

**DEPARTMENT OF AGRICULTURE, FORESTRY AND FISHERIES**

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**POLICY ON THE ALLOCATION AND MANAGEMENT OF RIGHTS TO OPERATE FISH PROCESSING  
ESTABLISHMENTS: 2015**

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**(In case of any inconsistency, the English text prevails)**

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## 1. Introduction

This policy on the allocation and management of rights to operate fish processing establishments (“FPEs”) is issued by the Minister of Agriculture, Forestry and Fisheries (“the Minister”), in consultation with the Department of Agriculture, Forestry and Fisheries (“the Department”). It shall be referred to as the “**Fish Processing Establishment Policy: 2015**”. The Department is responsible for administering the Marine Living Resources Act, 1998 (Act 18 of 1998) (“the MLRA”), regulations promulgated thereunder, and policies issued by the Minister.

This policy must be read in conjunction with MLRA; regulations under the MLRA; the General Policy on the Allocation and Management of Fishing Rights: 2013 (“the 2013: General Policy”); other relevant Sector Specific Policies including the Policy for the Small Scale Fisheries Sector in South Africa: 2012; and the Policy for the Transfer of Commercial Fishing Rights: 2009. This policy must be interpreted to be consistent with the MLRA, and all of the other relevant regulations and policies.

This policy sets out objectives, criteria and considerations that will guide the allocation, evaluation, and management of fishing rights in the fishery. This policy will thus guide the Delegated Authority in taking decisions on applications in this fishery.

## 2. Profile of the sector

### 2.1. Brief description of the sector

In terms of section 18 of the MLRA, no person shall operate an FPE unless a right to do so has been granted by the Minister.

Section 13 of the MLRA stipulates that no person shall exercise any right granted in terms of section 18 or perform any other activity in terms thereof unless a permit has been issued by the Minister to such person to exercise that right or perform that activity.

Any person processing fish is therefore required to have a right to operate a FPE and be in possession of a valid permit issued in terms of section 13 of the MLRA to undertake such activity unless exempted terms of section 81 of the MLRA.

Section 1 of the MLRA defines an FPE to mean any vehicle, 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. A fish product defined to mean any product, whether in a processed form or not, wholly or partially derived from fish.

The statutory definition of an FPE is wide. Pursuant to section 81 of the MLRA, the Delegated Authority intends to exempt certain activities which involve the processing of fish, and which would otherwise fall within the definitional ambit of an FPE, from sections 1, 13 and 18 of the MLRA - including fishmongers; restaurants; fish shops; supermarkets; large chain stores; authorised fishing vessels that only pack fish in crates or use ice to land fresh fish; those engaged in the drying of legally caught and purchased fish; and the cleaning, heading, gutting, gilling and tailing of fish on board an authorised fishing vessel.

By regulating the operation of FPEs, the Department seeks to curb the processing of fish that has been caught in contravention of the MLRA, without necessarily resulting in unintended consequences or causing difficulties with the enforcement of the MLRA. These proposed exemptions will also be monitored to ensure that they do not result in increased illegal, unregulated and unreported fishing.

Rights to operate FPEs allocated in terms of section 18 of the MLRA do not amount to property rights. Instead it is no more than a statutory permission to process fish for a specified period of time. Accordingly, the cancellation or revocation of a right to operate an FPE does not amount to the expropriation of a property right within the meaning of section 25 of the Constitution of the Republic of South Africa, 1996 or the Expropriation Act 63 of 1975. This is clear from section 18(6) of the MLRA, which provides that a FPE right is valid for the period determined by the Minister (or his delegate), where after it automatically reverts back to the State.

On 27 July 2001, the Department issued a notice inviting applicants to apply for rights to operate FPEs (Government Gazette No. 22517 of 27 July 2001 ("the Gazette")). The applications were received, evaluated and rights were granted for a period of fifteen (15) years, expiring on 31 December 2016. The Gazette indicated that an opportunity would again be granted in 2002 for additional applicants to apply for rights to operate FPEs. This opportunity never materialized.

After the 2001 process a vast number of fishing companies were formed and received rights to exploit fish resources in various fishing sectors. In order for these right-holders to process their catches, and to meaningfully participate in the fishing industry, their land and sea-based processing facilities were exempted them from the provisions of section 18. Though exempted, these right-holders had to apply for permits in terms of section 13 of the MLRA.

In 2005 the General Policy for the Allocation of Long-Term Fishing Rights (LTRAMP), stated that a separate policy would be adopted dealing specifically with FPEs. No further long term rights to operate FPEs were issued in 2005/2006 or 2013.

