



FAQs (Application forms)

Department of Forestry, Fisheries, and the Environment
Private Bag X2, Vlaeberg, 8018

FISHING RIGHTS ALLOCATIONS PROCESS (FRAP) 21/22

Questions and Answers on Entities Application Form

COMMENT/ SECTION	QUESTION	ANSWER
General - Fees	<p>A serious outcry for APPLICATION fees to be payable ONLY once being SUCCESSFUL in the application.</p> <ul style="list-style-type: none"> • These individuals are very annoyed and do see this process as just another carrot which will lead to no Right for them and another way that Govt. want to generate income. They simply do NOT have the money to pay for an application. • All suffered during the start of COVID19 – some households in Lamberts Bay do have municipality bills in excess of R70 000. 	<p>Traditional Linefish applicants have been exempted from paying the Application Fee and Grant of Right Fee. Applicants in all other fishing sectors will be expected to pay the applicable fees.</p>
General – Application Process	<p>It is noted that the consultation process on application forms for the allocation of commercial fishing rights has not officially commenced. Based on the wording of paragraph 5.2.1 of the Draft General Policy on the Allocation of Commercial Fishing Rights: 2021 (“the Draft General Policy”) it presumes that commentary on the draft application forms is part of the commentary process relating to the policies. This would require the draft application forms to be published in the Government Gazette and interested and affected parties should be afforded a minimum period of 30 days to comment on the draft application forms.</p> <p>In light of the above it is noted with concern the fact that application forms have not been formally Gazetted and places on record that until such time as the draft application forms have been Gazetted for comment the consultation process for FRAP 2021 cannot be claimed to have been finalized.</p>	<p>The Department is not legally obliged to consult on the application form.</p> <p>The draft application form was posted on the Departmental website and interested and affected parties were invited to submit comments via the comment email address provided by the Department. The comments have been taken into consideration in the revision of the application form.</p>



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	<p>Notwithstanding the above, on or about the 15th of October 2021 the Department of Forestry, Fisheries and the Environment (“DFFE” or “the Department”) informally circulated what purports to be the draft application form for entity applicants (“the Draft Application Form”) and accordingly encouraged interested and affected parties to submit comments on the Draft Application Form. No due date for submission of comments on the Draft Application Form has been communicated but we presume that the due date for comments is 25 October 2021 (when all comments on the draft policies is due).</p> <p>While the Draft Application Form has not been formally Gazetted for public comment (as is legally required), we have nonetheless availed itself of the opportunity to submit comments on the Draft Application Form and refers the Department to its comments below. We reserve the right to supplement these comments in the event that the Draft Application Form is Gazetted, and comments are invited.</p>	
General - Timeframe for Submission of Applications	<p>It is requested that the timeframe to complete and submit application forms should be made available to interested and affected parties. It is accordingly submitted that the suggestion that applications should be completed and submitted within 30 (thirty) days may be unfairly limiting especially if one has regard to the substantial amount of information and documentation that applicants are required to compile and the fact that applicants would like the opportunity to have external consultants review their applications to ensure that applications are presented in compliance with DFFE requirements. The restrictive nature of the 30-day timeline is borne out by the fact that in all previous rights allocation processes applicants were provided 30 days to compile and submit applications and in all previous application processes this 30-day period has been extended. In light thereof we request that the 30-day time period for submission of applications should be reconsidered and extended.</p>	<p>The timeframe for applicants to complete and submit applications has been communicated in the Public Notice of 29 October 2021.</p>
General - Online Applications	<p>Online Applications - There is almost NO signal, Wi-Fi or access to online systems in these communities – and many</p>	<p>The Department is providing assistance to prospective applicants at decentralised support centres with laptops</p>



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	individuals are NOT computer literate – these people need to be assisted during the application period.	and Wi-Fi for individuals to complete their applications and upload their documentation. Details on the decentralised support centres have been communicated in the Public Notice of 29 October 2021.
General - Online Applications	This is not practical for most line fisherman who do not all have access and the knowledge to do such an application properly.	Decentralised support centres will be available. Note that applicants in the Traditional Linefish sector must apply on the Individuals Application Form (online).
General - Evaluation	The Department has not presented the evaluation weightings and matrix to be applied to the application form results. With respect, the weightings and calculation algorithm are critical in providing transparency and asserting fairness (and possibly legality) to the outcome of the FRAP process, particularly if such an application form is to be fairly assessed and adjudicated across so many different sectors and types of applicants. Evidence of this specific risk is borne out in both the Hake Inshore Trawl and Horse Mackerel FRAP legal challenges, where applicants scored highly, yet disproportionately (and subsequently found to unlawfully) lost more quota from their exiting allocations.	The Department is not obliged to communicate the weighting and scoring methodology.
General – Application Form	<ul style="list-style-type: none"> i. It is very difficult to have a “one size fits all” approach to the application form for FRAP 2021/22. ii. The questions in the application form should align to what the General and Sector-Specific policies are seeking to achieve during FRAP 2021/22. iii. Eliminate the gremlins of “errors” from the 2015/16 FRAP application form that were subsequently corrected on appeal or judicial reviews. iv. As a general principle, the application should not simply ask binary “yes or no” answer questions unless the substantive measure of performance or non-performance are itself a binary measure. If a binary “yes or no” answer is not a meaningful basis of comparison between applicants, then there should be a follow up questions to the binary “yes or no” question, which follow up questions should elicit the provision of information that will enable the decision maker to make a meaningful qualitative comparison of the differing merits of the 	<ul style="list-style-type: none"> i. The online system will allow for applicants to add further rows where necessary and to provide further detail in comments boxes ii. The Department has sought to achieve alignment between the policies and the application form. iii. The Department has sought to eliminate the gremlins. iv. Questions have been expanded as far as possible. Applicants are encouraged to provide as much information as possible in substantiating their responses.



