

## **SCHEDULE F**

**EXPLANATORY NOTES TO THE NEW ENTRANT APPLICATION FORMS**

## EXPLANATORY NOTES – NEW ENTRANT APPLICANTS HAKE DEEP SEA TRAWL, INSHORE HAKE TRAWL, HORSE MACKEREL, SOUTH COAST ROCK LOBSTER, KWAZULU-NATAL PRAWN TRAWL, PATAGONIAN TOOTHFISH AND SMALL PELAGICS

THE PURPOSE OF THE EXPLANATORY NOTES IS TO ASSIST APPLICANTS IN COMPLETING A NUMBER OF SECTIONS IN THE APPLICATION FORM. SOME SECTIONS ARE CONSIDERED TO BE SELF-EXPLANATORY AND ARE NOT COVERED IN THESE EXPLANATORY NOTES.

The MLRA is the Marine Living Resources Act 18 of 1998. A copy is available on the Department's website [www.mcm-deat.gov.za](http://www.mcm-deat.gov.za).

### SECTION 1: APPLICANT DETAILS

Sections 1.1 to 1.7 must be completed by all applicants. The applicant was required to provide the details required by sections 1.8.1 to 1.8.7d when it registered for an application form at [www.mcm-deat.gov.za](http://www.mcm-deat.gov.za). These sections need only be completed if the applicant's details have changed since registration.

### SECTION 2: FORM OF APPLICANT

#### 2.1 and 2.2

The aim is to determine whether the applicant is involved in other sectors of the fishing industry

#### 2.3

In terms of section 18 of the MLRA, commercial fishing rights may only be granted to a South African person, which is a term defined in section 1 of the Act. The aim of this section is to determine whether the applicant meets the requirements of this definition. In the case of a company or a close corporation, the majority of the shareholders or members must be South African persons.

### SECTION 3: COMPLIANCE

#### 3.1.1, 3.1.2, 3.1.3 and 3.1.4      **Note: a "yes" answer will be presumed if the applicant fails to answer the question**

In terms of the General policy and the applicable Fishery specific policies, various consequences may be attached to contraventions of the MLRA, the regulations or permit conditions, including the exclusion of the applicant and negative scoring. The aim of this section is to determine whether the applicant has been convicted of any such contravention and to assess the seriousness of the contravention.

#### 3.2      **Note: a "yes" answer will be presumed if the applicant fails to answer the question**

Applicants must answer "yes" to the question, even if the asset detained, arrested or seized in terms of the MLRA or restrained or preserved in terms of the Prevention of Organised Crime Act, was later released. The circumstances surrounding the detention, arrest, seizure or restraint or preservation order and the outcome of the process, i.e. whether the asset was confiscated or forfeited to the State, must be dealt with in the annexure.

#### 3.3      **Note: a "yes" answer will be presumed if the applicant fails to answer the question**

Applicants must answer "yes" to the question if any commercial fishing right or permit in any other sector has been revoked, cancelled, reduced or altered under section 28(3) of the MLRA. The circumstances must be explained in the annexure.

### SECTION 4: VESSEL DETAILS

This section requires the applicant to furnish the details of each vessel nominated by the applicant. If the requested details are not available, the reasons for this must be explained in the annexure.

### SECTION 5: CATCH UTILISATION

#### 5.1      **Note: a "yes" answer will be presumed if the applicant fails to answer the question**

An applicant that has over- or under-caught its own allocation in any other fishery by more than 10% in any given year over the medium term right period must answer "yes" to this question. The reasons must be provided in the annexure.

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**5.2**

This section requests details regarding the applicant's catch records during the medium term rights (2001 – 2005) period in other **sectors**. Applicants must not answer the question with reference to the Department's catch records. In **the** second column, the annual catch allocation for the three years must be completed and in the third column the actual catch must be specified in **tons** (nominal weight must be specified, and not landed weight or weight after the fish was headed and gutted etc). If a permit was not issued to the applicant for any year, the applicant must indicate 100% under-caught.

**Example**

Year	Annual Catch Allocation (in tons)	Total Caught of Applicant's allocation (tons)	Percentage under-caught	Percentage over-caught
2003 season	1 000	1 100	0%	10%

*Actual tonnage caught (1 100 tons) minus total allowable catch allocated (1 000 tons) = 100. To establish the percentage, divide the difference by the TAC allocated and multiply it by 100. i.e.  $(100/1000) \times 100 = 10\%$ .*

**SECTION 6: TRANSFORMATION****6.1 and 6.2.1**

The aim of these sections is to determine whether the applicant is required to comply with **the** Employment **Equity** Act. **If** required to comply, the next question is whether **the** applicant has fulfilled its duties under the Act. For purposes of answering **these** sections, only the applicant's data (and not the data of its holding company or JV partners) must be **taken** into consideration.

