



DEPARTMENT OF FORESTRY, FISHERIES AND THE ENVIRONMENT

**POLICY FOR THE ALLOCATION AND MANAGEMENT OF COMMERCIAL FISHING
RIGHTS IN THE SOUTH COAST ROCK LOBSTER FISHERY: 2021**

**THIS POLICY MUST BE READ WITH THE GENERAL POLICY ON THE ALLOCATION
OF COMMERCIAL FISHING RIGHTS: 2021 AND THE POLICY FOR THE TRANSFER
OF COMMERCIAL FISHING RIGHTS
(available at www.environment.gov.za)**

1.	Introduction	3
2.	Profile of the fishery	3
3.	Previous long-term fishing rights allocation process	6
4.	Objectives	7
	PART B: COMMERCIAL FISHING RIGHTS ALLOCATION PROCESS	7
5.	Granting of fishing rights	8
5.1.	Form of Right Holders	8
5.2.	Duration of rights	8
5.3.	Multi-sector involvement	8
5.4.	Transfer of Rights Allocated in terms of this Policy	8
6.	Number of vessels	9
7.	Application and Grant-of-Right Fees	9
8.	New entrants	9
9.	Quantum criteria	10
10.	Evaluation criteria	10
10.1	Exclusionary criteria	10
	(a) Compliance	10
	(b) Paper quotas	11
	(c) Fronting	11
10.2.	Comparative balancing criteria	11
	(a) Fishing performance (Applies to Category A applicants)	11
	(b) Fishing experience and knowledge (Applies to Category B and C applicants)	12
	(c) Suitable vessels (Applies to Category A, B and C applicants)	12
	(d) Compliance (Applies to Category A and B applicants)	13
	(e) Investment in the fishery (Applies to Category A, B and C applicants)	13
	(f) Transformation (Applies to Category A, B and C applicants)	14
	(g) Job creation and conditions of employment (Applies to Category A, B and C applicants)	15
	PART C: MANAGEMENT MEASURES	15
11.	Ecosystem approach to fisheries	15
12.	Observer programme	15
13.	Quantum of revoked rights	16
14.	Transfer of Commercial Fishing Rights and/or Shares and/or Members' Interests	16
15.	Permit conditions	16
16.	Monitoring and evaluation of the Policy	16
17.	Contraventions	17
18.	Repeal	18

PART A: INTRODUCTION

1. Introduction

This policy for the allocation and management of fishing rights in the South Coast Rock Lobster Fishery ("the SCRL fishery") is issued by the Minister of Forestry, Fisheries and the Environment ("the Minister") and shall be referred to as the "2021: South Coast Rock Lobster Fishery Policy". The 2021: South Coast Rock Lobster Fishery Policy shall be read together with the 2021 General Policy on the Allocation of Commercial Fishing Rights ("2021: General Policy") and the Policy for the Transfer of Commercial Fishing Rights.

The Minister has, in terms of section 79 of the Marine Living Resources Act 18 of 1998 ("the MLRA"), delegated the section 18 power to grant commercial fishing rights in terms of section 79 of the Marine Living Resources Act 18 of 1998 ("the MLRA") to a senior official of the Department of Forestry, Fisheries and the Environment ("the Department").

The 2021: South Coast Rock Lobster Fishery Policy sets out the objectives, criteria and, considerations that will guide the evaluation and allocation of fishing rights in the South Coast Rock Lobster fishery. This policy will guide the delegated authority in taking decisions on applications in this fishery.

2. Profile of the fishery

2.1. Description of the fishery

The SCRL fishery is a deep water long line trap fishery that began in 1974. At that stage, both South African and foreign vessels exploited the deep water resource. However, in 1976 South Africa declared its 200 mile Exclusive Economic Zone and effectively halted foreign participation in the SCRL fishery. A total of 26 South African vessels remained in the fishery. This number dropped to 15 in 1981 after years of unsustainable and unregulated fishing led to the resource's collapse. In 1975, 2092 tonnes of south coast rock lobster were harvested and by 1981 this had dropped to a mere 176 tonnes.