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	<p>different applicants. This information needs to be recorded in the application form, not in annexures in a manner that prevents meaningful comparison.</p> <p>v. The Delegated Authority should utilise a metric to compare applicants as in 2005 – the most CREDIBLE is per quota ton of fish allocated to a rights holder. Most crucial to the application form, especially if it is an electronic submission.</p>	<p>v. The Department prefers to review the information as units, not as a ratio.</p>
General – Application Form	A number of questions refer to information to be provided from 2006 to 2021. Some right holders were only awarded rights in 2013.	<p>The time period is set from 2006 to allow for applicants who were awarded rights in 2006 to complete the information for the duration of their right period.</p> <p>Applicants need only complete for the years applicable to their right period (i.e., if you were awarded rights in 2013, then only 2013 – 2021 need be completed)</p>
Application Form – Information required	<p>It is noted that many of the questions in the Draft Application Form request information and documentation from 2005. It is respectfully submitted that this is clearly an oversight on the part of the Department as many of the sectors (including squid) were only awarded rights as part of the Fishing Rights Allocation Process 2013/2014 (FRAP 2013) and as such the information requested prior to the allocation of rights as part of the FRAP 2013 will either not be relevant for the purposes of this rights allocation process or will simply not be available especially in respect of applicants who were awarded rights as Category B or C applicants in FRAP 2013.</p> <p>As such, in order to avoid having to process a huge amount of information that would largely be irrelevant, it is requested that the Department correct this oversight and ensure that only information from 2014 is requested from applicants who were awarded rights as part of the FRAP 2013.</p>	<p>The time period is set from 2005 to allow for applicants who were awarded rights in 2005 to complete the information for the duration of their right period.</p> <p>Applicants need only complete for the years applicable to their right period (i.e., if you were awarded rights in 2013, then only 2013 – 2020 need be completed)</p>
Application Form – Information required	There seems to be some confusion when answering the application form regarding information dating back to 2005. The current Squid rights where awarded 31 Dec 2013 and came into effect 1 Jan 2014 and expired 31 December 2020. According to The Companies Act, No. 71 of 2008, that consolidates and amends the law relating to companies read with the Companies Amendment Act,	<p>The time period is set from 2005 to allow for applicants who were awarded rights in 2005 to complete the information for the duration of their right period.</p> <p>Applicants need only complete for the years applicable to</p>



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	No.3 of 2011, and the Companies Regulations, 2011, the legal requirement for companies to keep records is 7 years. While records can be requested dating back further than 7 years, an applicant should not be penalised if this information is not available.	their right period (i.e., if you were awarded rights in 2013, then only 2013 – 2020 need be completed). Applicants are encouraged to submit as much information as possible to strengthen their application.
Application Form – Economic Units	<p>We noted that the application form does not make allowance for information of an economic unit while we propose that the application form should have a section dedicated to economic unit information.</p> <p>All information that is claimed in an economic unit must be audited and every applicant must divulge all the participants partaking in the activity of his economic unit, e.g., there are 4 participants in one economic unit all four participants must be disclosed and their proportional claims must be stated by each participant in the economic unit to avoid double counting and transparency.</p>	<p>Applicants are encouraged to make use of the comment boxes to provide further explanation, or to upload supporting documentation where required.</p> <p>Question 7.6 allows for further information on economic units.</p>
Application Form	Will additional information be added to the form in terms of explanatory memorandum on how to answer each question or a set of responses to frequently asked questions?	Explanatory notes have been provided.
Incorrect numbering	Some of the Annexures are numbered incorrectly	This has been amended in the final form
Application number	How do applicants know what their application number will be?	The application number will be generated by the online system.
Application number	The cover does not provide a space for the Sector being applied for but merely an application number.	Each applicant will be allocated a code generated by the online system. Each sector has its own unique code.
Instructions – 2	Refers to only South African persons as defined by the MLRA being able to apply for commercial fishing rights – this is slightly confusing as different definitions apply in terms of trusts, cooperatives and companies.	See Explanatory Notes – Definitions have been included and aligned to the MLRA.
Instructions – 4	If you do have a question and answer facility (FAQ) regarding the application form, then details of it should be noted.	This document can be used for that purpose. Enquiries on the online application form must be directed to Navayuga, at the helpline at 010 500 2323 or by sending an email to frapitsupport@navayugainfotech.com .



