocated, must be equipped with a blast freezer which must be used for the freezing of small quantities of good quality fish for the purpose of further product development, e.g. anchovy for bait or human consumption.



# Policy Overview: Small Pelagic

## Quantum Allocation Method

- **Only sardine and anchovy** will be allocated under the TACs and TABs, and quanta allocated will be expressed as a percentage of the TAC for each species.
- Percentages will not necessarily remain fixed for the duration of the Right and **will change under circumstance of low biomass of either anchovy or sardine**
- The other targeted species will be managed via unallocated PUCLs (Precautionary Upper Catch Limits).
- The Delegated Authority shall allocate quanta based on criteria intended to achieve the objectives of this draft policy, such as transformation, value-adding and performance.
- For sardine and anchovy, the size of each quantum allocated will be based, inter alia, on the following considerations:
  - the anticipated sardine and anchovy TACs over the short to medium term (5-10 years);
  - the demonstrated capacity of applicants to catch and process small pelagic fish and
  - a minimum allocation that will be economically meaningful. These minimum viable allocations are likely to range between 200t and 500t for sardine and 1500t and 2000t for anchovy
- **10%** of the total quantum for each allocated species will be reserved for **appeals** until all appeals have been finalised.





# Policy Overview: Small Pelagic

## New Entrants

- The TAC set for **anchovy** remained relatively **stable** over the previous Rights allocation period but there has been a substantial decline (85%) in the TAC set for sardine in this sector.
- The variability of stocks of small pelagic fishes and the fact that this sector depends on high volumes with small profit margins has impacted the viability of rights, particularly small rights.
- This is borne out by the observed reduction in the number of FPEs and vessels, and the increased consolidation of rights in the sector, over the previous Rights period.
- The **sardine** resource is currently **depleted** and is unlikely to increase substantially in the short to medium term (5-10 years), whilst the anchovy resource is currently at an optimal status.
- To ensure viable long-term allocations of anchovy and sardine the **number of access rights in this sector should be reduced**, particularly the number of rights allocated for sardine. This could be achieved through, amongst other things, assessment of the performance of the previous RHs.
- **There is scope for the introduction of new entrants into the sector but this is limited for the sardine fishery.** New entrant applicants will have to demonstrate that they have the knowledge, skill and capacity to fish for and process small pelagic species.
- Additionally, all applicants will be required to demonstrate access to suitable vessels and processing facilities as a pre-requisite



# DRAFT POLICY ON THE ALLOCATION AND MANAGEMENT OF COMMERCIAL FISHING RIGHTS: SQUID



forestry, fisheries  
& the environment

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





# Policy Overview: Squid

- The chokka squid fishery is **effort-controlled** and was historically capped at a maximum of 2422 crew with the number of vessels commensurate with the number of persons permitted to fish.
- The approved Squid TAE for the 2021/2022 fishing season is 2422 crew and 295 000 person-days.
- A **mandatory 5 week closed season** (October—November each year) has been implemented since 1988, with the intention of minimising disturbance to spawning squid and improving recruitment the following year.
- An **additional closed season** (3-5 months) has been implemented since 2014 to guard against the TAE in person-days being exceeded.
- During the 2013 rights allocation process rights were allocated to 93 applicants and an additional 8 rights were allocated through the appeal process amounting to a total of 101 Right Holders in the Squid commercial sector







# Policy Overview: Squid

## Form of Right Holder:

- South African Close Corporation (legal entity)
- South African Company (legal entity)

**Duration of Right:** for a period of 15 years

## Suitable vessel

- a commercial fishing vessel that is equipped with gear to catch squid, using the jigging method and has suitable **overnight facilities** for crew members in terms of SAMSA merchant shipping regulations.
- HACCP (Hazardous Analysis Critical Control Points) compliant and meets the National Regulator for Compulsory Specifications (NRCS) requirements and specifications to store and freeze squid.
- of a minimum SAMSA registered length of **11 metres** and a crew capacity of up to **12 crew**.
- of a maximum SAMSA registered length of **25 metres** with a maximum crew capacity of **32 crew**.