## 2.2. Current resource users

There are currently approximately 892 (521 land-based and 371 vessel-based) right/exemption holders in the sector operating from Port Nolloth to the west of Cape Hangklip.

## 3. Objectives

3.1. The objectives and principles of allocating rights in a fishery are set out in section 2 of the MLRA, *inter alia*, to:

- (a) promote transformation through allocation of fishing rights to entities owned and/or controlled by historically disadvantaged persons which shall include designated groups (youth, women and people with disabilities), and to broaden meaningful participation (through increased participation, sharing value-creation opportunities and profits, and links);
- (b) ensure sustainable livelihoods through the promotion of fair employment
- (c) promote adherence to fair labour practices and improved working conditions
- (d) promote food security and poverty alleviation;
- (e) facilitate the recovery of over-exploited and collapsed fish stocks; and
- (f) achieve optimum utilisation and ecologically sustainable development of marine living resources.

## 4. Granting of rights

As noted above, section 18 of the MLRA requires that FPEs may only operate when granted a right to do so by the Minister. In terms of section 79 of the MLRA the Minister has delegated the power to grant such rights to a Delegated Authority in the Department.

Unless otherwise determined by the Minister, only South African persons shall acquire or hold rights in terms of section 18 of MLRA. In this fishery the Minister has not exercised his power to allow persons of other nationalities to acquire rights, meaning that only South African persons can acquire rights in this fishery.

All rights granted shall be valid from the date of allocation for a period not exceeding 15 years, where after they will automatically terminate and revert back to the State to be reallocated. Applications for rights to operate FPEs will be open-ended, i.e. there will be not be a specified

application period with opening and closing dates, but instead applications can be made as required.

It should be further noted that in terms of section 16 of the MLRA the Minister may suspend the operation of an FPE or impose restrictions to address a state of emergency.

#### 4.1. **Form of right holder**

- (a) Section 18 of the MLRA provides that only South African persons may hold fishing rights.
- (b) Having regard to the nature of operations and resource accessibility the following South African persons will be considered for rights to operate FPEs:
  - (i) a citizen (individual) as defined in terms of the South African Citizenship Act, 1995 (Act 88 of 1995);
  - (ii) a company (legal entity) of which the majority of shareholders, as prescribed by the Minister, are South African persons;
  - (iii) a close corporation (legal entity) of which the majority of members are South African persons;
  - (iv) a trust in which the majority of trustees having the controlling power at any given time are South African citizens or a majority of the beneficial interests are held by South African citizens; and
  - (v) After the Marine Living Resources Amendment Act, 2014 (Act 5 of 2014 comes into force, a co-operative registered in terms of the Co-operatives Act, 2005 (Act 14 of 2005). All the members of the co-operative must be South African citizens but, where any member is a juristic person, such person's registered office and principal place of business must be located in South Africa.

#### 4.2 **Duration of right**

Having regard to the right allocation process and the need to encourage investment, the right to operate an FPE will be granted for the maximum period of 15 years.

#### 4.3 **Transfer of rights allocated in terms of this Policy**

In terms of section 21 of the MLRA the Minister may approve the transfer of rights, including rights to operate FPEs, in whole or in part. However, rights granted in terms of the MLRA shall not be transferred within the first two (2) years of being granted.

Rights can only be transferred in terms of the Policy for the Transfer of Commercial Fishing Rights (Government Gazette No 32449, 31 July 2009) or relevant amendments thereof.

In all cases a notification of a transfer of shares or a members' interest must be served on the Department within 30 days of such sale or transfer, or any time-period set in applicable permit conditions. In addition, the Department's approval is required for all cases in which the sale or transfer of shares or a member's interest in a right-holder results in a change of control of the entity, or in the entity being less transformed than it was at the date on which rights are allocated. Failure to pay the required fees for the grant of a right or to apply for any permits during the first two (2) years shall result in a cancellation of the right by the Minister.

## **5. Multi-sector involvement**

Applicants for the allocation of FPE rights will not be precluded from applying for, or holding commercial rights in other local commercial fisheries sectors.

This shall mean any person can apply for a right in any fishery sector regardless of whether the applicant has applied for a right or holds a right in any other fishery. In this case, the "applicant" shall mean an individual, a shareholder or director in a company, or a member in a close corporation applying for a right in any fishery sector.

Natural persons who hold shares or a member's interest in an entity which is applying for the allocation of rights in the fishery, may also hold shares, an interest in an entity which is applying for, or already holds rights in another fishery.