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Instructions – 8	<p>Do all annexures need to be available in original format and able to be certified? If an applicant is unable to provide a certified copy of something but that item can be verified or is clearly correct, then surely the DA must be able to consider it?</p> <ul style="list-style-type: none"> • Should the word 'will not be accepted' be changed to 'may not be accepted or considered in assessing the application'. 	Point 8 has been amended as per the suggestion. The table of Annexures has been amended to indicate where certified copies are required.
Annexure 1 A-1	Please can you define what you mean by company registration documents.	This has been included in the Explanatory Notes
Section 1B – Contact Details	Space is not provided for applicants to include website addresses	This has been added
Section 1F – Fishing Experience and Knowledge	<ul style="list-style-type: none"> i. Please clarify who is a Category A, B and C applicant. ii. You need to clarify where an applicant who has no commercial fishing rights but is the holder of a Fish Processing Establishment right fits in – whether in Category B or C. iii. Under Category C you have asked the question regarding involvement of the applicant members, shareholders or directors. (Q1.35) You could also ask the question over how many years the applicant was involved in the value chain (same as questions 1.32 and 1.34) iv. The entire section of fishing industry experience and knowledge needs to be unpacked in a bit of detail in order for you to be able to assess better whether an applicant is a paper quota risk and what their capacity is to actually be active in the sector. v. The value chain question could be extended to request that the applicant explain their history and the historic involvement of them and their shareholders / directors in the fishing industry in one or two pages which could be included as an annexure or on the form itself. 	<ul style="list-style-type: none"> i. See Explanatory Notes for definitions ii. FPE rights are not commercial fishing rights. FPE Rights Holders should apply as Category C. iii. Question has been added as per suggestion iv. Question has been added as per suggestion v. Question has been extended as per suggestion.
Section 1F – Fishing Experience and Knowledge	A notable number of Category C Applicants have direct involvement in the South African fishing industry value chain and therefore should, be afforded a similar opportunity to respond in respect thereto as provided for Cat A and B Applicants.	Question has been added as per suggestion
Section 1F – Fishing Experience and Knowledge	<p>What other business operations is the applicant currently involved in? (1.29)</p> <p>To avoid ambiguity as was widely experienced during FRAP 2015, it is proposed the question be</p>	Question has been updated



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	reworded to read –Other than the fishing industry, what other economic sector(s) is the applicant currently involved in.	
Section 1F – Fishing Experience and Knowledge	The question should not limit the period of experience of the applicant by only recognising experience as far back as 2006.	The application refers only to the current rights period.
Section 1F – Fishing Experience and Knowledge	We submit that the history of shareholders, members and directors is not relevant. They are not the applicant. Their experience may, quite conceivably relate to entirely different entities, and be completely inappropriate for the applicant to be scored on.	This question is intended to gauge the experience of new entrants in the South African fishing industry.
Section 1F – Fishing Experience and Knowledge	<p>The questions regarding fishing experience and knowledge are extremely inadequate. In particular, a single question regarding Category C applicants is proposed. This is insufficient. We submit that far more detailed questions should be posed to Category C applicants, such as:</p> <ul style="list-style-type: none"> • The applicant’s past history in business in general and their success or lack thereof. • The applicant’s financial wherewithal to make the necessary investments in assets and jobs. • The applicant’s likelihood of been successful in this particular sector for the duration of the rights period, • The applicant’s business feasibility plans to commence business. 	<p>This question has been updated to require further information from all Categories of applicant.</p> <p>The applicant’s business plans are required in Section 5 (Annexure 5A-1)</p>
Section 2 – Form of Application	<p>Q 2.1 - Does this include an FPE right or only fishing rights? Please specify.</p> <ul style="list-style-type: none"> • The period requested in the application form covers two right allocations in some instances. Some sectors were awarded rights in 2014, surely this must be taken into account and only the information for 2014 to 2020 period in these instances should be provided 	<ul style="list-style-type: none"> • FPE rights are not commercial fishing rights. • Applicants need only complete the form for the time period relevant to the duration of their current right.
Section 2 – Form of Application	Q 2.7 - It is proposed that the question be changed to read – If the applicant has derived income from any other economic sector other than commercial fishing in the current financial year or tax year, complete the table below in respect to all the above-mentioned other sources of income.	The wording has been amended
Section 3 – Compliance	The questions in this section should be amended to delete the references to "Senior Management".	The Department is of the view that the track record of senior management is of importance.



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Section 4 - Access to a Suitable Vessel	<p>Under question 4.1.1 to 4.3.1 it asks for the book value of the vessel and the total insured value split into three tiers.</p> <ol style="list-style-type: none"> i. Please consider whether you also need to ask what % the applicant actually owns in the vessel is so that you have the numeric value and what the applicant's % share of the total insured value is so that you have their share of the total insured value. ii. If this section is meant to assess investment as well as just the access to a vessel, then you may want to add a question on what other capital investment the applicant has in the fishing industry – could relate to their fixed assets as per the 2020/21 financial statements – and what the book and insured value of those are. iii. In 2005 that was requested in a separate section relating to investment which looked at overall investment in the industry and was then further split into land and sea-based assets / investment. iv. This is necessary to assess investment and involvement in the processing and marketing parts of the value chain as well as the investment in and access to suitable vessels which is possibly a separate question. 	<p>This information is requested in the Annexure (4A -1)</p> <p>Section on Investment has been added (Section 9)</p>
Section 4 - Access to a Suitable Vessel	<p>The question allows you to provide proof of ownership of the vessel.</p> <ul style="list-style-type: none"> • For vessels over 25 tons this is normally a SAMSA certificate of registry. • For vessels under 25 tons, it is usually covered by the SAMSA safety certificate. • For some economic units the rights holder may own shares in the economic unit which then owns the shares in the vessel. • In the case of ownership through an economic unit, the applicant could supply proof of ownership of a share in the economic unit (JV / vessel owning co) plus proof that that entity owned the vessel. <p>Please could you clarify in the explanatory notes that these documents will be sufficient or if you need anything else.</p>	<p>The requirement has been updated as per the suggestion. Explanatory notes have been provided.</p>
Section 4 - Access to a Suitable Vessel	<p>Q 4.4 – We submit that a catch agreement should not be regarded as an acceptable form of access to a suitable vessel and that only long-term bareboat charters should be regarded as suitable form of</p>	<p>The application form is aligned to the General Policy and the sector specific policies.</p>



