

SCHEDULE D

EXPLANATORY NOTES TO THE MEDIUM TERM RIGHT HOLDER APPLICATION FORMS

EXPLANATORY NOTES – MEDIUM TERM RIGHTS HOLDERS HAKE DEEP SEA TRAWL, INSHORE HAKE TRAWL, HORSE MACKEREL, AND SMALL PELAGICS

THE PURPOSE OF THE EXPLANATORY NOTES IS TO ASSIST APPLICANTS IN COMPLETING A NUMBER OF SECTIONS IN THE APPLICATION FORM. SOME SECTIONS ARE CONSIDERED TO BE SELF-EXPLANATORY AND ARE NOT COVERED IN THESE EXPLANATORY NOTES.

The MLRA is the Marine Living Resources Act 18 of 1998. A copy is available on the Department's website www.mcm-deat.gov.za.

SECTION 1: APPLICANT DETAILS

Sections 1.1 to 1.7 must be completed by all applicants. The applicant was required to provide the details required by sections 1.8.1 to 1.8.7d when it registered for an application form at www.mcm-deat.gov.za. These sections need only be completed if the applicant's details have changed since registration.

SECTION 2: FORM OF APPLICANT

2.1, 2.2 and 2.3

The aim is to determine whether the applicant should be treated as a potential new entrant or as a medium term right holder. The delegated authority will recognise as medium term right holders only those entities that were recipients of medium term rights in 2001/2002 in the fishery now applied for or the sole successors of those entities.

If the applicant is the same entity as the one specified in 2.2 (the recipient of the medium term right in 2001/2002) and in 2.3 (the current medium term right holder), the applicant obviously qualifies to be treated as a medium term right holder. In some instances, however, the right allocated in 2001/2002 may have been transferred, or the right may have been allocated to a trust or a natural person with the result that application must now be made in the form of a close corporation or a company. In these and all other instances where the applicant and the entity in 2.2 and 2.3 is not the same entity, the applicant must demonstrate that it is the sole successor of the entity that received the right in 2001/2002, in order to qualify as a medium term right holder. The delegated authority will not recognise more than one entity as the successor to the entity that received the right in 2001/2002.

2.4

In terms of section 18 of the MLRA, commercial fishing rights may only be granted to a South African person, which is a term defined in section 1 of the Act. The aim of this section is to determine whether the applicant meets the requirements of this definition. In the case of a company or a close corporation, the majority of the shareholders or members must be South African persons.

2.7, 2.8

In terms of paragraph 7.5 of the General Policy, a medium term right holder applicant may not hold shares in a potential new entrant applicant in the same sector. The aim of this section is to determine whether this requirement is adhered to and to establish shareholder linkages between various medium term right holder applicants.

SECTION 3: COMPLIANCE

3.1.1, 3.1.2 3.1.3 and 3.1.4 **Note: a "yes" answer will be presumed if the applicant fails to answer the question**

In terms of the General policy and the applicable Fishery specific policies, various consequences may be attached to contraventions of the MLRA, the regulations or permit conditions, including the exclusion of the applicant and negative scoring. The aim of this section is to determine whether the applicant has been convicted of any such contravention and to assess the seriousness of the contravention.

3.2 **Note: a "yes" answer will be presumed if the applicant fails to answer the question**

Applicants must answer "yes" to the question, even if the asset detained, arrested or seized in terms of the MLRA or restrained or preserved in terms of the Prevention of Organised Crime Act, was later released. The circumstances surrounding the detention, arrest, seizure or restraint or preservation order and the outcome of the process, i.e. whether the asset was confiscated or forfeited to the State, must be dealt with in the annexure.

5.3 Note: a "yes" answer will be presumed if the applicant fails to answer the question

Applicants must answer "yes" to the question only if the applicant's right or permit in this fishery has been revoked, cancelled, reduced or altered under section 28(3) of the MLRA. The circumstances must be explained in the annexure.

SECTION 4: VESSEL DETAILS

This section requires the applicant to furnish the details of each vessel nominated by the applicant. If the requested details are not at the reasons for this must be explained in the annexure.

SECTION 5: CATCH UTILISATION

5.1 Note: a "yes" answer will be presumed if the applicant fails to answer the question

An applicant that has over- or under-caught its own allocation by more than 10% in any given year over the medium term right period must answer "yes" to this question. The reasons must be provided in the annexure.

5.

This section requests details regarding the applicant's catch records during the medium term rights (2001 – 2005) period. Applicants must not answer the question with reference to their own catch records. In the second column, the annual catch in tons for the three years must be completed. In the third column the catch must be specified in tons (nominal weight must be specified, and not dry weight or weight after the fish was headed and gutted etc). If a permit was not issued to the applicant for any year, the applicant must indicate X under-caught.

Example

Year	Annual Catch Allocation (in tons)	Total Caught of Applicant's allocation (tons)	Percentage under-caught	Percentage over-caught
2003 season	1 000	1 100	0%	10%

Actual tonnage caught (1 100 tons) minus total allowable catch allocated (1 000 tons) = 100. To establish the percentage, divide the difference by the TAC allocated and multiply it by 100. i.e. $(100/1000) \times 100 = 10\%$.

SECTION 6: TRANSFORMATION

6.1 and 6.2.1

The aim of these sections is to determine whether the applicant is required to comply with the Employment Equity Act. If required to comply, the next question is whether the applicant has fulfilled its duties under the Act. For purposes of answering these sections, only the applicant's data (and not the data of its holding company or JV partners) must be taken into consideration.

"Designated" employers are required to comply with the Act. A designated employer, in terms of section 1 of the Employment Equity Act is:

- an employer who employs 50 or more employees;
- an employer who employs fewer than 50 employees, but has a total annual turnover that is equal to or above the applicable annual turnover of a small business in terms of Schedule 4 of this Act. [which is R2 million per annum]; or
- ...
- ...
- an employer bound by a collective agreement in terms of section 23 or 31 of the Labour Relations Act, which appoints it as a designated employer in terms of this Act, to the extent provided for in the agreement;

In terms of section 13 of the Employment Equity Act, the duties of designated employers are as follows:

- Every designated employer must, in order to achieve employment equity, implement affirmative action measures for people from designated groups in terms of this Act.
- A designated employer must-
 - consult with its employees as required by section 16;
 - conduct an analysis as required by section 19;
 - prepare an employment equity plan as required by section 20; and
 - report to the Director-General on progress made in implementing its employment equity plan, as required by section 21.

6.3.1 Note: if the applicant is required to provide information of other entities the authorised representative of the other entity must attest to the declaration in section 16

The aim of this section is to determine the composition of the management of the applicant. If the applicant is more than 50% owned by another company or close corporation (determined as Specified in section 6.7.1 below) then the details of the board of directors/members of both the applicant and the holding entity must be provided in the annexure and the table must be completed by submitting the merged details of the boards of directors/ members of both entities. If the applicant is involved in a Joint Venture ("JV") together with another company or close corporation, then details of the boards of directors or members of all the JV partners must be provided in the annexure and the table must be completed by submitting the merged details of the boards of directors / members of all the JV partners.

6.3.2 Note: if the applicant is required to provide information of other entities the authorized representative of the other entity must attest to the declaration in section 16

This section requires the applicant to provide details regarding employees that earn the highest salaries (calculated on a total cost to company basis). This information will be treated as confidential and may be submitted separately in the sealed envelope.

As in section 6.3.1 above, if the Applicant is more than 50% owned by another company or close corporation (determined as specified in section 6.7.1 below) then details of the highest salary earners of both the applicant and the holding entity must be provided in the annexure and the table must be completed by submitting the merged details of the highest salary earners of both entities. If the Applicant is involved in a Joint Venture ("JV") together with another company or close corporation, then details of the highest salary earners of all the JV partners must be provided in the annexure and the table must be completed by submitting the merged details of all the JV partners.

Total cost to company includes benefits and bonuses, but excludes dividends. Applicants that employ 165 or fewer employees must provide the details of their top salary earners as indicated in the table in the application form. Applicants that employ more than 165 people must first determine the top 3% and then provide details of those employees (up to a maximum of 90). Designation or actual title held by the employee, as indicated on the organogram or organizational structure, must be provided.

Example: If the applicant employs 2500 people, the applicant determines the top 3% by multiplying this number by 0.03 (2500 x 0.03 = 75). The applicant must then provide the details of those 75 employees. The applicant must not provide the details of more than 90 employees, regardless of the number of employees the applicant has in the top 3%.

If applicable, the number of employees of holding entities or JV partners must be added to the number of employees of the applicant, as set out in the example below.

Example: If the applicant employs 75 people, and the holding entity employs 125 people, the two entities combined employ 200 people. The applicant must determine the top 3%: 200 x 0.03 = 6. The details of the two entities should be merged, and the details of the top six salary earners of the merged list should be entered in the table at 6.3.2.

6.4.1 Note: if the applicant is required to provide information of other entities the authorised representative of the other entity must attest to the declaration in section 16

This section requires the applicant to provide details of income levels within the organization at 28 February 2005.

As in sections 6.3.1 and 6.3.2 above, if the applicant is involved in a Joint Venture ("JV") together with another company or close corporation, then the salary levels of all the JV partners must be provided in the annexure and the table must be completed by submitting the merged details of all the JV partners. If the Applicant is more than 50% owned by another company or close corporation (determined as specified in section 6.7.1 below) then the salary levels of the holding entity, the Applicant and any sister companies also more than 50% owned by the holding entity must be provided in the annexure and the table must be completed by submitting the merged details of the group (applicant, holding entity and sister company) of companies.

Example

I	Monthly Income	Number of employees in this level (total of Group or JV, if applicable)	Percentage of Total Employees	Number of Black Employees in this level (total of Group or JV, if applicable)	Percentage of Total Black Employees	Number of Female Employees in this level (total of Group or JV, if applicable)
	< R 2 500	100	80%	80	90 %	70

Divide the employees in this income level by the total number of employees, and multiply by 100

Divide the number of black employees in this income level by the total number of black employees, and multiply by 100

65 Note: if the Applicant relies on information of other entities the authorised representative of the entity must attest to the declaration in section 16

This question requires the applicant to complete the employment equity profile of the applicant in respect of occupational levels. Designated employers and employers that comply voluntarily with the Employment Equity Act should complete the table with the figures submitted in October 2004 to the Department of Labour. Employers that are not designated should complete the table with reference to its employees at 28 February 2005 and having regard to the definitions of the occupational levels set out in Annexure 2 of the Regulations to the Employment Equity Act. Annexure 2 provides as follows:

Employment Equity Act 55, 1998

WHAT IS THE PURPOSE OF THIS ANNEXURE?

Job evaluation or grading systems are used by many organisations to measure jobs according to their content and establish comparative worth between jobs.

This annexure provides a table of equivalent occupational levels which may be used by employers when completing forms EEA 2 and EEA 4.

INSTRUCTIONS

The table [below] indicates the occupational levels within organisations as determined through the use of different job evaluation or grading systems. The table provides equivalent levels from each of these job evaluation systems.

Organisations that make use of neither one of the job evaluation systems [in the table below], nor a customised system linked to one of these, should use the Semantic Scale for guidance in determining occupational levels within that organisation.

Equivalent occupational levels

Semantic Scale	Paterson		Peromnes	Hay	Castellion
Top Management	F	F	[++]+		14
Senior Management	E	E UPPER E LOWER	1 2 3	1 2	13
Professionally qualified, experienced specialists and mid-management	D	D UPPER D LOWER	4 5 6	3 4	12 11 13
Skilled technical and academically qualified workers, junior management, supervisors, foremen, superintendents		C UPPER C LOWER	8 9 10 11 12	6 6A 7 8	9 8
Semi-skilled and discretionary decision making	B	B UPPER B LOWER	13 14 15 16	9 10 11	7 6 5 4
Unskilled and defined decisionmaking	A	A	17 18 19	12 13	3 2 1

As in section 6.4.1 above, if the applicant operates in a Joint Venture ("JV") together with another company or close corporation then the occupational levels of all the JV partners must be provided in the annexure and the table must be completed by submitting the merged details of all the JV partners. If the applicant is more than 50% owned by another company or close corporation (determined as specified in section 6.7.1 below) then the occupational levels of the holding entity, the Applicant and any sister companies also more than 50% owned by the holding entity must be provided in the annexure and the table must be completed by submitting the merged details of the group (applicant, holder entity and sister company) of companies.

Example

If Company A is a designated employer, the data submitted in the October 2004 EEA 2A form should be completed in the table. If Company A is not a designated employer, the occupational levels of employees should be determined in the manner set out above as at 28 February 2005 and the table completed with this data.

Once the number of employees per level is determined, the percentages are to be worked out. For example, Company A employs seven senior officials and managers. Of the seven employees in the occupational category, 1 is an african male, 2 are coloured males, 2 are white males, 1 is an indian female and 1 is a white female. In order to determine the percentages take the number of employees from each designated group in the occupation level and divide it by the total number of employees in the occupational level and multiply by 100.

A = African, C = Coloured, I = Indian, W = White, F = Female and ACI = African, Coloured and Indian

Occupational Categories										Totals	
		A No.	A %	C No.	C %	I No.	I %	W No.	W %	ACI%	F%
Senior Officials and Managers (Total of JV or Group, if applicable)	Male	1	14%	2	28%	0	0%	2	28%	42%	
	Female	0	0%	0	0%	1	14%	1	15%		29%

6.6.1 Note: if the applicant is required to provide information of other entities the authorised representative of the other entity must attest to the declaration in section 16

All applicants must provide the figures relating to top and senior management / senior officials provided in their 2001 application forms. Designated employers or employers that comply voluntarily must then complete the rest of the table with the figures submitted in the 2002 and 2004 EEA 2A reports. Employers that are not designated and that do not voluntarily comply must complete the tables with reference to employment statistics at the financial year ends 2002 and 2004. In respect of groups and JVs the instruction set out in section 6.5 also applies to the completion of this section.

6.6.2 Note: if the applicant is required to provide information of other entities the authorised representative of the other entity must attest to the declaration in section 16

All applicants must provide the figures relating to professionally qualified and experienced specialists and mid-management provided in their 2001 application forms. Designated employers or employers that comply voluntarily must then complete the rest of the table with the figures submitted in the 2002 and 2004 EEA 2A reports. Employers that are not designated and that do not voluntarily comply must complete the tables with reference to employment statistics at the financial year ends 2002 and 2004. In respect of groups and JVs the instruction set out in section 6.5 also applies to the completion of this section.

6.7.1 Note: do not complete the shaded areas of the table

This section requires applicants to provide details regarding the shareholding held by black persons and the unrestricted voting rights and economic interest (in the form of entitlement to dividends) attached to black shareholding in the Applicant (not the holding entity, group or JV partners unless this information is relevant for purposes of applying the flow-through principle). The chairperson of the board of directors of the applicant must submit an affidavit regarding the shareholding, the voting rights and the economic interest held by blacks in the applicant in the relevant annexure. In determining the percentage black shareholding, voting rights and economic interest, the flow through principle must be used, provided that:

- pension funds and organs of state are to be regarded as neutral and the percentage black shareholding should be calculated without reference to shares held by such entities;
- if the percentage black shareholding, voting rights or economic interest of a particular shareholder cannot be determined, detailed reasons must be provided;
- for purposes of determining voting rights, a shareholder is to be regarded as 100% black if that shareholder is owned more than 50% by a natural person who is black; and
- the percentage "shareholding", "economic interest" and "voting rights" of black persons in a trust must be determined with reference to the rights of beneficiaries in terms of the trust deed.

The flow through principle is defined as: "**Flow-through principle**" refers to the tracking of economic benefits when determining a score for BEE ownership. Entities are scored on the entitlement of black people to exercise voting rights and to participate in the economic interest of the enterprise. The purpose of the flow-through principle is to ensure that all companies, regardless of their structure, are scored uniformly with respect to their BEE ownership. The flow-through principle states that only voting rights and economic interest to which black people who are natural persons are entitled, are taken into account. Should entitlement to voting rights and/or economic interest be held by juristic persons, only voting rights and economic interest to which black natural persons are

entitled in that juristic person will be taken into account. The same principle is applied consistently throughout the chain of ownership with respect to juristic persons until such time as that chain terminates in the entitlement of the natural person, who is a black person, to such voting rights and/or economic interest."

"**Indirect ownership**" means ownership of an equity interest in an enterprise where such **equity** interest entitles the holders to participate in the economic interest (such as dividends) flowing to the shareholders of that enterprise, but not directly in the voting rights of that enterprise. Voting rights can be exercised indirectly through a conduit such as a **trust** or a superannuation scheme.

Indirect ownership must be taken into account for purposes of measuring the percentage black shareholding and, if applicable, the percentage economic interest and voting rights held by a black person in the applicant. If **no** voting rights are attached to indirectly owned equity, then black ownership of such equity may not be taken into account when determining black voting rights. However, where the voting rights are merely exercised indirectly (through a conduit), black ownership of the equity must be taken into account when determining black voting rights.

Example: The applicant has four shareholders. One of these shareholders is a natural person named AA, who is black and owns 10% of the economic interest and voting rights. Two of the other shareholders are companies and the third is a pension fund. Company A holds 30% of the shares and is 51% owned by a black person and 49% by a white person. Company B holds 40% of the shares and is 40% owned by a natural person who is white and 60% owned by company Z, that is in turn 80% owned by a white person and 20% by a black person. The Pension Fund holds the remaining 20% of the issued shares. The percentage black shareholding, voting rights and economic interest is as follows:

Year 2005 (at date of application)	Percentage Shareholding held by black persons	Percentage voting rights held by black shareholders	Percentage economic interest held by black shareholders (entitlement to dividends)
	37.625	56	37.625

AA contributes 12.5% ($10/80$) to all three categories, Company A contributes 19.125% ($30/80 \times 51/100$) to shareholding and economic interest and 37.5% ($30/80 \times 100$) to voting rights, Company B contributes 6% ($40/80 \times 60/100 \times 20/100$) to all three categories and the pension fund is disregarded.