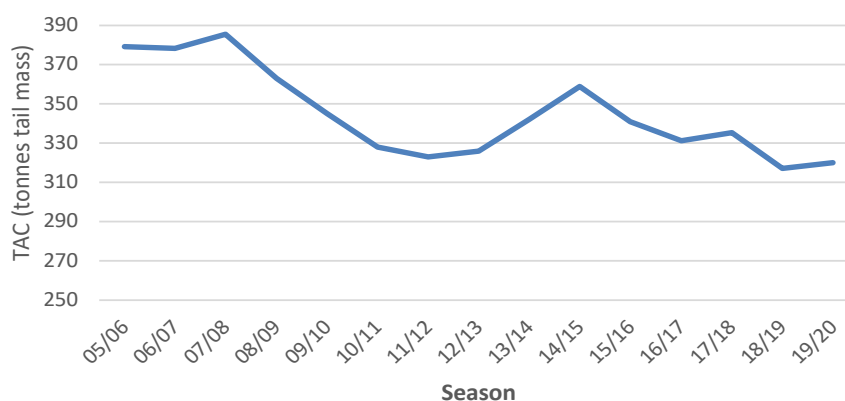
The SCRL fishery was first regulated by a total allowable catch ("TAC") in 1984. The TAC was set at 450 tonnes (tail mass). Ten years later, research indicated that the resource was

Policy on the Allocation and Management of Commercial Fishing Rights in the South Coast Rock Lobster Fishery: 2021

still in decline. The management strategy for this fishery was fundamentally changed in 2000. A combined TAC and total applied effort (“TAE”) strategy was introduced, which limited the number of days that a SCRL vessel may stay at sea. The “sea days” limit is calculated according to the portion of the TAC that is caught by a specific vessel, taking into account that vessel’s fishing capacity.

The Department’s management plan for the SCRL fishery has borne fruit. The SCRL TAC increased from 340 tonnes (and 1 922 sea days) in the 2001/2002 fishing season to 382 tonnes (and 2 089 sea days) in 2007/2008, and has fluctuated by no more than 5% inter-annually between 317 tonnes and 363 tonnes since. The decision on catch limits has been guided by the Operational Management Procedure (“OMP”), first introduced in 2008. Right holders have supported the OMP and its objectives and have assisted in the recovery of the resource through their commitment to best practice in the assessment and management of the resource, through harvesting at sustainable levels and through supporting and funding research projects and programmes in the sector. There have been a number of OMPs developed and revised, with the next revision scheduled for 2022. The objectives of the latest OMP, ‘OMP-2019’, have been to keep inter-annual TAC change restricted to 5%, to increase the spawning biomass of this resource by 30% over a 20-year period (2006 to 2025) and to not drop the TAC below 321 tonnes for the 2019/2020 and 2020/2021 seasons. The fishing season for the SCRL fishing sector year round is from 1 October to 30 September with a TAC determined annually by the delegated authority.

SCRL TAC over the last 15 years



Vessels are equipped with onboard processing factory, packing and freezing facilities or specially designed live fish holding facilities. Lobster tails and whole frozen lobsters are

frozen at sea and, when off-loaded at Cape Town and Port Elizabeth harbours, are graded and repacked at shore-based facilities. Since most processing occurs at sea, shore-based infrastructure is limited. Live lobsters are delivered to live lobster tank facilities. Almost the entire catch is exported, predominantly to the USA for frozen product and to Italy, France and Taiwan for live product.

Vessels are rigged for long-line trap-fishing. Barrel-shaped plastic traps are set for periods varying from 24 hours to several days. Each vessel typically hauls and resets approximately 2 000 to 6000 traps per day in sets of 100 to 200 traps. Long-line trap-fishing is a labour-intensive fishing method. Crews consist of up to 35 persons. The vessels in the SCRL fishery are large, offshore vessels ranging in length between 27 and 60 metres. They fish for between 180 to 300 days per year. During the last right period, from 2005 to 2020, the number of vessels actively fishing was 10 vessels in the earlier seasons and as the TAC declined the number of vessels stabilised at 7 or 8 vessels per season. These 7/8 vessels have caught on average 38 tonnes (tail mass) each per season.

The SCRL fishery is capital intensive, requiring large vessels, a substantial number of crew, access to foreign markets and funds for overhead costs such as fuel, vessel maintenance and salaries.