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	access to a suitable vessel by way of charterparty. A bank guarantee is not a form of access to a vessel.	
Section 5- Fishing Performance	<p>Under question 5.3 I have a few questions of clarity:</p> <ul style="list-style-type: none"> i. The last column refers to 'amount paid in levies for target fish landed'. Can we clarify that this is the amount of levies paid for the sector applied for? ii. The 6th column refers to actual amount landed in kilograms. Please clarify if that is the actual amount of the target species or the total kg landed including bycatch and also whether you are looking for the actual kg or the nominal (whole weight). iii. What happens in the case where rights have been transferred during the current allocation period in terms of a valid section 21 transfer. iv. Can the applicant include the information relating to the previous rights holder from which the right was acquired? v. If multiple rights were acquired should the consolidated information be provided in the application form and an annexure be requested to show how it was arrived at and provide any additional information. 	<ul style="list-style-type: none"> i. This has been clarified in the updated form ii. This has been clarified in the updated form iii. Applicants must only complete the information in respect of their own fishing performance. iv. If a right was transferred, applicants may not claim the performance of a previous right holder v. The online form will allow for the insertion of additional rows.
Section 6- Transformation 6B - Ownership	Please can you further clarify what you mean by 'Economic Interest' and 'Unrestricted Voting Rights' and 'Net Value' and do so in a way that a fisherman completing the form will be able to understand what it means.	The table has been amended to reflect percentages required for Economic Interest and Unrestricted Voting Rights. Further information is contained in the Explanatory Notes.
Section 6- Transformation 6B - Ownership	Question 6.4 needs to cover what happens in the case of an incorporated shareholder	<p>The form has been updated to refer to ultimate shareholding</p> <p>Note that listed companies or companies with complex corporate shareholding structures are required to submit a letter from their Auditors outlining the applicant's</p>



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		shareholding structure with an indication of shareholding within the categories listed above. In the event of any Investment Funds owning shares in the applicant, the applicant is required to indicate the percentage shareholding or economic interest held by such fund.
Section 6- Transformation 6B - Ownership	<p>The question, as it currently stands, is premised on the false assumption that applicants all have natural persons as their direct shareholders, which is not the case for a very significant number of applicants, who have multiple corporations as their shareholders, with many corporate shareholdings tracing back to companies listed on the JSE.</p> <p>In the circumstances, there needs to be a table added to this question to provide for the details of corporate shareholders to be completed in a manner that does not lead to the arbitrary prejudicing of rights holders that happen to have corporate rather than natural persons as their direct shareholders. The form needs to allow for the completion of a table that allows for information regarding corporate shareholder percentage shareholding and percentage black ownership. Yes / No questions</p> <p>With regard to transformation that application form asks a significant number of "yes or no" answer questions but does not ask a follow up question that will reasonably allow for the assessment of the relative performance of different applicants in relation to the metric in question. This must be remedied.</p>	<p>The form has been updated to refer to ultimate shareholding</p> <p>Note that listed companies or companies with complex corporate shareholding structures are required to submit a letter from their Auditors outlining the applicant's shareholding structure with an indication of shareholding within the categories listed above. In the event of any Investment Funds owning shares in the applicant, the applicant is required to indicate the percentage shareholding or economic interest held by such fund.</p>
Section 6- Transformation 6B - Ownership	<p>We note no annexure is required to set out Applicant's ownership profile as was the case in earlier FRAP applications. This is of importance to verify amongst others, the Black ownership of each Applicant and more particularly affording Applicants who have companies as shareholders, the opportunity to provide a flow through shareholder profile. The question in its current form, does not afford the delegated authority the necessary information to review Applicants, who have entities as opposed to individuals as primary shareholders. Similarly, the table does not make provision for</p>	<p>An Annexure requesting company Institutional structures has been added (1F -1)</p> <p>Section 6 B requires information regarding the Applicant's Ownership profile.</p>



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	Applicants whose shares are held by either Companies or Trusts.	
Section 6- Transformation	The application form does not request any information regarding employee share trusts. We believe employee share trusts with meaningful shareholding is a very effective measure to achieve broad based black ownership in the fishing industry. We propose that a question on share trusts added.	Questions 6.5 – 6.7 under Ownership have been updated to include Employee Share Schemes
Section 6- Transformation 6C – Management and Employment Equity	Employment Equity Reports can be submitted from September to 15 January of each year and therefore one cannot ask for Reports submitted in October 2020 only. It is therefore proposed that the text be changed to require the most recently submitted Employment Equity Report information.	Comment is noted – this has been updated.
Section 6- Transformation Annexure 6C -2	Please can you add the clarification that this refers to the EEA2 form submitted to the Department of Labour.	Applications form has been updated as per suggestion
Section 6- Transformation Annexure 6C -3	This refers to the analysis required in terms of section 19 of the EE Act. Please can you clarify if that is covered by the one section of the EEA2, which will have been supplied under the previous question or if you are looking for some other information.	Applications form has been updated as per suggestion
Section 6- Transformation Annexure 6C -4	Please can you add the clarification that this refers to the EEA4 form submitted to the Department of Labour.	Applications form has been updated as per suggestion
Annexure 6C -4	Please can you clarify that this refers to the written acknowledgement from the Department of Labour that the applicant has reported and can include the acknowledgement letter from the Department or a copy of an extract of the Employment Equity Public Register (which is published annually with a list of all companies that have reported – see GG 44636 dated 28 May 2021) or some other communication from the Department of Labour.	Confirmed
Section 6- Transformation 6D – Corporate Social Investment	Do you not need to assess a period longer than a year, given the COVID pandemic and the impact that had on companies in 2020/21? Should you also not request a Rand amount and % and possibly do so for 3-5 years so that you can also get a view of the pre-COVID position.	The section has been updated to cover a 3-year period



