



**DEPARTMENT OF AGRICULTURE, FORESTRY AND FISHERIES**

**POLICY FOR THE ALLOCATION AND MANAGEMENT OF FISHING RIGHTS IN THE  
KWAZULU-NATAL PRAWN TRAWL FISHERY: 2013**

**THIS POLICY MUST BE READ WITH THE 2013: GENERAL POLICY ON THE  
ALLOCATION AND MANAGEMENT OF FISHING RIGHTS  
(available at [www.daff.gov.za](http://www.daff.gov.za))**

**This document is also available in Afrikaans, isiXhosa and isiZulu  
Hierdie dokument is ook in Afrikaans, isiXhosa en isiZulu beskikbaar  
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Lencwadi iyatholakala nangolimi lwesiBhunu, lwesiXhosa nolwesiZulu**

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

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## 1. Introduction

This policy for the allocation and management of fishing rights in the KwaZulu-Natal Prawn Trawl (‘the fishery’) is issued by the Minister of Agriculture, Forestry and Fisheries (‘the Minister’) and shall be referred to as the “**2013: KZN Prawn Trawl Fishery Policy**”. The 2013: KZN Prawn Trawl Fishery Policy shall be read together with the 2013: General Policy on the Allocation and Management of Fishing Rights (‘2013: General Policy’).

The Minister intends delegating the section 18 powers to allocate commercial fishing rights in terms of section 79 of the Marine Living Resources Act 18 of 1998 (‘the MLRA’) to an official of the Department.

This policy sets out objectives, criteria and, considerations that will guide the evaluation and allocation of fishing rights in the KZN prawn trawl 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 KZN prawn trawl fishery is based in KwaZulu-Natal and consists of two components, i.e., an inshore fishery which takes place on the Thukela Bank and at St. Lucia targeting shallow-water (< 50m) penaeid prawns and an offshore deep-water (200-500m) fishery that extends from Cape Vidal in the north to Amanzimtoti in the south, targeting pink prawns (*Haliporoides triarthrus*), langoustines (*Metanephrops mozambicus*), rock lobsters (*Palinurus delagoae*) and deep-water orange crab (*Chaceon macphersoni*).

Up to the 1960s, trawling was sporadic, but thereafter the sector comprised up to 12 companies and 21 vessels, many of which also fished in Mozambique. Regular statistics were collected from 1988 onwards. Catches and catch rates of individual species or groups of species fluctuate widely, sometimes as a result of fishing strategy (targeting of specific species) rather than fluctuations in abundance. The abundance of shallow water prawns depends on rainfall patterns and their effects on the flushing of estuaries where larval and juvenile prawns develop. In general, the last two decades

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have seen declines in the landings of white prawns, pink prawns, langoustines, rock lobster and deep-water orange crab.

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. A TAE of eight fishing permits has been maintained for the past decade.

The sector is capital-intensive and its infrastructure, marketing and product distribution are dominated by 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.

Catches (by mass) of the KZN prawn trawl 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 tons per annum.

The inshore trawling is 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. The boundary between the inshore and offshore fisheries is 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).

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.

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## 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) and red prawns *Haliporoides triarthrus* and *Aristaeomorpha foliacea*, langoustines *Metanephrops mozambicus* and *Nephropsis stewartii*, deep-water orange crab (*Chaceon macphersoni*), and deep-water rock lobster *Palinurus delagoae*. The life cycles of these species are diverse, but some (such as rock lobster) are slow-growing and long-lived, making them more vulnerable to fishing. Little is known about the biology of the deep-water prawns and langoustines.

## 3. 2005/2006 long-term fishing rights allocation process

In 2005/2006 fishing rights were allocated for a period of eight years. Rights are currently held by four fishing companies (with a total of seven vessels), of which two right holders (with five vessels) may fish in both the inshore and offshore fisheries, and the other two right holders (with two vessels) are restricted to the offshore fishery only.