6.7.2

The shareholding, voting rights and economic interest of women are calculated in the same **manner** as described under section 6.7.1 above. Again, the section must be answered with reference to the data of the applicant alone. The information relating to holdings entities, sister companies and JV partners may not be taken into account unless these entities hold equity in the applicant and this information must be taken into account when applying the flow-through principle.

6.7.3, 6.7.4, 6.7.5, 6.7.6 and 6.7.7

These sections must be answered with reference to the data of the applicant alone. Information relating to holding entities, sister companies and JV partners may not be taken into account.

6.8.1, 6.8.2, 6.8.3, 6.8.4, 6.8.5, 6.8.6 and 6.8.7 Note: do not complete shaded areas of the form

These sections must be answered with reference to the data of the applicant alone. Information relating to JV partners may not be taken into account. The flow-through principle obviously has no application to close corporations. The percentage voting rights and profit distribution must be determined with reference to the membership agreement of the close corporation. If no such agreement exist or the agreement is silent on the issue, then voting rights and economic interest must be taken to be the same as the percentage membership interest.

6.9

This question requires the applicant to provide information on the extent to which it has achieved the targets set in the Transformation Plan submitted as part of the 2001 application process. The section must be answered with reference to the data of the applicant alone. The information relating to holdings entities, sister companies and JV partners may not be taken into account.

6.10 Note: if the Applicant relies on information of other entities the authorised representative of that entity must attest to the declaration in section 16

This section requires the applicant to provide information relating to compliance with section 3 of the Skills Development Levies Act 9 of 1999. The questions in the first two columns (the submission/approval of a Workplace Skills Plan and an Annual Training Report) must be answered with reference to the data of the applicant alone. In respect of the last three columns (rand amount paid to SARS, percentage salaries bill spent on training and percentage of training budget spent on black employees), if the

applicant operates in a Joint Venture ("JV") together with another company or close corporation, then the salary bills of all the JV partners must be provided in the annexure and the table must be completed by submitting the merged details of all the JV partners. If the Applicant is more than 50% owned by another company or close corporation (determined as specified in section 6.7.1 above) then the salary bills of the holding entity, the Applicant and any sister companies also more than 50% owned by the holding entity must be provided in the annexure and the table must be completed by submitting the merged details of the group (holding entity, applicant and sister Companies) of companies.

To determine the "percentage of payroll spent on training" divide the actual annual amount spent on training by the total annual payroll cost and multiply the result by 100 to determine the percentage value.

Example

Company X has an annual salary bill cost of R 1 000 000,00. The company has spent R 10 000,00 on training for all employees. $(R10\,000,00/R1\,000\,000) = 0,001 \times 100 = 1\%$.

6.11 Note: if the Applicant relies on information of other entities the authorised representative of that entity must attest to the declaration in section 16

This question requires the applicant to indicate whether it participated in a learnership programme in 2004. Participation in a learnership programme means that the applicant has registered a learnership agreement with the SETA as per the Regulations Concerning the Registration of Intended Learnerships and Learnership Agreements published under the Skills Development Act 97 of 1998 in Government Notice No. R. 330 of 3 April 2001. If applicable, the questions in these sections must be answered with reference to the merged data of all the entities in a group or a JV.

6.12, 6.13, 6.14.1, 6.14.2, 6.15, 6.16, 6.17, 6.18, 6.19, 6.20, 6.21, 6.22, 6.23 and 6.24

Note: if the Applicant relies on information of other entities the authorised representative of that entity must attest to the declaration in section 16

If applicable, the questions in these sections must be answered with reference to the merged data of all the entities in a group or a JV. The percentage black ownership, referred to in section 6.22, must be calculated as described above in section 6.7.1.

SECTION 7: SAFETY

This section requires the applicant to provide information that relates to safety, including the requirements of the South African Maritime Safety Authority.

7.1

Sections 312 and 313 of the Merchant Shipping Act, 57 of 1951 creates certain offences including the failure to comply with a duty under the Act such as the duty to ensure that an unseaworthy vessel does not leave port and the failure to properly man a vessel.

7.2, 7.3, 7.4, 7.5, 7.7 and 7.8

The Maritime Occupational Safety Regulations, 1994, the Crew Accommodation Regulations, 1961 and the Merchant Shipping (Safe Manning Regulations) were passed in terms of the Merchant Shipping Act, 57 of 1951. These are available at www.mcm-deat.gov.za. Marine Notice No 26 of 2004 is also available at the website.

7.9

Compliance with the Compensation for Occupational Injuries and Diseases Act 130 of 1993 means compliance with Sections 80 to 88 of the Act which provides as follows:

"Obligations of employers to register with commissioner and to furnish him with particulars

- 1) An employer carrying on business in the Republic shall within the prescribed period and in the prescribed manner register with the commissioner, and shall furnish the commissioner with the prescribed particulars of his business, and shall within a period determined by the commissioner furnish such additional particulars as the commissioner may require.
- 2) The particulars referred to in subsection (1) shall be furnished separately in respect of each business carried on by the employer.
- 3) An employer shall within seven days of any change in the particulars so furnished notify the commissioner of such change.

Obligations of employers to keep record

An employer shall keep a register or other record of the earnings and other prescribed particulars of all the employees, and shall at all reasonable times produce such register or record or a microfilm or other microform reproduction thereof on demand to an authorized person referred to in section 7 for inspection.

Contributions by employers individually liable and mutual associations

Notwithstanding any provision to the contrary contained in this Act, the employers individually liable and the mutual associations shall pay annually to the Director-General in such manner and at such times as he may determine, such portion of the expenditure incurred by him in the administration of the provisions of this Act as he may deem equitable."

7.13

The Marine Pollution (Prevention of Pollution from Ships) Act 2 of 1986 and the Marine Pollution (Control and Civil Liability) Act 6 of 1981 are available at www.mcm-deat.gov.za.

SECTION 8: JOB CREATION**8.1.1 Note: if the applicant relies on the information of other entities, the authorised representative of that entity must attest to the declaration in Section 16**

The aim of this section is to establish the number of jobs provided by the applicant, and the total amount spent on salaries over the medium term right period, in the sector applied for. The information must be used to determine the number of jobs provided per ton of fish allocated in the sector concerned (in section 8.1.3) and the amount spent on salaries per ton allocated in the sector concerned (in section 8.1.2). In order to determine the number of jobs and amounts spent on salaries per unit allocated in the sector concerned, applicants (or their holding or sister companies and JV partners) involved in industries other than the fishing industry may not take jobs provided or salaries spent in such industries into account, and applicants involved in other sectors of the fishing industry may not take jobs provided or salaries spent in those sectors into account.

Applicants involved in industries other than the fishing industry must submit (in the annexure) a breakdown of jobs provided and salary amounts spent in the fishing industry and in other industries. Only jobs provided or the amounts spent on salaries in the fishing industry may be taken into account when completing section 8.1.1. Applicants involved in other fishing sectors must submit (in the annexure) a breakdown of jobs provided and amounts spent on salaries on a per sector basis. Only jobs provided and amounts spent on salaries in this sector may be taken into account when completing section 8.1.1. As it is difficult to accurately determine the exact number of employees and salaries spent on a per sector basis, a rough estimate or division will suffice provided that the same apportionment is used in any other application made by the applicant.

If the applicant is involved in a Joint Venture ("JV") together with another company or close corporation, or if the Applicant is more than 50% owned by another company or close corporation (determined in the manner specified in section 6.7.1), then all the jobs provided or amounts spent on salaries by the JV partners or the group (i.e. the applicant, the holding entity and sister companies) may be taken into account, provided that the same principles set out above are applied. In other words, JVs and groups involved in other industries or fishing sectors may not take into account jobs provided or amounts spent on salaries in other industries or sectors. Only jobs provided or amounts spent on salaries in the sector concerned by the JV or group may be taken into account when completing section 8.1.1. If applicable, a breakdown of jobs provided and amounts spent on salaries in the fishing industry and other industries or a breakdown of jobs provided and amounts spent on salaries in the sector concerned or other sectors must be provided in the annexure. A rough estimate or division will suffice, provided that the JV or group uses the same apportionment in any other application for a fishing right made by the applicant or any member of the JV or the group. There may be no double claiming of jobs. In other words, the number of jobs claimed in all applications made by members of the JV or group may not amount to more than the total number of jobs provided by the JV or group.

8.1.2 and 8.1.3:

These sections require applicants to furnish details regarding jobs provided and salaries per ton allocated on the basis of the information provided in section 8.1.1 above.

Example

Annual Catch Allocation (in tons) to the applicant in this fishery in 2004	Total Annual Salary Bill (in relation to this fishery) 2004 Financial Year End as per Table 8.1.1	How much does the applicant spend on wages/salaries per ton allocated?
5 000	R1 000 000	R200

Divide the Total Annual Wage/Salaries Bill (1 000 000) by the TAC Allocated (5000) = R200 per ton.

Example

TAC Allocated in 2005 (in tons)	Total Employees (in relation to this fishery) (28 February 2005)	How many people does the applicant employ per ton allocated?
5 000	1 000	0.2

Divide the total number of employees provided in this fishery (1000), by the TAC allocated to the applicant (5000) [1000/5000=0.2]

8.14 **Note: do not complete shaded areas and if the applicant relies on information of other entities the authorised representative of that entity must attest to the declaration in section 16**

If applicable, this section must be answered with reference to the merged data of all the entities in a group or a Joint Venture.

SECTION 9: INVESTMENT

9.1.1 and 9.1.2

Note: do not complete shaded areas and if the applicant relies on information of other entities the authorised representative of that entity must attest to the declaration in section 16

The aim of this section is to establish the rand value of harbour and sea-based assets of the applicant in the sector applied for. This will be used to determine the value of harbour and sea-based assets per ton of fish allocated in the sector concerned (in sections 9.1.3 and 9.1.4). In order to determine the value of assets per unit allocated in the sector concerned, applicants (or their holding or sister companies and JV partners) involved in industries other than the fishing industry **may not** take assets used in other industries into account.

Applicants involved in industries other than the fishing industry must provide a breakdown of assets used in the fishing industry and in other industries in the relevant annexure (separately for book and insured values). Only assets used in the fishing industry may be taken into account when completing sections 9.1.1 and 9.1.2. Applicants involved in other fishing sectors must provide a breakdown of assets used on a per sector basis in the relevant annexure (separately for book and insured values). Only assets used in the sector applied for may be taken into account when completing sections 9.1.1 and 9.1.2. As it is difficult to accurately apportion assets on a per sector basis, a rough estimate or division will suffice, provided that the same apportionment is used in any other application for a commercial fishing right made by the applicant during the long term rights allocation process.

If the applicant is involved with other entities in the form of a Joint Venture ("JV"), or if the applicant is more than 50% owned by another company or close corporation (determined as specified in section 6.7.1 above), then all the assets used by the JV partners or group (ie the applicant, the holding company and sister companies) may be taken into account, provided that the same principles set out above are applied. In other words, JVs and groups involved in other industries or fishing sectors may not take into account assets used in other industries or sectors. Only assets used in the sector concerned by the JV or group may be taken into account when completing sections 9.1.1 and 9.1.2. If applicable, a breakdown of assets used in the fishing industry or other industries or a breakdown of assets used in the sector concerned and other sectors must be provided in the relevant annexure (separately for book and insured values). A rough estimate or division will suffice, provided that the JV or group uses the same apportionment in any other application for a commercial fishing right made by the applicant, a member of the group or the JV. There may be no double claiming of assets. In other words, the value of assets claimed in all applications made by members of the JV or group may not amount to more than the total value of the assets used by members of the JV or group in the fishing industry.

9.1.3:

This question requires the applicant to provide information regarding the value of investment per ton allocated. The information provided in section 9.1.1. must be used.

Example

Company X was allocated a TAC of 5000 tons. The value of its harbour and sea-based assets at financial year end 2004 in the applicable sector was R5 000 000. The value of land based assets were R 4000 000. The value of harbour and sea-based assets per ton allocated to it is calculated as follows:

Annual Catch Allocation (in tons) to the applicant in 2004	Book Value (in rands) of harbour and sea-based assets at 2004 financial year end	Book Value (in rands) of land based assets at 2004 financial year end	Book Value of Harbour and Sea-based Assets per ton allocated to the applicant	Book Value of Land-Based Assets per ton allocated to the applicant
5 000	R5 000 000.00	R4 000 000	R1 000,00	R800,00
<div style="display: flex; justify-content: space-around; margin-top: 10px;"> <div style="border: 1px solid black; padding: 5px; width: 45%;"> <p>Divide the value of harbour and sea based assets (5 000 000) by the TAC allocated to the applicant in 2004 (5000) $(5\ 000\ 000/5\ 000=R1\ 000)$</p> </div> <div style="border: 1px solid black; padding: 5px; width: 45%;"> <p>Divide the total value of land based assets (4 000 000) by the TAC allocated to the applicant in 2004 (5000) $(4\ 000\ 000/5\ 000=R800)$</p> </div> </div>				

SECTION 10: LOCAL ECONOMIC DEVELOPMENT

This section requires the applicant to provide information regarding the landing of catches at harbours/landing sites (in relation to this fishery) in 2004, and intentions regarding the landing of catches. Use nominal tons (not weight after the fish has been headed and gutted etc).

10.1:

This question requires the applicant to provide detailed information regarding harbour where it landed catches in 2004.

Example

Company X lands fish at various different harbours. Of its allocation of 20 tons it lands 5 tons in Mossel Bay, 10 tons in Port Elizabeth and 5 tons in Cape Town.

The calculation should be done as follows:

Harbour / Landing Site Name	Tons Landed at Harbour in 2004	Rand Value of Catch landed at Harbour in 2004	Percentage of Total Catch landed in 2004
Mossel Bay	5	R100 000	25 %
Port Elizabeth	10	R100 000	50 %
Cape Town	5	R150 000	25 %

Divide the catch (in this fishery) landed at each harbour by the total catch landed by the applicant and multiply by 100 to calculate this percentage (5/20 x 100 = 25%)

SECTION 11: VALUE ADDING & ENTERPRISE DEVELOPMENT

This section requires applicants to provide information regarding value adding and enterprise development activities that the applicant has undertaken. Value adding includes on-board processing.

Enterprise development may take a variety of forms including the direct investment in Black Owned and Black Empowered SMME enterprises (a small, medium or micro enterprise); joint ventures with Black Owned and Black Empowered SMMEs that result in "substantive" skills transfer; the provision of mentorship, business relationships and linkages which, in turn, provide business opportunities to these enterprises; twinning initiatives with Black Owned and Black Empowered SMMEs which result in cost saving or revenue generation for those SMMEs.

"Black Owned SMME" means a small, medium or micro enterprise (less than 100 full-time employees and less than R 4 million rand turnover and less than R 4 million rand gross asset value, fixed property excluded) which has more than 50% black ownership (if a company calculated as set out in section 6.7.1 above and if a close corporation, calculated with reference to membership interest) and more than 50% black management (top and senior management/ senior officials, determined with reference to the approach to occupation categories set out in section 6.5 above).

"Black Empowered SMME" means a small, medium or micro enterprise (less than 100 full-time employees and less than R 4 million rand turnover and less than R 4 million rand gross asset value, fixed property excluded) which has more 25% black ownership (if a company calculated as set out in section 6.7.1 above and if a close corporation, calculated with reference to membership interest) and more than 50% black management (top and senior management/ senior officials, determined with reference to the approach to occupation categories set out in section 6.5 above).

SECTION 12: FINANCIAL PERFORMANCE

12.1 Note: if the applicant relies on the information of other entities, the authorised representative of that entity must attest to the declaration in section 16

The same principle as explained in sections 8.1.1 and 9.1.1 must be used. The aim of this section is to establish turnover of the applicant for the sector applied for. Applicants involved in industries other than the fishing industry may not take turnover generated in such other industries into account. More specifically, applicants involved in industries other than the fishing industry must provide a breakdown of turnover in the fishing industry and in other industries in the annexure. Only turnover in the sector of fishing industry concerned may be taken into account when completing the second column of section 12.2. Applicants involved in other fishing sectors must provide a breakdown of turnover on a per sector basis in the annexure. Only turnover generated in the sector concerned may be taken into account when completing the second column of section 12.2. As it is difficult to accurately apportion turnover on a per sector basis, a rough estimate or division will suffice, provided that the same apportionment is used in any other application made by the applicant. In other words, the same breakdown must be provided by the applicant in applications for commercial rights in other sectors.