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Section 6- Transformation 6D – Corporate Social Investment	The point of comparison should not be the level of the applicant's net profit. That would mean that a loss-making applicant would have a very high percentage, with a very low spend on CSI. The real point of comparison is the monetary spend on CSI generated per 100 tons of quota allocated. This will identify which applicants perform, in adjusted relative terms, most meritoriously in relation to this metric. The question needs to be amended.	The question has been updated to reflect % of Turnover as recommended. It is recommended that the General Policy is adjusted accordingly.
Section 6- Transformation 6D – Corporate Social Investment	Many Applicants responded positively to this question during FRAP 2015 but was unable to provide a percentage as the contribution was made during a financial loss year. Provision should therefore be made for those applicants who had participated in such activity even within a financial loss year and scored accordingly. It goes without saying that such activities are much easier to achieve if one is fortunate enough to benefit from excessive revenue, rather than turnover which barely covers operational costs. Further attention should be given to the financial period as already mentioned above.	This question has been updated to cover a 3-year period.
Section 6- Transformation 6D – Corporate Social Investment	Donations made to needy organisations in our coastal communities as a result of job losses do not necessarily have NPO and PBO numbers? Can we claim these donations as it was a need to prevent starvation as a result of slow govt reaction to these job losses?	Question 6.15 allows for information on CSI projects that may not be NPOs/ PBOs.
Section 6- Transformation 6E – Affirmative Procurement	The question is wholly inadequate to address affirmative procurement and is a total departure from the codes.	The comment is noted. The table has been adjusted to align with the B-BBEE codes and criteria listed in the General Policy.
Section 6- Transformation 6E – Affirmative Procurement	Do we multiply the procurement by the Suppliers BBEE level i.e 100% black then that is multiplied by 135%?	No – the amount required is the percentage of total procurement spent on enterprises that are more than 51% black owned. This refers to absolute percentage and not the percentages that are linked to the B-BBEE scorecard.
Section 6- Transformation 6F – Skills Development	<ul style="list-style-type: none"> i. Please specify the period for which the amount of levies paid is being requested? Is it for the financial year ending between July 2020 and June 2021 or for some longer period? ii. The annexure asks for proof of SDL levies paid from 2006 to 2020 which is also quite onerous. 	<ul style="list-style-type: none"> i. Yes – this has been clarified in the updated form. ii. Yes – this has been amended to 5 years as



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	<p>Is there a reason the period is so long. Would a shorter period of say 5 years not be acceptable and if so should the information not be included on the form and the proof can then be enclosed?</p> <p>iii. Please note that some SMME's will not be liable to pay SDL levies so that must also be considered</p>	<p>suggested</p> <p>iii. Noted</p>
Section 6- Transformation 6F – Skills Development	The question requests the training budget amount and the amount of it spent on historically disadvantaged persons. Should both amounts not be the actual or both the budgeted figure and do you not need two spaces on the form to fill in both amounts? Should that not also be requested for a 3 yr period as during the last year with COVID any spending may have been reduced or training may not have been possible.	The table has been updated to cover a 3-year period in respect of the Rand amount and percentage spent
Section 6- Transformation 6G – Enterprise Development	<p>Currently there is a simple "yes or no" question regarding enterprise development that will not allow any proper comparison between the different contributions to enterprise development that are made by different applicants.</p> <ul style="list-style-type: none"> • Proposed Questions: <ul style="list-style-type: none"> ○ <i>What is the monetary value of the enterprise initiatives that the applicant has embarked upon to address increasing black ownership, management and skills in new business enterprises, which includes investment programmes and access to finance during the financial year which ends on any date between 1 July 2020 and 30 June 2021?</i> ○ <i>How much (rand value) of the applicant's total enterprise development spend during the financial year which ends on any date between 1 July 2020 and 30 June 2021 was on majority black owned SMMEs?</i> 	The suggested questions have been added to the application form.
Section 6- Transformation 6G – Enterprise Development	This should be restricted to the sector being applied for. It could skew the applicants score if they answer for their activities in other sectors.	Comment is noted – a table has been inserting requiring the split between the fishing sector applied for and other sectors.



