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# GENERAL NOTICE ALGEMENE KENNISGEWING

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## NOTICE 1679 OF 2006

### DEPARTMENT OF ENVIRONMENTAL AFFAIRS AND TOURISM

#### **PUBLICATION OF DRAFT POLICIES FOR THE ALLOCATION AND MANAGEMENT OF MEDIUM-TERM SMALL-SCALE COMMERCIAL FISHING RIGHTS AND FOR THE ALLOCATION AND MANAGEMENT OF MEDIUM-TERM SUBSISTENCE FISHING RIGHTS**

I, **Marthinus** van Schalkwyk, the Minister of Environmental Affairs and Tourism, hereby publish for notice and comments the draft policies for the Allocation and Management of **Medium-term** Small-scale Commercial fishing Rights and for the Allocation and Management of **Medium-term** Subsistence Fishing Rights in English, Afrikaans, Xhosa and Zulu.

Interested and affected parties may submit written comments on each policy to the Deputy Director General, Department of Environmental Affairs and Tourism: Branch Marine and Coastal Management Private Bag X2, Roggebaai, 8012 for Attention **Sandile Sibiyi**. Written comments **may** be posted by registered mail to the above address; or faxed to (021) 402-3622; or **emailed** to **subsistence@deat.gov.za**. All written comments must be received by the Department by no later than 16h00 on **MONDAY 18 DECEMBER 2006**. Comments received after this time may not be considered.

In addition, the Department of Environmental Affairs and Tourism (The Department) intends holding public meetings at coastal venues in order to consult with the general public. At these public meetings, comments on the policies will also be invited. The details of the public meetings will be announced in the media in due course.

**DRAFT**  
*(For comments only)*



**environment & tourism**

Department:  
Environmental Affairs and Tourism  
REPUBLIC OF SOUTH AFRICA

**BRANCH: MARINE AND COASTAL MANAGEMENT**

**Policy for the Allocation and Management of Medium-term Small-scale  
Commercial Fishing Rights**

**(available at [www.mcm-deat.gov.za](http://www.mcm-deat.gov.za))**

This document is also available in isiXhosa, isiZulu and Afrikaans  
Lencwadi iyafumaneka nangolwimi lwesiZulu, lwesiNgesi nolwesiBhulu  
Lencwadi iyatholakala nangolwimi lwesiXhosa, lwesiNgesi nolwesiBhulu  
Hierdie document is ook in isiXhosa, isiZulu en Engels beskikbaar

The Minister of Environmental Affairs and Tourism intends to delegate the section 18 powers for the allocation of subsistence fishing rights to officials of the Department, as per section 79 of the Marine Living Resources Act, 1998 (Act No. 18 of 1998).

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**GLOSSARY OF TERMS**

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<b>Minister</b>	The Minister responsible for the Department of Environmental Affairs and Tourism.
<b>Department</b>	The Department of Environmental Affairs and Tourism
<b>Small-Scale Commercial Fisheries</b>	This fishery can be distinguished within the broader commercial sector by its comparatively small size of its operations and the day-to-day involvement by the owner in the enterprise (including active involvement in harvesting or processing). Common characteristics include low capital investment and low turnover and nearshore or inshore resources of high value considered unsuitable for subsistence fishing.
<b>Subsistence fishers</b>	People who personally harvest marine resources as a source of food or to sell their harvest to end users locally to meet their basic needs; they operate near to the shore or in estuaries, live in close proximity to the resource, use low-technology gear (often as part of a long-standing community-based or cultural practice), and the kinds of resources they harvest generate only sufficient returns to meet basic needs or food security.
<b>Fishery Control Officer</b>	Any person appointed as a Fishery Control Officer by the Department in terms of section 9 of the Marine Living Resources Act, 1998 (Act No. 18 of 1998).
<b>Local Co-Management Committees</b>	Local management structure established for each community (or group of communities if appropriate). The structure comprises of fishers, Department officials and other relevant local/provincial agencies. It acts as a channel between fishers and authorities and its responsibilities include the identification of fishers, preparation and vetting of applications and management of local rights system.
<b>Fishery</b>	One or more stocks of fish or any fishing operations based on such stocks which can be treated as a unit for purposes of conservation and management, taking into account geographical, scientific, technical, recreational, economic and other characteristics.

Fishing Right	Right of access to fish granted in terms of Section 18 of the Marine Living Resources Act, 1998 (Act No. 18 of 1998) and this policy.
<b>Fish Processing Establishment</b>	<b>Any</b> vehicle, vessel, premises or place where any substance or article is produced from fish by any method, including the work of cutting up, dismembering, separating parts of, cleaning, sorting, lining and preserving of fish, or where fish are canned, packed, dried, gutted, salted, iced, chilled, frozen or otherwise processed for sale in or outside the territory of the Republic of South Africa.
Historically Disadvantaged Individuals	People who were disadvantaged by unfair discrimination on the basis of their race before 1994.