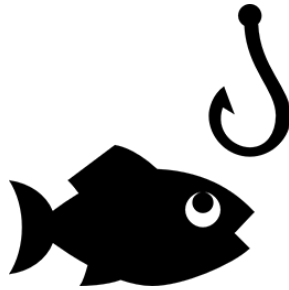
# Policy Overview: Squid

## Quantum Allocation Method

- The Squid TAE to be allocated to existing fishing sectors thereof shall be determined **annually** or seasonally in terms of the provisions of Section 14 of the MLRA.
- **10%** of the determined portion of the Squid commercial TAE may be reserved for **appeals** during the rights allocation process.
- **Closed season** for squid shall be determined annually and set for the squid fishery to prevent the determined TAE from being exceeded.



# DRAFT POLICY ON THE ALLOCATION AND MANAGEMENT OF COMMERCIAL FISHING RIGHTS: TRADITIONAL LINEFISH



forestry, fisheries  
& the environment

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





# Policy Overview: Traditional Linefish

- The traditional commercial linefishery is currently managed through **effort** allocation.
- Changes in the fishery dynamics in recent years (introduction of the small-scale sector, interim relief, increasing by-catch of linefish by the trawl fisheries, uncertainty regarding the magnitude of catch in the recreational sector) necessitated an update of the effort determination and effort management in the linefishery.
- Although some species have shown signs of recovery, **overall Linefish resources are still diminishing due to overexploitation.**

The 2021 Rights allocation will build on the experience of the last two rounds of allocations and will consider:

- Availability, size and current stock status of the primary linefish species in the 3 management areas.
- Catch performance of the fishery in the 3 management areas during the last allocations.
- Type, number and size of vessels in operation during previous allocations.
- Overlap with other fisheries in terms of target and by-catch species and vessel utilisation.
- Economic viability of the fishery.
- Cross-sectoral involvement.
- The transformation profile of the fishery, in particular regarding women and youth.
- Skills development and professionalisation of shore personnel, skippers and crew.
- Upliftment of traditional linefishing communities.



# Policy Overview: Traditional Linefish

## Form of Right Holder:

- South African individuals (*note – this is the only commercial sector in FRAP 2020/21 in which **individuals** may apply*).
- The same household may **not** be granted more than one right in the fishery applied for, so as to avoid fronts and monopolies and to broaden access.

**Duration of Right:** for a period of **7** years

## Suitable vessel

- a trailerable “**skiboat**” type vessel or a traditional replacement “**chuckie**” type vessel
- maximum SAMSA overall length not more than **10 meters** and is registered for not more than **14 seafarers**.
- Larger displacement-hull vessels (deckboats) with overnighting capacity and sleeping accommodation will not be considered even if they have been used to catch linefish in the past.
- Is certified by SAMSA to have an operational range not exceeding 40 nautical miles.
- Has a **functioning vessel monitoring system** or AIS (Automatic Identification System) at the time of applying for a vessel license if the application is successful.
- Is equipped with **ice facilities**.





# Policy Overview: Traditional Linefish

## **Suitable vessel (cont)**

- Is a commercial linefishing vessel as opposed to a luxury yacht/ recreational/ charter vessel.
- If entering the fishery for the 1<sup>st</sup> time, rigged out specifically for Commercial Linefishing.
- To avoid effort increase applicants will have to utilise the vessel nominated in the right application for at least three years before a vessel replacement upgrade in terms of size and crew number is possible

## **Post Allocation Management Measures**

- Vessel size limitation
- Fishing time restrictions
- Restrictions on linefish by-catch in other fisheries
- Restrictions on annual number of sea days
- Effort reduction by reducing the number of vessels per zone



# DRAFT POLICY ON THE ALLOCATION AND MANAGEMENT OF COMMERCIAL FISHING RIGHTS: TUNA



forestry, fisheries  
& the environment

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





# Policy Overview: Tuna

- The fishery is currently regulated by **TAE** in relation to number of vessels
- In 2013, only legal entities received long term rights. 164 rights to 165 vessels were allocated.
- Tuna stocks are managed globally by the tuna Regional Fisheries Management Organisations (tRFMOs).