If the applicant is involved with other entities in the form of a Joint Venture ("JV"), or if the applicant is more than 50% owned by another company or close corporation (determined as specified in section 6.7.1 above), then the total turnover generated by the JV partners or group (ie the applicant, the holding company and sister companies) may be taken into account, provided that the same principles set out above are applied. In other words, JVs and groups involved in other industries or fishing sectors may not take into

account turnover generated in other industries or sectors. Only turnover generated in the **sector** concerned by the JV or group may be taken into account. If applicable, a breakdown of turnover generated in the fishing industry and other industries or a breakdown of turnover generated in the **sector** concerned and other sectors must be provided in the relevant annexure. A rough estimate or division will suffice, provided that the JV or group uses the same apportionment in any other application for a commercial fishing right made by the applicant, a member of the group or the JV. There may be no double claiming of turnover. In other words, the turnover claimed in all applications made by members of the JV or group may not amount to more than the total turnover by members of the JV or group in the fishing industry. **The financial statements of all members of the JV or group must be provided in the relevant annexure.**

12.2 Note: if the applicant relies on the information of other entities, the authorised representative of that entity must attest to the declaration in section 16

The applicant is required to specify the percentage of its total turnover derived from the fishery applied for. In the second column the applicant must enter the figure determined in section 12.1 above. In the third column, the applicant must use the total turnover of the applicant (or, if applicable, the group or JV), including turnover generated outside the fishing industry, in order to determine the percentage.

Example

Company X was allocated medium term fishing rights for Hake Deep Sea Trawl and South Coast Rock Lobster. It was allocated a TAC of 5 000 tons for Hake Deep Sea Trawl and 7 tons South Coast Rock Lobster in 2004. Company X's total turnover (for both fisheries) for the 2004 financial year was R180 000 000. The total turnover generated in Hake Deep Sea Trawl for the financial year 2004 was R100 000 000. The total turnover for South Coast Rock Lobster was R 80 000 000. In its application for a Hake Deep Sea Trawl right, the applicant's table would appear as follows:

TAC Allocated (in tons) to the Applicant in 2004	Turnover Generated by TAC allocated (financial year 2004)	Percentage of Total turnover
5000	R100 000 000	55.6%

Divide turnover of this fishery by total turnover of the applicant and multiply by 100 to determine the percentage value. $100\,000\,000/180\,000\,000 \times 100 = 55,6\%$

12.3

This section requires applicants to provide financial performance ratios. If applicable, the merged information of the group or JV partners must be supplied (all sectors and industries invoked in). These should be calculated as follows:

Return on Net Assets

$$\text{RONA} = \frac{\text{Operating Profit}}{\text{Net Operating Assets}} = \frac{\text{Operating Profit}}{\text{Sales}} \times \frac{\text{Sales}}{\text{Net Operating Assets}}$$

Debt: Equity Ratio: $\frac{\text{Debt}}{\text{Equity}}$

$$\text{Current Ratio: } \frac{\text{Current Assets}}{\text{Current Liabilities}}$$

$$\text{Acid Test: } \frac{\text{Current Assets} - \text{Inventory}}{\text{Current Liabilities}}$$

12.4, 12.5 and 12.6

These questions require the applicant to provide information from its audited or verified financial statements. If applicable, the merged information of the group or JV partners must be supplied (all sectors and industries involved in).

SECTION 13: FISHING PLAN

This section requires the applicant to provide information regarding its fishing plan.

SECTION 14: BY-CATCH AND ENVIRONMENTALLY SUSTAINABLE PRACTICES

This section requires the applicant to provide information regarding by-catches and environmentally sustainable practices.

SECTION 15: LEVIES

This section requires the applicant to provide information regarding levies paid during the medium term right period.

EXPLANATORY NOTES – MEDIUM TERM RIGHTS HOLDERS KWAZULU-NATAL PRAWN TRAWL

THE PURPOSE OF THE EXPLANATORY NOTES IS TO ASSIST APPLICANTS IN COMPLETING A NUMBER OF SECTIONS IN THE APPLICATION FORM. SOME SECTIONS ARE CONSIDERED TO BE SELF-EXPLANATORY AND ARE NOT COVERED IN THESE EXPLANATORY NOTES.

The MLRA is the Marine Living Resources Act 18 of 1998. A copy is available on the Department's website www.mcm-deat.gov.za.

SECTION 1: APPLICANT DETAILS

Sections 1.1 to 1.7 must be completed by all applicants. The applicant was required to provide the details required by sections 1.8.1 to 1.8.7d when it registered for an application form at www.mcm-deat.gov.za. These sections need only be completed if the applicant's details have changed since registration.

SECTION 2: FORM OF APPLICANT

2.1, 2.2 and 2.3

The aim is to determine whether the applicant should be treated as a potential new entrant or as a medium term right holder. The delegated authority will recognise as medium term right holders only those entities that were recipients of medium term rights in 2001/2002 in the fishery now applied for or the sole successors of those entities.

If the applicant is the same entity as the one specified in 2.2 (the recipient of the medium term right in 2001/2002) and in 2.3 (the current medium term right holder), the applicant obviously qualifies to be treated as a medium term right holder. In some instances, however, the right allocated in 2001/2002 may have been transferred, or the right may have been allocated to a trust or a natural person with the result that application must now be made in the form of a close corporation or a company. In these and all other instances where the applicant and the entity in 2.2 and 2.3 is not the same entity, the applicant must demonstrate that it is the sole successor of the entity that received the right in 2001/2002, in order to qualify as a medium term right holder. The delegated authority will not recognise more than one entity as the successor to the entity that received the right in 2001/2002.

2.4

In terms of section 18 of the MLRA, commercial fishing rights may only be granted to a South African person, which is a term defined in section 1 of the Act. The aim of this section is to determine whether the applicant meets the requirements of this definition. In the case of a company or a close corporation, the majority of the shareholders or members must be South African persons.

2.7, 2.8

In terms of paragraph 7.5 of the General Policy, a medium term right holder applicant may not hold shares in a potential new entrant applicant in the same sector. The aim of this section is to determine whether this requirement is adhered to and to establish shareholder linkages between various medium term right holder applicants.

SECTION 3: COMPLIANCE

3.1.1, 3.1.2, 3.1.3 and 3.1.4 Note: a "yes" answer will be presumed if the applicant fails to answer the question

In terms of the General policy and the applicable Fishery specific policies, various consequences may be attached to contraventions of the MLRA, the regulations or permit conditions, including the exclusion of the applicant and negative scoring. The aim of this section is to determine whether the applicant has been convicted of any such contravention and to assess the seriousness of the contravention.

3.2 Note: a "yes" answer will be presumed if the applicant fails to answer the question

Applicants must answer "yes" to the question, even if the asset detained, arrested or seized in terms of the MLRA or restrained or Preserved in terms of the Prevention of Organised Crime Act, was later released. The circumstances surrounding the detention, arrest, seizure or restraint or preservation order and the outcome of the process, i.e. whether the asset was confiscated or forfeited to the State, must be dealt with in the annexure.

3.3 Note: a "yes" answer will be presumed if the applicant fails to answer the question

Applicants **must** answer "yes" to the question only if the applicant's right or permit in this fishery has been revoked, cancelled, reduced or altered under section 28(3) of the MLRA. The circumstances must be explained in the annexure.

SECTION 4: VESSEL DETAIL

This section requires the applicant to furnish the details of each vessel nominated by the applicant. If the requested details are not available, the reasons for this must be explained in the annexure.

SECTION 5: CATCH UTILISATION**5.1**

This section requests details regarding the applicant's catch records during the medium term rights (2001 – 2005) period. Applicant must not answer the question with reference to the Department's catch records. If a permit was not issued to the applicant for any year, this must be stated in the relevant annexure.

SECTION 6: TRANSFORMATION**6.1 and 6.2.1**

The aim of these sections is to determine whether the applicant is required to comply with the Employment Equity Act. If required to comply, the next question is whether the applicant has fulfilled its duties under the Act. For purposes of answering these sections, only the applicant's data (and not the data of its holding company or JV partners) must be taken into consideration.

"Designated" employers are required to comply with the Act. A designated employer, in terms of section 1 of the Employment Equity Act is:

- a) an employer who employs 50 or more employees;
- b) an employer who employs fewer than 50 employees, but has a total annual turnover that is equal to or above the applicable annual turnover of a small business in terms of Schedule 4 of this Act (which is R2 million per annum); or
- c) ...
- d) ...
- e) an employer bound by a collective agreement in terms of section 23 or 31 of the Labour Relations Act, which appoints it as a designated employer in terms of this Act, to the extent provided for in the agreement;

In terms of section 13 of the Employment Equity Act, the duties of designated employers are as follows:

- 1) Every designated employer must, in order to achieve employment equity, implement affirmative action measures for people from designated groups in terms of this Act.
- 2) A designated employer must:
 - a) consult with its employees as required by section 16;
 - b) conduct an analysis as required by section 19;
 - c) prepare an employment equity plan as required by section 20; and
 - d) report to the Director-General on progress made in implementing its employment equity plan, as required by section 21.

6.3.1 Note: if the applicant is required to provide information of other entities the authorised representative of the other entity must attest to the declaration in section 16

The aim of this section is to determine the composition of the management of the applicant. If the applicant is more than 50% owned by another company or close corporation (determined as specified in section 6.7.1 below) then the details of the board of directors/members of both the applicant and the holding entity must be provided in the annexure and the table must be completed by submitting the merged details of the boards of directors / members of both entities. If the applicant is involved in a Joint Venture ("JV") together with another company or close corporation, then details of the boards of directors or members of all the JV partners must be provided in the annexure and the table must be completed by submitting the merged details of the boards of directors / members of all the JV partners.

6.3.2 Note: if the applicant is required to provide information of other entities the authorised representative of the other entity must attest to the declaration in section 16

This section requires the applicant to provide details regarding employees that earn the highest salaries (calculated on a total cost to company basis). This information will be treated as confidential and may be submitted separately in the sealed envelope.

As in section 6.3.1 above, if the Applicant is more than 50% owned by another company or close corporation (determined as specified in section 6.7.1 below) then details of the highest salary earners of **both** the applicant and the holding entity **must** be provided in the annexure and the table must be completed by submitting the merged details of the highest salary earners of **both** entities. If the Applicant is involved in a Joint Venture ("JV") together with another company or close corporation, then details of the highest salary earners of **all** the JV partners must be provided in the annexure and the table must be completed by submitting the merged details of **all** the JV partners.

Total cost to company includes benefits and bonuses, but excludes dividends. Applicants that employ 165 or fewer employees must provide the details of their top salary earners as indicated in the table in the application form. Applicants that employ more than 165 people **must** first determine the top 3% and then provide details of those employees (up to a maximum of 90). Designation of actual title held by the employee, as indicated on the organogram or organizational structure, must be provided.

Example: If the applicant employs 2500 people, the applicant determines the top 3% by multiplying this number by 0.03 (2500 x 0.03 = 75). The applicant must then provide the details of those 75 employees. The applicant must not provide the details of more than 90 employees, regardless of the number of employees the applicant has in the top 3%.

If applicable, the number of employees of holding entities or JV partners must be added to the number of employees of the applicant, as set out in the example below.

Example: If the applicant employs 75 people, and the holding entity employs 125 people, the two entities combined employ 200 people. The applicant must determine the top 3%: 200 x 0.03 = 6. The details of the two entities should be merged, and the details of the top six salary earners of the merged list should be entered in the table at 6.3.2.

6.4.1 Note: if the applicant is required to provide information of other entities the authorised representative of the other entity must attest to the declaration in section 16

This section requires the applicant to provide details of income levels within the organization at 28 February 2005.

As in sections 6.3.1 and 6.3.2 above, if the applicant is involved in a Joint Venture ("JV") together with another company or close corporation, then the salary levels of **all** the JV partners must be provided in the annexure and the table must be completed by submitting the merged details of **all** the JV partners. If the Applicant is more than 50% owned by another company or close corporation (determined as specified in section 6.7.1 below) then the salary levels of the holding entity, the Applicant and any sister companies also more than 50% owned by the holding entity must be provided in the annexure and the table **must** be completed by submitting the merged details of the group (applicant, holding entity and sister company) of companies.

Example

1	Monthly Income	Number of employees in this level (total of Group or JV, if applicable)	Percentage of Total Employees	Number of Black Employees in this level (total of Group or JV, if applicable)	Percentage of Total Black Employees	Number of Female Employees in this level (total of Group or JV, if applicable)
	< R 2 500	100	80%	80	90 %	70

Divide the employees in this income level by the total number of employees, and multiply by 100

Divide the number of black employees in this income level by the total number of black employees, and multiply by 100

6.5 Note: if the Applicant relies on information of other entities the authorised representative of the entity must attest to the declaration in section 16

This question requires the applicant to complete the employment equity profile of the applicant in respect of occupational levels. Designated employers and employers that comply voluntarily with the Employment Equity Act should complete the table with the figures submitted in October 2004 to the Department of Labour. Employers that are not designated should complete the tables with reference to its employees at 28 February 2005 and having regard to the definitions of the occupational levels set out in annexure 2 of the Regulations to the Employment Equity Act. Annexure 2 provides as follows:

Employment Equity Act 55, 1998

WHAT IS THE PURPOSE OF THIS ANNEXURE?

Job evaluation or grading systems are used by many organisations to measure jobs according to their content and establish

comparative worth between jobs.

This annexure provides a table of equivalent occupational levels which may be used by employers when completing forms EEA 2 and EEA 4.

INSTRUCTIONS

The table [below] indicates the occupational levels within organisations as determined through the use of different job evaluation or grading systems. The table provides equivalent levels from each of these job evaluation systems.

Organisations that make use of neither one of the job evaluation systems [in the table below], nor a customised system linked to one of these, should use the Semantic Scale for guidance in determining occupational levels within that organisation.

Equivalent occupational levels

Semantic Scale	Paterson		Peromnes	Hay	Castellion
Top Management	F	F	[++ +]		14
Senior Management	E	E UPPER	1 2	1	13
		E LOWER	3	2	
Professionally qualified, experienced specialists and mid-management	D	D UPPER	4 5	3	12
		D LOWER	6	4	11 13
Skilled technical and academically qualified workers, junior management, supervisors, foremen, superintendents	C	C UPPER	7 8 9 10	5 6 6A 7	9 8
		C LOWER	11	8	
Semi-skilled and discretionary decision making	B	B UPPER			
		B LOWER			
Unskilled and defined decisionmaking	A	A	16		4
			17 18	12 13	3 !
			19		1

As in section 6.4.1 above, if the applicant operates in a Joint Venture ("JV") together with another company or close corporation, then the occupational levels of all the JV partners must be provided in the annexure and the table must be completed by submitting the merged details of all the JV partners. If the applicant is more than 50% owned by another company or close corporation, [determined as specified in section 6.7.1 below] then the occupational levels of the holding entity, the Applicant and any sister companies also more than 50% owned by the holding entity must be provided in the annexure and the table must be completed by submitting the merged details of the group (applicant, holder entity and sister company) of companies.

Example

If Company A is a designated employer, the data submitted in the October 2004 EEA 2A form should be completed in the table. If Company A is not a designated employer, the occupational levels of employees should be determined in the manner set out above as at 28 February 2005 and the table completed with this data.

Once the number of employees per level is determined, the percentages are to be worked out. For example, Company A employs seven senior officials and managers. Of the seven employees in the occupational category, 1 is an african male, 2 are coloured males, 2 are white males, 1 is an indian female and 1 is a white female. In order to determine the percentages take the number of employees from each designated group in the occupation level and divide it by the total number of employees in the occupational level and multiply by 100.

A = African, C = Coloured, I = Indian, W = White, F = Female and ACI = African, Coloured and Indian										
										Totals
Occupational Categories		A No.	A %	C No.	C %	I No.	I %	W No.	W %	ACI%
Senior Officials and Managers (Total of JV or Group, if applicable)	Male	1	14%	2	20%	0	0%	2	28%	42%
	Female	0	0%	0	0%	1	14%	1	15%	29%

6.6.1 Note: if the applicant is required to provide information of other entities the authorised representative of the other entity must attest to the declaration in section 16

All applicants must provide the figures relating to top and senior management / senior officials provided in their 2001 application forms. Designated employers or employers that comply voluntarily must then complete the rest of the table with the figures submitted in the 2002 and 2004 EEA 2A reports. Employers that are not designated and that do not voluntarily comply must complete the tables with reference to employment statistics at the financial year ends 2002 and 2004. In respect of groups and JV's the instruction set out in section 6.5 also applies to the completion of this section.

6.6.2 Note: if the applicant is required to provide information of other entities the authorised representative of the other entity must attest to the declaration in section 16

All applicants must provide the figures relating to professionally qualified and experienced specialists and mid-management provided in their 2001 application forms. Designated employers or employers that comply voluntarily must then complete the rest of the table with the figures submitted in the 2002 and 2004 EEA 2A reports. Employers that are not designated and that do not voluntarily comply must complete the tables with reference to employment statistics at the financial year ends 2002 and 2004. In respect of groups and JVs the instruction set out in section 6.5 also applies to the completion of this section.

6.7.1 Note: do not complete the shaded areas of the table

no

where the voting rights are merely exercised indirectly (through a conduit), black ownership of the equity must be taken into account when determining black voting rights.

Example: The applicant has four shareholders. One of these shareholders is a natural person named AA, who is black and owns 10% of the economic interest and voting rights. Two of the other shareholders are companies and the third is a pension fund. Company A holds 30% of the shares and is 51% owned by a black person and 49% by a white person. Company B holds 40% of the shares and is 40% owned by a natural person who is white and 60% owned by company Z, that is in turn 80% owned by a white person and 20% by a black person. The Pension Fund holds the remaining 20% of the issued shares. The percentage black shareholding, voting rights and economic interest is as follows:

Year 2005 (at date of application)	Percentage Shareholding held by black persons	Percentage voting rights held by black shareholders	Percentage economic interest held by black shareholders (entitlement to dividends)
	37.625	56	37.625

AA contributes 12.5% (10/80) to all three categories, Company A contributes 19.125% ($30/80 \times 51/100$) to shareholding and economic interest and 37.5% ($30/80 \times 100$) to voting rights, Company B contributes 6% ($40/80 \times 60/100 \times 20/100$) to all three categories and the pension fund is disregarded.