Natural persons who are directors or employees of an entity which is applying for the allocation of rights in the fishery, may also be a shareholder, member, director or employee of an entity which is applying for, or already holds rights in another fishery.

## **6. Evaluation criteria**

Applications for the allocation of rights in the FPE fishery will be screened in terms of a set of "exclusionary criteria".

### **6.1. Exclusionary criteria**

In addition to the criteria described in the 2013: General Policy pertaining to the lodgement of the applications and material defects, the Delegated Authority will exclude applicants that fail to meet the following requirements/criteria:

#### **(a) Compliance**

An applicant will be excluded, if it, a member with controlling interest, a director or a controlling shareholder has been convicted of a serious transgression of the MLRA (without the option of the payment of a fine).

An applicant will also be excluded, if it, a member with a controlling interest, a director or controlling shareholder had had any fishing right cancelled or revoked in terms of the MLRA. For these purposes a natural person will be treated as having had rights cancelled or revoked if that person was a controlling shareholder, a member with a controlling interest, or a director of an entity which had its rights cancelled or revoked.

Minor infringements, including those in respect of which an admission of guilt fine was paid, may be taken into account as a balancing criterion and may also adversely affect an application.

(b) **Paper quotas**

Applications from paper quota applicants, as defined in the 2013: General Policy will be excluded.

(c) **Non-utilisation**

Applicants which have held a right in the FPE fishery during the period of 2001 to 2015, which was not utilised, shall be excluded.

6.2. **Balancing criteria**

Applicants will be evaluated in terms of the following criteria:

6.2.1 **Transformation**

When assessing and scoring applications, the Delegated Authority may prefer applicants based on transformation criteria. This is especially so given the legacy of systematic labour market discrimination and inferior education. In this context accelerated skills and advanced professional skill development is important.

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 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 Economic Empowerment Act.



The BEE scorecard for Broad-Based Black Economic Empowerment will be used to measure the three core elements of BEE, namely, direct empowerment through ownership and control of enterprises and assets, human resource development and employment equity and indirect empowerment through preferential procurement and enterprise development.

(a) **Direct empowerment**

The process of BEE must result in an increase in the ownership and control of the economy by black persons. This means that a significant proportion of black persons' ownership of assets and enterprises must reflect a controlling interest, a genuine participation in decision-making at board, executive management and operations levels, as well as an assumption of real risk. In the scorecard, direct empowerment focuses on ownership of enterprises and assets through shares and other instruments that provide the holder thereof with voting rights and economic benefits, such as dividends or interest payments.

Control means the right or the ability to direct or otherwise control the majority of the votes attaching to the shareholders' issued shares; the right or ability to appoint or remove directors holding a majority of voting rights at meetings of the board of directors of the applicant and the right to control the management of that applicant.

(b) **Human resource development and employment equity**

This component of the scorecard focuses on the development of the employees of an enterprise or sector as well as employment equity. Enterprises are required to comply with the provisions of the Employment Equity Act, 1998 (Act 55 of 1998) to bring about an equitable representation of black persons in all occupations and at all levels of the organisation over a period of time. The following will be considered:

- (i) The percentage of people from designated groups and HDIs represented at top salary, board of directors, members and senior official and management levels;
- (ii) The extent to which an applicant's black ownership and black management transformation credentials have subsequently improved, remained the same, or deteriorated since the granting of the right in 2001;
- (iii) Whether employees (other than top salary earners) benefit from an

- employee share scheme;
- (iv) Extent of compliance with the Employment Equity Act, and the representivity of designated groups and HDIs at the various levels of employment below senior official and management level;
  - (v) Affirmative procurement;
  - (vi) Compliance with legislation on skills development and the amounts spent on the training of blacks, youth, women, people with disabilities, and participation in learnership programmes; and
  - (vii) Corporate social investment.

(c) **Indirect empowerment**

In order to grow the economy, more enterprises are needed to produce value-added goods and services, to attract investment, and to employ more people in productive activities. Thus, a core component of BEE is the creation and nurturing of new enterprises by black people. Preferential procurement by both the State and the private sector is an effective and efficient instrument to drive BEE as it provides emerging black enterprises with opportunities to expand their output. The scorecard, therefore, includes a preferential procurement element.

A second element of indirect empowerment is enterprise development. This can take the form of investment in black-owned and black-empowered enterprises or joint ventures with black-owned and black-empowered enterprises that result in substantive skills transfer.