The results of 2005/2006 fishing rights allocation process were as follows:

- (a) 50 % of the right holders in the fishery had a greater than 50 % black shareholding;
- (b) The black ownership in the fishery has increased from 30 % to 67 %;
- (c) The average female ownership in the fishery has decreased by 9.65 %;

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- (d) Only 30 % of the right holders in the fishery had an employee share scheme;
- (e) Black male directorship has increased from below 10 % to 72 %, however, the female directorship has decreased from 17 % to 14.2 % in this fishery; and
- (f) The number of employees in this fishery has decreased from 150 to 80.

#### **4. Objectives**

4.1 The objectives of allocating fishing rights in the KZN prawn trawl fishery are to:

- (a) promote transformation, broaden meaningful participation (increase participation, value-creation, and linkage) and growth;
- (b) improve the quality of jobs through the promotion of permanent employment and allocation of rights to SMMEs owned by historically disadvantaged persons
- (c) promote adherence to fair labour practices;
- (d) to promote food security and poverty alleviation;
- (e) allocate rights to applicants reliant on KZN prawn trawl as their main source of income;
- (f) promote further investment in vessels;
- (g) facilitate the recovery of over-exploited and collapsed fish stocks;
- (h) achieve optimum utilisation and ecologically sustainable development of marine living resources; and
- (i) promote youth and female ownership and development.

## **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 it shall automatically terminate and revert back to the State.

### **5.1. Form of right holder**

Applications will only be considered from South African-owned companies, close corporations and co-operatives.

### **5.2 Duration of rights**

Fishing rights will be granted in the KZN prawn trawl fishery for a period not exceeding 15 years. The duration of rights will be determined by the delegated authority taking in to 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.

## **6. 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.

### **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:

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

Applicants, including their members, directors or controlling shareholders that

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have been convicted of a serious transgression of the MLRA (without the option of the payment of a fine) will be excluded. Applicants, including their members, directors or controlling shareholders that have had any fishing right cancelled or revoked in terms of the MLRA will also be excluded. Minor infringements, including payment of admission of guilt fines, 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 that failed to effectively utilise their KZN prawn trawl fishing rights between the period 2007 to 2012 or who have not collected a permit for any particular reason without providing a reasonable explanation and/or supporting documentation may be excluded.

(d) **Access to a suitable vessel**

An applicant will be required to demonstrate a right of access to a vessel suitable for the harvesting of KZN prawn trawl. Access may be in the form of ownership, part-ownership, catch agreement, charter agreement, or bank guarantee in the case of a purchase of a vessel or to build a vessel. If an applicant intends purchasing a vessel then additional proof of a purchase agreement must be provided. If in the case of a new build vessel then the vessel plans and cost from the vessel building company must be provided.

6.2. **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) **Transformation**

Applicants will be assessed and scored on –

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- (i) The percentage of black and women ownership and black and women representation at top salary, board of directors, members and senior official and management levels;
- (ii) Whether employees (other than top salary earners) benefit from an employee share scheme;
- (iii) Compliance with the Employment Equity Act 55 of 1998 and the representivity of blacks and women at the various levels of employment below senior official and management level. The Department may also give regard to the wage differentials between the highest and lowest paid employees;
- (iv) Compliance with the Basic Conditions of Employment Act, 1997 (No. 75 of 1997) (BCEA). Applicants that comply with the BCEA will score more points than applicants not complying.
- (v) Affirmative procurement;
- (vi) Compliance with legislation on skills development and the amounts spent on the training of blacks and youth and participation in learnership programmes; and
- (vii) Corporate social investment.

(b) **Investment in the fishery**

Investment in the KZN prawn trawl fishery related to vessels, processing, and human capital will be considered.

(c) **Fishing performance**

- (i) The fishing performance of applicants holding fishing rights in the KZN prawn trawl fishery will be examined to determine if they have effectively utilised their fishing rights.

- (ii) Applicants that did not harvest any KZN prawn trawl during a fishing season or who have not collected a permit for any particular season without providing a reasonable explanation and/or supporting documentation may be excluded.

(d) **Reliance on KZN prawn trawl**

Preference will be given to applicants who rely on the harvesting of KZN prawn trawl for a significant portion of their gross annual income above applicants deriving income from sources outside the fishery.