6.7.2

The shareholding, voting rights and economic interest of women are calculated in the same manner as described under section 6.7.1 above. Again, the section must be answered with reference to the data of the applicant alone. The information relating to holdings entities, sister companies and JV partners may not be taken into account unless these entities hold equity in the applicant and this information must be taken into account when applying the flow-through principle.

6.7.3, 6.7.4, 6.7.5, 6.7.6 and 6.7.7

These sections must be answered with reference to the data of the applicant alone. Information relating to holding entities, sister companies and JV partners may not be taken into account.

6.8.1, 6.8.2, 6.8.3, 6.8.4, 6.8.5, 6.8.6 and 6.8.7 Note: do not complete shaded areas of the form

These sections must be answered with reference to the data of the applicant alone. Information relating to JV partners may not be taken into account. The flow-through principle obviously has no application to close corporations. The percentage voting rights and profit distribution must be determined with reference to the membership agreement of the close corporation. If no such agreement exist or the agreement is silent on the issue, then voting rights and economic interest must be taken to be the same as the percentage membership interest.

6.9

This question requires the applicant to provide information on the extent to which it has achieved the targets set in the Transformation Plan submitted as part of the 2001 application process. The section must be answered with reference to the data of the applicant alone. The information relating to holdings entities, sister Companies and JV partners may not be taken into account.

6.10 Note: if the Applicant relies on information of other entities the authorised representative of that entity must attest to the declaration in section 16

This section requires the applicant to provide information relating to compliance with section 3 of the Skills Development Levies Act 93 of 1999. The questions in the first two columns (the submission/approval of a Workplace Skills Plan and an Annual Training Report) must be answered with reference to the data of the applicant alone. In respect of the last three columns (rand amount paid to SARS, percentage salaries bill spent on training and percentage of training budget spent on black employees), if the applicant operates in a Joint Venture ("JV") together with another company or close corporation, then the salary bills of all the JV partners must be provided in the annexure and the table must be completed by submitting the merged details of all the JV partners. If the Applicant is more than 50% owned by another company or close corporation (determined as specified in section 6.7.1 above) then the salary bills of the holding entity, the Applicant and any sister companies also more than 50% owned by the holding entity must be provided in the annexure and the table must be completed by submitting the merged details of the group (holding entity, applicant and sister companies) of companies.

To determine the "percentage of payroll spent on training" divide the actual annual amount spent on training by the total annual payroll cost and multiply the result by 100 to determine the percentage value.

Example

Company X has an annual salary bill cost of R 1 000 000,00. The company has spent R 10 000,00 on training for all employees. $(R10\,000,00/R1\,000\,000) = 0,001 \times 100 = 1\%$.

6.11 Note: if the Applicant relies on information of other entities the authorised representative of that entity must attest to the declaration in section 16

This question requires the applicant to indicate whether it participated in a learnership programme in 2004. Participation in learnership programme means that the applicant has registered a learnership agreement with the SETA as per the Regulation Concerning the Registration of Intended Learnerships and Learnership Agreements published under the Skills Development Act 9 of 1998 in Government Notice No. R 330 of 3 April 2001. If applicable, the questions in these sections must be answered with reference to the merged data of all the entities in a group or a JV.

6.12, 6.13, 6.14.1, 6.14.2, 6.15, 6.16, 6.17, 6.18, 6.19, 6.20, 6.21, 6.22, 6.23 and 6.24

Note: if the Applicant relies on information of other entities the authorised representative of that entity must attest to the declaration in section 16

If applicable, the questions in these sections must be answered with reference to the merged data of all the entities in a group or a JV. The percentage black ownership, referred to in section 6.22, must be calculated as described above in section 6.7.1.

SECTION 7: SAFETY

This section requires the applicant to provide information that relates to safety, including the requirements of the South African Maritime Safety Authority.

7.1

Sections 312 and 313 of the Merchant Shipping Act, 57 of 1951 creates certain offences including the failure to comply with a duty under the Act such as the duty to ensure that an unseaworthy vessel does not leave port and the failure to properly man a vessel.

7.2, 7.3, 7.4, 7.5, 7.7 and 7.8

The Maritime Occupational Safety Regulations, 1994, the Crew Accommodation Regulations, 1961 and the Merchant Shipping (Safe Yanning Regulations) were passed in terms of the Merchant Shipping Act, 57 of 1951. These are available at www.mcm-deat.gov.za. Marine Notice No 26 of 2004 is also available at the website.

7.9

Compliance with the Compensation for Occupational Injuries and Diseases Act 130 of 1993 means compliance with Sections 80 to 88 of the Act which provides as follows:

"Obligations of employers to register with commissioner and to furnish him with particulars

- 1) An employer carrying on business in the Republic shall within the prescribed period and in the prescribed manner register with the commissioner, and shall furnish the commissioner with the prescribed particulars of his business, and shall within a period determined by the commissioner furnish such additional particulars as the commissioner may require.
- 2) The particulars referred to in subsection (1) shall be furnished separately in respect of each business carried on by the employer.
- 3) An employer shall within seven days of any change in the particulars so furnished notify the commissioner of such change.

Obligations of employers to keep record

An employer shall keep a register or other record of the earnings and other prescribed particulars of all the employees, and shall at all reasonable times produce such register or record or a microfilm or other microform reproduction thereof on demand to an authorized person referred to in section 7 for inspection.

Contributions by employers individually liable and mutual associations

Notwithstanding any provision to the contrary contained in this Act, the employers individually liable and the mutual associations shall pay annually to the Director-General in such manner and at such times as he may determine, such portion of the expenditure incurred by him in the administration of the provisions of this Act as he may deem equitable."

7.13

The Marine Pollution (Prevention of Pollution from Ships) Act 2 of 1986 and the Marine Pollution (Control and Civil Liability) Act 6 of 1981 are available at www.mcm-deat.gov.za.

SECTION 8: JOB CREATION

The aim of this section is to establish the number of jobs provided by the applicant, and the total amount spent on salaries over the medium term right period, in the sector applied for. The information must be used to determine the number of jobs provided per Vessel allocated in the sector concerned (in section 8.1.3) and the amount spent on salaries per vessel allocated in the sector concerned (in section 8.1.2). In order to determine the number of jobs and amounts spent on salaries per unit allocated in the sector concerned, applicants (or their holding or sister companies and JV partners) involved in industries other than the fishing industry may not take jobs provided or salaries spent in such industries into account, and applicants involved in other sectors of the fishing industry may not take jobs provided or salaries spent in those sectors into account.

Applicants involved in industries other than the fishing industry must submit (in the annexure) a breakdown of jobs provided and salary amounts spent in the fishing industry and in other industries. Only jobs provided or the amounts spent on salaries in the fishing industry may be taken into account when completing section 8.1.1. Applicants involved in other fishing sectors must submit (in the annexure) a breakdown of jobs provided and amounts spent on salaries on a per sector basis. Only jobs provided and amounts spent on salaries in this sector may be taken into account when completing section 8.1.1. As it is difficult to accurately determine the exact number of employees and salaries spent on a per sector basis, a rough estimate or division will suffice, provided that the same apportionment is used in any other application made by the applicant.

If the applicant is involved in a Joint Venture ("JV") together with another company or close corporation, or if the Applicant is more than 50% owned by another company or close corporation (determined in the manner specified in section 6.7.1), then all the jobs provided or amounts spent on salaries by the JV partners or the group (i.e. the applicant, the holding entity and sister companies) may be taken into account, provided that the same principles set out above are applied. In other words, JVs and groups involved in other industries or fishing sectors may not take into account jobs provided or amounts spent on salaries in other industries or sectors. Only jobs provided or amounts spent on salaries in the sector concerned by the JV or group may be taken into account when completing section 8.1.1. If applicable, a breakdown of jobs provided and amounts spent on salaries in the fishing industry and other industries or a breakdown of jobs provided and amounts spent on salaries in the sector concerned or other sectors must be provided in the annexure. A rough estimate or division will suffice, provided that the JV or group uses the same apportionment in any other application for a fishing right made by the applicant or any member of the JV or the group. There may be no double claiming of jobs. In other words, the number of jobs claimed in all applications made by members of the JV or group may not amount to more than the total number of jobs provided by the JV or group.

8.1.2 and 8.1.3:**SECTION 9: INVESTMENT****9.1.1 and 9.1.2**

Note: do not complete shaded areas and if the applicant relies on information of other entities the authorised representative of that entity must attest to the declaration in section 16

The aim of this section is to establish the rand value of harbour and sea-based assets of the applicant in the sector applied for. This will be used to determine the value of harbour and sea-based assets per ton of vessel allocated in the sector concerned (in sections 9.1.3 and 9.1.4). In order to determine the value of assets per unit allocated in the sector concerned, applicants (or their holding or sister companies and JV partners) involved in industries other than the fishing industry may not take assets used in other industries into account.

Applicants involved in industries other than the fishing industry must provide a breakdown of assets used in the fishing industry and in other industries in the relevant annexure (separately for book and insured values). Only assets used in the fishing industry may be taken into account when completing sections 9.1.1 and 9.1.2. Applicants involved in other fishing sectors must provide a breakdown of assets used on a per sector basis in the relevant annexure (separately for book and insured values). Only assets used in the sector applied for may be taken into account when completing sections 9.1.1 and 9.1.2. As it is difficult to accurately apportion assets on a per sector basis, a rough estimate or division will suffice, provided that the same apportionment is used in any other application for a commercial fishing right made by the applicant during the long term rights allocation process.

If the applicant is involved with other entities in the form of a Joint Venture ("JV"), or if the applicant is more than 50% owned by another company or close corporation (determined as specified in section 6.7.1 above), then all the assets used by the JV partner or group (ie the applicant, the holding company and sister companies) may be taken into account, provided that the same principle set out above are applied. In other words, JVs and groups involved in other industries or fishing sectors may not take into account assets used in other industries or sectors. Only assets used in the sector concerned by the JV or group may be taken into account when completing sections 9.1.1 and 9.1.2. If applicable, a breakdown of assets used in the fishing industry or other industries or a breakdown of assets used in the sector concerned and other sectors must be provided in the relevant annexure (separately for boats and insured values). A rough estimate or division will suffice, provided that the JV or group uses the same apportionment in any other application for a commercial fishing right made by the applicant, a member of the group or the JV. There may be no doubt claiming of assets. In other words, the value of assets claimed in all applications made by members of the JV or group may not amount to more than the total value of the assets used by members of the JV or group in the fishing industry.

9.1.3:

This question requires the applicant to provide information regarding the value of investment per vessel allocated. The information provided in section 9.1.1. must be used.

SECTION 10: LOCAL ECONOMIC DEVELOPMENT

This section requires the applicant to provide information regarding the landing of catches at harbours/landing sites (in relation to this fishery) in 2004, and intentions regarding the landing of catches.

10.1:

This question requires the applicant to provide detailed information regarding harbours where it landed catches in 2004.

Example

Company X lands fish at various different harbours. Of its allocation of 20 tons it lands 5 tons in Mossel Bay, 10 tons in Port Elizabeth and 5 tons in Cape Town.

SECTION 11: VALUE ADDING & ENTERPRISE DEVELOPMENT

This section requires applicants to provide information regarding value adding and enterprise development activities that the applicant has undertaken. Value adding includes on-board processing.

Enterprise development may take a variety of forms including the direct investment in Black Owned and Black Empowered SMMEs enterprises (a small, medium or micro enterprise); joint ventures with Black Owned and Black Empowered SMMEs that result in "substantive" skills transfer; the provision of mentorship, business relationships and linkages which, in turn, provide business opportunities to these enterprises; twinning initiatives with Black Owned and Black Empowered SMMEs which result in cost saving or revenue generation for those SMMEs.

"Black Owned SMME" means a small, medium or micro enterprise (less than 100 full-time employees and less than R 4 million rand turnover and less than R 4 million rand gross asset value, fixed property excluded) which has more than 50% black ownership (if a company calculated as set out in section 6.7.1 above and if a close corporation, calculated with reference to membership interest) and more than 50% black management (top and senior management/ senior officials, determined with reference to the approach to occupation categories set out in section 6.5 above).

"Black Empowered SMME" means a small, medium or micro enterprise (less than 100 full-time employees and less than R 4 million rand turnover and less than R 4 million rand gross asset value, fixed property excluded) which has more 25% black ownership (if a company calculated as set out in section 6.7.1 above and if a close corporation, calculated with reference to membership interest) and more than 50% black management (top and senior management/ senior officials, determined with reference to the approach to occupation categories set out in section 6.5 above).

SECTION 12: FINANCIAL PERFORMANCE

12.1 Note: if the applicant relies on the information of other entities, the authorised representative of that entity must attest to the declaration in section 16

The same principle as explained in sections 8.1.1 and 9.1.1 must be used. The aim of this section is to establish turnover of the applicant for the sector applied for. Applicants involved in industries other than the fishing industry may not take turnover generated in such other industries into account. More specifically, applicants involved in industries other than the fishing industry must provide a breakdown of turnover in the fishing industry and in other industries in the annexure. Only turnover in the sector of fishing industry concerned may be taken into account when completing the second column of section 12.2. Applicants involved in other fishing sectors must provide a breakdown of turnover on a per sector basis in the annexure. Only turnover generated in the sector concerned may be taken into account when completing the second column of section 12.2. As it is difficult to accurately apportion

turnover on a **per sector** basis, a rough estimate or division will suffice, provided that the **Same** apportionment is used in **any other** application made by the applicant. In **other words**, the **Same** breakdown must be provided by the applicant in applications for commercial rights in other sectors.

If the applicant is involved with other entities in the form of a Joint Venture ("**JV**"), or if the applicant is more than **50% owned** by another company or close corporation (determined as specified in section 6.7.1 above), then the total turnover generated by the JV partners or group (ie the applicant, the holding company and sister companies) may be taken into account, provided that the **same** principles set out above are applied. In **other words**, **JV**s and groups involved in other industries or fishing sectors may not take into account turnover generated in other industries or sectors. Only turnover generated in the sector concerned by the JV or group may be taken into account. If applicable, a breakdown of turnover generated in the fishing industry and other industries or a breakdown of turnover generated in the sector concerned and other sectors must be provided in the relevant annexure. A rough estimate or division will suffice, provided that the JV or group uses the same apportionment in any other application for a **commercial** fishing right made by the applicant, a member of the group or the JV. There may be no double claiming of turnover. In **other words**, the turnover claimed in all applications made by members of the JV or group may not amount to more than the total turnover by members of the JV or group in the fishing industry. **The financial statements of all members of the JV or group must be provided in the relevant annexure.**

12.2 Note: if the applicant relies on the information of other entities, the authorised representative of that entity must attest to the declaration in section 16

The applicant is required to specify the percentage of its total turnover derived from the fishery applied for. In **the** second column the applicant must enter the figure determined in section 12.1 above. In the third column, the applicant must use the total turnover of the applicant (or, if applicable, the group or JV), including turnover generated outside the fishing industry, in order to determine the percentage.

12.3

This section requires applicants to provide financial performance ratios. If applicable, the merged information of the group or JV partners must be supplied (all sectors and industries involved in). These should be calculated as follows:

Return on Net Assets

$$\text{RONA} = \frac{\text{Operating Profit}}{\text{Net Operating Assets}} = \frac{\text{Operating Profit}}{\text{Sales}} \times \frac{\text{Sales}}{\text{Net Operating Assets}}$$

Debt: Equity Ratio: Debt

$$\text{Current Ratio: } \frac{\text{Current Assets}}{\text{Current Liabilities}}$$

$$\text{Acid Test: } \frac{\text{Current Assets} - \text{Inventory}}{\text{Current Liabilities}}$$

12.4, 12.5 and 12.6

These questions require the applicant to provide information from its audited or verified financial statements. **If** applicable, the merged information of the group or JV partners must be supplied (all sectors and industries involved in).

SECTION 13: FISHING PLAN

This section requires the applicant to provide information regarding its fishing plan.

SECTION 14: BY-CATCH AND ENVIRONMENTALLY SUSTAINABLE PRACTICES

This section requires the applicant to provide information regarding by-catches and environmentally sustainable practices.

SECTION 15: LEVIES

This section requires the applicant to provide information regarding levies paid during the medium term right period.

EXPLANATORY NOTES – EXPERIMENTAL PERMIT HOLDERS PATAGONIAN TOOTHFISH

THE PURPOSE OF THE EXPLANATORY NOTES IS TO ASSIST APPLICANTS IN COMPLETING A NUMBER OF SECTIONS IN THE APPLICATION FORM. SOME SECTIONS ARE CONSIDERED TO BE SELF-EXPLANATORY AND ARE NOT COVERED IN THESE EXPLANATORY NOTES.

The MLRA is the Marine Living Resources Act 18 of 1998. A copy is available on the Department's website www.mcm-deat.gov.za.

SECTION 1: APPLICANT DETAILS

Sections 1.1 to 1.7 must be completed by all applicants. The applicant was required to provide the details required by sections 1.8.1 to 1.8.7d when it registered for an application form at www.mcm-deat.gov.za. These sections need only be completed if the applicant's details have changed since registration.

SECTION 2: FORM OF APPLICANT

2.1, 2.2 and 2.3

The aim is to determine whether the applicant should be treated as a potential new entrant or as an experimental permit holder. The delegated authority will recognise as experimental permit holders only those entities that were recipients of experimental permits in 2004 or the sole successors of those entities.