2.2. Biology and resource dynamics

South coast rock lobster (*Palinurus gilchristi*) is endemic to the continental shelf of southern South Africa, occurring on rocky substrata at depths of 50 to 200 metres and restricted between Cape Agulhas in the south-west and East-London in the north-east. The species is found in commercial quantities at two locations: offshore on the Agulhas Bank, in an area roughly 200 kilometres from the coast, and closer inshore (2 to 50 kilometres from the coast) between Mossel Bay and East London. The traditional fishing grounds are split into four areas, Agulhas Bank, Port Elizabeth and Port Alfred. The Port Alfred area has a narrow continental shelf, widening in Port Elizabeth and St Francis and at its widest on the Agulhas Bank. South coast rock lobster is a cold-water species that grows slowly and is long-lived. The inshore area between Danger Point and Cape Agulhas is an important settlement area for juveniles, which migrate to adult habitats on the Agulhas Bank and in the inshore area between Mossel Bay and Port Elizabeth. Rock lobsters that occur between Port Alfred and East London are generally smaller, slower-growing and do not migrate. Slipper lobster (*Scyllarides elisabethae*), Octopus (*Octopus magnificus*), Panga, Hagfish and Kingklip are considered as by-catch

in of the SCRL fishery.

3. Previous long-term fishing rights allocation process

In 2005 fishing rights were allocated for a period of 15 years to 17 fishing companies (with a total of seven vessels). The transformation profile for the sector in 2005/2006 was:

- (a) More than 60% of the right holders in the fishery had a greater than 50% black shareholding;
- (b) The percentage of the TAC and the TAE held by blacks was 72.22% and 72.18%, respectively; and
- (c) The percentage of shareholding/member interest held by women was 18.42%.

Over the duration of the 15-year right, fishing companies have consolidated their rights and at the conclusion of the right in 2020, only seven of the seventeen companies remained.

At the conclusion of the long-term fishing rights in 2020, the seven right holders had caught on average between 94% and 100% of their TAC allocations each season. Four of the seven right holders had a TAC of < 40 tonnes and four right holders (the company with the highest TAC and the three companies with the least TAC) had rights in other sectors. The two companies with the highest TAC had 100% ownership of four vessels whilst the remaining right holders are likely to have part ownership in the other four vessels used most recently.

Previous right holder	Recent TAC (kg tail mass)	% TAC	Average % TAC caught per season	Number of vessels with 100% ownership	Number of rights in other sectors
Right holder 1	135 198	40.3	92	3	4 active, 4 expired
Right holder 2	83 842	25.0	100	1	0
Right holder 3	59 513	17.8	97		0
Right holder 4	23 508	7.0	98		0
Right holder 5	13 958	4.2	100		1 active, 1 expired
Right holder 6	11 379	3.4	94		1 active, 2 expired
Right holder 7	7 667	2.3	98		1 expired

4. Objectives

4.1 This policy recognises the need to ensure the optimal, long-term and justifiable use of marine living resources in order to ensure sustainable development of the fishing sector to achieve inclusive economic growth, to achieve the objectives and principles as listed in Section 2 of the MRLA through the Marine Living Resources Fund (MLRF) and to create sustainable employment consistent with the development objectives of National Government. In terms of the Marine Living Resources Act, 1998, the responsible authorities are obliged to achieve optimum utilisation and ecological sustainable development of marine living resources; conserve marine living resources for both present and future generations; apply precautionary approaches in respect of the management and development of marine resources; utilise marine living resources to achieve economic growth, human resource development, capacity building within fisheries and mariculture sectors, employment creation and a sound ecological balance consistent with the development objectives of the national government; protect the ecosystem as a whole, including species which are not targeted for exploitation; preserve marine biodiversity, and to minimise marine pollution.

4.2 The objectives of allocating fishing rights in the SCRL fishery are to:

- (a) achieve optimum utilisation and ecologically sustainable development of marine living resources;
- (b) conserve marine living resources for both present and future generations;
- (c) apply precautionary approaches in respect of the management and development of marine living resources;
- (d) support economic stability and viability of the fishery;
- (e) promote transformation, broaden meaningful participation (increase participation, value-creation, and linkage) and growth;
- (f) improve the quality of jobs through the promotion of permanent employment and allocation of rights to SMMEs owned by historically disadvantaged persons;
- (g) promote adherence to fair labour practices;
- (h) to promote food security and poverty alleviation; and
- (i) promote youth and female ownership and development.