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Section 7- Job Creation	<ul style="list-style-type: none"> i. Questions 7.1 and 7.2 both refer to the financial year. Should they not refer to the tax year ending 28 February 2021, which is what payrolls work on? ii. The question relates to category A and B applicants only. Is there not a need to request the information on category C applicants too in order to aid in assessing whether they have some existing business experience – whether or not a score is attached to it? There may also be category C applicants who are involved in the industry and do have jobs and investment in the industry but do not hold any fishing rights yet. They should be able to generate a score for existing infrastructure and jobs and investment in the industry in assessing their eligibility for and ability to utilize a right. 	<ul style="list-style-type: none"> i. This has been amended to reflect tax year ii. The question has been extended to cover Category C applicants as well.
Section 7- Job Creation	All payrolls run from 1 March to 28 February which is the tax year for individuals and the reporting period for submission of PAYE and SDL to SARS. It would make sense to rather ask for a copy of the payroll for the income tax year ending on 28 February 2021.	Noted – the time period has been amended reflect payroll year end.
Section 7- Job Creation	The inclusion of a Third-Party Payroll extracted through Economic Unit Agreements should be included in 7.1.	If the applicant makes use of Economic Units, please provide an explanation of jobs created through the Economic Unit in question 7.6
Section 7- Job Creation	Noting many SMME Applicants operate within economic units, provision should be made for the inclusion of third-party information, as set out in the Agreements entered into between the parties.	If the applicant makes use of Economic Units, please provide an explanation of jobs created through the Economic Unit in question 7.6
Section 7- Job Creation	Does the company include economic unit information here? And where will we be afforded the opportunity to explain the disparity between our Employment equity reports submitted to the DoL and the information supplied on the form? As per economic units' general operation, the crew or factory workers' wages are paid by the main entity. As a shareholding entity, our company contributes to the running of that vessel and/or factory. This results in our sharing of the employment provided through our shareholding and/or providing of quota to keep the business running continually – thereby providing year-round employment to those who would otherwise only be employed seasonally.	If the applicant makes use of Economic Units, please provide an explanation of jobs created through the Economic Unit in question 7.6



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Section 7 Job Creation	We propose that this balancing criterion is also expressed in payroll cost per quota ton for comparative and scoring purposes.	The Department would prefer for the information to be expressed separately, not as a ratio / percentage
Section 8- Additional Societal Benefit 8A – Dividends and Taxes	Q 8.1 - Could the department please clarify which taxes they're referring to? Any company pays various taxes ranging from Income tax to excise tax to PAYE to VAT. The gathering of the proof of payments will be time-consuming. In addition, SARS only required that companies retain this information for 5 years from submission.	This has been clarified to refer to Income Tax.
Section 8- Additional Societal Benefit 8A – Dividends and Taxes	The total dividend is requested from 2005 to 2020, i. Looking at dividends for only certain years will also not give you a good picture of what economic benefits have flowed to shareholders as dividends paid in SMME's are a function of both profitability and cashflow. In listed companies' dividends are more regular as it is part of the expectation that shareholders and the market have when investing in a listed entity. In SMME's there are multiple factors that affect when and how large a dividend can be declared, so in some years there may be a dividend and in others not. ii. You also cannot really assess dividends paid without also looking at profitability of the entity as dividends can only be paid out of after-tax profits and subject to liquidity (cashflow). The information on profit or loss after tax would also give a good indication of whether the entity was able to pay dividends in any year.	i. Noted – the applicant is requested to provide as much information as possible ii. Noted – Profit / Loss after tax has been added
Section 8- Additional Societal Benefit 8A – Dividends and Taxes	Arbitrarily selecting three random years in the last 10 years to confirm whether a dividend has been paid is completely irrational. For many reasons (including cash flow or capital expenditure requirements) not all entities declare a dividend every year and as such you may be faced with a situation where an applicant declared a dividend in 4 (four) consecutive years from 2016 to 2019 (both inclusive) yet owing to the fact that the applicant did not declare dividends in 2015 and 2020 the applicant will not receive any recognition for the 4 (four) consecutive years that it did declare a dividend. We submit that is completely arbitrary and irrational and this question should be amended to address this issue.	The table has been updated to include all years from 2006 – 2021. Applicants are encouraged to provide as much information as possible.
Section 8- Additional Societal Benefit	The application form only requests dividends paid in specific years (2010,2015,2020). This could be prejudicial to companies who may have not declared dividends in those specific years but may well	The table has been updated to include all years from 2006 – 2021. Applicants are encouraged to provide as much



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8A – Dividends and Taxes	have declared dividends in the previous or following year. This could be for various reasons, i.e., Poor fishing in a specific year (especially true for TAE species like squid due to highly variable abundance), they could forgo dividends in lieu of investing in assets like new vessels etc. This should not negatively impact an applicant. We would like to suggest supplying dividends paid in all financial years ending between 2015 to 2021.	information as possible.
Section 8- Additional Societal Benefit 8A – Dividends and Taxes	The application makes reference to dividends paid, no reference to dividends declared. An applicant may have a situation where a dividend was declared in the current financial year but only paid in the following financial year or perhaps paid over the next few years, the fact remain that the dividend is still paid in the end, but not shown in the specific year of declaration. We are of the opinion that this question should be revised to make reference to dividends declared.	The table now reflects consecutive years which will indicate if dividends have been paid.
Section 8- Additional Societal Benefit 8A – Dividends and Taxes	Please advise what form proof of dividends pd to black shareholders should take? (Annexure 8A – 1) Is a confirmation from the auditor of the total dividend paid and the portion paid to black shareholders sufficient?	Explanatory Notes have been provided. Letter from applicant’s auditor reflecting total dividends paid by the applicant and the portion thereof paid to black shareholders is sufficient.
Section 8- Additional Societal Benefit 8A – Dividends and Taxes	We propose that both the Taxes Paid as well as the Dividends Paid also be expressed per quota ton for rating and scoring purposes.	The Department prefer the information to be kept separate, not expressed as a ratio or percentage
Section 8- Additional Societal Benefit 8A – Dividends and Taxes	Clarity is required with regards to listed entities as referred to under Q8.4. Does this refer to the applicant or its holding company?	The question applies to the entity that is applying – i.e., the applicant.
Section 8- Additional Societal Benefit 8A – Dividends and Taxes	The table seems to be geared towards companies that are listed. SMMEs in comparison, will have very sparsely filled forms. If balancing criteria is used and SMMEs are compared to listed companies, this will be severely skewed and detrimental to SMMEs chances in retaining their quota.	Applicants are encouraged to provide as much information as possible. The Department will take all balancing criteria into consideration during the allocation process.