(d) **The residual 10% in the scorecard**

In order to allow sectors and enterprises to tailor the scorecard to their circumstances, a residual 10% of the scorecard is left to sectors and enterprises to determine.

Government encourages sectors and enterprises to consider including some of the following in their scorecards: infrastructural support to suppliers and other enterprises in the same area or community, labour-intensive production and construction methods, beneficiation, investment and support to enterprises operating in rural communities and the geographic areas identified in government's integrated sustainable rural development programme and urban renewal programme and investment in the social wage of employees for example, housing, transport, and healthcare.

(e) **The BEE scorecard**

Core component of BEE	Indicators	Conversion Factor	Raw Score	Weighting	Total Score
<b>Direct empowerment score</b>					
Equity Ownership		% share of economic benefits		20%	
Management		% black persons in executive management and/ or executive board and board committees		10%	
<b>Human resource development and employment equity score</b>					
Employment equity		Weighted employment equity analysis		10%	
Skills development		Skills development expenditure as a proportion of total payroll		20%	
<b>Indirect empowerment score</b>					
Preferential procurement		Procurement from black-owned and empowered enterprises as a proportion of total procurement		20%	
Enterprise development		Investment in black-owned and empowered enterprises as a proportion of total assets		10%	
<b>Residual 10%</b>					
To be determined by sector/ enterprise				10%	
<b>Total Score out of 100%</b>					

(f) **Indicators**

The indicators outlined in the scorecard are provided as a guide. In practice, enterprises and sectors may use these ratios, analysis tables or mini-scorecards to provide the most accurate reflection of progress in each of the core components of BEE.

(g) **Weighting**

The weighting of each component reflects the relative importance that government places thereon. The six core components of BEE are weighted to bring the scorecard to a maximum of 100%. The weightings total 100 in order to bring the scorecard to a standardised maximum score.

(h) **Total score**

The total score will be calculated by the sum of the individual component scores and will be reflected as a score out of 100%.

#### 6.2.2 **Fish processing performance**

The historical performance of applicants who have held rights to operate FPEs will be examined to determine if they have effectively utilised their rights. Effective utilisation shall mean activation of fish processing permits and subsequent submission of fish processing data for at least five years during the period 2002-2015. Applicants should submit this information with their application forms.

#### 6.2.3 **Local economic development**

The Delegated Authority may, in order to ensure that all fishing communities share in the marine living resources, have regard to the locality of FPEs. In doing so the Delegated Authority may give preference to applicants, with the aim of ensuring an equitable distribution of opportunities to communities along the coastline.

#### 6.2.4 **Job creation**

The Delegated Authority may give preference to any applicant which commits to retaining existing employment opportunities, or to increasing employment opportunities. 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 (Act 75 of 1997) ("BCEA"); and the applicant's commitment to provide their employees with:

- (a) permanent employment;
- (b) medical aid or any kind of medical support;
- (c) pension and provident fund;
- (d) safe working conditions in accordance with the applicable legislative requirements; and
- (e) an employee share scheme, which ensures that employees enjoy an effective shareholding in the right holder.

### 6.2.5 Access to a suitable fish processing establishment

- (a) An applicant for a vessel-based FPE will be required to demonstrate access to a vessel suitable for the processing of fish. Access may be in the form of ownership, part-ownership, a catch agreement, a charter agreement, or a bank guarantee for sufficient capital to purchase or build a vessel. If an applicant intends purchasing a vessel then additional information must be provided to prove a firm and binding offer by the current owner of the vessel to sell the vessel to the applicant and a purchase agreement must be provided. If an applicant intends building a new vessel then additional information must be provided including the vessel plans, the cost to be incurred and a firm and binding commitment by a vessel building company to build the vessel. The vessel must be certified by South African Maritime Safety (SAMSA) as being safe.
- (b) An applicant for a land-based FPE will be required to demonstrate access to suitable premises by means of a valid lease agreement or title deed. An applicant will be required to provide a sitemap with coordinates of the site locality. All land-based activities need relevant land use planning approval from the local authority, and may also require other statutory planning approvals or authorisations. These approvals and authorisations do not, however, exempt an applicant from undergoing a thorough public participation process, which will ensure that all interested and affected parties are informed and well aware of the activities around them. The requisite land use planning approvals and other requisite statutory authorisations must be in writing and submitted with the application.