PART B: COMMERCIAL FISHING RIGHTS ALLOCATION PROCESS

Policy on the Allocation and Management of Commercial Fishing Rights in the South Coast Rock Lobster Fishery: 2021

5. Granting of fishing rights

Fishing rights are granted in terms of section 18 of the MLRA. All rights granted shall be valid from the date of allocation for a period not exceeding 15 years, whereafter the right shall automatically terminate and revert back to the State.

5.1. Form of Right Holders

5.1.1. Applications will only be considered from South African owned companies and close corporations.

5.1.2. Those applicants who held rights in the SCRL fishery during the period 2006 to 2020 may be considered to be Category A Applicants. Applicants who held rights in sectors other than the SCRL fishery during the period 2006 to 2020 may be considered to be Category B Applicants. Applicants who did not hold commercial fishing rights during the period 2006 to 2020 may be considered to be Category C Applicants. The third category is also referred to as “new entrant” applicants.

5.2. Duration of rights

Having regard to the rights allocation process, and the need to encourage investment, a Fishing Right in the SCRL fishery will be granted for the maximum period of 15 years, thereafter, it shall automatically terminate and revert back to the State.

5.3. Multi-sector involvement

Applicants in the SCRL fishery (including their controlling shareholders and members of their executive management team) will not be precluded from holding commercial fishing rights in other fishing sectors.

5.4. Transfer of Rights Allocated in terms of this Policy

In terms of section 21 of the MLRA the Minister may approve the transfer of fishing rights in whole or in part. However, rights granted in the fishery in terms of the MLRA shall not be transferred within the first three (3) years of being granted.

6. Number of vessels

There are presently eight SCRL fishing vessels that operate in South African waters and at the current 2020/2021 TAC of 337 tonnes. As some successful applicants will not wholly own the vessels they intend using and because vessels may require replacement, the Department recognises that many successful applicants will seek to introduce further or new vessels after the allocation of long-term fishing rights and as the SCRL resource recovers and the TAC increases. The Department will carefully evaluate the cumulative effect of the introduction of further and new vessels into the fleet. Successful applicants will not be permitted to introduce vessels capable of expending effort that is in excess of their allocations.

7. Application and Grant-of-Right Fees

Applicable fees have been published in the Government Gazette No. 39451, Volume No. 605, 25 November 2021, in terms of section 25 of the MLRA.

The application fees are payable upon submission of an application and is non-refundable.

The grant-of-right fees are payable by all successful applicants within 60 days of the granting of the right

8. New entrants

As a capital-intensive fishery, the Category A applicants have had to make large investments in the fishery in infrastructure (e.g. vessels, processing facilities) and marketing over the last 15 years to establish economically viable entities. The Category A applicants have fully utilised their TAC, catching on average more than 90% of their TAC allocations each season. Though rights had been consolidated over the previous rights period, management measures on the distribution of TAC remained unchanged and had not given preference to those with smaller allocations to assist in providing opportunities for more meaningful participation in the fishery.

Whilst being mindful of the dynamics of the sector established which has been established under the previous long-term rights in respect of investment, performance, economic stability and business growth, the Department may consider the inclusion of new entrants that meet the objectives to comply with section 2 Objectives and Principles, as well as section 18(5) of the MLRA of the Department.

9. Quantum criteria

In this fishery, the mechanism for allocating quantum will consist of a combined analysis of:

- the previous TAC held by the Category A applicants;
- the degree of utilisation of the TAC by Category A applicants;
- the redistribution of TAC (held prior to the consolidation of rights) among Category A applicants to improve the allocations of Category A applicants that held historically smaller quantum, to assist in more meaningful participation in the fishery;
- the allocation of TAC to Category B and C applicants that is in line with allocations held by Category A applicants during the previous long-term rights; and
- the degree to which the applicant has achieved the Department's objectives.

Should the resource recovery and decline, the TAC may be increased or decreased during the rights period. An adjustment to the TAC allocation will be distributed equally and proportional to the percentage increase or decrease of the TAC.

