



agriculture,
forestry & fisheries

Department:
Agriculture, Forestry and Fisheries
REPUBLIC OF SOUTH AFRICA

PRESS RELEASE

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**MINISTER RELEASES DECISIONS ON 2015/2016 FISHING RIGHTS ALLOCATION
PROCESS (FRAP2015/16): HAKE INSHORE TRAWL (HIT) SECTOR APPEALS**

Pretoria: 14 July 2017. The Minister of Agriculture, Forestry and Fisheries has reviewed and determined 91 appeals in the Hake Inshore Trawl (HIT) Sector. 156 applications for the allocation in the HIT sector had been received and processed by the Delegated Authority (the DA) – the Deputy Director-General: Fisheries Management. The Minister's decisions are contained in a General Published Reasons on the Appeals (Appeals GPR).

The release of these decisions at this time complies with the Western Cape High Court judgment that was delivered on 04 July 2017. The judgement dismissed the interdict application of Viking Inshore Fishing (Pty) Ltd against the Minister. The Court had directed the Minister to consider and decide the applicant's exemption application/ appeal dated 14 December 2016 within ten (10) working days of the order of the Court.

The Minister would like to clarify that while the reasons for his decisions, including the methodology he adopted in the appeals process are final, the allocations granted to all successful appellants and applicants are conditional. A verification process of several assertions, allegations and information submitted by appellants will be conducted.

the Minister has decided to release the results of the Appeals process pending the finalization of the verification process/forensic audit in view of the fact that fishing in the Hake Inshore Trawl Sector is yet to commence with attendant consequences for the industry and beneficiaries – due to the Interim Interdict which was only lifted by the Western Cape High Court on 4 July 2017. . The Minister will exercise his powers in terms of Section

28 of the Marine Living Resource Act, 1998 (Act No 18 of 1998) (the MLRA) should a rights holder be found to have provided false information or made a material misrepresentation.

While several grounds of appeal were raised by appellants, and addressed by the Minister, the main systematic grounds of appeals included the following:

- a. Failure of the quantum allocation methodology to observe and achieve the applicable principles and objectives of the MLRA;
- a. Admission of too many new entrants at the expense of existing right holders;
- b. Failure to allocate the entire Total Allowable Catch (TAC) by setting aside a portion thereof to be used as rewards pool – 10%; and
- c. Underweighting of black ownership under the transformation scores.

The Minister determined that the criticism by appellants that taking only black ownership at the expense of all other factors to determine quantum allocation by the DA for Category A applicants was valid and therefore **set aside the DA's quantum allocation mechanism for category A appellants.**

The Minister decided that quantum allocation for Category A appellants /applicants should be based on an **adjusted total overall score of the balancing stage; which takes into account all the other criteria that applicants were scored on** – such as fishing experience, investments in the industry, compliance, access to a suitable vessel, job creation and importantly, overall transformation rather than just black ownership.

In order to address the complaint about the **underweighting of black ownership** under the transformation score, the Minister increased the black ownership weighting from 5% to 30% for Category A; 50% for Category B and 75% for Category C.

On admission of new entrants, the Minister decided that setting aside a sizable but in reality still a modest amount of 30% for new entrants is fair and justifiable. The Minister is of the view that 30% reflects what the country should have achieved in 40 years after freedom, noting that the next allocation will only be in 2032.

The Minister would like to clarify that **new entrants were not accommodated on the basis of their black ownership status only**. Several appellants had complained that some of the new entrants had lower black ownership than some of the Category A applicants. While transformation of the industry is one of the important imperatives of the Department and indeed the entire South African Government, the Minister reiterates that black ownership or BEE status alone does not qualify applicants for allocation of fishing rights. In fact, the Minister ascertained that all the successful Category C applicants/appellants either **owned or had access to a suitable vessel such as a valid catch agreement in order to avoid becoming paper quota risk holders in compliance with applicable laws and policies**.

On the complaint about setting aside a rewards pool, the Minister noted that the decision to create a rewards pool was stated by the Delegated Authority as, among others, giving effect to the need to utilise marine living resources to achieve economic growth consistent with the development objectives of national government and to promote empowerment and optimal utilization within the fishing industry.

However, in the absence of clarity on how the rewards pool would be utilised, and also having regard to the short-term effects on the economy and on established businesses, based on the decision to permit new entrants, and of course having regard to the objectives of Section 2 of the MLRA, the Minister decided that it is better to increase the share of the TAC to be shared by the previous right holders and therefore have no rewards pool. The Minister decided to allocate the entire TAC and that Category A applicants will share 70% of the TAC and the new entrants in the HIT Sector approximately 30% of the TAC.

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