



**MINISTER
FORESTRY, FISHERIES AND THE ENVIRONMENT
REPUBLIC OF SOUTH AFRICA**

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**TO ALL CATEGORY B AND C RIGHT HOLDERS AND APPELLANTS IN THE HORSE MACKEREL
SECTOR**

1. Introduction

- 1.1 The Minister of Agriculture, Forestry and Fisheries ("the former Minister") delegated the authority in terms of section 79(1) of the Marine Living Resources Act, No. 18 of 1998 ("the Act") to allocate commercial fishing rights and quantum in the horse mackerel sector to the Deputy Director-General: Fisheries Management in the Department of Agriculture, Forestry and Fisheries ("the Delegated Authority").
- 1.2 The Delegated Authority granted rights to 27 Category B and C applicants on 10 November 2016.
- 1.3 On appeal the former Minister granted a fishing right to 3 additional Category B and C applicant on 24 May 2019.
- 1.4 After the finalisation of the appeals by the former Minister in 2019, Mayibuye Fishing (Pty) Ltd and fifteen others instituted proceedings against the Minister of Forestry, Fisheries and the Environment ("the Minister") and others under case no. 7088/2021 ("the Mayibuye matter").
- 1.5 On 11 June 2021 the Western Cape High Court granted an order in the Mayibuye matter.
- 1.6 The order of 11 June 2021 reads as follows in relevant part:

"1. *It is declared that pending the reconsideration by the first respondent of the 58*

appeals in the horse mackerel fishery -

- 1.1. *the rights granted to the applicants in the horse mackerel fishery by the second respondent ("the DDG"), on 20 December 2016, in terms of section 18 of the Marine Living Resources Act, No 18 of 1998 ("the MLRA");*
- 1.2. *the grant of right letters issued by the DDG to the applicants in the horse mackerel fishery on or about 3 February 2017; and*
- 1.3. *any consequent permits issued (if any) to the applicants in terms of section 13(1) of the MLRA for the 2021 fishing season,*

shall remain valid.

26 March 1. *The revocation notice issued by the first respondent ("the Minister") on 2021 (and dated 21 March 2021) is reviewed and set aside."*

1.7 In the circumstances, and in terms of the varied order of 11 June 2021, all Category A, B and C appeal decisions taken by the former Minister, have been reviewed and set aside and have now been remitted to the Minister for reconsideration.

2. **Status of existing rights in the HM sector pending the appeal decision**

2.1 Category B and C applicants who were awarded rights by the Delegated Authority
All current right holders in Category B and C who were allocated rights pursuant to the decision of the Delegated Authority will be permitted to continue to fish in terms of the right allocated to them pending the reconsideration of the appeals by the Minister.

2.2 Category B and C applicants who were awarded rights by the former Minister
The right holder in Category B and C who was allocated rights by the former Minister on appeal will be permitted to continue to fish pending the reconsideration of the appeals, per the requirements of an exemption in terms of section 81 of the Act.

2.3 All successful Category B and C applicants
Further to the above, the Department hereby requests that all Category B and C right holders submit to the Department, within 7 days after issuing of this notice, a completed electronic copy of the "Summary of Landings" form for the catches made for the 2021 fishing season. The form must be submitted to: TrawlMW@environment.gov.za and must list all landings (indicating the name of the vessel, the sailing and docking date/s) and must indicate the distribution of the landed weight among right holders.

2.4 Category B and C right holders must ensure that all levies on fish landed are paid in accordance with the conditions of their current catch permits and must ensure that all outstanding payments are made prior to the finalisation of the appeals.

3. **Reconsideration of appeals**

3.1 The Minister will reconsider all appeals that were submitted in terms of section 80 of the Act. In respect of category B and C, this includes:

3.1.1 All current right holders who were granted rights by the Delegated Authority and who subsequently appealed;

3.1.2 All current category B and C right holders who were not granted rights by the Delegated Authority, but who were subsequently granted rights on appeal; and

3.1.3 All unsuccessful category B and C applicants who unsuccessfully appealed against the refusal of their applications by the Delegated Authority.

3.2 Category B and C right holders' supplementary appeals (if any) will be considered by the Minister.

4. The outcome of the appeals will be communicated in due course.

Yours sincerely



MS B D CREECY, MP
MINISTER OF FORESTRY, FISHERIES AND THE ENVIRONMENT.

DATE: 1/7/2021