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**ABBREVIATIONS**

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<b>DEAT</b>	<b>Department of Environmental Affairs and Tourism</b>
<b>MCM</b>	<b>Marine and Coastal Management</b>
<b>MLRA</b>	<b>Marine Living Resources Act, 1998 (Act No. 18 of 1998)</b>
<b>SFTG</b>	<b>Subsistence Fisheries Task Group</b>
<b>LCCs</b>	<b>Local Co-management Committees</b>
<b>HDIs</b>	<b>Historically Disadvantaged Individuals</b>

## 1. INTRODUCTION

This policy on the management and allocation of fishing rights in the small-scale Commercial fishing sector in South Africa is issued by the Minister of Environmental Affairs and Tourism ('the Minister'). The mandate of Department of Environmental Affairs and Tourism: Branch Marine and Coastal Management ('the Department') is the conservation, management and sustainable utilisation of marine living resources.

The allocation of medium-term rights in the small-scale commercial fishing sector is intended to create opportunities for existing subsistence fishers, who have already acquired the necessary skills and experience to harvest marine living resources, to operate on a small commercial scale as opposed to the large-scale industrial fisheries. This policy provides for access to the marine living resources in order to alleviate poverty and focuses on marine living resources in the near shore areas that are easily accessible to fishers in the coastal communities. The list of species that may be harvested under small-scale commercial fishing rights is attached (Annexure A).

The Department intends to embark on a public consultation process to discuss the draft policy. The application and allocation process is highlighted in Annexures B and C.

## 2. BACKGROUND

The recognition of subsistence fishers as a formal sector through the Marine Living Resources Act, 1998 (Act No. 18 of 1998) was a significant development for fishers who depend on marine living resources for food or food security. Prior to this, subsistence fishers often did not have legal access to these resources because the harvesting methods used and the quantities required did not conform to conditions for recreational or commercial fishing. Most subsistence activities were thus deemed 'illegal', and these fishers found themselves classified as an 'informal sector' or as poachers. Due to the fact that this sector was formally not recognised and had no management system in place, it was largely dealt with by law enforcement.

In December 1998, the Department appointed a Subsistence Fisheries Task Group (*SFTG*) to provide recommendations with regard to systems for managing subsistence fisheries. The *SFTG* recommended a new definition and criteria for subsistence fishers. It recognised subsistence fishers as "people who personally harvest marine resources as a source of food or sell their harvest to end users locally to meet their basic needs; they operate near to the shore or in estuaries, live in close



proximity to the resource, use low-technology gear (often as part of a long-standing community-based or cultural practice), and the kinds of resources they harvest generate only sufficient returns to meet basic needs or food security".

Over the years the Department developed a management regime taking into consideration the recommendations by the SFTG. Between the years 2000 to 2006, subsistence fisheries were managed by way of exemptions, as there was no policy in place that set clear management protocols for the sector. Exemptions are renewed annually and are issued to fishers in four coastal provinces, namely KwaZulu-Natal, Eastern Cape, Western Cape and Northern Cape.

The SFTG further recognised that the definition of subsistence fishers excluded a group of fishers who might previously have been considered as subsistence, though they sold their catch for an income. The SFTG therefore recommended a new sub-category to be created to accommodate small-scale commercial fishers. Small-scale commercial fishers can be distinguished within the broader commercial sector by the comparatively small size of their operations and day-to-day involvement by the owner in the enterprise (including active involvement in hawesting or processing). A common characteristic of these fisheries is that they involve low capital investment and low turnover; the resources they are likely to access are near shore, are of high value and as such are considered unsuitable for subsistence fishing.

### 3. OBJECTIVES

The objectives of allocating medium-term fishing rights in the small-scale commercial sector are to:

- Provide formal access to the marine living resources to small-scale commercial fishers and alleviate poverty.
- Uplift fishers who have already acquired the necessary skills and experience for fishing on a small commercial scale to generate an income;
- Grant four (4)-year medium-term small-scale commercial fishing rights to persons who can demonstrate their historical and cultural dependency on marine living resources;
- Ensure the orderly and sustainable development of fisheries identified for small-scale commercial harvesting, making sure that local coastal communities are the main beneficiaries; and
- Ensure the environmental sustainability of the resources.

#### 4. RESOURCES FOR SMALL-SCALE COMMERCIAL FISHERIES

In order for a resource to be considered suitable for small-scale commercial fishing, it must fulfil certain criteria related to value, method(s) of harvesting, ecological impacts of fishing and sustainability. The list of species that may be harvested is attached (Annexure A). The Minister may, from time to time, review the list of marine living resources for small-scale commercial harvesting as well as the areas where rights may be exercised.

#### 5. DURATION OF RIGHTS

Small-scale commercial fishing rights will be allocated for a duration of **four (4) years**.

#### 6. NEW ENTRANTS

The policy for small-scale commercial fisheries makes provision for those fishers who received exemptions to harvest marine living resources on a subsistence basis during the period 2000 to 2005. However, applicants who can demonstrate their historical, cultural and socio-economic dependency on marine living resources to be allocated under this policy may be considered. The availability of marine living resources in the specific areas will determine whether any new entrants or participants be allowed to harvest a particular resource.

#### 7. EVALUATION CRITERIA

In order to qualify as small-scale commercial fishers, applicants will have to satisfy certain criteria. The criteria are intended to identify the most deserving applicants that may be granted small-scale commercial fishing rights and these criteria may be weighted differently during the evaluation process. The Department reserves the right to amend these criteria in order to ensure that small-scale commercial fishing rights are allocated in an efficient, effective, orderly and transparent manner.

