



DEPARTMENT OF FORESTRY, FISHERIES AND THE ENVIRONMENT

**POLICY ON ALLOCATION AND MANAGEMENT OF COMMERCIAL FISHING RIGHTS IN
THE KWAZULU-NATAL CRUSTACEAN TRAWL FISHERY: 2021**

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

TABLE OF CONTENTS

PART A: INTRODUCTION	2
1. Introduction	2
2. Profile of the fishery	2
3. Previous long-term fishing rights allocation process	6
4. Objectives	6
PART B: COMMERCIAL FISHING RIGHTS ALLOCATION PROCESS	7
5. Granting of fishing rights	7
5.1. Form of Right Holders	7
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. Vessel limit and new entrants	8
7. Payment of application and Grant of Right Fees	9
8. Evaluation criteria	9
8.1. Exclusionary criteria	10
8.1.1. Compliance	10
8.1.2. Paper quotas	10
8.1.3. Fronting	10
8.2. Comparative balancing criteria	11
8.2.1. Fishing performance (Applies to Category A applicants)	11
8.2.4. Fishing experience and knowledge (Applies to Category B and C applicants)	11
8.2.5. Suitable vessels (Applies to Category B and C applicants)	11
8.2.6. Compliance (Applies to Category A and B applicants)	12
8.2.7. Investment in the fishery (Applies to Category A, B and C applicants)	12
8.2.8. Transformation (Applies to Category A, B and C applicants)	13
8.2.9. Job creation and conditions of employment (Applies to Category A, B and C applicants)	14
8.2.10 By-catch (Applies to Category A applicants)	15
8.2.11 Payment of levies (Applies to Category A and B applicants)	15
PART C: MANAGEMENT MEASURES	15
9. Observer programme	15
10. Transfer of Commercial Fishing Rights and/or Shares and/or Members' Interests	15
11. Permit conditions	15
12. Monitoring and evaluation of the Policy	16
13. Contraventions	17
14. Repeal	17

PART A: INTRODUCTION

1. Introduction

This policy for the allocation and management of commercial fishing rights in the KwaZulu-Natal Crustacean Trawl Fishery ("the fishery") is issued by the Minister responsible for Forestry, Fisheries and the Environment ("the Minister") and shall be referred to as the "2021: KZN Crustacean Trawl Fishery Policy". The 2021: KZN Crustacean Trawl 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 Transfer Policy").

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

The 2021: KZN Crustacean Trawl Fishery Policy sets out objectives, criteria and considerations that will guide the evaluation and allocation of fishing rights in the 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

Trawling was sporadic up until the 1960s after which it became a more formal sector comprising of approximately 12 companies and 21 vessels; many of which also fished in Mozambique. Regular statistics were collected from 1988 onwards.

The fishery is based in KwaZulu-Natal on trawl grounds comprising soft sediment (sand/mud). It consists of two components being (1) an inshore shallow-water area (20-50m) on the Thukela Bank and a much smaller area situated off the St Lucia Estuary mouth; and (2) an offshore deep-water (200-500m) area of approximately 1750km² in the KwaZulu-Natal Bight that extends from Cape Vidal in the north to Amanzimtoti in the south.

The shallow-water fishery targets penaeid prawn, mainly white prawn (*Penaeus indicus*), with the remaining catch being brown prawn (*Metapenaeus monoceros*) and the tiger prawn (*P. monodon*). The St Lucia estuary is an important nursery area for these species and the abundance of shallow-water prawns depends on rainfall patterns and their effects on the flushing of estuaries where larval and juvenile prawns develop. However, the St Lucia Estuary has been closed to the Indian Ocean since 2002 which has led to a collapse of penaeid prawn stocks, so catches in the shallow water fishery have been poor for the last 15 years. Initially the shallow-water trawl ground at the Thukela Bank was closed for two months of the year, before being extended to 6 months (September to February), to reduce bycatch of fish targeted by the linefish sector. The establishment of the uThukela Marine Protected Area (MPA) in 2019, which includes the Thukela Bank and prohibits the use of trawl gear in all zones of this MPA, has effectively closed the inshore shallow-water component of this fishery.

