



environment, forestry & fisheries

Department: Environment, Forestry
and Fisheries
REPUBLIC OF SOUTH AFRICA

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EXEMPTIONS ISSUED TO ALL FISHING SECTORS AND OTHER SECTORS IN TERMS OF SECTION 81 OF THE MARINE LIVING RESOURCES ACT, 1998 (ACT NO. 18 OF 1998)

Introduction

Recently, the offices which houses the Branch: Fisheries Management has had several confirmed COVID-19 infections and as a result, many departmental staff members have been in quarantine at their homes. Many of the infected staff members were employed in the Department's directorates responsible for providing services to the public such as the processing and issuing of fishing permits, across several fishing sectors. The Department is acutely aware of the effect that the absence of these staff members is having on the department's ability to provide fast and effective services to those affected stakeholders.

In light of the above, the Deputy Director-General: Fisheries Management (Acting) as delegated by the Minister in terms of section 79 of the Marine Living Resources Act, 1998 (Act No. 18 of 1998) (the "MLRA") has decided to grant exemptions in terms of section 81 of the MLRA, as set out below.

1. COMMERCIAL ABALONE EXEMPTION HOLDERS

1.1 Abalone exemption-holders who do not have a valid permit to undertake abalone harvesting for the 2020/2021 fishing season are hereby exempted from the provisions of section 13 of the MLRA, subject to the following conditions:

- (a) The abalone exemption holders or their nominated divers or employees must adhere to the "Permit Conditions: Abalone Fishery for the 2019/2020 fishing season" ("**the catch permit conditions**"). The mass/quantum of abalone allocated to each abalone exemption-holder and the secondary zone(s) where each exemption holder is permitted to harvest are set out in the abalone inter-area schedule for the 2020/2021 fishing season, which was made available with the abalone exemption holders *via* their abalone zonal representatives. The 2020/2021 abalone inter-area schedule is available on request at: cscenquiries@daff.gov.za.

- (b) The abalone exemption holders who have zero allocations for the 2020/2021 fishing season are excluded from this exemption and are not allowed to use this exemption as approval to harvest abalone for the 2020/2021 fishing season.
 - (c) The abalone exemption holders are hereby authorised to utilise fishing vessels of their own choice for harvesting the abalone allocated to them. The nominated vessels must meet all the requirements for the issuing of vessel licences and the vessel specifications as set out in the Sector-Specific Policy on the Allocation and Management of Abalone: 2015.
 - (d) The abalone exemption-holders are hereby authorised to utilise vehicles and trailers of their own choice for the transportation of their abalone catch from the landing site to their nominated Fish Processing Establishment ("FPE"). The nominated vehicle must comply with the requirements for the issuing of an abalone transport permit. The exemption-holders or their nominated vehicle owners or employees must adhere to their abalone transport permit conditions for the 2019/2020 or 2020/2021 fishing seasons.
- 1.2 The fish processing establishment (FPE) permit holders with valid permits to process abalone, and that have concluded valid agreements with abalone exemption holders, are hereby authorised to process abalone lawfully received from the exemption holders. 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 adhere to their 2020 FPE permit conditions ("the 2020 FPE Permit Conditions").
- 1.3 The abalone exemption-holders or their nominated and authorised representatives who do not have a valid export permit, are hereby exempted from the provisions of section 13 of the MLRA and are hereby authorised to export abalone and products thereof provided that trade between South Africa and the importing country is allowed during this pandemic period for Covid-19. The following conditions apply:
- (a) The abalone exemption-holders or their nominated and authorised exporters must adhere to the requirements for the issuing of export permits for abalone and products thereof as well as their 2020 export permit conditions.

- (b) The abalone exporters must submit a breakdown of the mass/quantum exported per exemption holder as well as copies of all necessary documents required for the export of abalone and products thereof (e.g. pro-forma invoice, commercial invoice, bill of lading etc.) to the department by emailing it to cscapplications@daff.gov.za. The whole mass of the abalone that is exported must not exceed the mass/quantum of abalone allocated to an abalone exemption holder.