(e) **Local economic development**

- (i) The delegated authority will take into consideration the landing of catches in fishing harbours outside the metropolitan areas to promote local economic development.
- (ii) The delegated authority may, in order to ensure that all fishing communities share in the marine living resources, use landing sites/fishing harbours as scoring or tie-breaking criteria.
- (iii) Applicants are encouraged to land or process fish in harbours and fishing communities that are economically depressed.

(f) **Job creation**

Job creation and increases in jobs as a result of the allocation of long-term fishing rights will be rewarded, and in particular, in respect of applicants that have provided their employees with –

- (i) permanent employment;
- (ii) medical aid, pension and provident fund;
- (iii) safe working conditions in accordance with the applicable legislative requirements; and

(iv) an employee share scheme as a shareholding entity of the right holder.

(g) **Payment of levies**

Applicants that were granted fishing rights in 2005/2006 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.

**6.3. Suitable vessels**

(a) A suitable vessel in the KZN prawn trawl fishery is a large fishing vessel that:

- (i) is rigged to trawl for prawns (bottom trawling with single net stern, or boom-operated twin or triple nets; and
- (ii) has a functioning vessel monitoring system at the time of applying for a vessel licence if the application is successful;

(b) 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 SAMSA registration certificate.

**6.4. Multi-sector involvement**

Applicants in the KZN prawn trawl 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.

**7. Application fees**

No application fees will be payable for applications in this fishery.

## **8. Provisional lists, representations and consultations**

- 8.1. The delegated authority may issue provisional lists for comment on any aspect relating to an application in this fishery.
- 8.2. The delegated authority may request comment on any of the information provided by an applicant and on the basis of the comments received make a final decision.
- 8.3. The delegated authorities may invite representations regarding the assessment of the applications before making final decisions.

## **9. Management measures**

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

### **9.1. 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.

### **9.2. Performance measuring**

Successful applicants will be subjected to a number of performance measuring exercises for the duration of the fishing rights. 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.

### **9.3 Utilisation of fishing right**

Successful applicants that fail to utilise their KZN prawn trawl fishing rights for one season without any reasonable explanation, will have their rights cancelled or revoked in terms of the provisions of the MLRA.

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#### **9.4 Grant-of-right fees**

All successful applicants may be required to pay a grant-of-right fee. The Department will determine the applicable grant of right fee payable for each fishery after consultation with the successful applicants in each fishery. The grant-of-right fee for each fishery will be subject to the approval of the Minister and the Minister of Finance.

#### **10. 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 it may be necessary.

#### **11. Glossary of terms**

- 11.1. "Application period" means the period commencing with the publication of the invitation to apply for a fishing or harvesting right in the sector to the date on which the appeals authority finally decides the appeals in the sector.
- 11.2. "MLRA" means the Marine Living Resources Act, 1998 (Act No. 18 of 1998).
- 11.3. "Race, gender and disability" refers to the race, gender and disability as defined in the Employment Equity Act 55 of 1998.
- 11.4. "Rights" means fishing or harvesting rights granted in terms of section 18 of the Marine Living Resources Act, 1998 (Act No. 18 of 1998).
- 11.5. "Right Holder" means a person that was granted a fishing right during the period 2005 – 2006 in a specific fishery, or became a right holder in a fishery by way of an approved transfer of a fishing right.
- 11.6. "SMME" means Small, Medium and Micro-sized Enterprises.

- 11.7 "The 2013: General Policy" means the General Policy on the Allocation and Management of Fishing Rights: 2013.
- 11.8. "The Department" means the Department of Agriculture, Forestry and Fisheries.
- 11.9. "The Minister" means the Minister of Agriculture, Forestry and Fisheries.
- 11.10. "Total allowable catch" means the maximum quantity of fish of individual species or groups of species made available annually or during such other period of time as may be prescribed, for combined recreational, small-scale, commercial and foreign fishing.
- 11.11 "Total applied effort" means the maximum number of fishing vessels, the type, size and engine power thereof or the fishing method applied thereby for which fishing vessel licences or permits to fish may be issued for individual species or groups of species, or the maximum number of persons on board a fishing vessel for which fishing licences or permits may be issued to fish individual species or groups of species