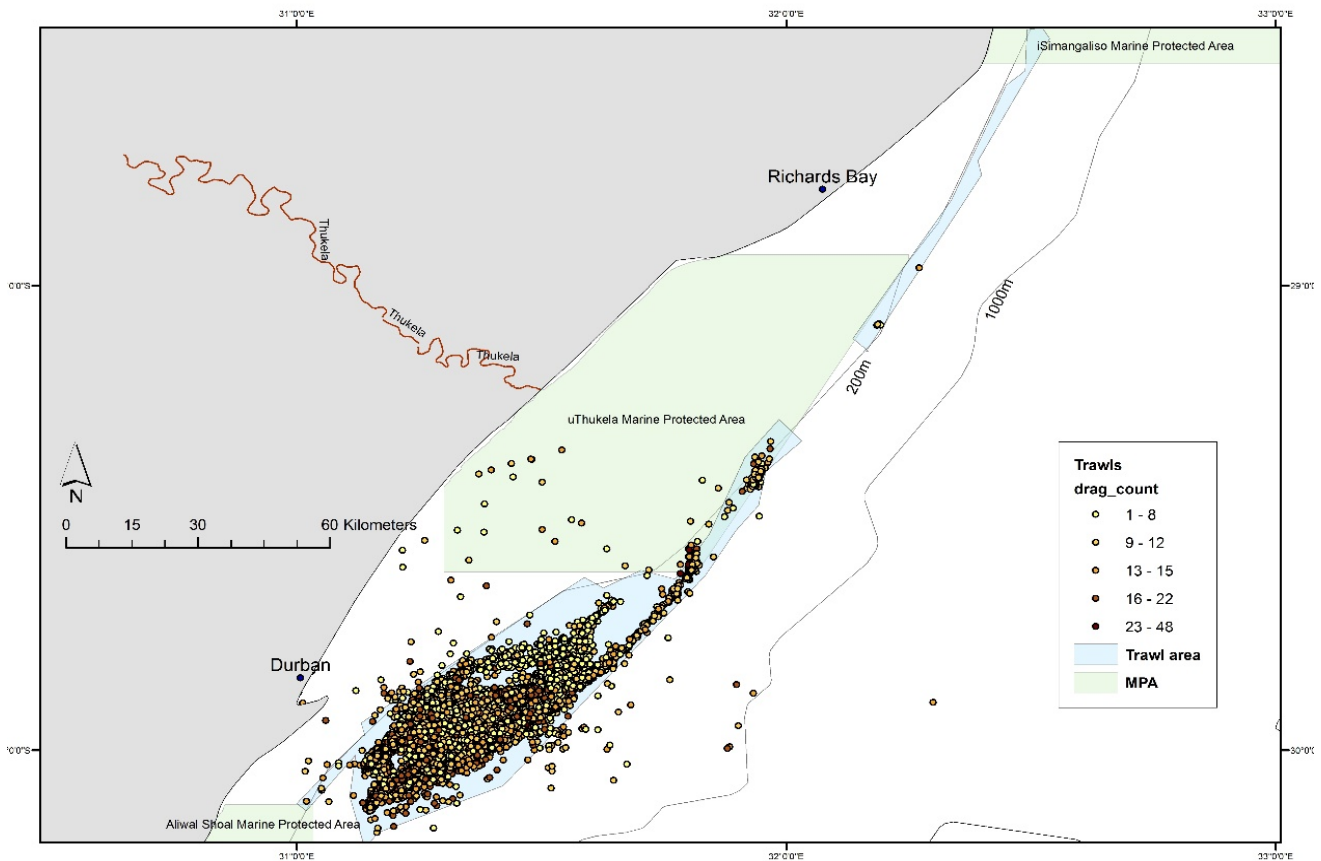


Figure 1. The location of trawls set between 2014 and 2020. The surrounding MPAs and the area suitable for trawling are included.