2. COMMERCIAL AND SMALL-SCALE FISHING RIGHT HOLDERS

- 2.1 Commercial fishing Right/Exemption holders (the "**Right/Exemption Holders**") in the Demersal Shark Longline, Hake Deep Sea Trawl, Hake Handline, Hake Inshore Trawl, Hake Longline, Horse Mackerel, KwaZulu-Natal Beach Seine, KwaZulu-Natal Prawn Trawl, Large Pelagic Longline, Netfishing (Trek- and Gillnets and Beach Seine), Oyster, Patagonian Toothfish, Seaweed, Small Pelagics, South Coast Rock Lobster, Squid, Traditional Linefish, Tuna Pole-Line, West Coast Rock Lobster (Nearshore), West Coast Rock Lobster (Offshore) and White Mussel sectors whom do not have valid permits to undertake commercial fishing in their respective sectors for the 2019/2020 or 2020/2021 fishing season(s), are hereby exempt from the provisions of section 13 of the MLRA and are authorised to harvest their respective allocations for the 2019/2020 and the 2020/2021 fishing season(s), in compliance with the conditions specified in 2.3 below.
- 2.2 Small-Scale fishing right holders who do not have valid permits to undertake small-scale fishing in respect of their fishing rights and the corresponding fishing seasons for the species allocated, are hereby exempt from the provisions of section 13 of the MLRA and authorised to harvest their respective allocations for the 2019/2020 and the 2020/2021 fishing season(s), in compliance with the conditions in 2.3 below. This exemption does not include the harvesting or catching of Squid by Small-Scale fishing right holders.
- 2.3 (a) Right/Exemption Holders may not, where applicable, exceed their effort and/or mass/quantums that has/have been allocated to them for the 2019/2020 or 2020/2021 fishing season(s), respectively.
- (b) Right Holders in the West Coast Rock Lobster (Nearshore) and West Coast Rock Lobster (Offshore) sectors who do not have valid permits, are only authorised to harvest their respective allocations for the 2020/2021 fishing season.

- (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 2019/2020 and 2020/2021 fishing season(s).
- 2.4 FPE permit holders with a valid permit to process fish and fish products and that have concluded processing agreements with Right/Exemption Holders in the respective sectors are authorised to process fish from such Right/Exemption 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 2020 FPE permit conditions (the **"2020 FPE Permit Conditions"**).
- 2.5 Right/Exemption Holders are hereby exempt from the provisions of sections 23(1) and 39(1) of the MLRA and authorised to utilise fishing vessels of their own choice for harvesting the fishing allocations granted to them in the respective fishing sectors. The nominated vessels must meet all the requirements for the issuing of a vessel license and must meet the vessel specifications as set out in the sector-specific policies for their respective sectors.
- 2.6 Right/Exemption Holders and/or their nominated and authorised representatives who do not have a valid export permit, are hereby exempt from the provisions of section 13 of the MLRA and authorised to export fish and products thereof provided that trade between South Africa and the importing country is permitted during this pandemic period of the Covid-19 virus. The Right/Exemption Holders and/or their nominated and authorised exporters must adhere to the requirements for the issuing of export permits for fish and products thereof as well as their 2019 or 2020 export permit conditions. Exporters must submit to the Department at cscapplications@daff.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.). 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. INTERIM RELIEF FISHING DISPENSATION

3.1 The Interim Relief fishing communities who do not have valid permits to undertake fishing of Nearshore and Offshore West Coast Rock Lobster are hereby exempt from the provisions of section 13 of the MLRA and are authorised to harvest their Nearshore and Offshore West Coast Rock Lobster allocations for the 2020/2021 fishing season under the Interim Relief 15 Dispensation and comply with the following conditions:

(a) The Interim Relief fishing communities must adhere to their 2020/2021 Nearshore and Offshore West Coast Rock Lobster interim relief permit conditions.