Quantum allocations will be preliminary until the finalisation of the appeals process on the allocation of rights in this fishery. Adjustments made to quantum allocations, upon the finalisation of appeals, will be applied in the forthcoming season.

10. Evaluation criteria

Applications will be screened in terms of a set of "exclusionary criteria". All applicants will thereafter be separately scored in terms of a set of weighted "comparative balancing criteria". A cut-off will then be determined in order to select the successful applicants and effort will be allocated to each successful applicant.

10.1 Exclusionary criteria

In addition to the exclusionary criteria described in the 2021: General Policy pertaining to the lodgment of the applications material defects and requirements (section 6), the delegated authority will exclude applicants that fail to meet the following requirements:

(a) Compliance

Policy on the Allocation and Management of Commercial Fishing Rights in the South Coast Rock Lobster Fishery: 2021

An applicant will be excluded if it, or any of its Directors, Senior Management, Shareholders or Members (where such shareholding or members interest exceeds 10%) or Skippers a controlling shareholder, a member with a controlling interest, or a director, has been convicted of a transgression of the MLRA, the regulations promulgated thereunder and permit conditions (without the option of the payment of a fine).

An applicant will also be excluded if it, or any of its Directors, Senior Management, Shareholders or Members (where such shareholding or members' interest exceeds 10%) or Skippers has had any fishing right cancelled or revoked in terms of the MLRA.

(b) Paper quotas

Applications which are found to be paper quota applicants, as defined in the 2021: General Policy, will be excluded.

(c) Fronting

Applicants that are found to be engaged in fronting as defined in the 2021: General Policy, will be excluded.

It must be noted that applicants who have been excluded on one of the exclusionary criteria, will still be evaluated and assessed against the balancing criteria. This will be done for the purposes of generating scoresheets for such excluded applicants.

10.2. Comparative balancing criteria

Applicants will be evaluated in terms of the following balancing criteria, which will be weighted in order to evaluate and assess applications:

(a) Fishing performance (Applies to Category A applicants)

1. The fishing performance of applicants that held fishing rights in the SCRL fishery from 2005 until 2020 will be examined to determine if they have effectively utilised their fishing rights. Effective utilisation shall mean activation and be issued with a permit to undertake commercial fishing of SCRL, landing of catch and subsequent submission of catch data for at least 12 years during the period 2005-2020. In addition, during the same period,

Policy on the Allocation and Management of Commercial Fishing Rights in the South Coast Rock Lobster Fishery: 2021

previous Category A applicants will be expected to have landed at least 50% of their SCRL allocation for every fishing season that they were active.

2. The number of fishing seasons spent actively fishing, patterns of active fishing across consecutive seasons and the intensity of fishing (e.g. percentage TAC caught, over and/or under-catch) will be considered when scoring this criterion.

3. **Payment of levies**

Applicants that were granted fishing rights in 2005 will be required to provide proof that they are up to date on the payment of their levies on fish landed at the date of submitting their applications.

(b) Fishing experience and knowledge (Applies to Category B and C applicants)

1. The applicant's involvement in other fishing sectors and related activities (catching, processing, marketing and management of finance by the company and/or close corporation and shareholders and/or members), and
2. The applicant's involvement in the SCRL fishery with fishing related activities (catching, processing, marketing and management of finance by the company and/or close corporation and shareholders and/or members).

(c) Suitable vessels (Applies to Category A, B and C applicants)

1. An applicant will be required to demonstrate a right of access to a vessel suitable for the harvesting SCRL. Access may be in the form of ownership, part-ownership, catch agreement, charter agreement, or the purchase of a vessel or the build of a new vessel. If an applicant intends purchasing a vessel, then proof of a purchase agreement and bank guarantee must be provided. If in the case of a new build vessel, then the vessel plans and cost from the vessel building company and proof of payment or part payment must be provided. It is not the intention to increase the number of vessels during the allocation process, but the Minister may have regard to the policy objectives in deciding the number of vessels to be accommodated.