Applications for small-scale commercial fishing rights will be evaluated in terms of **two** categories of criteria. Firstly, an application will be screened in terms of a set of exclusionary criteria. Secondly, applications will be screened in terms of a set of criteria to qualify as small-scale commercial fishers.

**(i) Exclusionary criteria**

Four exclusionary criteria will be employed in order to evaluate applications:

- An application will be screened to determine if it was properly lodged. An application was properly lodged if:
  - it was received on or before the closing date;
  - the correct application fee was paid before the closing date; and
  - it was lodged or submitted according to the instructions given in the application forms.
  
- An application will be screened in order to determine whether it is materially defective. An application is materially defective if it is not signed by the applicant or if the applicant's declaration was not attested by a commissioner of oaths or if the applicant provided false information or false documents or failed to disclose material information or attempted to influence the Minister or the delegated authority in a manner other than provided for in this policy during the application period.
  
- An application will be screened to determine whether an applicant meets the minimum essential requirements for participating in the sector. These requirements are: applicants must demonstrate historical involvement, dependency on the resource and live in close proximity of resource
  
- An application will be screened to determine whether the applicant hold any rights in long-term commercial fishing sectors. Applicants who hold rights in the long-term commercial sectors will not be considered.

**(ii) Criteria to qualify as a small-scale commercial fisher**

In order to qualify as a small-scale commercial fisher, an applicant **should** meet the following criteria:

**(a) Form of Applicant**

Only natural persons (individuals) will be granted rights. No legal entities (companies or closed corporations) will be granted subsistence fishing rights. The Department may grant communal or collective subsistence fishing rights where appropriate. Individuals within the same family unit may be considered if they can demonstrate that they operate as a separate unit.

**(b) Citizenship and age**

Only South African citizens in terms of the South African Citizenship Act, 1995 (Act No. 88 of 1995) may apply for small-scale commercial fishing rights as specified in the Marine Living Resources Act, 1998 (Act No. 18 of 1998). Applicants must have attained the age of eighteen (18) years at the time of submitting an application.

**(c) Dependency on the resource**

Applicants will have to demonstrate that they are dependent on marine living resources for their basic needs.

**(d) Proximity to the resource**

Preference will be given to applicants living within close proximity of the resources they are applying for.

**(e) Historical involvement**

Preference will be given to applicants who can demonstrate their historical and cultural involvement in the small-scale commercial fishing. Preference will be given to fishers who had been granted exemptions during the period 2000 to 2006. However, applicants who can demonstrate their historical, cultural and socio-economic dependency on the marine living resources to be allocated under this policy may be considered provided there are sufficient resources to allocate. Priority will be given to Historically Disadvantaged Individuals (HDI s) who are unemployed and have no other form of regular income.

**(9) Personal involvement in harvesting of the resource**

Applicants will be required to demonstrate that, during the fishing season, they will personally exercise the right and are able to harvest the resource on their own.

**8. PROVISIONAL LISTS**

Before the Department makes a final decision on who will be allocated medium-term rights to participate in the small-scale commercial fishery, it will issue a provisional list of successful applicants. The provisional list will be circulated in the coastal communities. Interested and affected parties in these communities may then inform the Department if any person who historically participated in subsistence fishing have been excluded from the provisional list and whether any

person included on the provisional list is not a subsistence fisher to be considered for the small-scale commercial fishery.

## **9. MANAGEMENT OF SMALL-SCALE COMMERCIAL FISHERIES**

This policy intends to introduce and encourage co-management of small-scale commercial fisheries through the establishment of Local Co-Management Committees (LCCs). Expected role players in this new management regime will include the Department, the fishers, provincial conservation agencies and other relevant stakeholders.

### **9.1 The Department**

Different components of the Department, namely Resource Management (Marine), Research, Antarctica and Islands and Monitoring, Control and Surveillance, in accordance with their responsibilities, play complimentary roles in the management of small-scale commercial fisheries.

#### ***(a) Chief Directorate: Resource Management (Marine)***

This component is responsible for the allocation, management and control of small-scale commercial fisheries. Where applicable the component may seek support from provincial conservation agencies, which must act in accordance with the defined roles and responsibilities.

#### ***(b) Chief Directorate: Research, Antarctica and Islands***

This component undertakes and promotes research on resources suitable for small-scale commercial fisheries in order to quantify stocks and harvest levels, and advise the Minister on the sustainable levels of harvesting. In addition to ecological research, socio-economic and other research will be promoted. The Department may involve the small-scale commercial fishers in the research activities.

#### ***(c) Chief Directorate: Monitoring, Control and Surveillance***

This component is responsible for compliance and enforcement of the Marine Living Resources, 1998 (Act No. 18 of 1998). Fishery Control Officers will be responsible for ensuring compliance with permit conditions in collaboration with LCCs.

## 9.2 Local Co-management Committees (LCC)

Local Co-management Committees will be established in all areas where small-scale commercial fisheries are identified. The aim of establishing **LCCs** is to formalise the co-management of small-scale commercial fisheries. These committees will comprise of all relevant stakeholders in an area. (e.g. Departmental officials, fishers, conservation agencies, local authorities, etc). The established **LCCs** will undergo training in order to ensure effective and efficient functioning of the committees.