The deep-water fishery targets pink prawns (*Haliporoides triarthrus*), langoustine (*Metanephrops mozambicus*), whitepincer red crab (*Chaceon macphersoni*) and deep water rock lobster (*Palinurus delagoa*).

Catches can be unpredictable and catch rates of individual species or groups of species fluctuate widely; sometimes as a result of the number of vessels actively fishing and targeted fishing of specific species, rather than fluctuations in resource abundance.

The fishery is managed using a total applied effort ("TAE") strategy, which limits the number of vessels permitted to fish on the inshore and offshore fishing grounds. Between 1991 and 2005, the TAE limit was set at 8 vessels, 4 inshore and 4 offshore. In 2006 the TAE was reduced to 7 vessels where it has remained, 2 restricted to the offshore and 5 permitted to fish inshore and offshore.

The sector is capital-intensive and its infrastructure, marketing and product distribution are dominated by few established companies. The fishery requires specialised trawling vessels and equipment and is suitable for commercial fishing only. Fishing grounds are on the South African continental shelf and no foreign fishing vessels are allowed to partake in this fishery. Vessels are ex side trawl vessels trawling over the stern or stern trawlers with a single net whereas some vessels fishing in shallow water operates with booms with 2, 3 or 4 nets simultaneously. Trawl net sizes range from 25- to 72-metre footrope length, with a minimum of 50mm mesh size measured from knot to knot. Trawling takes place on a 24-hour basis, at speeds of two to three knots and an average drag duration of four hours. Trawlers carry about 15 - 18 crew and can remain at sea for two to three weeks at a time. Since most processing occurs at sea, shore-based infrastructure is limited.

As with other prawn trawl fisheries around the globe, the gear is not selective and incidences of the capture of non-target species is high. Catches (by mass) of the offshore fishery consist of roughly 30 percent target species, 20 percent retained by-catch, and 50 percent discarded by-catch. The retained by-catch includes cephalopods (octopus, squid and cuttlefish), molluscs, and substantial quantities of several fish species. The discarded by-catch juvenile or small fish, low-value crustaceans, elasmobranches and molluscs) amounts to about 1 000 tonnes per annum. Levels of discarded by-catch was highest in the inshore fishery on the uThukela Bank; now closed to fishing since the establishment of the uThukela MPA.

Prior to the collapse of penaeid prawn stocks and the establishment of the uThukela MPA, inshore trawling was seasonal due to seasonal variations in abundance of the target species as well as a mandatory closed period, while the offshore trawling takes place all year-round. A boundary between the inshore and offshore fisheries, situated seven nautical miles from the shore between the St. Lucia lighthouse (28° 30.9'S 32° 24.0'E) and Green Point Lighthouse (30°15.0'S 30° 46.8'E), was necessary to limit the amount of effort in the inshore shallow-water area. By virtue of the main inshore shallow-water trawl area at Thukela Bank being closed to trawl fishing, a boundary is no longer required.

Catches are species-sorted, size-graded, packed and blast-frozen at sea. Little value is added on land. Modest shore-based infrastructure, including berthing, re-packing, cold-storage and marketing facilities, is situated in Durban. Frozen products are sold on local markets.

The fishing season for KZN Crustacean Trawl sector is from 1 January to 31 December (i.e. year round). The majority of the fishing activity (73% of total trawl hours) in the sector over the previous rights period (from 2014 to 2020) could be attributed to two vessels that fished every season over an average of 10 months and an average of >2000 trawl hours per season. The sector has had 3 vessels operating for 4 of the 7 seasons, with 2, 4 and 5 vessels operating for a season each. Between 1 and 2 vessels during some seasons have opted to fish in Mozambique during part of the season where operations are more profitable there than in South Africa.