Policy on the Allocation and Management of Commercial Fishing Rights in the South Coast Rock Lobster Fishery: 2021

2. A suitable vessel in the SCRL fishery is a fishing vessel that:
 - a. has a minimum SAMSA registered length of approximately 25 metres;
 - b. has a functioning vessel monitoring system;
 - c. is capable of deploying lines of approximately one-mile-long and 100 traps;
 - d. is capable of storing at least 2 000 traps;
 - e. is capable of carrying the necessary winches; and
 - f. is capable of carrying approximately 30 or more crew members.

In order to verify if the vessel meets the suitable vessel criteria, applicants would need to submit photos of the vessel as well as copies of the valid SAMSA registration certificates. Photos of the vessel taken from the port and starboard, back and front needs to be included in the application.

(d) Compliance (Applies to Category A and B applicants)

Minor and substantive infringements, including those in respect of which an admission of guilt fine was paid or the applicant entered a plea bargain, between 2005 and 2020 may be taken into account as a balancing criterion and may also adversely affect an application.

(e) Investment in the fishery (Applies to Category A, B and C applicants)

The delegated authority should consider:

1. For Category A applicants, the investments made in suitable vessels and other fixed assets such as processing and marketing infrastructure in the SCRL fishing sector (and, in other sectors, if applicable, but this will be given less weighting) during the past 15 years. Investment in the form of shareholding will also be considered.
2. For Category B applicants, the investments made in other sectors in the form of vessels, fixed assets, processing and marketing infrastructure, but a clear demonstration of their commitment (and ability) to invest in this sector (i.e., access to vessel) will be required.

3. All Category C applicants are required to demonstrate that they have the knowledge, skill and capacity to fish for and process SCRL. Investments made in suitable vessels and other fixed assets such as processing and marketing infrastructure in the SCRL fishing sector will be considered.

(f) Transformation (Applies to Category A, B and C applicants)

When assessing and scoring applications, the delegated authority may prefer applicants based on transformation criteria. When attributing a score for transformation criteria, the delegated authority may have regard to: census statistics or other information provided by Statistics South Africa regarding the composition of the population of South Africa, and the percentage of that population made up by different national demographic groups; the need to ensure the recognition and meaningful participation in the fishing industry of Historically Disadvantaged Individuals (HDIs) (which includes black people, female, youth, persons with disabilities); and the codes of good practice under the Broad-Based Black Economic Empowerment Amendment Act.

Applicants, depending on the form of an applicant, will be assessed and scored on the following transformation criteria:

1. The percentage of people from designated groups and HDIs represented at top salary, board of directors, members and senior official and management levels;
2. The extent to which an applicant's ownership and management transformation credentials of people from designated groups and HDIs have subsequently improved, remained the same, or deteriorated in the period following the granting of rights in the 2005 rights allocation process;
3. Whether employees (other than top salary earners) benefit from an employee share scheme;
4. Compliance with the Employment Equity Act 55 of 1998 and the representation of designated groups and HDIs at the various levels of employment below senior official and management level;
5. Affirmative procurement;

Policy on the Allocation and Management of Commercial Fishing Rights in the South Coast Rock Lobster Fishery: 2021

6. Compliance with legislation on skills development and the amounts spent on training and learnership programmes for designated groups and HDIs; and
7. Corporate social investment.

(g) Job creation and conditions of employment (Applies to Category A, B and C applicants)

The delegated authority may give preference to any applicant which commits to retaining existing employment opportunities, or to increasing employment opportunities if it is allocated a right in the SCRL fishery. For these purposes the delegated authority will consider the quality of the employment opportunities which will be created, including compliance with the Basic Conditions of Employment Act, 1997 (No. 75 of 1997) ("BCEA"); Labour Relations Act and Merchant Shipping Act 57 of 1951 as well as the applicant's commitment to provide their employees with:

1. permanent employment;
2. medical aid or any kind of medical support;
3. pension and provident fund;
4. safe working conditions in accordance with the applicable legislative requirements; and
5. an employee share scheme, which ensures that employees enjoy an effective shareholding in the right holder.

PART C: MANAGEMENT MEASURES

11. Ecosystem approach to fisheries

This fishery will be managed in accordance with the ecosystem approach to fisheries ("EAF"). An ecosystem approach to fisheries management is a holistic approach that maintains or improves the health of an ecosystem and balances the diverse societal needs and values. This approach also defines the ecosystem in its broadest sense and includes ecological, social, economic and governance systems.