The responsibilities of LCC will include:

- Identification of fishers based on cultural and historical involvement; and
- Support to the Department in maintaining the effectiveness of catch monitors;

## 9.3 Catch Monitors

Catch Monitors will be employed by the Department to collect various **types** of information as required by the Department. Their duties will also include awareness-raising and **basic** environmental education.

## 10. REGISTRATION OF FISH PROCESSING ESTABLISHMENTS

*in* order to promote the full potential of the small-scale commercial fishers in rural areas where these resources occur and rights have been granted, the Department will register Fish Processing Establishments to purchase the harvested resources from small-scale commercial right holders. Preference may **be** given to establishments owned and operated by local inhabitants. Fish Processing Establishments interested in buying the harvest from small-scale commercial fishers can apply provided that it has been granted a right in terms of section **18** (and a permit in terms of section 13) of the Marine Living Resources Act, **1998** (Act No. **18** of **1998**).

## 11. PERMIT CONDITIONS

Permit conditions for the small-scale commercial fisheries will be issued annually and will be subject to revision as and when it may be necessary.

**ANNEXURE A:****LIST OF SPECIES THAT MAY BE HARVESTED UNDER SMALL-SCALE COMMERCIAL FISHERIES.**

1. East Coast Rock Lobster (*Panulirus homarus*);
2. Abalone (*Haliotis midae*);
3. Oysters (*Striostrea margaritacea*);
4. Estuarine mud crab (*Scylla serrata*);
5. Sandy shore invertebrates;
6. Sand prawn (*Callinassa kraussi*);
7. Mud prawns (*Upogebia Africana*); and
8. Any other species identified by the Department.

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**ANNEXURE B**

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**THE APPLICATION AND RIGHTS ALLOCATIONS PROCESS****(a) Language**

The policy, application forms and explanatory notes to the application forms will be available in English, isiZulu, isiXhosa and Afrikaans. In the case of disagreement, the English text of the policy and explanatory notes will prevail.

**(b) Invitation to Apply for Rights**

Invitation to apply for small-scale commercial fishing rights will be published in the Government Gazette.

**(c) Dissemination of information and communication**

Once invitations to apply have been published in the Gazette, the Department will distribute information by means of pamphlets and other media in all villages and communities where potential small-scale commercial fishers reside and direct them to where and when they can apply. Local media (radio, local newspapers etc.) will also be used to disseminate information. Information will also be distributed during public meetings, through Local Co-management Committees and through public amenities (e.g. Municipal Offices, local schools and clinics).

**(d) Distribution of Application Forms**

Application forms will be distributed at public meetings, Fishery Control Offices and through Local Co-Management Committees.

**(e) Application Forms**

An application form specific for the small-scale commercial fishery sector will be used to obtain information required for screening applications. Application forms will be available in English, isiZulu, isiXhosa and Afrikaans.



**(f) Application Fees**

An application fee, determined by the Minister, will be charged. The application fee will be payable on submission of an application. A receipt will be issued as proof of payment.

**(g) Call for Further Information, Investigation and Consultation**

The Minister may request an applicant to submit additional information in writing. If oral hearings are held, representatives will be permitted to address the Minister or the delegated authority.

The Minister may request an independent entity to investigate any matter, including the correctness of information provided. Applicants must co-operate with investigators by timeously submitting responses to written requests for information or explanations, by granting investigators access to premises, and documents. Failure to co-operate may constitute grounds for declining an application.

**(h) Notification of Decision and the Reason**

Once the applications have been evaluated, all applicants will be notified of the outcome of their applications in writing. If they wish to appeal, they will be notified of the appeals process.

**(i) Decision-making**

All decisions will be based on the applicable laws and will be guided by the applicable policies. The policies and the database compiled after applications are received, will be used to develop more refined criteria and weighting for purposes of the assessment of the applications. These criteria are developed with reference to data received after the closing day and are accordingly not released before the allocation process.

The Department expects a large number of applications for small-scale commercial fishing rights and anticipates that, due to limited available resources, not all applicants will be granted rights. Some applicants will be rejected because they do not meet the basic requirements. The rest will be ranked according to a set of objective criteria in order to identify the best applicants in terms of the policies and weighted criteria. The process will be competitive and the aim is to identify the best applicants.

**(j) Successful Applicants**

The Department will make available to Local Co-Management Committees and Conservation agencies a list of successful applicants. The lists will also be displayed in designated public places.

Successful applicants will be briefed about and receive in writing the following;

- A letter of notification outlining the outcome of their applications (the decision), duration of right, fishing right boundaries and the appeals process.
- The General Published Reasons which will record the criteria and the decision-making process;
- A copy of the final score sheet used to record the assessment of the application;
- A appeal form which can be used to appeal against the decision of the delegated authority; and
- Application form for a permit.

In addition, the following documents will be available for inspection or purchase at a prescribed fee:

- The spreadsheet of decisions which contains a summary of the assessment of all the applications in the small-scale commercial sector;
- Final Score sheets of other applicants; and
- The assessment sheet of the delegated authority.

**(k) Unsuccessful Applicants**

Unsuccessful applicants will receive the following:

- A letter of **notification** outlining the outcome of their applications (the decision) and the appeals process;
- The General Published Reasons which will record the criteria and the decision-making process;
- A copy of the final score sheet used to record the assessment of the application; and

- An appeal form, which can be used to appeal against the decision **of** the delegated authority.

