



## forestry, fisheries & the environment

Department:  
Forestry, Fisheries and the Environment  
REPUBLIC OF SOUTH AFRICA

Foretrust Building, Martin Hammerschalg Way, Foreshore, Cape Town, 8001

### **EXEMPTION ISSUED TO FISHING SECTORS DUE TO EXPIRE ON 31 DECEMBER 2021 AND TO CURRENT RIGHT HOLDERS IN TERMS OF SECTION 81 OF THE MARINE LIVING RESOURCES ACT, 1998 (ACT NO. 18 OF 1998)**

#### **1. INTRODUCTION**

By virtue of the delegated authority vested in me in terms of Section 79 of the Marine Living Resources Act 18 of 1998 ("MLRA"), by the Minister of Forestry, Fisheries and the Environment, I Susan Clare Middleton, the Deputy Director-General of the Fisheries Management Branch, hereby in terms of section 81 of the MLRA, grant an exemption from Sections 18(1) and 13(1) of the MLRA for the period **28 December 2021 to 31 March 2022 or until new commercial fishing rights are allocated to certain specified local commercial sectors, whichever comes first.**

This exemption dispensation has been occasioned by the re-opening of the FRAP Online System over the period 28 December 2021 to 27 January 2022. The re-opening of the online system will effectively delay decisions on the current applications for the allocation of fishing rights in a number of fishing sectors which are due for re-allocation, in circumstances where the fishing season commences during January and/or February. Therefore, current exemption holders in affected sectors will need to continue fishing so that they are not adversely affected by the delay in finalising FRAP2021.

Exemptions will also apply to sectors which are currently not due for allocation during the FRAP2021, i.e. Hake Handline, Oysters and White Mussel, to enable fishing to continue in these sectors pending the decision on the resource allocation split.

Similarly, current right holders in sectors which are not due for re-allocation of fishing rights and who require permits from 1 January 2022 will also be exempted from the requirements of section 13 of the MLRA in order to continue with their fishing and related activities. These exemption holders will be permitted to continue fishing on their existing permits during January, February and March 2022.

## **2. EXEMPTION FROM SECTION 18 IN TERMS OF SECTION 81**

All current exemption holders in the Demersal Shark Longline, Hake Deepsea Trawl, Hake Longline, Kwazulu-Natal Crustacean Prawn Trawl, Small Pelagic (Sardines and Anchovy), South Coast Rock Lobster, Squid, Traditional Linefish, Hake Handline, Oysters, White Mussel and Tuna Pole-Line sectors are exempted from the requirements of section 18 of Marine Living Resources Act, 1998 (Act No. 18 of 1998) (the "MLRA") in terms of section 81 of the MLRA for the period **28 December 2021 to 31 March 2022 or until new commercial fishing rights are allocated to certain specified local commercial sectors, whichever comes first.**

## **3. EXEMPTION FROM SECTION 13 IN TERMS OF SECTION 81 OF THE MLRA:**

All current rights holders and exemption holders identified in paragraph 2 above in the Demersal Shark Longline, Hake Deepsea Trawl, Hake Longline, Kwazulu-Natal Crustacean Prawn Trawl, Small Pelagic (Sardines and Anchovy), South Coast Rock Lobster, Squid, Traditional Linefish, Hake Handline, Tuna Pole-Line, Hake Inshore Trawl, Horse Mackerel, KwaZulu-Natal Beach Seine, Patagonian Toothfish, Oyster, White Mussel and Large Pelagic Longline sectors are exempted from the requirements of section 13 of Marine Living Resources Act, 1998 (Act No. 18 of 1998) (the "MLRA") in terms of section 81 of the MLRA for the period **28 December 2021 to 31 March 2022 or until new commercial fishing rights are allocated to certain specified local commercial sectors, whichever comes first.**

### **3.1 Catch Permits and other permits**

3.1.1 All the Right/Exemption holders (the "**Right/Exemption Holders**") in the above sectors who do not have valid permits to undertake commercial fishing in their respective sectors for the 2021/2022 fishing season(s), are hereby exempted from the provisions of section 13 of the MLRA in terms of section 81 of the MLRA and are authorized to harvest a proportion of their respective allocations for the 2021/2022 fishing season(s), in compliance with the conditions specified below.

- a) For sectors whose season commences from January 2022, rights/exemption holders in these sectors will fish a proportion of the determined effort and/or mass/quantum for the duration of the exemption, which is from 01 January 2022 to March 2022.
- b) Right/Exemption Holders may not, where applicable, exceed their effort and/or mass/quantum allocations that has/have been allocated to them for the 2021/2022 fishing season(s), respectively.

- c) Right/Exemption Holders are hereby authorised to utilise vehicles and trailers of their own choice for the transportation of their respective catches from the landing sites to their nominated FPEs. The nominated vehicles must meet the requirements for issuing of transport permits in the respective sectors. The Right/Exemption Holders and/or the nominated vehicle owners and/or their employees must adhere to the transport permit conditions for their 2021/2022 fishing season(s).
- d) For authorisations of foreign vessels (Reefer and Fishing), all current permit conditions must be adhered to.
- e) For EEZ Gear Permits, exemption holders are required to submit applications through the IOTC AREP online system and further submit the same application to CSC. A copy of the application and the proof of payment submitted must be onboard the vessel at all times for the duration of this exemption.
- f) For EEZ permits (carrier/reefer vessels), Transshipment (foreign and local) prohibited Deepwater Species permits (land, possess and sell) and High Seas vessel license, exemption holders are required to submit applications to CSC. A copy of the application and the proof of payment submitted must be onboard the vessel at all times for the duration of this exemption.
- g) For Force Majeure, operators are required to email to [QMketsu@dfpe.gov.za](mailto:QMketsu@dfpe.gov.za); [MMqoqi@dfpe.gov.za](mailto:MMqoqi@dfpe.gov.za); [FSavel@dfpe.gov.za](mailto:FSavel@dfpe.gov.za); [TVico@dfpe.gov.za](mailto:TVico@dfpe.gov.za); [VMSops@dfpe.gov.za](mailto:VMSops@dfpe.gov.za); and copy SAMSA MRCC (Cape Town and Durban), and submit an EEZ Gear Permit application and have onboard the vessel a copy of the correspondence and the copy of the EEZ Gear Permit application, as well as the proof of payment.