If the applicant is the same entity as the one specified in 2.2 (the recipient of the experimental permit in 2004) and in 2.3 (the current experimental permit holder), the applicant obviously qualifies to be treated as an experimental permit holder. In some instances, however, the permit allocated in 2004 may have been transferred, or the permit may have been allocated to a trust or a natural person with the result that application must now be made in the form of a close corporation or a company. In these and all other instances where the applicant and the entity in 2.2 and 2.3 is not the same entity, the applicant must demonstrate that it is the sole successor of the entity that *received* the permit in 2004, in order to qualify as an experimental permit holder. The delegated authority will not recognise more than one entity as the successor to the entity that received the permit in 2004.

2.4

In terms of section 18 of the MLRA, commercial fishing rights may only be granted to a South African person, which is a term defined in section 1 of the Act. The aim of this section is to determine whether the applicant meets the requirements of this definition. In the case of a company or a close corporation, the majority of the shareholders or members must be South African persons.

2.7, 2.8

In terms of paragraph 7.5 of the General Policy, a medium term right holder applicant (which must be read to include the holder of an experimental permit) may not hold shares in a potential new entrant applicant in the *same* sector. The aim of this section is to determine whether this requirement is adhered to and to establish shareholder linkages between various medium term right holder applicants.

SECTION 3: COMPLIANCE

3.1.1, 3.1.2 3.1.3 and 3.1.4 **Note: a "yes" answer will be presumed if the applicant fails to answer the question**

In terms of the General policy and the applicable Fishery specific policies, various consequences may be attached to contraventions of the MLRA, the regulations or permit conditions, including the exclusion of the applicant and negative scoring. The aim of this section is to determine whether the applicant has been convicted of any such contravention and to assess the seriousness of the contravention.

3.2 **Note: a "yes" answer will be presumed if the applicant fails to answer the question**

Applicants must answer "yes" to the question, even if the asset detained, arrested or seized in terms of the MLRA or restrained or preserved in terms of the Prevention of Organised Crime Act, was later released. The circumstances surrounding the detention, arrest, seizure or restraint or preservation order and the outcome of the process, i.e. whether the asset was confiscated or forfeited to the State, must be dealt with in the annexure.

3.3 Note: a "yes" answer will be presumed if the applicant fails to answer the question

Applicants must answer "yes" to the question only if the applicant's permit in this fishery has been revoked, cancelled, reduced or altered under section 28(3) of the MLRA. The circumstances must be explained in the annexure.

SECTION 4: VESSEL DETAILS

This section requires the applicant to furnish the details of each vessel nominated by the applicant. If the requested details are not available, the reasons for this must be explained in the annexure.

SECTION 5: CATCH UTILISATION**5.1 Note: a "yes" answer will be presumed if the applicant fails to answer the question**

An applicant that has over- or under-caught its own allocation by more than **10%** in any given year over the duration of the experimental permit period must answer "yes" to this question. The reasons must be provided in the annexure.

5.2

This section requests details regarding the applicant's catch records during the experimental permit period. Applicants must not answer the question with reference to the Department's catch records. In the second column, the annual catch allocation for the three years must be completed and in the third column the actual catch must be specified in tons (nominal weight must be specified, and not landed weight or weight after the fish was headed and gutted etc). If a permit was not issued to the applicant for any year, the applicant must indicate **100%** under-caught.

Example

Year	Annual Catch Allocation (in tons)	Total Caught of Applicant's allocation (tons)	Percentage under-caught	Percentage over-caught
2003 season	1 000	1 100	0%	10%

Actual tonnage caught (1 100 tons) minus total allowable catch allocated (1 000 tons) = 100. To establish the percentage, divide the difference by the TAC allocated and multiply it by 100, i.e. $(100/1000) \times 100 = 10\%$.

SECTION 6: TRANSFORMATION**5.1 and 6.2.1**

The aim of these sections is to determine whether the applicant is required to comply with the Employment Equity Act. If required to comply, the next question is whether the applicant has fulfilled its duties under the Act. For purposes of answering these sections, only the applicant's data (and not the data of its holding company or JV partners) must be taken into consideration.

"Designated" employers are required to comply with the Act. A designated employer, in terms of section 1 of the Employment Equity Act is:

- a) *an employer who employs 50 or more employees;*
- b) *an employer who employs fewer than 50 employees, but has a total annual turnover that is equal to or above the applicable annual turnover of a small business in terms of Schedule 4 of this Act, [which is R2 million per annum]; or*
- c) *...*
- d) *...*
- e) *an employer bound by a collective agreement in terms of section 23 or 31 of the Labour Relations Act, which appoints it as a designated employer in terms of this Act, to the extent provided for in the agreement;*

In terms of section 13 of the Employment Equity Act, the duties of designated employers are as follows:

- 1) *Every designated employer must, in order to achieve employment equity, implement affirmative action measures for people from designated groups in terms of this Act.*
- 2) *A designated employer must-*
 - a) *consult with its employees as required by section 16;*
 - b) *conduct an analysis as required by section 19;*
 - c) *prepare an employment equity plan as required by section 20; and*
 - d) *report to the Director-General on progress made in implementing its employment equity plan, as required by section 21.*

6.3.1 Note: if the applicant is required to provide information of other entities the authorised representative of the other entity must attest to the declaration in section 16

The aim of this section is to determine the composition of the management of the applicant. If the applicant is more than 50% owned by another company or close corporation (determined as specified in section 6.7.1 below) then the details of the board of directors/members of both the applicant and the holding entity must be provided in the annexure and the table must be completed by submitting the merged details of the boards of directors/ members of both entities. If the applicant is involved in a Joint Venture ("JV") together with another company or close corporation, then details of the boards of directors or members of all the JV partner must be provided in the annexure and the table must be completed by submitting the merged details of the boards of directors, members of all the JV partners.

6.3.2 Note: if the applicant is required to provide information of other entities the authorised representative of the other entity must attest to the declaration in section 16

This section requires the applicant to provide details regarding employees that earn the highest salaries (calculated on a total cost to company basis). This information will be treated as confidential and may be submitted separately in the sealed envelope.

As in section 6.3.1 above, if the Applicant is more than 50% owned by another company or close corporation (determined as specified in section 6.7.1 below) then details of the highest salary earners of both the applicant and the holding entity must be provided in the annexure and the table must be completed by submitting the merged details of the highest salary earners of both entities. If the Applicant is involved in a Joint Venture ("JV") together with another company or close corporation, then details of the highest salary earners of all the JV partners must be provided in the annexure and the table must be completed by submitting the merged details of all the JV partners.

Total cost to company includes benefits and bonuses, but excludes dividends. Applicants that employ 165 or fewer employees must provide the details of their top salary earners as indicated in the table in the application form. Applicants that employ more than 165 people must first determine the top 3% and then provide details of those employees (up to a maximum of 90). Designation or actual title held by the employee, as indicated on the organogram or organizational structure, must be provided.

Example: If the applicant employs 2500 people, the applicant determines the top 3% by multiplying this number by 0.03 (2500 x 0.03 = 75). The applicant must then provide the details of those 75 employees. The applicant must not provide the details of more than 90 employees, regardless of the number of employees the applicant has in the top 3%.

If applicable, the number of employees of holding entities or JV partners must be added to the number of employees of the applicant, as set out in the example below.

Example: If the applicant employs 75 people, and the holding entity employs 125 people, the two entities combined employ 200 people. The applicant must determine the top 3%: 200 x 0.03 = 6. The details of the two entities should be merged, and the details of the top six salary earners of the merged list should be entered in the table at 6.3.2.

6.4.1 Note: if the applicant is required to provide information of other entities the authorised representative of the other entity must attest to the declaration in section 16

This section requires the applicant to provide details of income levels within the organization at 28 February 2005.

As in sections 6.3.1 and 6.3.2 above, if the applicant is involved in a Joint Venture ("JV") together with another company or close corporation, then the salary levels of all the JV partners must be provided in the annexure and the table must be completed by submitting the merged details of all the JV partners. If the Applicant is more than 50% owned by another company or close corporation (determined as specified in section 6.7.1 below) then the salary levels of the holding entity, the Applicant and any sister companies also more than 50% owned by the holding entity must be provided in the annexure and the table must be completed by submitting the merged details of the group (applicant, holding entity and sister company) of companies.

Example

1	Monthly Income	Number of employees in this level (total of Group or JV, if applicable)	Percentage of Total Employees	Number of Black Employees in this level (total of Group or JV, if applicable)	Percentage of Total Black Employees	Number of Female Employees in this level (total of Group or JV, if applicable)
	< R 2 500	100	80%	80	90 %	70

Divide the employees in this income level by the total number of employees, and multiply by 100

Divide the number of black employees in this income level by the total number of black employees, and multiply by 100

55 Note: if the Applicant relies on information of other entities the authorised representative of the entity must attest to the declaration in section 16

This question requires the applicant to complete the employment equity profile of the applicant in respect of occupational levels. Designated employers and employers that comply voluntarily with the Employment Equity Act should complete the table with the figures submitted in October 2004 to the Department of Labour. Employers that are not designated should complete the table with reference to its employees at 28 February 2005 and having regard to the definitions of the occupational levels set out in Annexure 2 of the Regulations to the Employment Equity Act. Annexure 2 provides as follows:

Employment Equity Act 55, 1998

WHAT IS THE PURPOSE OF THIS ANNEXURE?

Job evaluation or grading systems are used by many organisations to measure jobs according to their content and establish comparative worth between jobs.

This annexure provides a table of equivalent occupational levels which may be used by employers when completing forms EEA 2 and EEA 4.

INSTRUCTIONS

The table [below] indicates the occupational levels within organisations as determined through the use of different job evaluation or grading systems. The table provides equivalent levels from each of these job evaluation systems.

Organisations that make use of neither one of the job evaluation systems [in the table below], nor a customised system linked to one of these, should use the Semantic Scale for guidance in determining occupational levels within that organisation.

Equivalent occupational levels

Top Management	F	F	[++ I+]		14
Senior Management	E	E UPPER	1	1	13
		2	2		
		E LOWER	3	2	
Professionally qualified, experienced specialists and mid-management	D	D UPPER	4	3	12
		5			11
		D LOWER	6	4	13
Skilled technical and academically qualified workers, junior management, supervisors, foremen, superintendents	C	C UPPER	7	5	9
			8	6	
			9	6A	
		C LOWER	10	7	
			11	8	
			12		
Semi-skilled and discretionary decision making	B	B UPPER	13	9	7
		B LOWER	14	10	6
			15	11	5
			16		4
Unskilled and defined decision making	A	A	17	12	3
			18	13	2
			19		1

A, in section 6.4.1 above, if the applicant operates in a Joint Venture ("JV") together with another company or close corporation, then the occupational levels of all the JV partners must be provided in the annexure and the table must be completed by submitting the merged details of all the JV partners. If the applicant is more than 50% owned by another company or close corporation (as determined as specified in section 6.7.1 below) then the occupational levels of the holding entity, the Applicant and any sister companies also more than 50% owned by the holding entity must be provided in the annexure and the table must be completed by submitting the merged details of the group (applicant, holding entity and sister company) of companies.

Example

If Company A is a designated employer, the data submitted in the October 2004 EEA 2A form should be completed in the table. If Company A is not a designated employer, the occupational levels of employees should be determined in the manner set out above as at 28 February 2005 and the table completed with this data.

Once the number of employees per level is determined, the percentages are to be worked out. For example, Company A employs seven senior officials and managers. Of the seven employees in the occupational category, 1 is an african male, 2 are coloured males, 2 are white males, 1 is an indian female and 1 is a white female. In order to determine the percentages take the number of employees from each designated group in the occupation level and divide it by the total number of employees in the occupational level and multiply by 100.

A = African, C = Coloured, I = Indian, W = White, F = Female and ACI = African, Coloured and Indian

Occupational Categories										Totals	
		A No.	A %	C No.	C %	I No.	I %	W No.	W %	ACI %	F %
Senior Officials and Managers (Total of JV or Group, if applicable)	Male	1	14%	2	28%	0	0%	2	28%	42%	
	Female	0	0%	0	0%	1	14%	1	15%		29%

6.6.1 Note: if the applicant is required to provide information of other entities the authorised representative of the other entity must attest to the declaration in section 16

All applicants must provide the figures relating to top and senior management / senior officials provided in their 2001 application forms. Designated employers or employers that comply voluntarily must then complete the rest of the table with the figures submitted in the 2002 and 2004 EEA 2A reports. Employers that are not designated and that do not voluntarily comply must complete the tables with reference to employment statistics at the financial year ends 2002 and 2004. In respect of groups and JVs the instruction set out in section 6.5 also applies to the completion of this section.

6.6.2 Note: if the applicant is required to provide information of other entities the authorised representative of the other entity must attest to the declaration in section 16

All applicants must provide the figures relating to professionally qualified and experienced specialists and mid-management provided in their 2001 application forms. Designated employers or employers that comply voluntarily must then complete the rest of the table with the figures submitted in the 2002 and 2004 EEA 2A reports. Employers that are not designated and that do not voluntarily comply must complete the tables with reference to employment statistics at the financial year ends 2002 and 2004. In respect of groups and JVs the instruction set out in section 6.5 also applies to the completion of this section.

6.7.1 Note: do not complete the shaded areas of the table

This section requires applicants to provide details regarding the shareholding held by black persons and the unrestricted voting rights and economic interest (in the form of entitlement to dividends) attached to black shareholding in the Applicant (not the holding entity, group or JV partners unless this information is relevant for purposes of applying the flow-through principle). The chairperson of the board of directors of the applicant must submit an affidavit regarding the shareholding, the voting rights and the economic interest held by blacks in the applicant in the relevant annexure. In determining the percentage black shareholding, voting rights and economic interest, the flow through principle must be used, provided that:

- pension funds and organs of state are to be regarded as neutral and the percentage black shareholding should be calculated without reference to shares held by such entities;
- if the percentage black shareholding, voting rights or economic interest of a particular shareholder cannot be determined, detailed reasons must be provided;
- for purposes of determining voting rights, a shareholder is to be regarded as 100% black if that shareholder is owned more than 50% by a natural person who is black; and
- the percentage "shareholding", "economic interest" and "voting rights" of black persons in a trust must be determined with reference to the rights of beneficiaries in terms of the trust deed.

The flow through principle is defined as: "**Flow-through principle**" refers to the tracking of economic benefits when determining a score for BEE ownership. Entities are scored on the entitlement of black people to exercise voting rights and to participate in the economic interest of the enterprise. The purpose of the flow-through principle is to ensure that all companies, regardless of their structure, are scored uniformly with respect to their BEE ownership. The flow-through principle states that only voting rights and economic interest to which black people who are natural persons are entitled, are taken into account. Should entitlement to voting rights and/or economic interest be held by juristic persons, only voting rights and economic interest to which black natural persons are

entitled in that juristic person will be taken into account. The same principle is applied consistently throughout the chain of ownership with respect to juristic persons until such time as that chain terminates in the entitlement of the natural person, who is a black person, to such voting rights and/or economic interest."

"**Indirect ownership**" means ownership of an equity interest in an enterprise where such equity interest entitles the holders to participate in the economic interest (such as dividends) flowing to the shareholders of that enterprise, but not directly in the voting rights of that enterprise. Voting rights can be exercised indirectly through a conduit such as a trust or a superannuation scheme.

Indirect ownership must be taken into account for purposes of measuring the percentage black shareholding and, if applicable, the percentage economic interest and voting rights held by a black person in the applicant. If no voting rights are attached to indirectly owned equity, then black ownership of such equity may not be taken into account when determining black voting rights. However, where the voting rights are merely exercised indirectly (through a conduit), black ownership of the equity must be taken into account when determining black voting rights.

Example: The applicant has four shareholders. One of these shareholders is a natural person named AA, who is black and owns 10% of the economic interest and voting rights. Two of the other shareholders are companies and the third is a pension fund. Company A holds 30% of the shares and is 51% owned by a black person and 49% by a white person. Company B holds 40% of the shares and is 40% owned by a natural person who is white and 60% owned by company Z, that is in turn 80% owned by a white person and 20% by a black person. The Pension Fund holds the remaining 20% of the issued shares. The percentage black shareholding, voting rights and economic interest is as follows:

Year 2005 (at date of application)	Percentage Shareholding held by black persons	Percentage voting rights held by black shareholders	Percentage economic interest held by black shareholders (entitlement to dividends)
	37.625	56	37.625

AA contributes 12.5% (10/80) to all three categories, Company A contributes 19.125% (30/80 X 51/100) to shareholding and economic interest and 37.5% (30/80 X 100) to voting rights, Company B contributes 6% (40/80 X 60/100 X 20/100) to all three categories and the pension fund is disregarded.

6.7.2

The shareholding, voting rights and economic interest of women are calculated in the same manner as described under section 6.7.1 above. Again, the section must be answered with reference to the data of the applicant alone. The information relating to holdings entities, sister companies and JV partners may not be taken into account unless these entities hold equity in the applicant and this information must be taken into account when applying the flow-through principle.

6.7.3, 6.7.4, 6.7.5, 6.7.6 and 6.7.7

These sections must be answered with reference to the data of the applicant alone. Information relating to holding entities, sister companies and JV partners may not be taken into account.