### 6.2.6 Business plan

An applicant will be required to submit a detailed business plan including the following information:

- (a) Company profile and shareholding structure;
- (b) Investment in vessel-based and/or land-based fish processing establishments fixed assets;
- (c) Product category to be processed e.g. shellfish, finfish, crustaceans, seaweeds, etc;

- (d) If imported species are being considered, the measures to be taken to avoid the spread and introduction of exotic commensals, parasites and pathogens;
- (e) A detailed description of processing methods and operational plan/s including:
  - (i) Design and technology;
  - (ii) Water quality monitoring;
  - (iii) Effluent discharge;
  - (iv) Quality control measures;
  - (v) Sanitary and hygiene measures; and
  - (vi) Hazard Critical Analysis Control Points (HACCP).
- (g) The use of any kind of chemicals, disinfectants, therapeutants and anaesthetics, that may be used or result from the operation. Methods of application that are being considered for use must also be outlined in the proposal;
- (h) The product destination and/or marketing strategy;
- (i) A detailed financial plan projecting capital, expenditure and income over a minimum period of 2 years should be included;
- (j) Facilities and employment opportunities that will be created should be highlighted in the business plan;
- (k) Information on how the facility will minimize and prevent potential negative environmental impacts.

#### 6.2.7 **Applicant's involvement and relationship with other applicants**

Applicants for rights to FPE are required to disclose their relationship to other applicants for FPE as well as in other commercial fisheries. If members of the same household apply, or if an entity and its subsidiary both apply or if two or more entities which are owned and controlled by the same person or persons or shareholders apply or if an individual applies both as an individual as well as a shareholder or member of another entity for a right to a FPE, this relationship must be disclosed on the application for a right to FPE. A failure to do so may result in the Department implementing proceedings under section 28 of the MLRA.

#### 6.2.8 **Environmental authorisation**

During 2010 the Minister of Environmental Affairs published the Environmental Impact Assessment (EIA) regulations under the National Environmental Management Act, 1998 (Act 18 of 1998) containing listed activities which require a Basic Assessment or scoping and environmental impact reporting. Environmental authorisation may be required before the establishment of an FPE as certain activities germane to an FPE are contained in the listed activities.

If an applicant in the Aquaculture sector or wild capture fisheries is advised that an environmental authorisation is required for the activity, such applicant must register the Aquaculture Management Section of the Department as an interested and affected party, and should forward all environmental impact reports for comments to the Aquaculture Management Section.

#### 6.2.9 **Certificate of acceptability for fish factories and other fish handling and processing establishments**

The Regulations published under Government Notice No. R918 of 1999 as corrected by Government Notice No. 723 of 12 July 2002, promulgated in terms of the Health Act, 1977 (Act 63 of 1977), sets out certain general hygiene requirements for food premises and the transport of food. In terms of these Regulations, a certificate of acceptability for food premises is required before a person can be allowed to handle food on such premises.

An applicant must apply in writing to the Health Services section of the local municipality in whose area of jurisdiction the food premises and or FPEs, where applicable, are situated for a certificate of acceptability. A certificate of acceptability must accompany the application to operate an FPE.

#### 6.2.10 **Coastal waters discharge permit**

The National Environmental Management: Integrated Coastal Management (ICM) Act, 2008 (Act 24 of 2008) addresses a number issues relating to coastal pollution including the discharge of effluent into coastal waters. The provisions of Chapter 8 of the ICM Act, in particular section 69 thereof, regulates the discharge of effluent into coastal waters from any source on land. Such activities, in addition to any other permit or authorisation which may be required by any other law, require a coastal waters discharge permit obtained from the Department of Environmental Affairs (DEA).

**6.2.11 Environmental and land use planning laws**

An FPE must in all respects comply with all relevant and applicable environmental laws and land use planning laws, including by-laws of the municipality governing the area in which the FPE is located, , and any conditions attached to any statutory approval or authorisation applicable to the FPE. A failure to do so may result in the Department implementing proceedings under section 28 of the MLRA and/or obtaining a court order to temporarily close the FPE

**6.2.12 Supplier agreements**

An applicant will be required to submit all supplier agreements for wild capture fisheries or aquaculture products to be processed and to provide documentation to clearly identify all signatories to the supplier agreements.

**6.2.13 Valid SARS tax clearance certificate**

An applicant will be required to declare the financial status of the business with the South African Revenue Services (SARS). A valid SARS tax clearance certificate must accompany the application.

**7. Provisional lists, representations and consultations**

- 7.1. The Delegated Authority may issue provisional lists for comment on any aspect relating to an application in any fishery/sector.
- 7.2. The Delegated Authority may request comment on any of the information provided by an applicant and on the basis of the comments received make its final decision.
- 7.3. The Delegated Authority may invite representations regarding the assessment of the applications before making final decisions.