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Section 8- Additional Societal Benefit 8C – Local Economic Development	<p>The amount of information requested is quite onerous and will take a huge amount of time to calculate.</p> <ol style="list-style-type: none"> i. For some sectors and companies that use one harbour and factory it may be simple but for others with multiple vessels and factories and where an economic unit is catching a pool of quota it will be very difficult to extract the information and to go back that far. ii. Can I suggest that the quantities be changed to approximate percentages so that for each year the rights holder can estimate the % of catch landed at each harbour and the % of fish processed at each factory. iii. The form will also have to allow space for multiple harbours and multiple factories each year. 	<ol style="list-style-type: none"> i. Noted – applicants are encouraged to provide as much information as possible. ii. The Department prefers for the information to be submitted in kilograms. iii. Additional rows for additional harbours and factories may be added.
Section 8- Additional Societal Benefit 8C – Local Economic Development	<p>The table is inadequate. It needs to accommodate multiple offloads from perhaps more than 1 vessel which might offload in various harbours for the year and product might go to various factories. This is a major job if we are going back 15 years in some sectors.</p>	<p>Applicants are encouraged to provide as much information as possible. Additional rows for additional harbours and factories may be added.</p>
Section 8- Additional Societal Benefit 8C – Local Economic Development	<p>The information requested in this form will be difficult to compile given the period asked for spans from 2005-2020. It should be noted that the information requested on the form has not historically been information DFFE has requested when submitting annual, bi-annual and monthly stats. Hence there has not been a need to keep electronic records of the information. Most of our records have been compiled and stored electronically and we therefore may not have hard copies on hand (most have been archived) to search for the requested information. This will be a tedious and time-consuming exercise. It will seriously hamper our ability to meet the proposed deadline of submission.</p>	<p>Applicants are encouraged to provide as much information as possible.</p>
Investment	<p>We would like the department to include questions regarding initial investment as well as and especially reinvestment in the sector a rightsholder is involved in. I feel that reinvestment in sea based as well as land-based assets should be highlighted by the application form and should count in favour of an applicant.</p>	<p>Section 9, which requires information on Investment has been included</p>
Investment	<p>Whilst the Draft General and Sector Specific policies have placed great emphasis on investment as one of the principal criteria, the draft application form as it currently stands does not have questions</p>	<p>Section 9, which requires information on Investment has been included</p>



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	<p>which sufficiently and properly extract information from an applicant in order to properly measure an applicant's investments or the value of their investments in the sector or generally as a whole.</p> <p>The question relating to ownership of vessels and the value of the vessel is clearly not sufficient to provide information regarding investment particularly if one has reference to the provisions of the Draft Policies where it is stated that fair market value of the productive current and non-current fishing and fishery related assets and liabilities registered under the name of the applicant will be weighted and scored.</p>	
Investment	We are concerned that the application form does not cater adequately for investment. Section 4 covers access and ownership in a vessel but does not allow a company to also get points from its investment in fish processing.	Section 9, which requires information on Investment has been included
Investment	<p>It is noted with concern the fact that there are no questions in the application form directed at extracting information relating to applicants (particularly Category A and B) investment in the fishing industry. All previous General Policies and Sector Specific Policies have placed considerable emphasis on investment as one of the principal policy criteria. Accordingly, the draft General Policy and certain sector specific policies once again include Investment as one of the critical Balancing Criteria that the Delegated Authority must take into account when assessing applications.</p> <p>In light of the above it is patent that investment is specifically included as a balancing criterion that must be weighted and scored and despite the pre-emptory language in the Draft General Policy it is concerning that none of the questions in the Draft Application Form seek to extract any information relating to an applicant's investments or the value of their investments. It is submitted that the failure to request such information relating to an applicant's investments opens the door for potential review applications on the basis that the Delegated Authority has failed to take relevant considerations into account when making his / her decision.</p>	Section 9, which requires information on Investment has been included
Investment	We are extremely concerned to note that the draft application form does not contain questions regarding investment.	Section 9, which requires information on Investment has been included