2.2. Biology and resource dynamics

White prawns (*Penaeus indicus*), brown prawns (*Metapenaeus monoceros*) and tiger prawns (*Penaeus monodon*) occur on the shallow water mud banks along the North East coast of KwaZulu-Natal. Bamboo prawns (*Penaeus japonicus*) are also occasionally trawled on the St Lucia grounds. These prawn species grow fast and have a life-span of approximately one year. Eggs are carried on the abdomen of females. Larvae hatch during the second half of the year, and are transported by currents into estuaries along the KZN coast, where they remain up to the first quarter of the following year and grow into juveniles. Juvenile prawns move out of estuaries and recruit onto the mud banks, where they grow to maturity and reproduce, thus completing the life cycle.

Deep water species include pink (knife) prawn *Haliporoides triarthrus*, langoustines *Metanephrops mozambicus*, deep-water red crab (*Chaceon macphersoni*), and deep-water rock lobster *Palinurus delagoa*. The life cycles of these species are diverse, but some (such as rock lobster) are slow-growing

Policy on the Allocation and Management of Commercial Fishing Rights in the KZN Crustacean Trawl Fishery: 2021

and long-lived, making them more vulnerable to fishing. And in short-lived species, such as pink prawn and langoustine, abundance is strongly dependent on recruitment and weak or failed recruitment events can have significant impacts on the fishery. While research on the biology of the pink prawns and langoustines has been published in 2013, little is known about the distribution, abundance and life-history characteristics of red crab.

No formal stock assessments for this fishery have been conducted since a Schaefer Surface Production model was used in 2008, when it was noted that further modelling was required. There is substantial logbook data that is available for use in stock assessments despite certain biological reference points for target species not being available.

3. Previous long-term fishing rights allocation process

In 2005/2006 fishing rights were allocated for a period of eight years (2006-2013) to four fishing companies with a total of seven vessels. In 2013 rights were allocated for a period of seven years (2014-2020) to six fishing companies, three of which were returning applicants that previously held rights from 2006-2013.

The results of the 2013 fishing rights allocation process were as follows:

- (a) The percentage of the TAE held by black people was 84%;
- (b) The shares held by black people in this fishery was 84%; and
- (c) The percentage of shareholding/member interest held by women was 39%.

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 fishery are to:

- (a) allocate rights to applicants reliant on KZN Crustacean Trawl as their main source of income;
- (b) the need to conserve marine living resources for both present and future generations;
- (c) the need to apply precautionary approaches in respect of the management and development of marine living resources;
- (d) achieve optimum utilisation and ecologically sustainable development of marine living resources;
- (e) maintain economic stability of the fishery;
- (f) promote transformation, broaden meaningful participation (increase participation, value-creation, and linkage) and growth;
- (g) improve the quality of jobs through the promotion of permanent employment and allocation of rights to SMMEs owned by historically disadvantaged persons;
- (h) promote adherence to fair labour practices;
- (i) to promote food security and poverty alleviation;
- (j) promote youth and female ownership and development; and
- (k) facilitate the recovery of over-exploited and collapsed fish stocks.

PART B: COMMERCIAL FISHING RIGHTS ALLOCATION PROCESS

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, where after each right granted 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, close

Policy on the Allocation and Management of Commercial Fishing Rights in the KZN Crustacean Trawl Fishery: 2021

corporations and co-operatives. Applications from individuals will not be considered.

5.1.2. Those applicants who held rights in the KZN Crustacean Trawl Fishery during the period 2006 to 2020 may be considered to be Category A Applicants. Applicants who held rights in sectors other than the KZN Crustacean Trawl 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.