**8. Announcement of decisions**

The Delegated Authority shall after making final decisions on the applications inform all applicants of the outcome of their individual applications giving specific reasons for such decision. Further General Reasons for decisions in a specific fishery sector will be published informing all applicants on how the decisions were formulated and reached. The General Reasons shall also include an annexure outlining the scores obtained by all application in the seaweed sector.



## **9. Payment of application fees**

9.1 The fees for this sector will be determined having regard to the cost of the entire rights allocation process, including consultation, receipting, evaluation of applications, verification, appeals and reviews.

9.2 An applicant must pay the non-refundable application fee of R9123.00 before submitting an application for a right for FPE. Only the proof of payment shall be brought to the receipting centre.

## **10. Management measures**

The management measures discussed below reflects a number of the Department's principal post- right allocation management intentions for this sector.

### **10.1. Ecosystem approach to fisheries**

A 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. An EAF strives to balance diverse societal objectives, by taking into account the knowledge and uncertainties about biotic, abiotic and human components of ecosystems and their interactions and applying an integrated approach to fisheries within ecologically meaningful boundaries.

### **10.2. Observer Programme**

- (a) The right holder of FPE right shall accommodate an observer on board the right holder's nominated vessel, where applicable, when required to do so by the Department or its agent.
- (b) The right holder may 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 the fish processing 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 holders' vessel; the Department may implement proceedings under section 28 of the MLRA.

### **10.3 Performance measuring**

Successful applicants will be subjected to a number of performance measuring exercises for the duration of their fishing right. The purpose of performance measuring will be to ensure that the

objectives of the fishery are being met and that management methodologies and procedures remain current and suitable for the fishery.

#### 10.4 **Offences**

Successful applicants that fail to utilise their rights to operate FPEs for one year after the granting of the right without any reasonable explanation or that contravenes the provisions of the MLRA will be subjected to proceedings in terms of section 28 of the MLRA.

#### 11. **Permit conditions**

Permit conditions for this sector will be issued annually. The permit conditions will be determined after consultation with the successful applicants in this sector and will be revised as and when it may be necessary with due regard to the laws at the time such permits are issued.

**12. Glossary of terms**

- 12.1 "Brother- Sister corporations" are subsidiary companies owned by the same parent company.
- 12.2 "Close corporation" means close corporation in terms of the Close Corporations Act, (Act No. 69 of 1984), of which the majority of members are South African persons.
- 12.3 "Company" means a company registered in terms of the Companies Act, (Act No. 71 of 2008), of which the majority of shareholders, as prescribed by the Minister, are South African persons.
- 12.4 "Historically disadvantaged person" means a person who belongs to a group of persons who suffered racial discrimination in terms of the system of apartheid and includes women.
- 12.5 "Legal entity" means a close corporation or company.
- 12.6 "MLRA" means the Marine Living Resources Act (Act No. 18 of 1998).
- 12.7 "Race, gender and disability" means race, gender and disability as defined in the Employment Equity Act (Act No. 55 of 1998).
- 12.8 "Right Holder" means a person or a legal entity that was previously granted or lawfully acquired a fishing right or which will be granted a right in the allocation process envisaged in this Policy.
- 12.9 "Rights" means fishing or harvesting rights granted in terms of section 18 of the Marine Living Resources Act, 1998 (Act No. 18 of 1998).
- 12.10 "Same household" means a group of two or more persons living in a residential dwelling unit (which includes a house, semi-detached dwelling, separate outbuildings, an apartment, or any other independent structure) who are dependent on each other, or dependent on one or more members of that group. This includes, but is not limited to, spouses or persons in a long-term relationship, and their dependent children; guardians and their dependent wards; and any other dependent relationship. Persons living at the same address or in the same residential unit, and who are not dependent on any other person at that address or residential unit, do not constitute the same household.
- 12.11 "South African citizen" means a South African citizen in terms of the South African Citizenship Act, 1995 (Act No. 88 of 1995).
- 12.12 "Subsidiary company" is a company that is partly or completely owned by another company that holds a controlling interest in the subsidiary company."
- 12.13 "The Department" means the Department of Agriculture, Forestry and Fisheries.
- 12.14 "The Minister" means the Minister of Agriculture, Forestry and Fisheries.
- 12.15 "The 2013: General Policy" means the General Policy on the Allocation and Management of Fishing Rights: 2013.