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	<p>If the application form does not ask any questions regarding the value of productive non-current fishery related assets including but not limited to property, plant and equipment, it the FRAP decision maker will be unable to make any assessment of assessment as a balancing criterion as contemplated by paragraph 7.1.3(a) of the Draft General Policy.</p> <p>Similarly, if the application form does not ask any questions regarding the value of productive current fishery related assets such as inventories, trade and other receivables, cash and cash equivalents, the FRAP decision maker will be unable to make any assessment of assessment as a balancing criterion as contemplated by paragraph 7.1.3(b) of the Draft General Policy.</p> <p>As currently worded, the draft application from will make a complete mockery of the various policy statements regarding the importance of investment. It will mean that whatever the intention or desire on the part of the decision maker to give effect to the policy provisions regarding the need to consider investment, the FRAP decision maker will be unable to do so purely as a result of the deficiency of the draft application form.</p>	
Investment	The application form doesn't make provision to demonstrate investment. A section for investment to be included as this is critical information.	Section 9, which requires information on Investment has been included
Additional information to be requested	<p>Additional consideration should be given to request the below as to ensure alignment between the policies and application form. Para 6.3.5 of the draft General Policy says the Department will exclude as paper quotas applicants that fail to present:</p> <ul style="list-style-type: none"> a) bank accounts. b) financial statements. c) a list of productive assets. d) export permits in the name of the company e) Business plan (fishing plan) 	The application form has been amended to require Annual Financial Statements and Business Plan.
Section 8C - Local Economic Development	<p>Please advise on Sector 8C, 8.7 and 8.8.</p> <p>My questions relating to above:</p> <ol style="list-style-type: none"> If a small pelagic right has been transferred for eg. In 2018 and the entity has undergone a name change after the rights was transferred (which means the new entity is now Category B 	<ol style="list-style-type: none"> If company X transferred the right to company Y, then company Y will complete the table 8.7 for the duration



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	<p>entity because it does not have rights in small pelagic any more)) should the new entity still fill in the information prior to the rights transfer in table 8.7?</p> <p>2. For category B applicants should they complete table 8.7 and 8.8 with information of fish from another sector they have rights in or is information for these 2 tables only based on the sector you are applying for.</p>	<p>of the years company Y had the Right.</p> <p>2. Cat B applicant should complete 8.7 with respect to other rights they are holding and 8.8 to be completed with regards to the right they are applying for.</p>
Section 7 – Job Creation	Please advise if Total wages referred to in 7.1 and 7.2 should be Cost to Company or only Earnings (which excludes provident fund etc).	Total wages should be cost to company.
Section 3 - Compliance	<p>Section 3: If an admission of guilt fine was paid (R2500) do you tick yes for 3.1 and 3.4 or do you only tick 3.4? Minor permit condition infringement.</p> <p>Section 8: Do we only fill in for the duration of the current right, or do we fill in for the last 15 years?</p>	<p>Section 3 If the applicant or any of its Directors, Senior Management or Shareholders (with a shareholding of more than 10%) been charged with an offence under the MLRA, or the regulations or permit conditions between 2005/2006 – 2019/2020 and/or 2013/2014 - 2019/2020 (as per the duration of the applicable sector-specific policy)?...than click Yes</p> <p>If the applicant or any of its Directors, Senior Management or Shareholders (with a shareholding of more than 10%) paid an admission of guilt fine for a contravention of the MLRA, the regulations, or the permit conditions between 2005/2006 – 2019/2020 and/or 2013/2014 - 2019/2020 (as per the duration of the applicable sector-specific policy)?...than click Yes</p> <p>Section 8</p>



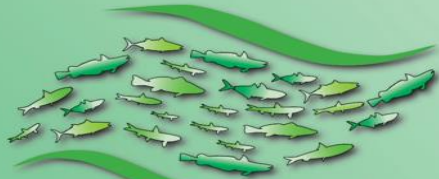
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		You should complete the information for the duration of the years you held the Right (s) for.
'Section 1 – Applicant details	Please can you advise what is meant by “Summary Statutory Register” in Annex 1A-1.	A company's statutory registers contain information regarding the company's current position and are required to be maintained and kept under the Companies Act 2006. The statutory registers are Register of members. Register of people with significant control. For further information please refer to the Companies Act.
Categorisation of applicants	<p>If a person or a company has a Fishing Right before 2005. From 2005 onwards the person or Company was not granted any Fishing Right. Will they still be Category B applicants? If they held a right (and transferred it) in the immediate previous allocations, the applicant will have History and Performance; As such, Cat A?</p> <p>There may be History and Performance after 2005 Rights allocation if a person or a company was successfully. Most applications will be asking Performance information from 2005. As such any applicant with history and Performance during the Medium-Term Rights i.e. 2000-2004?? who was unsuccessful in FRAP 2005/ FRAP 2013 and FRAP 2015/16 will not be able to provide the Performance unless we ask the information.</p>	<p>Clause 5.4.3 of the General Allocation Policy provides that: Those applicants who held rights in the fishery for which they are re-applying during the duration of the rights granted in the previous rights allocation process in the specific sector, may be considered to be Category A Applicants. Applicants who held rights in sectors other than the fishery they are applying for during the period 2006 to 2020 may be treated as Category B Applicants. There will be a third category – Category C Applicants – who comprise of applicants that have never held commercial fishing rights in any of the commercial fishery sectors of South Africa. The third category is also referred to as “new entrant” applicants.</p> <p>If you were a right holder in the last 15 years, then you could fall either into Category A or B.</p> <p>In other words, if they are reapplying for the right that they held in the same fishery for the last 15 years then they fall</p>



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		<p>into Category A. If they are applying for a right in a different fishery, but were right holders in another or other fisheries for the last 15 years then they fall into Category B.</p> <p>If an applicant never held a right, then they fall into Category C. Similarly, if they held rights prior to the last 15 years and were never allocated a right in the last 15 years (FRAP 2005), then they should be treated as new entrants (Category C), especially if they are not able to prove their Performance, which appears to be a threshold requirement to determine whether you should be considered a right holder for Categories A and B.</p>

Updated 09/11/2021