(b) The Interim Relief Fishing communities may only harvest their Nearshore and Offshore West Coast Rock Lobster allocated Total Allowable Catches as confirmed and communicated by the Department to all relevant Interim Relief fishing communities. Each Interim Relief community must indicate a list of all vessels and factories they will use for catching their Nearshore and Offshore West Coast Rock Lobster allocation for the 2020/21 season before they start fishing the Nearshore and Offshore West Coast Rock Lobster allocation. The required information must be submitted on a template, which is to be provided by the Department, and sent to cscapplications@daff.gov.za.

3.2 The Interim Relief fishing communities are hereby exempt from the provisions of section 23(1) of the MLRA and are authorised to utilize their nominated vessel, which must meet all the requirements for the issuing of a fishing vessel licence, and must meet the vessel specifications. The current procedure and documentation required to nominate a vessel must be adhered to as communicated to all interim relief communities.

4. IMPORT PERMITS

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. Importers must adhere to the requirements for the issuing of import permits as well as their 2019 or 2020 import permit conditions, whichever is applicable. 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. 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 2019 or 2020 import permits, whichever is applicable.

5. 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.

6. AQUACULTURE RIGHTS AND AUTHORISATIONS

Right/Exemption Holders in the Aquaculture sector who do not have valid permits to engage in aquaculture, are hereby exempt from the provisions of section 13 of the MLRA and are authorised to exercise their rights/exemptions for the 2019/2020 or 2020/2021 season(s), whichever is applicable. The Right/Exemption Holders and/or their nominated authorised representatives must meet all the applicable requirements to engage in aquaculture for the 2019/2020 or 2020/2021 season(s). The Right/Exemption Holders or their nominated and/or authorised representatives and/or employees must adhere to their respective permit conditions for the 2019/2020 or 2020/2021 season(s).

7. GENERAL EXEMPTION

Any other person engaging in fishing or any other activity under the MLRA not already mentioned in this exemption, is hereby exempted from the provisions of sections 13, 23 and 39 of the MLRA and are authorised to operate without a permit or licence, provided they comply with all permit/licence conditions ordinarily applicable to that activity, for the 2019/2020 and 2020/2021 season whichever is applicable.

8. ONLINE PERMIT-APPLICATION SYSTEM

- 8.1 All persons or operators to whom this exemption applies, must, during the validity period of this exemption, apply online for permits, licences and other related authorisations. All fisheries applications must be submitted to: cscapplications@daff.gov.za and WCRL@daff.gov.za (only for commercial nearshore and offshore west coast rock lobster applications) and marine aquaculture applications must be submitted to: marineaquaculture@daff.gov.za. It should be noted that all electronically submitted applications must still comply with all the requirements for those applications.

8.2 Applications must be emailed to: cscapplications@daff.gov.za (fisheries) or WCRL@daff.gov.za (only for commercial nearshore and offshore west coast rock lobster applications) or marineaquaculture@daff.gov.za (marine aquaculture) and proof of submitted applications, proof of payments and supporting documents in respect of the applicable non-issued permits and a copy of the said email must be made available to Fishery Control Officers on request until such time that the said permit(s) or licence(s) or authorisation(s) are issued.

7.3 For all enquiries, please contact the Department's Call Centre on telephone number 086 0003 474 or at the email address: cscenquiries@daff.gov.za.

9. VALIDITY PERIOD OF THIS EXEMPTION

9.1 This exemption comes into effect on the date of signature and **expires on 28 February 2021**.

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

10. CONTRAVENTIONS AND CANCELLATION OF THE EXEMPTION

All persons or operators to whom this exemption applies will be subjected to section 28 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.



Ms Sue Middleton

DEPUTY DIRECTOR-GENERAL: FISHERIES MANAGEMENT (ACTING)

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

Date: 25/11/2020