## Transformation

- 59% of the Rights were allocated to black people or black-owned and controlled entities
- 35% of Rights were allocated to females or female-owned and controlled entities.
- 59% of TAE was held by Black people.
- The fishery is operated by Small, Micro and Medium Enterprises (SMMEs).
- A significant number of previous Rights Holders have performed poorly and some Rights were revoked.





# Policy Overview: Tuna

The 2021 Rights allocation will build on the experience of the last round and will consider the following criteria:

- The availability, size and current **stock status** of the tuna stocks
- The **catch performance** of the fishery towards tuna during the last allocations.
- The type, number and size of **vessels** that performed consistently during previous allocations.
- The **overlap** with other fisheries in terms of by-catch and target species.
- The **economic** viability of the fishery.
- **Cross-sectoral** involvement.
- The overall **transformation** profile of the fishery.
- Compliance to Conservation and Management Measures (CMMs) and reporting obligations towards tRFMOs.

## Form of Right Holder:

- South African Close Corporation (legal entity)
- South African Company (legal entity)

**Duration of Right:** for a period of 15 years



# Policy Overview: Tuna

## Suitable vessel

- Has a **minimum** SAMSA overall length of **15 meters**. *Smaller vessels will be considered, if they have been used to catch tuna in the past.*
- Is certified by SAMSA to have an operational range exceeding 40 nautical miles.
- Has a functioning vessel monitoring system at the time of applying for a vessel license if the application is successful.
- Is equipped with **freezer or ice facilities**.
- Is a **commercial tuna fishing vessel** as opposed to a luxury yacht, recreational vessel or recreational charter vessel.
- Is **not a vessel that is listed on the official negative vessel lists** of the Regional Fishery Management Organisations such as ICCAT, the IOTC or the CCSBT.
- Is, if it enters the fishery for the first time, rigged out specifically for Tuna Pole-line fishing.
- **No foreign flagged fishing vessel** will be permitted in this fishery.





# Policy Overview: Tuna

## Quantum Allocation Method –

- Effort allocation in the Tuna Pole-line fishery will take into account **previous catches** in relation to the number of **vessels** and the **stock** status of available target species.
- Given South Africa's current ICCAT allocation there is **limited scope** to increase the effort
- The Department aims to maximize effort according to the availability of the stock
- **10%** of the TAE will be set aside for internal **appeals** to the Minister.

## New Entrants

- The Delegated Authority will consider investments made in the form of vessels, fixed assets and marketing infrastructure.
- New entrant applicants will be required to demonstrate that they have the knowledge, skill and capacity (access to a suitable vessel) to fish in the Tuna-Pole line fishery.





# Comments

- The draft **General Policy On The Allocation Of Commercial Fishing Rights** and the **Proposed Fees** were published in the Government Gazette No 45154 on 13 September 2021.
- The draft **Transfer Policy For The Transfer Of Commercial Fishing Rights** and the **Draft Policies On The Allocation And Management Of Commercial Fishing Rights** related to **Demersal Shark, Hake Deep-sea Trawl, Hake Longline, Kwazulu-Natal Crustacean, Small Pelagic, South Coast Rock Lobster, Squid, Traditional Linefish And Tuna Pole-line** fishing sectors were published in the Government Gazette No 45180 on 20 September 2021.
- The draft policies have been translated into the three (3) dominant coastal languages, Afrikaans, isiXhosa and isiZulu (available on the Department's website).
- Comments on the policies can be submitted by **hand**, by **post** or by **email**. The email address is [FRAppolicycomments@environment.gov.za](mailto:FRAppolicycomments@environment.gov.za). Comments on the fees payable can be submitted to email address [revenue@environment.gov.za](mailto:revenue@environment.gov.za)
- **Comments will be accepted until Monday, the 25<sup>th</sup> of October 2021. Comments received after this time may not be considered.**