### 3.2 FPE PERMITS

- 3.2.1 FPE permit holders with a valid permit to process fish and fish products and that have concluded processing agreements with Right Holders or Exemption Holders in the respective sectors covered by this exemption are authorised to process fish from such Right Holders or Exemption Holders holders and must meet all the requirements for issuing of a FPE permit. FPE permit holders who do not have a valid permit, are hereby exempted from the provisions of section 13 of the MLRA, provided the FPE permit holders adheres to their 2021 FPE permit conditions (the "**2021 FPE Permit Conditions**") and 2022 FPE permit conditions (the "**2022 FPE Permit Conditions**").
- 3.2.2 (a) Right/Exemption Holders are hereby exempt from the provisions of sections 23(1) and 39(1) of the MLRA and authorised to utilize fishing vessel(s) of their own choice for harvesting their

apportioned allocations granted to them in the respective fishing sectors, provided that the nominated vessel(s) is/are already within the respective fishing sector.

- (b) If a vessel is not yet in the respective fishing sector, application must first be made to obtain approval to use the vessel in the respective fishing sector.
- (c) The nominated vessel(s) must meet all the requirements for the issuing of a vessel license.

### 3.3 EXPORT PERMITS

- 3.3.1 Right/Exemption Holders and/or their nominated and authorised representatives who do not have a valid export permit for the sectors covered by this exemption are hereby exempt from the provisions of section 13 of the MLRA and authorised to export fish and products thereof, provided that they have already applied for the relevant export permit which should accompany the export consignment. The Right/Exemption Holders and/or their nominated and authorized exporters must adhere to the requirements for the issuing of export permits for fish and products thereof as well as their corresponding 2021 or 2022 export permit conditions.
- 3.3.2 Exporters must submit to the Department at [cscapplications@dfpe.gov.za](mailto:cscapplications@dfpe.gov.za), a breakdown of the mass/quantum exported per Right/Exemption Holder as well as copies of all necessary documents required for the export of fish and products thereof (e.g. pro-forma invoice, commercial invoice, bill of lading etc.).
- 3.3.3 The whole mass of the fish that is exported must not exceed the mass/quantum of fish allocated to a Right/Exemption Holder in any of the fishing sectors.

### 3.4 IMPORT PERMITS

- 3.4.1 Importers wishing to import fish and fish products into the country and who do not have a valid import permit, are hereby exempt from the provisions of section 13 of the MLRA and authorised to import fish and products thereof in instances where trade between South Africa and the exporting country is allowed during this pandemic period of the Covid-19 virus.
- 3.4.2 Importers must adhere to the requirements for the issuing of import permits as well as their 2021 or 2022 import permit conditions, whichever is applicable.
- 3.4.3 A copy of the applicable expired import permit for 2021 or 2022 must accompany the import consignment.

- 3.4.4 All importers must submit the breakdown of the mass/quantum of imported fish as well as copies of all necessary documents required for the import of fish and fish products (e.g. pro-forma invoice, commercial invoice, bill of lading etc.) to the Department.
- 3.4.5 The whole mass of fish and fish products that is imported must not exceed the mass/quantum allowed in terms of the importers' previously issued 2021 or 2022 import permits, whichever is applicable.

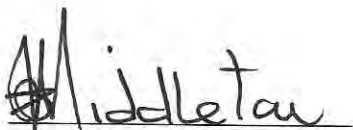
#### **4 SPECIAL CONDITIONS**

Persons to whom this exemption is applicable must have this exemption available on their person/vessel at all times while fishing or engaging in any other activity and must comply with all applicable conditions set out in this exemption. The applicable expired permit or licence or authorisation must accompany this exemption when the fishing or related activity applied for, is taking place. On expiry of this exemption, all rights holders in the sectors that are not up for rights allocation under FRAP 2021 must have applied for their permits for fishing and other related activities requiring permits beyond the exemption period. Therefore, it is encouraged that these sectors apply for their permits before end of February 2022.

#### **5 CONTRAVENTIONS AND CANCELLATION OF THE EXEMPTION**

All persons or operators to whom this exemption applies will be subjected to section 28 and/or section 81 proceedings in terms of the MLRA and/or criminal proceedings if he, she or it fails to adhere to the terms and the conditions of this exemption.

The Minister and/or the Delegated Authority may cancel or amend this exemption at any time.



**Ms Sue Middleton**

**DEPUTY DIRECTOR-GENERAL: FISHERIES MANAGEMENT**

**Duly delegated with the authority in terms of section 79 of the Marine Living Resources Act 18 of 1998 to issue exemptions in terms of section 81 of that Act.**

Date: 28/12/2021