In addition, the following documents will be available for inspection **or** purchase at a prescribed fee:

- The spreadsheet of decisions which contains a summary of the assessment **of** all the applications in the small-scale commercial sector;
- Final score sheets of other applicants; and
- The assessment sheet of the delegated authority.

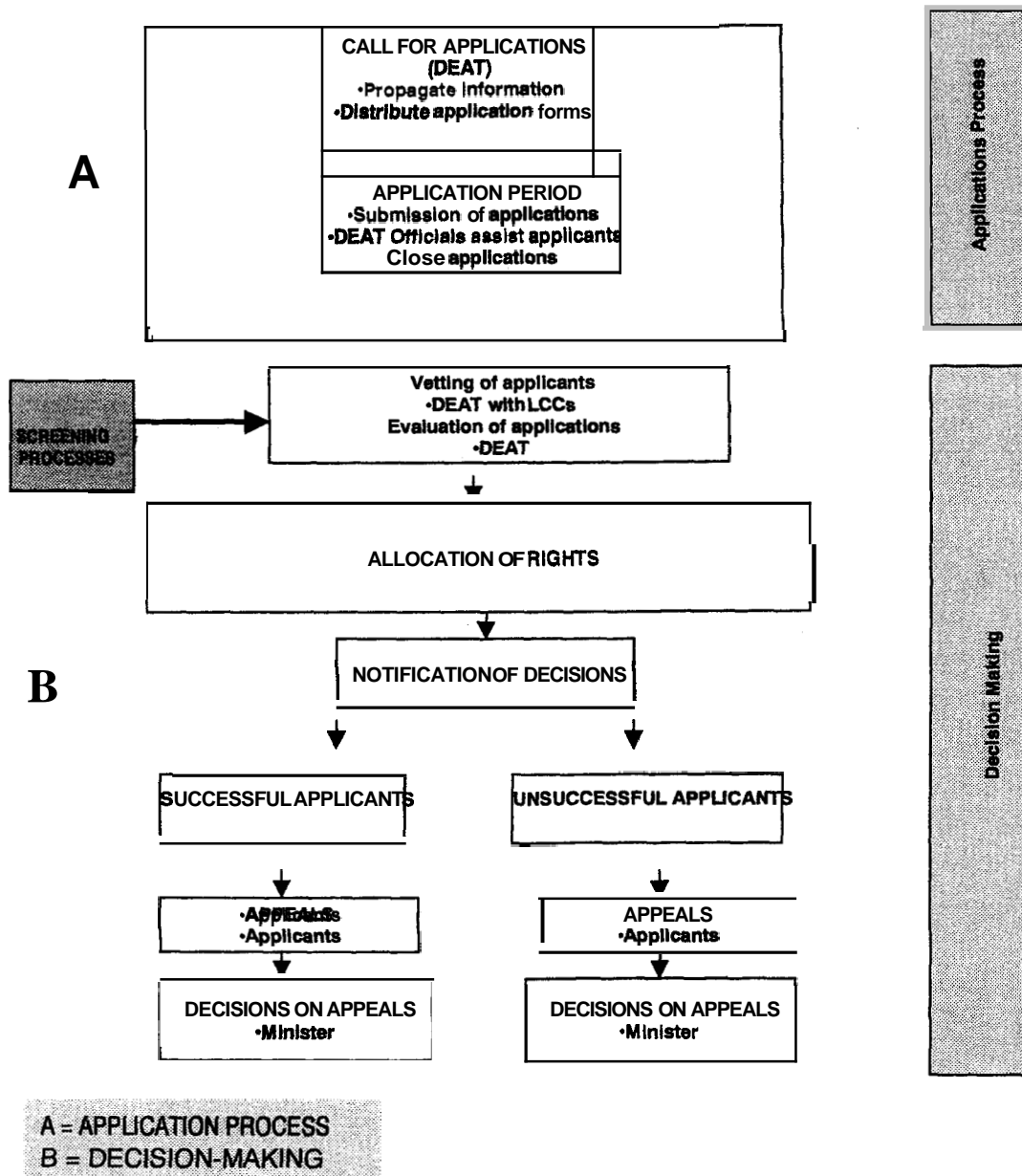
*(l) Appeals*

Every applicant has the right to appeal to the Minister against the decision **of** the delegated authority. An appeal may be lodged against the refusal to grant a right **or** against the effort and fishing boundaries. Details about the submission of appeals will be contained in the notification letter.

The Minister will only take into account facts that were presented on or before the closing date for submission of appeals. Once the Minister has considered the appeals, appellants will be informed of the outcome of their appeal in writing.

**Annexure C:**

**FLOW DIAGRAM OF THE RIGHTS ALLOCATION PROCESS**



**DRAFT**  
*(For comments only)*



**environment & tourism**

Department:  
Environmental Affairs and Tourism  
REPUBLIC OF SOUTH AFRICA

**BRANCH: MARINE AND COASTAL MANAGEMENT**

**Policy for the Allocation and Management of Medium-term Subsistence  
Fishing Rights**

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The Minister of Environmental Affairs and Tourism intends to delegate the section 18 powers for the allocation of subsistence fishing rights to officials of the Department, as per section 79 of the Marine Living Resources Act, 1998 (Act No. 18 of 1998).