12. Observer programme

Policy on the Allocation and Management of Commercial Fishing Rights in the South Coast Rock Lobster Fishery: 2021

- a. The right holder of a SCRL fishing right shall accommodate an observer on board the right holder's nominated vessel when required to do so by the Department or its agent.
- b. The right holder must bear the costs of the observer deployment when so required by the Department.
- c. The right holder shall allow the observer unrestricted access to monitor fishing activity, and to test compliance with permit conditions and all applicable laws.
- d. Should the Department reasonably believe that an observer is being prevented from carrying out his or her obligations in any way or threatened in any way while on board the right-holder's vessel, the Department may commence proceedings under section 28 of the MLRA.

13. Quantum of revoked rights

Should any commercial fishing right be revoked in terms of section 28 of the MLRA or any other right after conclusion of any legal review proceedings instituted thereof, the provisions according to the 2021: General Policy will be applied.

14. Transfer of Commercial Fishing Rights and/or Shares and/or Members' Interests

Right Holders in this sector shall consider the Policy for the Transfer of Commercial Fishing Rights or Rights or Parts thereof (the Transfer Policy) when transferring their fishing rights and/or shares and/or members' interests.

15. Permit conditions

Permit conditions for this fishery will be issued annually. The permit conditions will be determined after consultation with the successful applicants in this fishery and will be revised as and when the Department deems it necessary.

16. Monitoring and evaluation of the Policy

- 16.1 The Department will monitor and evaluate the policy by instituting a number of formal performance measuring exercises for the duration of the 15-year period. It is envisaged that the first set of performance measuring exercises will take place after seven (7) years.
- 16.2 Although the Department will finalise the precise criteria against which Rights Holders will be measured after the allocation of commercial fishing Rights, and after consulting with Rights Holders, the following broad performance related criteria may be used:
- (a) Transformation.
 - (b) Investment in vessels, factories and gear.
 - (c) Sustainable utilisation.
 - (d) South Coast Rock Lobster catch performance.
 - (e) By-catch mitigation compliance with applicable laws and regulations.
 - (f) Compliance with applicable laws and regulations.
 - (g) Timely and complete reporting of catches and other information as applicable.
- 16.3 South Africa has not been immune from the negative impacts of climate change on fisheries resources and communities who depend on fisheries for their livelihoods. The impacts of climate change may be addressed through adoption of adaptation and mitigation measures in the fishing sector. Research and ongoing monitoring by both the Department and stakeholders will play an important role in identifying gaps, weaknesses and flaws in existing fisheries policies and management measures.
- 16.4 South Africa has published the National Plan of Action for the Conservation and Management of Sharks (NPOA-Sharks) and the National Plan of Action for Reducing the Incidental Catch of Seabirds in Longline Fisheries (NPOA-Seabirds). The NPOA-Sharks and NPOA-Seabirds applies amongst others, to the fisheries that catch and land sharks and seabirds as targeted species or non-targeted species (by-catch). In order to achieve the optimum utilisation and ecological sustainable development of marine living resources, South Africa will implement the NPOA-Sharks of Action in all the identified fisheries to ensure that the ecosystem is protected, and fishing strategies are consistent with the principles of biological sustainability and rational long-term economic use.
- 16.5 The purpose of performance measuring will be to ensure that the objectives of this policy are met.

17. Contraventions

Policy on the Allocation and Management of Commercial Fishing Rights in the South Coast Rock Lobster Fishery: 2021

Contraventions of the following kind:

- (a) A successful applicant that fails to utilise their SCRL fishing right for any one season during the period for which the Right has been granted without a reasonable explanation;
- (b) A breach of the provisions of the MLRA, MLRA Regulations, Permit Conditions, Rights Transfer Policy and other related Acts included in the Permit conditions by the Right Holder, or its employees (whether permanent, full-time or part-time), its contractors, agents or advisers and the skipper of the vessel;

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

18. Repeal

This Policy on the Allocation and Management of Commercial Fishing Rights in the South Coast Rock Lobster Fishery: 2021 repeals the Policy for the Allocation and Management of Commercial Fishing Rights in the South Coast Rock Lobster Fishery: 2005.

~ END ~