# TABLE OF FEES



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FISHERY SECTOR	GRANT OF RIGHT FEE (ISSUING OF RIGHT) PAYABLE BY SUCCESSFUL APPLICANTS (PROPOSED NEW FEES)			
	PER TON	PER CREW MEMBER	PER VESSEL	PER AREA
<b>Hake Deep Sea Trawl</b>	R 71,86			
Hake Inshore Trawl (Hake)	R 71,86			
Hake Inshore Trawl (Sole)	R 179,66			
Horse Mackerel	R 44,18			
<b>Small Pelagic (Pilchard)</b>	<b>R 8,41</b>			
<b>Small Pelagic (Anchovy)</b>	<b>R 5,26</b>			
Patagonian Toothfish	R 869,00			
<b>South Coast Rock Lobster</b>	R 1 048,65			
<b>KZN (Crustacean) Prawn Trawl</b>			R 20 494,01	
West Coast Rock Lobster (Offshore)	R 718,62			
<b>Hake Long Line</b>	R 215,59			
<b>Squid</b>		R 935,54		
<b>Tuna Pole</b>		R 50,38		
Seaweed				R 4 524,65
<b>Demersal Shark Longline</b>			R 499,04	
<b>Traditional Linefish</b>		R 271,48		
Hake Handline		R 1 087,25		
Large Pelagic Longline			R 18 147,00	

Note there was an error  
in the figures gazetted.  
This will be amended



FISHERY SECTOR	OLD APPLICATION FEES	NEW APPLICATION FEES
<b>Hake Deep Sea Trawl</b>	<b>R 40 986,00</b>	<b>R 43 117,00</b>
Hake Inshore Trawl (Hake)	R 11 132,00	R 11 711,00
Hake Inshore Trawl (Sole)	R 2 530,00	R 2 662,00
Horse Mackerel	R 27 703,50	R 29 144,00
<b>Small Pelagic (Pilchard)</b>	<b>R 8 096,00</b>	<b>R 8 517,00</b>
<b>Small Pelagic (Anchovy)</b>	<b>R 2 530,00</b>	<b>R 2 662,00</b>
Patagonian Toothfish	R 26 565,00	R 27 946,00
<b>South Coast Rock Lobster</b>	<b>R 11 132,00</b>	<b>R 11 711,00</b>
<b>KZN (Crustacean) Prawn Trawl</b>	<b>R 9 740,50</b>	<b>R 10 247,00</b>
West Coast Rock Lobster (Offshore)	R 2 530,00	R 2 662,00
<b>Hake Long Line</b>	<b>R 3 162,50</b>	<b>R 3 327,00</b>
<b>Squid</b>	<b>R 6 578,00</b>	<b>R 6 920,00</b>
<b>Tuna Pole</b>	<b>R 1 644,50</b>	<b>R 1 730,00</b>
Seaweed	R 2 403,50	R 2 528,00
<b>Demersal Shark Longline</b>	<b>R 6 325,50</b>	<b>R 6 654,00</b>
<b>Traditional Linefish</b>	<b>R 505,00</b>	<b>R 531,00</b>
Hake Handline	R 1 644,50	R 1 730,00
West Coast Rock Lobster (Nearshore)	R 379,50	R 399,00
Oysters	R 126,50	R 133,00
White Mussels	R 126,50	R 133,00
Net fish (small nets/gill nets/Beach seine/trek)	R 253,00	R 266,00
Large Pelagic Longline	R 8 475,50	R 8 916,00
Abalone	R 1 725,00	R 1 815,00
KZN Seine /Sardine	R 253,00	R 266,00