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**GLOSSARY OF TERMS**

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<b>Minister</b>	The Minister responsible for the Department of Environmental Affairs and Tourism.
<b>Department</b>	The Department of Environmental Affairs and Tourism.
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<b>Local Co-Management Committees</b>	Local management structure established for each community (or group of communities if appropriate). The structure comprises of fishers, Department officials and other relevant local/provincial agencies. It acts as a channel between fishers and authorities and its responsibilities include the identification of fishers, preparation and vetting of applications and management of local rights system.
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<b>Fishing Right</b>	Right of access to fish granted in terms of Section 18 of the Marine Living Resources Act, 1998 (Act no. 18 of 1998) and this policy.



- Fish Processing Establishment** Any vehicle, vessel, premises or place where any substance ~~or~~ article is produced from fish by any method, including the work of cutting up, dismembering, separating parts of, cleaning, sorting, lining and preserving ~~of~~ fish, or where ~~fish~~ are canned, packed, dried, gutted, salted, iced, chilled, frozen or ~~otherwise~~ processed for sale in or outside the territory of the Republic of South Africa.
- Historically Disadvantaged Individuals** People who were disadvantaged by unfair discrimination on the ~~basis~~ of their race before **1994**.

**ABBREVIATIONS**

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<b>MCM</b>	<b>Marine and Coastal Management</b>
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<b>LCCs</b>	<b>Local Co-management Committees</b>
<b>HDIs</b>	<b>Historically Disadvantaged individuals</b>

## 1. INTRODUCTION

This policy on the allocation and management of fishing rights in the subsistence fishing sector in South Africa is issued by the Minister of Environmental Affairs and Tourism ('the Minister'). The mandate of Department of Environmental Affairs and Tourism: Branch Marine and Coastal Management ('the Department') is the conservation, management and sustainable utilisation of marine living resources.

The allocation of medium-term rights in the subsistence fishing sector is intended to allow coastal communities formal access to harvest marine living resources for food security, basic needs and livelihoods and to alleviate poverty. This policy focuses on marine living resources in the near shore areas that are easily accessible to fishers in the coastal communities. The list of species that may be harvested under subsistence fishing rights is attached (Annexure A).

The Department intends to embark on a public consultation process to discuss the draft policy. The application and allocation process is highlighted in Annexures B and C.

## 2 BACKGROUND

The recognition of subsistence fishers as a formal sector through the Marine Living Resources Act, 1998 (Act No. 18 of 1998) was a significant development for fishers who depend on marine living resources for food or food security. Prior to this, subsistence fishers often did not have legal access to these resources because the harvesting methods used and the quantities required did not conform to conditions for recreational or commercial fishing. Most subsistence activities were thus deemed 'illegal', and these fishers found themselves classified as an 'informal sector' or as poachers. Due to the fact that this sector was not formally recognised and had no management system in place, it was largely dealt with by law enforcement.

In December 1998, the Department appointed a Subsistence Fisheries Task Group (**SFTG**) to provide recommendations with regard to systems for managing subsistence fisheries. The **SFTG** recommended a new definition and criteria for subsistence fishers. It defined subsistence fishers as "people who personally harvest marine resources as a source of food or sell their harvest to end users locally to meet their basic needs; they operate near to the shore or in estuaries, live in close proximity to the resource, use low-technology gear (often as part of a long-standing community-based or cultural practice), and the kinds of resources they harvest generate only sufficient returns to meet basic needs or food security".

Over the years the Department developed a managed regime taking into consideration the recommendations by the SFTG. Between the years 2000 to 2006, subsistence fisheries were managed by way of exemptions, as there was no policy in place that set clear management protocols for the sector. Exemptions are renewed annually and are issued to fishers in four coastal provinces, namely KwaZulu-Natal, Eastern Cape, Western Cape and Northern Cape.

### **3. OBJECTIVES**

The objectives of allocating medium-term fishing rights in the subsistence sector are to:

- Provide formal access to the marine living resources to **subsistence** fishers and to alleviate poverty;
- Grant four (4) -year medium-term subsistence fishing rights to persons who can demonstrate their historical and cultural dependency on marine living resources;
- Ensure the orderly and sustainable development of fisheries identified for subsistence harvesting, making sure that local coastal communities are the main beneficiaries; and
- Ensure the environmental sustainability of the resources.

### **4. RESOURCES FOR SUBSISTENCE FISHERIES**

In order for a resource to be considered suitable for subsistence fishing, it must fulfil certain criteria related to value, method(s) of harvesting, ecological impacts of fishing and sustainability. The list of species that may be harvested is attached (Annexure A). The Minister may, from time to time, review the list of marine living resources for subsistence harvesting as well as the areas where rights may be exercised.

### **5. DURATION OF RIGHTS**

Subsistence fishing rights will be allocated for a duration of four (4) **years**.

## 6. NEW ENTRANTS

The policy for subsistence fisheries makes provision for those fishers who received exemptions to harvest marine living resources on a subsistence basis during the period **2000** to **2005**. However, applicants who can demonstrate their historical, cultural and socio-economic dependency on marine living resources to **be** allocated under this policy may be considered. The availability of marine living resources in the specific areas will determine whether any new entrants or participants be allowed to harvest a particular resource.