5.2. Duration of rights

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

5.3. Multi-sector involvement

Applicants in the fishery (including their controlling shareholders, members 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. Vessel limit and new entrants

Having regard to the following:

- 6.1.1. capital intensity of the fishery and the need to maintain economic stability of the fishery;
- 6.1.2. operational challenges experienced by the fishery (e.g. poor catch volumes, unfavourable size mix, high operation costs, difficult fishing conditions owing to oceanography);

- 6.1.3. the variability and unpredictability of the resource that limits the profitability of the fishery;
- 6.1.4. the lack of scientifically reliable stock assessments;
- 6.1.5. high discarded by-catch percentage;
- 6.1.6. the relatively small size of the offshore trawl grounds has been reduced with the declaration of the uThukela MPA and most of the grounds are already heavily trawled;
- 6.1.7. uncertain impacts of climate change on the resource; and
- 6.1.8. uncertainty in certain biological aspects of the target species e.g. reasons for absence of mature individuals for some species, recruitment processes, density-dependent effects of trawling.

The number vessels accommodated in the rights allocation process within this fishery will not exceed seven (7) vessels. Effort allocations will be made on a preliminary basis until the appeals process has been finalised. Adjustments made to effort allocations, upon the finalisation of appeals, will be applied in the following fishing season within this sector. The fishery will be monitored for the duration of the rights and appropriate measures put in place where required.

New entrants to the fishery will be considered and those with fishing experience and access to suitable infrastructure will be preferred and accommodated within the seven (7) vessel TAE allocation. However it shall be noted that there is limited room to accommodate New Entrants in this fishery due to resource constraints.

7. Payment of application and Grant of Right Fees

Applicable fees have been published in the Government Gazette No. 39451, Volume No. 605, 25 November 2015, separately in terms of section 25 of the MLRA.

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

The grant-of-right fee is payable by all successful applicants within 60 days of the granting of the right.

8. 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

Policy on the Allocation and Management of Commercial Fishing Rights in the KZN Crustacean Trawl Fishery: 2021

determined in order to select the successful applicants and effort will be allocated to each successful applicant.

8.1. Exclusionary criteria

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

8.1.1. Compliance

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

8.1.2. Paper quotas

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

8.1.3. Fronting

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

It shall, however, be noted that although excluded applicants will not be allocated a commercial fishing right in this sector, they will be evaluated and assessed against the balancing criteria. This will be done for the

Policy on the Allocation and Management of Commercial Fishing Rights in the KZN Crustacean Trawl Fishery: 2021

purposes of generating scoresheets for such excluded applicants.

8.2. 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:

8.2.1. Fishing performance (Applies to Category A applicants)

- 8.2.1.1 The fishing performance of applicants that held fishing rights in the fishery from 2014 until 2020 will be examined to determine if they have effectively utilised their fishing rights.
- 8.2.1.2 The number of fishing seasons spent actively fishing, patterns of active fishing across consecutive seasons and the intensity of fishing (e.g. number of trawl hours) will be considered when scoring this criterion.

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

- 8.2.2.1. The applicant's involvement in other fishing sectors (catching, processing, marketing);
- 8.2.2.2. The applicant's involvement in the fishery with fishing related activities (catching, processing, marketing and management of finance by the company, close corporation, cooperative and shareholders or members); and
- 8.2.2.3. The applicant's knowledge of how this fishery operates and how the applicant intends to utilize the right.

8.2.3. Suitable vessels (Applies to Category B and C applicants)

- 8.2.3.1. An applicant will be required to demonstrate a right of access to a vessel suitable for the harvesting of KZN Crustacean Trawl. 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.

8.2.3.2. A suitable vessel in the fishery is a large fishing vessel that:

8.2.3.2.1. is rigged to trawl for prawns (bottom trawling with single net stern, or boom-operated twin or triple nets);

8.2.3.2.2. is capable of fishing in the deep-water trawl area >7nm offshore; and

8.2.3.2.3. has a functioning vessel monitoring system.

8.2.3.3. In order to verify if the vessel meets the suitable vessel criteria, applicants are required to submit suitable photos of the vessel as well as copies of its valid SAMSA registration certificate.

8.2.4. 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 2014 and 2020 may be taken into account as a balancing criterion and may also adversely affect an application.