6.8.1, 6.8.2, 6.8.3, 6.8.4, 6.8.5, 6.8.6 and 6.8.7 Note: do not complete shaded areas of the form

These sections must be answered with reference to the data of the applicant alone. Information relating to JV partners may not be taken into account. The flow-through principle obviously has no application to close corporations. The percentage voting rights and profit distribution must be determined with reference to the membership agreement of the close corporation. If no such agreement exists or the agreement is silent on the issue, then voting rights and economic interest must be taken to be the same as the percentage membership interest.

6.9

This question requires the applicant to provide information on the extent to which it has achieved the targets set in the Transformation Plan submitted as part of the 2001 application process. The section must be answered with reference to the data of the applicant alone. The information relating to holdings entities, sister companies and JV partners may not be taken into account.

6.10 Note: if the Applicant relies on information of other entities the authorised representative of that entity must attest to the declaration in section 16

This section requires the applicant to provide information relating to compliance with section 3 of the Skills Development Levies Act 9 of 1999. The questions in the first two columns (the submission/approval of a Workplace Skills Plan and an Annual Training Report) must be answered with reference to the data of the applicant alone. In respect of the last three columns (rand amount paid to SARS, percentage salaries bill spent on training and percentage of training budget spent on black employees), if the

applicant operates in a Joint Venture ("JV") together with another company or close corporation, then the salary bills of **all** the JV partners must be provided in the annexure and the table must be completed by Submitting the merged details of **all** the JV partner! If the Applicant is more than 50% owned by another company or close corporation (determined as specified in section 6.7.1 above then the salary bills of the holding entity, the Applicant and any sister companies also more than 50% owned by the holding entity must be provided in the annexure and the table must be completed by submitting the merged details of the group (holding entity, applicant and sister companies) of companies.

To determine the "percentage of payroll spent on training" divide the actual annual amount spent on training by the total annual payroll cost and multiply the result by 100 to determine the percentage value.

Example

Company X has an annual salary bill cost of R 1 000 000,00. The company has spent R 10 000,00 on training for all employees. $(R10\,000,00/R1\,000\,000) = 0,001 \times 100 = 1\%$.

6.11 Note: if the Applicant relies on information of other entities the authorised representative of that entity must attest to the declaration in section 16

This question requires the applicant to indicate whether it participated in a learnership programme in 2004. Participation in a learnership programme means that the applicant has registered a learnership agreement with the SETA as per the Regulation, Concerning the Registration of Intended Learnerships and Learnership Agreements published under the Skills Development Act 97 of 1998 in Government Notice No. R. 330 of 3 April 2001. If applicable, the questions in these sections must be answered with reference to the merged data of all the entities in a group or a JV.

6.12, 6.13, 6.14.1, 6.14.2, 6.15, 6.16, 6.17, 6.18, 6.19, 6.20, 6.21, 6.22, 6.23 and 6.24

Note: if the Applicant relies on information of other entities the authorised representative of that entity must attest to the declaration in section 16

If applicable, the questions in these sections must be answered with reference to the merged data of all the entities in a group or a JV. The percentage black ownership, referred to in section 6.22, must be calculated as described above in section 6.7.1.

SECTION 7: SAFETY

This section requires the applicant to provide information that relates to safety, including the requirements of the South African Maritime Safety Authority.

7.1

Sections 312 and 313 of the Merchant Shipping Act, 57 of 1951 creates certain offences including the failure to comply with a duty under the Act such as the duty to ensure that an unseaworthy vessel does not leave port and the failure to properly man a vessel.

7.2, 7.3, 7.4, 7.5, 7.7 and 7.8

The Maritime Occupational Safety Regulations, 1994, the Crew Accommodation Regulations, 1961 and the Merchant Shipping (Safe Manning Regulations) were passed in terms of the Merchant Shipping Act, 57 of 1951. These are available at www.mcm-leaf.gov.za. Marine Notice No 26 of 2004 is also available at the website.

7.9

Compliance with the Compensation for Occupational Injuries and Diseases Act 130 of 1993 means compliance with Sections 80 to 88 of the Act which provides as follows:

"Obligations of employers to register with commissioner and to furnish him with particulars

- 1) An employer carrying on business in the Republic shall within the prescribed period and in the prescribed manner register with the commissioner, and shall furnish the commissioner with the prescribed particulars of his business, and shall within a period determined by the commissioner furnish such additional particulars as the commissioner may require.
- 2) The particulars referred to in subsection (1) shall be furnished separately in respect of each business carried on by the employer.
- 3) An employer shall within seven days of any change in the particulars so furnished notify the commissioner of such change.

Obligations of employers to keep record

An employer shall keep a register or other record of the earnings and other prescribed particulars of all the employees, and shall at all reasonable times produce such register or record or a microfilm or other microform reproduction thereof on demand to an authorized person referred to in section 7 for inspection.

Contributions by employers individually liable and mutual associations

Notwithstanding any provision to the contrary contained in this Act, the employers individually liable and the mutual associations shall pay annually to the Director-General in such manner and at such times as he may determine, such portion of the expenditure incurred by him in the administration of the provisions of this Act as he may deem equitable."

7.13

The Marine Pollution (Prevention of Pollution from Ships) Act 2 of 1986 and the Marine Pollution (Control and Civil Liability) Act 6 of 1981 are available at www.mcm-deat.gov.za.

SECTION 8: JOB CREATION**8.1.1 Note: if the applicant relies on the information of other entities, the authorised representative of that entity must attest to the declaration in section 16**

The aim of this section is to establish the number of jobs provided by the applicant, and the total amount spent on salaries over the duration of the experimental permit period, in this sector. The information must be used to determine the number of jobs provided per ton of fish allocated in the sector concerned (in section 8.1.3) and the amount spent on salaries per ton allocated in the sector concerned (in section 8.1.2). In order to determine the number of jobs and amounts spent on salaries per unit allocated in the sector concerned, applicants (or their holding or sister companies and JV partners) involved in industries other than the fishing industry may not take jobs provided or salaries spent in such industries into account, and applicants involved in other sectors of the fishing industry may not take jobs provided or salaries spent in those sectors into account.

Applicants involved in industries other than the fishing industry must submit (in the annexure) a breakdown of jobs provided and salary amounts spent in the fishing industry and in other industries. Only jobs provided or the amounts spent on salaries in the fishing industry may be taken into account when completing section 8.1.1. Applicants involved in other fishing sectors must submit (in the annexure) a breakdown of jobs provided and amounts spent on salaries on a per sector basis. Only jobs provided and amounts spent on salaries in this sector may be taken into account when completing section 8.1.1. As it is difficult to accurately determine the exact number of employees and salaries spent on a per sector basis, a rough estimate or division will suffice, provided that the same apportionment is used in any other application made by the applicant.

If the applicant is involved in a Joint Venture ("JV") together with another company or close corporation, or if the Applicant is more than 50% owned by another company or close corporation (determined in the manner specified in section 6.7.1), then all the jobs provided or amounts spent on salaries by the JV partners or the group (i.e. the applicant, the holding entity and sister companies) may be taken into account, provided that the same principles set out above are applied. In other words, JV's and groups involved in other industries or fishing sectors may not take into account jobs provided or amounts spent on salaries in other industries or sectors. Only jobs provided or amounts spent on salaries in the sector concerned by the JV or group may be taken into account when completing section 8.1.1. If applicable, a breakdown of jobs provided and amounts spent on salaries in the fishing industry and other industries or a breakdown of jobs provided and amounts spent on salaries in the sector concerned or other sectors must be provided in the annexure. A rough estimate or division will suffice, provided that the JV or group uses the same apportionment in any other application for a fishing right made by the applicant or any member of the JV or the group. There may be no double claiming of jobs. In other words, the number of jobs claimed in all applications made by members of the JV or group may not amount to more than the total number of jobs provided by the JV or group.

8.1.2 and 8.1.3:

These sections require applicants to furnish details regarding jobs provided and salaries per ton allocated on the basis of the information provided in section 8.1.1 above.

Example

Annual Catch Allocation (in tons) to the applicant in this fishery in 2004	Total Annual Salary Bill (in relation to this fishery) 2004 Financial Year End as per Table 8.1.1	How much does the applicant spend on wages/salaries per ton allocated?
5 000	R1 000 000	R200

Divide the Total Annual Wage/Salaries Bill (1 000 000) by the TAC Allocated (5000) = R200 per ton.

Example

TAC Allocated in 2005 (in tons)	Total Employees (in relation to this fishery) (28 February 2005)	How many people does the applicant employ per ton allocated?
5 000	1 000	0.2

Divide the total number of employees provided in this fishery (1000), by the TAC allocated to the applicant (5000) [1000/5000=0.2]

8.1.4 Note: do not complete shaded areas and if the applicant relies on information of other entities the authorised representative of that entity must attest to the declaration in section 16

If applicable, this section must be answered with reference to the merged data of all the entities in a group or a Joint Venture.

SECTION 9: INVESTMENT

9.1.1 and 9.1.2

Note: do not complete shaded areas and if the applicant relies on information of other entities the authorised representative of that entity must attest to the declaration in section 16

The aim of this section is to establish the rand value of harbour and sea-based assets of the applicant in the sector applied for. This will be used to determine the value of harbour and sea-based assets per ton of fish allocated in the sector concerned (in sections 9.1.3 and 9.1.4). In order to determine the value of assets per unit allocated in the sector concerned, applicants (or their holding or sister companies and JV partners) involved in industries other than the fishing industry may not take assets used in other industries into account.

Applicants involved in industries other than the fishing industry must provide a breakdown of assets used in the fishing industry and in other industries in the relevant annexure (separately for book and insured values). Only assets used in the fishing industry may be taken into account when completing sections 9.1.1 and 9.1.2. Applicants involved in other fishing sectors must provide a breakdown of assets used on a per sector basis in the relevant annexure (separately for book and insured values). Only assets used in the sector applied for may be taken into account when completing sections 9.1.1 and 9.1.2. As it is difficult to accurately apportion assets on a per sector basis, a rough estimate or division will suffice, provided that the same apportionment is used in any other application for a commercial fishing right made by the applicant during the long term rights allocation process.

If the applicant is involved with other entities in the form of a Joint Venture ("JV"), or if the applicant is more than 50% owned by another company or close corporation (determined as specified in section 6.7.1 above), then all the assets used by the JV partners or group (ie the applicant, the holding company and sister companies) may be taken into account, provided that the same principles set out above are applied. In other words, JVs and groups involved in other industries or fishing sectors may not take into account assets used in other industries or sectors. Only assets used in the sector concerned by the JV or group may be taken into account when completing sections 9.1.1 and 9.1.2. If applicable, a breakdown of assets used in the fishing industry or other industries or a breakdown of assets used in the sector concerned and other sectors must be provided in the relevant annexure (separately for book and insured values). A rough estimate or division will suffice, provided that the JV or group uses the same apportionment in any other application for a commercial fishing right made by the applicant, a member of the group or the JV. There may be no double claiming of assets. In other words, the value of assets claimed in all applications made by members of the JV or group may not amount to more than the total value of the assets used by members of the JV or group in the fishing industry.

9.1.3:

This question requires the applicant to provide information regarding the value of investment per ton allocated. The information provided in section 9.1.1. must be used.

Example

Company X was allocated a TAC of 5000 tons. The value of its harbour and sea-based assets at financial year end 2004 in the applicable sector was R5 000 000. The value of land based assets were R 4000 000. The value of harbour and sea-based assets per ton allocated to it is calculated as follows:

Annual Catch Allocation (in tons) to the applicant in 2004	Book Value (in rands) of harbour and sea-based assets at 2004 financial year end	Book Value (in rands) of land based assets at 2004 financial year end	Book Value of Harbour and Sea-based Assets per ton allocated to the applicant	Book Value of Land-Based Assets per ton allocated to the applicant
5 000	R5 000 000.00	R4 000 000	R1 000,00	R800,00
Divide the value of harbour and sea based assets (5 000 000) by the TAC allocated to the applicant in 2004 (5000) (5 000 000/5 000=R1 000)		Divide the total value of land based assets (4 000 000) by the TAC allocated to the applicant in 2004 (5000) (4 000 000/5 000=R800)		

SECTION 10: LOCAL ECONOMIC DEVELOPMENT

This section requires the applicant to provide information regarding the landing of catches at harbours/landing sites (in relation to this fishery) in 2004, and intentions regarding the landing of catches. Use nominal tons (not weight after the fish has been headed and gutted etc).

10.1:

This question requires the applicant to provide detailed information regarding harbours where it landed catches in 2004.

Example

Company X lands fish at various different harbours. Of its allocation of 20 tons it lands 5 tons in Mossel Bay, 10 tons in Port Elizabeth and 5 tons in Cape Town.

The calculation should be done as follows:

Harbour / Landing Site Name	Tons Landed at Harbour in 2004	Rand Value of Catch landed at Harbour in 2004	Percentage of Total Catch landed in 2004
Mossel Bay	5	R100 000	25 %
Port Elizabeth	10	R100 000	50 %
Cape Town	5	R150 000	25 %

Divide the catch (in this fishery) landed at each harbour by the total catch landed by the applicant and multiply by 100 to calculate this percentage (5/20 x 100 = 25%)

SECTION 11: FINANCIAL PERFORMANCE

12.1 Note: if the applicant relies on the information of other entities, the authorised representative of that entity must attest to the declaration in section 16

The same principle as explained in sections 8.1.1 and 9.1.1 must be used. The aim of this section is to establish turnover of the applicant for the sector applied for. Applicants involved in industries other than the fishing industry may not take turnover generated in such other industries into account. More specifically, applicants involved in industries other than the fishing industry must provide breakdown of turnover in the fishing industry and in other industries in the annexure. Only turnover in the sector of fishing industry concerned may be taken into account when completing the second column of section 11.2. Applicants involved in other fishing sectors must provide a breakdown of turnover on a per sector basis in the annexure. Only turnover generated in the sector concerned may be taken into account when completing the second column of section 11.2. As it is difficult to accurately apportion turnover on a per sector basis, a rough estimate or division will suffice, provided that the same apportionment is used in any other application made by the applicant. In other words, the same breakdown must be provided by the applicant in applications for commercial rights in other sectors.

If the applicant is involved with other entities in the form of a Joint Venture ("JV"), or if the applicant is more than 50% owned by another company or close corporation (determined as specified in section 6.7.1 above), then the total turnover generated by the JV partners or group (ie the applicant, the holding company and sister companies) may be taken into account, provided that the same principles set out above are applied. In other words, JVs and groups involved in other industries or fishing sectors may not take into account turnover generated in other industries or sectors. Only turnover generated in the sector concerned by the JV or group may be taken into account. If applicable, a breakdown of turnover generated in the fishing industry and other industries or a breakdown of turnover generated in the sector concerned and other sectors must be provided in the relevant annexure. A rough estimate or division will suffice, provided that the JV or group uses the same apportionment in any other application for a commercial fishing right made by the applicant, a member of the group or the JV. There may be no double claiming of turnover. In other words, the turnover claimed in all applications made by members of the JV or group may not amount to more than the total turnover by members of the JV or group in the fishing industry. **The financial statements of all members of the JV or group must be provided in the relevant annexure.**

11.2 Note: if the applicant relies on the information of other entities, the authorised representative of that entity must attest to the declaration in section 16

The applicant is required to specify the percentage of its total turnover derived from the fishery applied for. In the second column the applicant must enter the figure determined in section 12.1 above. In the third column, the applicant must use the total turnover of the applicant (or, if applicable, the group or JV), including turnover generated outside the fishing industry, in order to determine the percentage.

11.3

This section requires applicants to provide financial performance ratios. If applicable, the merged information of the group or JV partners must be supplied (all sectors and industries involved in). These should be calculated as follows:

Return on Net Assets

$$\text{RONA} = \frac{\text{Operating Profit}}{\text{Sales}} = \text{Operating Profit} \times \frac{1}{\text{Sales}}$$

Net Operating Assets	Sales	Net Operating Assets
Debt: Equity Ratio: $\frac{\text{Debt}}{\text{Equity}}$		
Current Ratio: $\frac{\text{Current Assets}}{\text{Current Liabilities}}$		
Acid Test: $\frac{\text{Current Assets} - \text{Inventory}}{\text{Current Liabilities}}$		
11.4, 11.5 and 11.6 These questions require the applicant to provide information from its audited or verified financial statements. If applicable, the merged information of the group or JV partners must be supplied (all sectors and industries involved in).		
SECTION 12: FISHING PLAN		
This section requires the applicant to provide information regarding its fishing plan.		
SECTION 13: BY-CATCH AND ENVIRONMENTALLY SUSTAINABLE PRACTICES		
This section requires the applicant to provide information regarding by-catches and environmentally sustainable practices.		
<i>Explanatory Notes to the application forms for: Experimental Permit Holders</i>		

EXPLANATORY NOTES – MEDIUM TERM RIGHTS HOLDERS SOUTH COAST ROCK LOBSTER

THE PURPOSE OF THE EXPLANATORY NOTES IS TO ASSIST APPLICANTS IN COMPLETING A NUMBER OF SECTIONS IN THE APPLICATION FORM. SOME SECTIONS ARE CONSIDERED TO BE SELF-MATORY AND ARE NOT COVERED IN THESE EXPLANATORY NOTES.

The MLRA is the Marine Living Resources Act 18 of 1998. A copy is available on the Department's website www.mcm-deat.gov.za.

SECTION 1: APPLICANT DETAILS

Sections 1.1 to 1.7 must be completed by all applicants. The applicant was required to provide the details required by sections 1.8.1 to 1.8.7d when it registered for an application form at www.mcm-deat.gov.za. These sections need only be completed if the applicant's details have changed since registration.