## 7. EVALUATION CRITERIA

In order to qualify as subsistence fishers, applicants will have to satisfy certain criteria. The criteria are intended to identify the most deserving applicants that may be granted subsistence fishing rights and these criteria may be weighted differently during the evaluation process. The Department reserves the right to amend these criteria in order to ensure that subsistence fishing rights are allocated in an efficient, effective, orderly and transparent manner.

Applications for subsistence fishing rights will be evaluated in terms of **two** categories of criteria. Firstly, an application will be screened in terms of a set of exclusionary criteria. Secondly, applications will be screened in terms of a set of criteria to qualify as subsistence fishers.

### *(i) Exclusionary criteria*

Four exclusionary criteria will be employed in order to evaluate applications:

- An application will be screened to determine if it was properly lodged. An application was properly lodged if:
  - it was received on or before the closing date;
  - the correct application fee was paid before the closing date; and
  - it was lodged or submitted according to the instructions given in the application forms.
- An application will be screened in order to determine whether it is materially defective. An application is materially defective if it is not signed by the applicant or if the applicant's declaration was not attested by a commissioner of oaths or if the applicant provided false information or false documents or failed to disclose material information or attempted to influence the Minister or the Delegated Authority in a manner other than provided for in this policy during the application period.

- An application will be screened to determine whether an applicant meets the minimum essential requirements for participating in the sector. These requirements are: applicants must demonstrate historical involvement, dependency on the resource and live in close proximity of the resource.
- An application will be screened to determine whether the applicant hold any rights in long-term commercial fishing sectors. Applicants who hold rights in the long-term commercial sectors will not be considered.

**(ii) Criteria to qualify as a subsistence fisher**

In order to qualify **as** a subsistence fisher, an applicant should meet the following criteria:

**(a) Form of Applicant**

Only natural persons (individuals) will **be** granted rights. No legal entities (companies or closed corporations) will be granted subsistence fishing rights. The Department may grant communal or collective subsistence fishing rights where appropriate. Individuals within the same family unit may be considered if they can demonstrate that they operate as a separate unit.

**(b) Citizenship and age**

Only **South** African citizens in terms of the South African Citizenship Act, 1995 (Act No. 88 of 1995) may apply for subsistence fishing rights **as** specified in the Marine Living Resources Act, 1998 (Act No. 18 of 1998). Applicants must have attained the age of eighteen (18) years at the time of submitting an application.

**(c) Dependency on the resource**

Applicants will have to demonstrate that they are dependent on marine **living** resources for their basic needs.

**(d) Proximity to the resource**

Preference will be given to applicants living within close proximity of the resources they are applying for.

**(e) Historical involvement**

Preference will be given to applicants who can demonstrate their historical and cultural involvement in **subsistence** fishing. Preference will be given to fishers who had been granted exemptions during the period 2000 to 2006. However, applicants who can demonstrate their

historical, cultural and socio-economic dependency on the marine living resources to be allocated under this policy may be considered provided there are sufficient resources to allocate. Priority will be given to Historically Disadvantaged Individuals (HDIs) who are unemployed and have no other form of regular income.

**(f) Personal involvement in harvesting of the resource**

Applicants will be required to demonstrate that, during the fishing season, they will personally exercise the right and are able to harvest the resource on their own.

**8. PROVISIONALLISTS**

Before the Department makes a final decision on who will be allocated medium-term rights to participate in the subsistence fishery, it will issue a provisional list of successful applicants. The provisional list will be circulated in the coastal communities. Interested and affected parties in these communities may then inform the Department if any person who historically participated in subsistence fishing have been excluded from the provisional list and whether any person included on the provisional list is not a subsistence fisher.

**9. MANAGEMENT OF SUBSISTENCE FISHERIES**

This policy intends to introduce and encourage co-management of subsistence fisheries through the establishment of Local Co-Management Committees (LCCs). Expected role players in this new management regime will include the Department, the fishers, provincial conservation agencies and other relevant stakeholders.

**9.1 The Department**

Different components of the Department, namely Resource Management (Marine), Research, Antarctica and Islands and Monitoring, Control and Surveillance, in accordance with their responsibilities, play complimentary roles in the management of subsistence fisheries.

*(a) Chief Directorate: Resource Management (Marine)*

This component is responsible for the allocation, management and control of subsistence fisheries. Where applicable the component may seek support from provincial conservation agencies, which must act in accordance with the defined roles and responsibilities.

(b) Chief Directorate: Research, Antarctica and Islands

This component undertakes and promotes research on resources suitable for subsistence fisheries in order to quantify stocks and harvest levels, and advise the Minister on the sustainable levels of harvesting. In addition to ecological research, socio-economic and other research will be promoted. The Department may involve the subsistence fishers in the research activities.

(c) Chief Directorate: Monitoring, Control and Surveillance

This component is responsible for compliance and enforcement of the Marine Living Resources Act, **1998** (Act No. **18** of **1998**). Fishery Control Officers will be responsible for ensuring compliance with permit conditions in collaboration with LCCs.

## 9.2 Local Co-management Committees (LCCs)

Local Co-management Committees will **be** established in all areas where subsistence fisheries are identified. The aim of establishing LCCs is to formalise the co-management of subsistence fisheries. These committees will comprise **of** all relevant stakeholders in an area. (e.g. Departmental officials, fishers, conservation agencies, local authorities, etc). The established LCCs will undergo training in order to ensure effective and efficient functioning of the committees.