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

8.2.5.1. The delegated authority should consider:

8.2.5.1.1. For Category A applicants, the investments made in suitable vessels and other fixed assets such as processing and marketing infrastructure in the KZN crustacean trawl sector (and, in other sectors, if applicable, but this will be given less weighting) during the past 7 years. Investment in the form of shareholding or members' interest will also be considered.

8.2.5.1.2. 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.

8.2.5.1.3. Category C applicants are required to demonstrate that they have the knowledge, skill and capacity to fish for and process crustacean trawl target and bycatch species. Investments made in suitable vessels and other fixed assets such as processing and marketing infrastructure in the KZN Crustacean Trawl sector will be considered.

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

8.2.6.1. 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); and the codes of good practice under the Broad-Based Black Economic Empowerment Amendment Act.

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

8.2.6.2.1. The percentage of people from designated groups and HDIs represented at top salary, board of directors, members and senior official and management levels;

8.2.6.2.2. The extent to which an applicant's ownership and management transformation credentials of people from designated groups (as measured in the 2013 rights allocation process) have subsequently improved, remained the same, or deteriorated in the period following the granting of rights in the 2013 rights allocation process;

- 8.2.6.2.3. Whether employees (other than top salary earners) benefit from an employee share scheme;
- 8.2.6.2.4. 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;
- 8.2.6.2.5. Affirmative procurement;
- 8.2.6.2.6. Compliance with legislation on skills development and the amounts spent on training and learnership programmes for designated groups and HDIs; and
- 8.2.6.2.7. Corporate social investment.

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

- 8.2.7.1. 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 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"), the Labour Relations Act 66 of 1995 and the Merchant Shipping Act 57 of 1951. and the applicant's commitment to provide their employees with:
 - 8.2.7.1.1. permanent employment;
 - 8.2.7.1.2. medical aid or any kind of medical support;
 - 8.2.7.1.3. pension and provident fund;
 - 8.2.7.1.4. safe working conditions in accordance with the applicable legislative requirements; and
 - 8.2.7.1.5. an employee share scheme, which ensures that employees enjoy an effective shareholding in the right holder.

8.2.10 By-catch (Applies to Category A applicants)

The delegated authority will seek to reward those right-holder applicants that have invested in and implemented measures to reduce the landing of by-catch species.

8.2.11 Payment of levies (Applies to Category A and B applicants)

Applicants that were granted fishing rights in 2013 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.

PART C: MANAGEMENT MEASURES

9. Observer programme

- 9.1.** The right holder of a KZN Crustacean Trawl 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.
- 9.2.** The right holder must bear the costs of the observer deployment when so required by the Department.
- 9.3.** The right holder shall allow the Observer unrestricted access to monitor fishing activity, and to test compliance with permit conditions and all applicable laws.
- 9.4.** 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 initiate legal proceedings (which may include initiation of section 28 proceedings in terms of the MLRA and/ or criminal proceedings).

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

Subject to paragraph 5.4 above, 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.

11. Permit conditions

Policy on the Allocation and Management of Commercial Fishing Rights in the KZN Crustacean Trawl Fishery: 2021

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 when the Department deems it necessary.

12. Monitoring and evaluation of the Policy

- 12.1 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.
- 12.2 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) KZN crustacean trawl catch performance.
 - (e) By-catch mitigation compliance with applicable laws and regulations.
 - (f) Compliance with applicable laws and regulations.
 - (g) Timeous and complete reporting of catches and other information as applicable.
- 12.3 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. 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.

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.

12.3 The purpose of performance measuring will be to ensure that the objectives of this policy are met.

13. Contraventions

Contraventions of the following kind:

- (a) A successful applicant that fails to utilise their KZN Crustacean Trawl 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, 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).

14. Repeal

This Policy on the Allocation and Management of Commercial Fishing Rights in the KwaZulu-Natal Crustacean Trawl Fishery: 2021 repeals the Policy for the Allocation and Management of Fishing Rights in the KwaZulu-Natal Prawn Trawl Fishery: 2013.

~ END ~