SECTION 2: FORM OF APPLICANT

2.1, 2.2 and 2.3

The aim is to determine whether the applicant should be treated as a potential new entrant or as a medium term right holder. The delegated authority will recognise as medium term right holders only those entities that were recipients of medium term rights in 2001/2002 in the fishery now applied for or the sole successors of those entities.

If the applicant is the same entity as the one specified in 2.2 (the recipient of the medium term right in 2001/2002) and in 2.3 (the current medium term right holder), the applicant obviously qualifies to be treated as a medium term right holder. In some instances, however, the right allocated in 2001/2002 may have been transferred, or the right may have been allocated to a trust or a natural person with the result that application must now be made in the form of a close corporation or a company. In these and all other instances where the applicant and the entity in 2.2 and 2.3 is not the same entity, the applicant must demonstrate that it is the sole successor of the entity that received the right in 2001/2002, in order to qualify as a medium term right holder. The delegated authority will not recognise more than one entity as the successor to the entity that received the right in 2001/2002.

2.4

In terms of section 18 of the MLRA, commercial fishing rights may only be granted to a South African person, which is a term defined in section 1 of the Act. The aim of this section is to determine whether the applicant meets the requirements of this definition. In the case of a company or a close corporation, the majority of the shareholders or members must be South African persons.

2.7, 2.8

In terms of paragraph 7.5 of the General Policy, a medium term right holder applicant may not hold shares in a potential new entrant applicant in the same sector. The aim of this section is to determine whether this requirement is adhered to and to establish shareholder linkages between various medium term right holder applicants.

SECTION 3: COMPLIANCE

3.1.1, 3.1.2 3.1.3 and 3.1.4 Note: a "yes" answer will be presumed if the applicant fails to answer the question

In terms of the General policy and the applicable Fishery specific policies, various consequences may be attached to contraventions of the MLRA, the regulations or permit conditions, including the exclusion of the applicant and negative scoring. The aim of this section is to determine whether the applicant has been convicted of any such contravention and to assess the seriousness of the contravention.

3.2 Note: a "yes" answer will be presumed if the applicant fails to answer the question

Applicants must answer "yes" to the question, even if the asset detained, arrested or seized in terms of the MLRA or restrained or preserved in terms of the Prevention of Organised Crime Act, was later released. The circumstances surrounding the detention, arrest, seizure or restraint or preservation order and the outcome of the process, i.e. whether the asset was confiscated or forfeited to the State, must be dealt with in the annexure.

3.3 Note: a "yes" answer will be presumed if the applicant fails to answer the question

Applicants must answer "yes" to the question only if the applicant's right or permit in this fishery has been revoked, cancelled, reduced or altered under section 28(3) of the MLRA. The circumstances must be explained in the annexure.

SECTION 4: VESSEL DETAILS

This section requires the applicant to furnish the details of each vessel nominated by the applicant. If the requested details are not available, the reasons for this must be explained in the annexure.

SECTION 5: CATCH UTILISATION**5.1 Note: a "yes" answer will be presumed if the applicant fails to answer the question**

An applicant that has over- or under-caught its own allocation by more than 10% in any given year over the medium term right period must answer "yes" to this question. The reasons must be provided in the annexure.

5.2

This section requests details regarding the applicant's catch records during the medium term rights (2001–2005) period. Applicants must not answer the question with reference to the Department's catch records. In the second column, the annual catch allocation for the three years must be completed and in the third column the actual catch must be specified in tons (nominal weight must be specified, and not landed weight or weight after the fish was headed and gutted etc). If a permit was not issued to the applicant for any year, the applicant must indicate 100% under-caught.

Example

Year	Annual Catch Allocation (in tons)	Total Caught of Applicant's allocation (tons)	Percentage under-caught	Percentage over-caught
2003 season	1 000	1 100	0%	10%

Actual tonnage caught (1 100 tons) minus total allowable catch allocated (1 000 tons) = 100. To establish the percentage, divide the difference by the TAC allocated and multiply it by 100, i.e. $(100/1000) \times 100 = 10\%$.

SECTION 6: TRANSFORMATION**6.1 and 6.2.1**

The aim of these sections is to determine whether the applicant is required to comply with the Employment Equity Act. If required to comply, the next question is whether the applicant has fulfilled its duties under the Act. For purposes of answering these sections, only the applicant's data (and not the data of its holding company or JV partners) must be taken into consideration.

"Designated" employers are required to comply with the Act. A designated employer, in terms of section 1 of the Employment Equity Act is:

- a) an employer who employs 50 or more employee;
- b) an employer who employs fewer than 50 employees, but has a total annual turnover that is equal to or above the applicable annual turnover of a small business in terms of Schedule 4 of this Act [which is R2 million per annum]; or
- c) ...
- d) ...
- e) an employer bound by a collective agreement in terms of section 23 or 31 of the Labour Relations Act, which appoints it as a designated employer in terms of this Act, to the extent provided for in the agreement;

In terms of section 13 of the Employment Equity Act, the duties of designated employers are as follows:

- 1) Every designated employer must, in order to achieve employment equity, implement affirmative action measures for people from designated groups in terms of this Act.
- 2) A designated employer must-
 - a) consult with its employees as required by section 16;
 - b) conduct an analysis as required by section 19;
 - c) prepare an employment equity plan as required by section 20; and
 - d) report to the Director-General on progress made in implementing its employment equity plan, as required by section 21.

6.3.1 Note: if the applicant is required to provide information of other entities the authorised representative of the other entity must attest to the declaration in section 16

The aim of this section is to determine the composition of the management of the applicant. If the applicant is more than 50% owned by another company or close corporation (determined as specified in section 6.7.1 below) then the details of the board of directors/members of both the applicant and the holding entity must be provided in the annexure and the table must be completed by submitting the merged details of the boards of directors/ members of both entities. If the applicant is involved in a Joint Venture ("JV") together with another company or close corporation, then details of the boards of directors or members of all the JV partners must be provided in the annexure and the table must be completed by submitting the merged details of the boards of directors / members of all the JV partners.

6.3.2 Note: if the applicant is required to provide information of other entities the authorised representative of the other entity must attest to the declaration in section 16

This section requires the applicant to provide details regarding employees that earn the highest salaries (calculated on a total cost to company basis). This information will be treated as confidential and may be submitted separately in the sealed envelope.

As in section 6.3.1 above, if the Applicant is more than 50% owned by another company or close corporation (determined as specified in section 6.7.1 below) then details of the highest salary earners of both the applicant and the holding entity must be provided in the annexure and the table must be completed by submitting the merged details of the highest salary earners of both entities. If the Applicant is involved in a Joint Venture ("JV") together with another company or close corporation, then details of the highest salary earners of all the JV partners must be provided in the annexure and the table must be completed by submitting the merged details of all the JV partners.

Total cost to company includes benefits and bonuses, but excludes dividends. Applicants that employ 165 or fewer employees must provide the details of their top salary earners as indicated in the table in the application form. Applicants that employ more than 165 people must first determine the top 3% and then provide details of those employees (up to a maximum of 90). Designation or actual title held by the employee, as indicated on the organogram or organizational structure, must be provided.

Example: If the applicant employs 2500 people, the applicant determines the top 3% by multiplying this number by 0.03 (2500 x 0.03 = 75). The applicant must then provide the details of those 75 employees. The applicant must not provide the details of more than 90 employees, regardless of the number of employees the applicant has in the top 3%.

If applicable, the number of employees of holding entities or JV partners must be added to the number of employees of the applicant, as set out in the example below.

Example: If the applicant employs 75 people, and the holding entity employs 125 people, the two entities combined employ 200 people. The applicant must determine the top 3%: 200 x 0.03 = 6. The details of the two entities should be merged, and the details of the top six salary earners of the merged list should be entered in the table at 6.3.2.

6.4.1 Note: if the applicant is required to provide information of other entities the authorised representative of the other entity must attest to the declaration in section 16

This section requires the applicant to provide details of income levels within the organization at 28 February 2005.

As in sections 6.3.1 and 6.3.2 above, if the applicant is involved in a Joint Venture ("JV") together with another company or close corporation, then the salary levels of all the JV partners must be provided in the annexure and the table must be completed by submitting the merged details of all the JV partners. If the Applicant is more than 50% owned by another company or close corporation (determined as specified in section 6.7.1 below) then the salary levels of the holding entity, the Applicant and any sister companies also more than 50% owned by the holding entity must be provided in the annexure and the table must be completed by submitting the merged details of the group (applicant, holding entity and sister company) of companies.

Example

1	Monthly Income	Number of employees in this level (total of Group or JV, if applicable)	Percentage of Total Employees	Number of Black Employees in this level (total of Group or JV, if applicable)	Percentage of Total Black Employees	Number of Female Employees in this level (total of Group or JV, if applicable)
	< R 2 500	100	80%	80	90 %	70

Divide the employees in this income level by the total number of employees, and multiply by 100

Divide the number of black employees in this income level by the total number of black employees, and multiply by 100

6.5 Note: if the Applicant relies on information of other entities the authorised representative of the entity must attest to the declaration in section 16

This question requires the applicant to complete the employment equity profile of *the* applicant in respect of occupational level. Designated employers and employers that comply voluntarily with the Employment Equity Act should complete the table with the figures submitted in October 2004 to the Department of Labour. Employers that are not designated should complete the table with reference to its employees at 28 February 2005 and having regard to the definitions of the occupational levels set out in annexure 2 of the Regulations to the Employment Equity Act. Annexure 2 provides as follows:

Employment Equity Act 55, 1998

WHAT IS THE PURPOSE OF THIS ANNEXURE?

Job evaluation or grading systems are used by many organisations to measure jobs according to their content and establish comparative worth between jobs.

This annexure provides a table of equivalent occupational levels which may be used by employers when completing forms EEA 2 and EEA 4.

INSTRUCTIONS

The table [below] indicates the occupational levels within organisations as determined through the use of different job evaluation or grading systems. The table provides equivalent levels from each of these job evaluation systems.

Organisations that make use of neither one of the job evaluation systems [in the table below], nor a customised system linked to one of these, should use the Semantic Scale for guidance in determining occupational levels within that organisation.

Equivalent occupational levels

Semantic Scale	Paterson		Peromnes	Hay	Castellion
Top Management	F	F	[++ 1+		14
Senior Management	E	E UPPER E LOWER	1 2 3	1 2	13
Professionally qualified, experienced specialists and mid-management	D	D UPPER D LOWER	4 5 6	3 4	12 11 13
Skilled technical and academically qualified workers, junior management, supervisors, foremen, superintendents	C	C UPPER C LOWER	7 8 9 10 11 12	5 6 6A 7 8	9 8
Semi-skilled and discretionary decision making	B	B UPPER B LOWER	13 14 15 16	9 10 11	7 6 5 4
Unskilled and defined decisionmaking	A	A	17 18 19	12 13	3 2 1

As in section 6.4.1 above, if the applicant operates in a Joint Venture ("JV") together with another company or close corporation then the occupational levels of all the JV partners must be provided in the annexure and the table must be completed by submitting the merged details of all the JV partners. If the applicant is more than 50% owned by another company or close corporation (determined as specified in section 6.7.1 below) then the occupational levels of the holding entity, the Applicant and any sister companies also more than 50% owned by the holding entity must be provided in the annexure and the table must be completed by submitting the merged details of the group (applicant, holder entity and sister company) of companies.

Example

If Company A is a designated employer, the data submitted in the October 2004 EEA 2A form should be completed in the table. If Company A is not a designated employer, the occupational levels of employees should be determined in the manner set out above as at 28 February 2005 and the table completed with this data.

Once the number of employees per level is determined, the percentages are to be worked out. For example, Company A employs seven senior officials and managers. Of the seven employees in the occupational category, 1 is an African male, 2 are coloured males, 2 are white males, 1 is an Indian female and 1 is a white female. In order to determine the percentages take the number of employees from each designated group in the occupation level and divide it by the total number of employees in the occupational level and multiply by 100.

A = African, C = Coloured, I = Indian, W = White, F = Female and ACI = African, Coloured and Indian

Occupational Categories										Totals	
		A No.	A %	C No.	C %	I No.	I %	W No.	W %	ACI%	F%
Senior Officials and Managers (Total of JV or Group, if applicable)	Male	1	14%	2	28%	0	0%	2	28%	42%	
	Female	0	0%	0	0%	1	14%	1	15%		29%

6.6.1 Note: if the applicant is required to provide information of other entities the authorized representative of the other entity must attest to the declaration in section 16

All applicants must provide the figures relating to top and senior management / senior officials provided in their 2001 application forms. Designated employers or employers that comply voluntarily must then complete the rest of the table with the figures submitted in the 2002 and 2004 EEA 2A reports. Employers that are not designated and that do not voluntarily comply must complete the tables with reference to employment statistics at the financial year ends 2002 and 2004. In respect of groups and JVs the instruction set out in section 6.5 also applies to the completion of this section.

5.6.2 Note: if the applicant is required to provide information of other entities the authorised representative of the other entity must attest to the declaration in section 16

All applicants must provide the figures relating to professionally qualified and experienced specialists and mid-management provided in their 2001 application forms. Designated employers or employers that comply voluntarily must then complete the rest of the table with the figures submitted in the 2002 and 2004 EEA 2A reports. Employers that are not designated and that do not voluntarily comply must complete the tables with reference to employment statistics at the financial year ends 2002 and 2004. In respect of groups and JVs the instruction set out in section 6.5 also applies to the completion of this section.

6.7.1 Note: do not complete the shaded areas of the table

This section requires applicants to provide details regarding the shareholding held by black persons and the unrestricted voting rights and economic interest (in the form of entitlement to dividends) attached to black shareholding in the Applicant (not the holding entity, group or JV partners unless this information is relevant for purposes of applying the flow-through principle). The chairperson of the board of directors of the applicant must submit an affidavit regarding the shareholding, the voting rights and the economic interest held by blacks in the applicant in the relevant annexure. In determining the percentage black shareholding, voting rights and economic interest, the flow through principle must be used, provided that:

- pension funds and organs of state are to be regarded as neutral and the percentage black shareholding should be calculated without reference to shares held by such entities;
- if the percentage black shareholding, voting rights or economic interest of a particular shareholder cannot be determined, detailed reasons must be provided;
- for purposes of determining voting rights, a shareholder is to be regarded as 100% black if that shareholder is owned more than 50% by a natural person who is black; and
- the percentage "shareholding", "economic interest" and "voting rights" of black persons in a trust must be determined with reference to the rights of beneficiaries in terms of the trust deed.

The flow through principle is defined as: "Flow-through principle" refers to the backing of economic benefits when determining a score for BEE ownership. Entities are scored on the entitlement of black people to exercise voting rights and to participate in the economic interest of the enterprise. The purpose of the flow-through principle is to ensure that all companies, regardless of their structure, are scored uniformly with respect to their BEE ownership. The flow-through principle states that only voting rights and economic interest to which black people who are natural persons are entitled, are taken into account. Should entitlement to voting rights and/or economic interest be held by juristic persons, only voting rights and economic interest to which black natural persons are

entitled in that juristic person will be taken into account. The same principle is applied consistently throughout the chain of ownership with respect to juristic persons until such time as that chain terminates in the entitlement of the natural person, who is a black person, to such voting rights and/or economic interest."

"Indirect ownership" means ownership of an equity interest in an enterprise where such equity interest entitles the holders to participate in the economic interest (such as dividends) flowing to the shareholders of that enterprise, but not directly in the voting rights of that enterprise. Voting rights can be exercised indirectly through a conduit such as a trust or a superannuation scheme.

Indirect ownership must be taken into account for purposes of measuring the percentage black shareholding and, if applicable, the percentage economic interest and voting rights held a black person in the applicant. If **no** voting rights are attached to indirectly owned equity, then black ownership of such equity may not be taken into account when determining black voting rights. However, where the voting rights are merely exercised indirectly (through a conduit), black ownership of the equity must be taken into account when determining black voting rights.

Example: The applicant has four shareholders. One of these shareholders is a natural person named AA, who is black and owns 10% of the economic interest and voting rights. Two of the other shareholders are companies and the third is a pension fund. Company A holds 30% of the shares and is 51% owned by a black person and 49% by a white person. Company B holds 40% of the shares and is 40% owned by a natural person who is white and 60% owned by company Z, that is in turn 80% owned by a white person and 20% by a black person. The Pension Fund holds the remaining 20% of the issued shares. The percentage black shareholding, voting rights and economic interest is as follows:

Year 2005 (at date of application)	Percentage Shareholding held by black persons	Percentage voting rights held by black shareholders	Percentage economic interest held by black shareholders (entitlement to dividends)
	37.625	56	37.625

AA contributes 12.5% ($10/80$) to all three categories, Company A contributes 19.125% ($30/80 \times 51/100$) to shareholding and economic interest and 37.5% ($30/80 \times 100$) to voting rights, Company B contributes 6% ($40/80 \times 60/100 \times 20/100$) to all three categories and the pension fund is disregarded.

6.7.2

The shareholding, voting rights and economic interest of women are calculated in the same manner as described under section 5.7.1 above. Again, the section must be answered with reference to the data of the applicant alone. The information relating to holdings entities, sister companies and JV partners may not be taken into account unless these entities hold equity in the applicant and this information must be taken into account when applying the flow-through principle.

5.7.3, 6.7.4, 6.7.5, 6.7.6 and 6.7.7

These sections must be answered with reference to the data of the applicant alone. Information relating to holding entities, sister companies and JV partners may not be taken into account.