The responsibilities of LCC will include:

- Identification of fishers based on cultural and historical involvement;
- Support to the Department in maintaining the effectiveness of catch monitors.

## 9.3 Catch Monitors

Catch Monitors will be employed **by** the Department to collect various types of information as required by the Department. Their duties **will** also include awareness-raising and basic environmental education,

## 10. PERMIT CONDITIONS

Permit conditions for subsistence fisheries will be issued annually and will be subject to revision as and when it may be necessary.



**ANNEXURE A:****MARINE LIVING RESOURCES THAT MAY BE HARVESTED  
FOR SUBSISTENCE**

1. Rocky shore invertebrates;
2. Linefish;
3. Sandy shore invertebrates;
4. Estuarine crab species; and
5. Any other species identified by the Department.

**ANNEXURE B:****THE APPLICATION AND RIGHTS ALLOCATIONS PROCESS****(a) Language**

The policy, application forms and explanatory notes to the application forms will be available in English, isiZulu, isiXhosa and Afrikaans. In the case of disagreement, the English text of the policy and explanatory notes will prevail.

**(b) Invitation to Apply for Rights**

Invitation to apply for subsistence fishing rights will be published in the Government Gazette.

**(c) Dissemination of information and communication**

Once invitations to apply have been published in the Gazette, the Department will distribute information by means of pamphlets and other media in all villages and communities where potential subsistence fishers reside and direct them to where and when they can apply. Local media (radio, local newspapers etc.) will also be used to disseminate information. Information will also be distributed during public meetings, through Local Co-management Committees and through public amenities (e.g. Municipal Offices, local schools and clinics).

**(d) Distribution of Application Forms**

Application forms will be distributed at public meetings, Fishery Control Offices and through Local Co-Management Committees.

**(e) Application Forms**

An application form specific for the subsistence fishery sector will be used to obtain information required for screening applications. Application forms will be available in English, isiZulu, isiXhosa and Afrikaans.

**(f) Application Fees**

An application fee, determined by the Minister, will be charged. The application fee will be payable on submission of an application. A receipt will be issued as proof of payment.

**(g) Call for Further Information, Investigation and Consultation**

The Minister may request an applicant to submit additional information in writing. If oral hearings are held, representatives will be permitted to address the Minister or the Delegated Authority.

The Minister may request an independent entity to investigate any matter, including the correctness of information provided. Applicants must co-operate with investigators by timeously submitting responses to written requests for information or explanations, by granting investigators access to premises, and documents. Failure to co-operate may constitute grounds for declining an application.

**(h) Notification of Decision and the Reason**

Once the applications have been evaluated, all applicants will be notified of the outcome of their applications in writing. If they wish to appeal, they will be notified of the appeals process.

**(i) Decision-making**

All decisions will be based on the applicable laws and will be guided by the applicable policies. The policies and the database compiled after applications are received, will be used to develop more refined criteria and weighting for purposes of the assessment of the applications. These criteria are developed with reference to data received after the closing day and are accordingly not released before the allocation process.

The Department expects a large number of applications for subsistence fishing rights and anticipates that, due to limited available resources, not all applicants will be granted rights. Some applicants will be rejected because they do not meet the basic requirements. The rest will be ranked according to a set of objective criteria in order to identify the best applicants in terms of the policies and weighted criteria. The process will be competitive and the aim is to identify the best applicants.

**(j) Successful Applicants**

The Department will make available to Local Co-Management Committees and Conservation agencies a list of successful applicants. The lists will also be displayed in designated public places.

Successful applicants will be briefed about and receive in writing the following;

- A letter of notification outlining the outcome of their applications (the decision), duration of right, fishing right boundaries and the appeals process;
- The General Published Reasons which will record the criteria and the decision-making process;
- A copy of the final score sheet used to record the assessment of the application;
- A appeal form which can be used to appeal against the decision of the Delegated Authority; and
- Application form for a permit.

In addition, the following documents will be available for inspection or purchase at a prescribed fee:

- The spreadsheet of decisions which contains a summary of the assessment of all the applications in the subsistence sector;
- Final Score sheets of other applicants; and
- The assessment sheets of the Delegated Authority.

**(k) Unsuccessful Applicants**

Unsuccessful applicants will receive the following:

- A letter of notification outlining the outcome of their applications (the decision) and the appeals process;
- The General Published Reasons which will record the criteria and the decision-making process;
- A copy of the final score sheet used to record the assessment of the application; and
- An appeal form which can be used to appeal against the decision of the delegated authority.

In addition, the following documents will be available for inspection or purchase at a prescribed fee:

- The spreadsheet of decisions which contains a summary of the assessment of all the applications in the subsistence sector;
- Final score sheets of other applicants; and
- The assessment sheet of the Delegated Authority.

**(f) Appeals**

Every applicant has the right to appeal to the Minister against the decision of the Delegated Authority. An appeal may be lodged against the refusal to grant a right or against the effort or fishing boundaries. Details about the submission of appeals will be contained in the notification letter.

The Minister will only take into account facts that were presented on or before the closing date for submission of appeals. Once the Minister has considered the appeals, appellants will be informed of the outcome of their appeal in writing.

**ANNEXURE C:**

**FLOW DIAGRAM OF THE RIGHTS ALLOCATION PROCESS**