Note there was an error in the figure gazetted. This will be amended



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# DRAFT POLICY FOR THE TRANSFER OF COMMERCIAL FISHING RIGHTS



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REPUBLIC OF SOUTH AFRICA





# Policy Overview: Draft Policy for the Transfer of Commercial Fishing Rights

## Preamble

- A fishing right is granted to a specific person or entity and may **not** be transferred without the **approval** of the Minister or his or her delegate.
- Any transfer of the fishing right to a third party requires approval.
- An application for a transfer consists of a transferor and a transferee that are joint applicants.
- This policy puts in place mechanisms to implement transfers in a procedurally and administrative fair manner for a variety of transfer requests

## Objectives of the Policy

- The transfer of commercial fishing rights may facilitate **broadening of economic opportunities** and participation in the fishing industry, and thus **enable inclusive economic growth**.
- **Maintain or improve the transformation profile** of the fishing sectors attained through the rights allocation process and/or through transfer of commercial fishing
- Broaden access to fishery resource through transfer of commercial fishing rights to **new entrants in the fishing industry**. (i.e. broadening access through dividing a commercial right holder's proportion of TAC /TAE and sharing it with new entrants.
- Family members in the same household may not be granted more than one right in certain sectors
- **Promote transformation, economic development and poverty alleviation**



# Policy Overview: Draft Policy for the Transfer of Commercial Fishing Rights

## General Principles

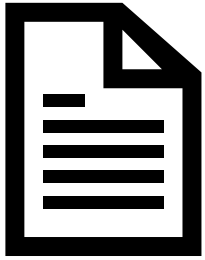
- All applications will be considered on the basis of their own merit
- The Department may subject the application to the criteria that was employed during the assessment and evaluation of application during the allocation process
- The Department may subject the Transferor or the Transferee to forensic verification
- No application be considered unless all the requirements are met.

## Conditions of Transfer

- The Department will only accept an application from a transferor who held the commercial fishing right or right for **at least 3** years or more
- No application for a transfer will be accepted within **2** years of the **expiry** of the right (except in the case where an individual right holder passes away)
- No applicant shall submit an application whilst there are pending fisheries legal proceedings instituted against the transferor or the transferee

## Duration

- A transferred commercial fishing right will only be valid for the **remainder** of the original period for which a commercial fishing right or right is valid.



# Application Form

## for the application of fishing rights

### Application form

- The Application form will be published on [www.environment.gov.za](http://www.environment.gov.za)
- Applicants may familiarise themselves with the questions and documentation required before applications open.
- When the application process opens, the application form must be completed electronically
- It is recommended that applicants gather their documentation on a flash drive to be uploaded onto the system.
- Certified original documents will need to be uploaded.
- Applicants must ensure that they meet all requirements prior to completion and submission of application forms.
- **No late applications will be accepted.**



# MLRF Tip Off-Line

## 0800 203 589

- The number is toll free if you call from a Telkom phone (including public phones) within South Africa.
- The Hotline is independently operated by KPMG
- It been established with the aim to enhance an honest work ethic and simultaneously provide applicants with a mechanism to bring any unethical business practices to the attention of management.
- The call centre is manned on a 24-hour basis.
- Calls are anonymous

This hotline is available for the purposes of reporting unethical behaviour, theft, fraud or related activities



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REPUBLIC OF SOUTH AFRICA



# THANK YOU!

**For enquiries** contact the FRAP Call Centre Number: 021 402 3727

Branch Fisheries Management  
Department of Forestry, Fisheries, and the Environment  
Website: <http://www.environment.gov.za>

[https://www.environment.gov.za/frap2021\\_publicconsultationmeetings](https://www.environment.gov.za/frap2021_publicconsultationmeetings)

Address: Foretrust Building, Foreshore, Cape Town, 8000

Thank You



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