5.8.1, 6.8.2, 6.8.3, 6.8.4, 6.8.5, 6.8.6 and 6.8.7 Note: do not complete shaded areas of the form

These sections must be answered with reference to the data of the applicant alone. Information relating to JV partners may not be taken into account. The flow-through principle obviously has no application to close corporations. The percentage voting rights and profit distribution must be determined with reference to the membership agreement of the close corporation. If no such agreement exist or the agreement is silent on the issue, then voting rights and economic interest must be taken to be the same as the percentage membership interest.

5.9

This question requires the applicant to provide information on the extent to which it has achieved the targets set in the Transformation Plan submitted as part of the 2001 application process. The section must be answered with reference to the data of the applicant alone. The information relating to holdings entities, sister companies and JV partners may not be taken into account.

6.10 Note: if the Applicant relies on information of other entities the authorised representative of that entity must attest to the declaration in section 16

This section requires the applicant to provide information relating to compliance with section 3 of the Skills Development Levies Act of 1999. The questions in the first two columns (the submission/approval of a Workplace Skills Plan and an Annual Training Report) must be answered with reference to the data of the applicant alone. In respect of the last three columns (rand amount paid to SARS, percentage salaries bill spent on training and percentage of training budget spent on black employees), if the

applicant operates in a Joint Venture ("JV") together with another company or close corporation, then the salary bills of all the JV partners must be provided in the annexure and the table must be completed by submitting the merged details of all the JV partners. If the Applicant is more than 50% owned by another company or close corporation (determined as specified in section 6.7.1 above) then the salary bills of the holding entity, the Applicant and any sister companies also more than 50% owned by the holding entity must be provided in the annexure and the table must be completed by submitting the merged details of the group (holding entity applicant and sister companies) of companies.

To determine the 'percentage of payroll spent on training' divide the actual annual amount spent on training by the total annual payroll cost and multiply the result by 100 to determine the percentage value.

Example

Company X has an annual salary bill cost of R 1 000 000,00. The company has spent R 10 000,00 on training for all employees. $(R10\,000,00/R1\,000\,000) = 0,001 \times 100 = 1\%$.

6.11 Note: if the Applicant relies on information of other entities the authorised representative of that entity must attest to the declaration in section 16

This question requires the applicant to indicate whether it participated in a learnership programme in 2004. Participation in a learnership programme means that the applicant has registered a learnership agreement with the SETA as per the Regulation! Concerning the Registration of Intended Learnerships and Learnership Agreements published under the Skills Development Act 97 of 1998 in Government Notice No. R. 330 of 3 April 2001. If applicable, the questions in these sections must be answered with reference to the merged data of all the entities in a group or a JV.

6.12, 6.13, 6.14.1, 6.14.2, 6.15, 6.16, 6.17, 6.18, 6.19, 6.20, 6.21, 6.22, 6.23 and 6.24

Note: if the Applicant relies on information of other entities the authorised representative of that entity must attest to the declaration in section 16

If applicable, the questions in these sections must be answered with reference to the merged data of all the entities in a group or a JV. The percentage black ownership, referred to in section 6.22, must be calculated as described above in section 6.7.1.

SECTION 7: SAFETY

This section requires the applicant to provide information that relates to safety, including the requirements of the South African Maritime Safety Authority.

7.1

Sections 312 and 313 of the Merchant Shipping Act, 57 of 1951 creates certain offences including the failure to comply with a duty under the Act such as the duty to ensure that an unseaworthy vessel does not leave port and the failure to properly man a vessel.

7.2, 7.3, 7.4, 7.5, 7.7 and 7.8

The Maritime Occupational Safety Regulations, 1994, the Crew Accommodation Regulations, 1961 and the Merchant Shipping (Safe Manning Regulations) were passed in terms of the Merchant Shipping Act, 57 of 1951. These are available at www.mcm-deat.gov.za. Marine Notice No 26 of 2004 is also available at the website.

7.9

Compliance with the Compensation for Occupational Injuries and Diseases Act 130 of 1993 means compliance with Sections 80 to 88 of the Act which provides as follows:

"Obligations of employers to register with commissioner and to furnish him with particulars"

- 1) An employer carrying on business in the Republic shall within the prescribed period and in the prescribed manner register with the commissioner, and shall furnish the commissioner with the prescribed particulars of his business, and shall within a period determined by the commissioner furnish such additional particulars as the commissioner may require.
- 2) The particulars referred to in subsection (1) shall be furnished separately in respect of each business carried on by the employer.
- 3) An employer shall within seven days of any change in the particulars so furnished notify the commissioner of such change.

Obligations of employers to keep record

An employer shall keep a register or other record of the earnings and other prescribed particulars of all the employees, and shall at all reasonable times produce such register or record or a microfilm or other microform reproduction thereof on demand to an authorized person referred to in section 7 for inspection.

Contributions by employers individually liable and mutual associations

Notwithstanding any provision to the contrary contained in this Act, the employers individually liable and the mutual associations shall pay annually to the Director-General in such manner and at such times as he may determine, such portion of the expenditure incurred by him in the administration of the provisions of this Act as he may deem equitable."

17.13

The Marine Pollution (Prevention of Pollution from Ships) Act 2 of 1986 and the Marine Pollution (Control and Civil Liability) Act 6 of 1981 are available at www.mcm-deat.gov.za.

SECTION 8: JOB CREATION

The aim of this section is to establish the number of jobs provided by the applicant, and the total amount spent on salaries over the medium term right period, in the sector applied for. The information must be used to determine the number of jobs provided per ton of fish allocated in the sector concerned (in section 8.1.3) and the amount spent on salaries per ton allocated in the sector concerned (in section 8.1.2). In order to determine the number of jobs and amounts spent on salaries per unit allocated in the sector concerned, applicants (or their holding or sister companies and JV partners) involved in industries other than the fishing industry may not take jobs provided or salaries spent in such industries into account, and applicants involved in other sectors of the fishing industry may not take jobs provided or salaries spent in those sectors into account.

Applicants involved in industries other than the fishing industry must submit (in the annexure) a breakdown of jobs provided and salary amounts spent in the fishing industry and in other industries. Only jobs provided or the amounts spent on salaries in the fishing industry may be taken into account when completing section 8.1.1. Applicants involved in other fishing sectors must submit (in the annexure) a breakdown of jobs provided and amounts spent on salaries on a per sector basis. Only jobs provided and amounts spent on salaries in this sector may be taken into account when completing section 8.1.1. As it is difficult to accurately determine the exact number of employees and salaries spent on a per sector basis, a rough estimate or division will suffice provided that the same apportionment is used in any other application made by the applicant.

If the applicant is involved in a Joint Venture ("JV") together with another company or close corporation, or if the Applicant is more than 50% owned by another company or close corporation (determined in the manner specified in section 6.7.1), then all the jobs provided or amounts spent on salaries by the JV partners or the group (i.e. the applicant, the holding entity and sister companies) may be taken into account, provided that the same principles set out above are applied. In other words, JVs and groups involved in other industries or fishing sectors may not take into account jobs provided or amounts spent on salaries in other industries or sectors. Only jobs provided or amounts spent on salaries in the sector concerned by the JV or group may be taken into account when completing section 8.1.1. If applicable, a breakdown of jobs provided and amounts spent on salaries in the fishing industry and other industries or a breakdown of jobs provided and amounts spent on salaries in the sector concerned or other sectors must be provided in the annexure. A rough estimate or division will suffice, provided that the JV or group uses the same apportionment in any other application for a fishing right made by the applicant or any member of the JV or the group. There may be no doubt claiming of jobs. In other words, the number of jobs claimed in all applications made by members of the JV or group may not amount to more than the total number of jobs provided by the JV or group.

These sections requires applicants to furnish details regarding jobs provided and salaries per ton allocated on the basis of the information provided in section 8.1.1 above.

Example

Annual Catch Allocation (in tons) to the applicant in this fishery in 2004	Total Annual Salary Bill (in relation to this fishery) 2004 Financial Year End as per Table 8.1.1	How much does the applicant spend on wages/salaries per ton allocated?
5 000	R1 000 000	R200

Divide the Total Annual Wage/Salaries Bill (1 000 000) by the TAC Allocated (5000) = R200 per ton.

Example

TAC Allocated in 2005 (in tons)	Total Employees (in relation to this fishery) (28 February 2005)	How many people does the applicant employ per ton allocated?
5 000	1 000	0.2

Divide the total number of employees provided in this fishery (1000), by the TAC allocated to the applicant (5000) [1000/5000=0.2]

8.14 **Note: do not complete shaded areas and if the applicant relies on information of other entities the authorised representative of that entity must attest to the declaration in section 16**

If applicable, this section must be answered with reference to the merged data of all the entities in a group or a Joint Venture.

SECTION 9: INVESTMENT

9.1.1 and 9.1.2

Note: do not complete shaded areas and if the applicant relies on information of other entities the authorised representative of that entity must attest to the declaration in section 16

The aim of this section is to establish the rand value of harbour and sea-based assets of the applicant in the sector applied for. This will be used to determine the value of harbour and sea-based assets per ton of fish allocated in the sector concerned (in sections 9.1.3 and 9.1.4). In order to determine the value of assets per unit allocated in the sector concerned, applicants (or their holding or sister companies and JV partners) involved in industries other than the fishing industry may not take assets used in other industries into account.

Applicants involved in industries other than the fishing industry must provide a breakdown of assets used in the fishing industry and in other industries in the relevant annexure (separately for book and insured values). Only assets used in the fishing industry may be taken into account when completing sections 9.1.1 and 9.1.2. Applicants involved in other fishing sectors must provide a breakdown of assets used on a per sector basis in the relevant annexure (separately for book and insured values). Only assets used in the sector applied for may be taken into account when completing sections 9.1.1 and 9.1.2. As it is difficult to accurately apportion assets on a per sector basis, a rough estimate or division will suffice, provided that the same apportionment is used in any other application for a commercial fishing right made by the applicant during the long term rights allocation process.

If the applicant is involved with other entities in the form of a Joint Venture ("JV"), or if the applicant is more than 50% owned by another company or close corporation (determined as specified in section 6.7.1 above), then all the assets used by the JV partners or group (ie the applicant, the holding company and sister companies) may be taken into account, provided that the same principles set out above are applied. In other words, JVs and groups involved in other industries or fishing sectors may not take into account assets used in other industries or sectors. Only assets used in the sector concerned by the JV or group may be taken into account when completing sections 9.1.1 and 9.1.2. If applicable, a breakdown of assets used in the fishing industry or other industries or a breakdown of assets used in the sector concerned and other sectors must be provided in the relevant annexure (separately for book and insured values). A rough estimate or division will suffice, provided that the JV or group uses the same apportionment in any other application for a commercial fishing right made by the applicant, a member of the group or the JV. There may be no double claiming of assets. In other words, the value of assets claimed in all applications made by members of the JV or group may not amount to more than the total value of the assets used by members of the JV or group in the fishing industry.

9.1.3:

This question requires the applicant to provide information regarding the value of investment per ton allocated. The information provided in section 9.1.1. must be used.

Example

Company X was allocated a TAC of 5000 tons. The value of its harbour and sea-based assets at financial year end 2004 in the applicable sector was R5 000 000. The value of land based assets were R 4000 000. The value of harbour and sea-based assets per ton allocated to it is calculated as follows:

Annual Catch Allocation (in tons) to the applicant in 2004	Book Value (in rands) of harbour and sea-based assets at 2004 financial year end	Book Value (in rands) of land based assets at 2004 financial year end	Book Value of Harbour and Sea-based Assets per ton allocated to the applicant	Book Value of Land-Based Assets per ton allocated to the applicant
5 000	R5 000 000.00	R4 000 000	R1 000,00	R800,00
Divide the value of harbour and sea based assets (5 000 000) by the TAC allocated to the applicant in 2004 (5000) (5 000 000/5 000=R1 000)		Divide the total value of land based assets (4 000 000) by the TAC allocated to the applicant in 2004 (5000) (4 000 000/5 000=R800)		

SECTION 10: LOCAL ECONOMIC DEVELOPMENT

This block requires the applicant to provide information regarding the landing of catches at various sites (in relation to this by in 200 and in the of catches. Use nominal weight after the fish has been headed and tailed etc).

10.1:

This question requires the applicant to provide detailed information regarding harbours where it landed catches in 2004.

Example

Company X lands fish at various different harbours. Of ~~the~~ allocation of 20 tons it lands 5 tons in Mossel Bay, 10 tons in Port Elizabeth and 5 tons in Cape Town.

The calculation should be done as follows:

Harbour / Landing Site Name	Tons Landed at Harbour in 2004	Rand Value of Catch landed at Harbour in 2004	Percentage of Total Catch landed in 2004
Mossel Bay	5	R100 000	25 %
Port Elizabeth	10	R100 000	50 %
Cape Town	5	R150 000	25 %

Divide the catch (in the fishery) landed at each harbour by the total catch landed by the applicant and multiply by 100 to calculate this percentage (5/20 x 100 = 25%)

SECTION 11: FINANCIAL PERFORMANCE

11.1 Note: If the applicant relies on the information of other entities, the authorised representative of that entity must attest to the declaration in section 16

The same principle as explained in sections 8.1.1 and 9.1.1 must be used. The aim of this section is to establish turnover of the applicant **for the sector applied for**. Applicants involved in industries other than the fishing industry **may not** take turnover generated in such other industries into account. More specifically, applicants involved in industries other than the fishing industry **must** provide a breakdown of turnover in the fishing industry and in other industries in the annexure. Only turnover in the sector of fishing industry concerned may be taken into account when completing the second column of section 11.2. Applicants involved in other fishing sectors must provide a breakdown of turnover on a per sector basis in the annexure. Only turnover generated in the sector concerned may be taken into account when completing the second column of section 11.2. As it is difficult to accurately apportion turnover on a per sector basis, a rough estimate or division will suffice, provided that the same apportionment is used in any other application made by the applicant. In other words, the same breakdown must be provided by the applicant in applications for commercial rights in other sectors.

If the applicant is involved with other entities in the form of a Joint Venture ("JV"), or if the applicant is more than 50% owned by another company or close corporation (determined as specified in section 6.7.1 above), then the total turnover generated by the JV partners or group (ie the applicant, the holding company and sister companies) may be taken into account, **provided that the same principles set out above are applied**. In other words, JVs and groups involved in other industries or fishing sectors may not take into account turnover generated in other industries or sectors. Only turnover generated in the sector concerned by the JV or group may be taken into account. If applicable, a breakdown of turnover generated in the fishing industry and other industries or a breakdown of turnover generated in the sector concerned and other sectors must be provided in the relevant annexure. A rough estimate or division will suffice, provided that the JV or group uses the same apportionment in any other application for a commercial fishing right made by the applicant, a member of the group or the JV. There may be no double claiming of turnover. In other words, the turnover claimed in all applications made by members of the JV or group **may not** amount to more than the total turnover by members of the JV or group in the fishing industry. The financial statements of all members of the JV or group must be provided in the relevant annexure.

11.2 Note: If the applicant relies on the information of other entities, the authorised representative of that entity must attest to the declaration in section 16

The applicant is required to specify the percentage of its total turnover derived from the fishery applied for. In the second column the applicant must enter the figure determined in section 11.1 above. In the third column, the applicant must use the total turnover of the applicant (or, if applicable, the group or JV), including turnover generated outside the fishing industry, in order to determine the percentage.

Example

Company X was allocated medium term fishing rights for Hake Deep Sea Trawl and South Coast Rock Lobster. It was allocated a 'AC' of 5 000 tons for Hake Deep Sea Trawl and 7 tons South Coast Rock Lobster in 2004. Company X's total turnover (for both fisheries) for the 2004 financial year was R180 000 000. The total turnover generated in Hake Deep Sea Trawl for the financial year 2004 was R100 000 000. The total turnover for South Coast Rock Lobster was R 80 000 000. In its application for a South Coast Rock Lobster right, the applicant's table would appear as follows:

TAC Allocated (in tons) to the Applicant in 2004	Turnover Generated by TAC allocated (financial year 2004)	Percentage of Total turnover
7	R80 000 000	44.4%

Divide turnover of this fishery by total turnover of the applicant and multiply by 100 to determine the percentage value: $80\,000\,000/180\,000\,000 \times 100 = 44.4\%$

11.3

This section requires applicants to provide financial performance ratios. If applicable, the merged information of the group or JV partners must be supplied (all sectors and industries involved in). These should be calculated as follows:

Return on Net Assets

$$\text{RONA} = \frac{\text{Net Operating Assets}}{\text{Net Operating Assets}} = \frac{\text{Operating Profit}}{\text{Sales}} \times \frac{\text{Sales}}{\text{Net Operating Assets}}$$

Debt: Equity Ratio: $\frac{\text{Debt}}{\text{Equity}}$

Current Ratio: $\frac{\text{Current Liabilities}}{\text{Current Liabilities}}$

Acid Test: $\frac{\text{Current Assets} - \text{Inventory}}{\text{Current Liabilities}}$

11.4, 11.5 and 11.6

These questions require the applicant to provide information from its audited or verified financial statements. If applicable, the merged information of the group or JV partners must be supplied (all sectors and industries involved in).

SECTION 12: FISHING PLAN

This section requires the applicant to provide information regarding its fishing plan.

SECTION 13: BY-CATCH AND ENVIRONMENTALLY SUSTAINABLE PRACTICES

This section requires the applicant to provide information regarding by-catches and environmentally sustainable practices.

SECTION 14: LEVIES

This section requires the applicant to provide information regarding levies paid during the medium term right period.