"Designated" employers are required to comply with the Act. A designated employer, in terms of section 1 of **the** Employment Equity Act is:

- a) *an employer who employs 50 or more employees;*
- b) *an employer who employs fewer than 50 employees, but has a total annual turnover that is equal to or above the applicable annual turnover of a small business in terms of Schedule 4 of this Act. [which is R2 million per annum]; or*
- c) ...
- d) ...
- e) *an employer bound by a collective agreement in terms of section 23 or 31 of the Labour Relations Act, which appoints it as a designated employer in terms of this Act, to the extent provided for in the agreement;*

In terms of section 13 of the Employment Equity Act, the duties of designated employers are as follows:

- 1) *Every designated employer must, in order to achieve employment equity, implement affirmative action measures for people from designated groups in terms of this Act.*
- 2) *A designated employer must-*
  - a) *consult with its employees as required by section 16;*
  - b) *conduct an analysis as required by section 19;*
  - c) *prepare an employment equity plan as required by section 20; and*
  - d) *report to the Director-General on progress made in implementing its employment equity plan, as required by section 21.*

**6.3.1 Note: if the applicant is required to provide information of other entities the authorised representative of the other entity must attest to the declaration in section 16**

The aim of this section is to determine the composition of the management of the applicant. If the applicant is more than 50% owned by another company or close corporation (determined as specified in section 6.7.1 below) then the details of the board of directors/members of **both** the applicant and the holding entity must be provided in the annexure and the table must be completed by submitting the merged details of the boards of directors/ members of **both** entities. **If the** applicant is involved in a Joint Venture ("JV") together with another company or close corporation, then details of the boards of directors or members of **all** the JV partners must be provided in the annexure and the table must be completed by submitting the merged details of **the** boards of directors/ members of **all** the JV partners.

**6.3.2 Note: if the applicant is required to provide information of other entities the authorised representative of the other entity must attest to the declaration in section 16**

This section requires the applicant to provide details regarding employees that earn the highest salaries (calculated on a total cost to company basis). This information will be treated as confidential and may be submitted separately in the sealed envelope.

As in section 6.3.1 above, if the Applicant is more than 50% owned by another company or close corporation (determined as specified in section 6.7.1 below) then details of the highest salary earners of **both** the applicant and the holding entity must be provided in the annexure and the table must be completed by submitting the merged details of the highest salary earners of **both** entities. If the Applicant is involved in a Joint Venture ("JV") together with another company or close corporation, then details of the highest salary earners of **all** the JV partners must be provided in the annexure and the table must be completed by submitting the merged details of **all** the JV partners.

Total cost to company includes benefits and bonuses, but excludes dividends. Applicants that employ 165 or fewer employees must provide the details of their top salary earners as indicated in the table in the application form. Applicants that employ more than 165 people must first determine the top 3% and then provide details of those employees (up to a maximum of 90). Designation or actual title held by the employee, as indicated on the organogram or organizational structure, must be provided.

**Example:** If the applicant employs 2500 people, the applicant determines the top 3% by multiplying this number by 0.03 (2500 x 0.03 = 75). The applicant must then provide the details of those 75 employees. The applicant must not provide the details of more than 90 employees, regardless of the number of employees the applicant has in the top 3%.

If applicable, the number of employees of holding entities or JV partners must be added to the number of employees of the applicant, as set out in the example below.

**Example:** If the applicant employs 75 people, and the holding entity employs 125 people, the two entities combined employ 200 people. The applicant must determine the top 3%: 200 x 0.03 = 6. The details of the two entities should be merged, and the details of the top six salary earners of the merged list should be entered in the table at 6.3.2.

**6.4.1 Note: if the applicant is required to provide information of other entities the authorised representative of the other entity must attest to the declaration in section 16**

This section requires the applicant to provide details of income levels within the organization at 28 February 2005.

As in sections 6.3.1 and 6.3.2 above, if the applicant is involved in a Joint Venture ("JV") together with another company or close corporation, then the salary levels of **all** the JV partners must be provided in the annexure and the table must be completed by submitting the merged details of **all** the JV partners. If the Applicant is more than 50% owned by another company or close corporation (determined as specified in section 6.7.1 below) then the salary levels of the holding entity, the Applicant and **any** sister companies also more than 50% owned by the holding entity must be provided in the annexure and the table must be completed by submitting the merged details of the group (applicant, holding entity and sister company) of companies.

**Example**

1	Monthly Income	Number of employees in this level (total of Group or JV, if applicable)	Percentage of Total Employees	Number of Black Employees in this level (total of Group or JV, if applicable)	Percentage of Total Black Employees	Number of Female Employees in this level (total of Group or JV, if applicable)
	< R 2 500	100	80%	80	90 %	70

Divide the employees in this income level by the total number of employees, and multiply by 100

Divide the number of black employees in this income level by the total number of black employees, and multiply by 100

**6.5 Note: if the Applicant relies on information of other entities the authorised representative of the entity must attest to the declaration in section 16**

This question requires the applicant to complete the employment equity profile of the applicant in respect of occupational levels. Designated employers and employers that comply voluntarily with the Employment Equity Act should complete the table with the figures submitted in October 2004 to the Department of Labour. Employers that are not designated should complete the tables with reference to its employees at 28 February 2005 and having regard to the definitions of the occupational levels set out in annexure 2 of the Regulations to the Employment Equity Act. Annexure 2 provides as follows:

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**Employment Equity Act 55,1998****WHAT IS THE PURPOSE OF THIS ANNEXURE?**

Job evaluation or grading systems are used by many organisations to measure jobs according to their content and establish comparative worth between jobs.

This annexure provides a table of equivalent occupational levels which may be used by employers when completing forms EEA 2 and EEA 4.

**INSTRUCTIONS**

The table [below] indicates the occupational levels within organisations as determined through the use of different job evaluation or grading systems. The table provides equivalent levels from each of these job evaluation systems.

Organisations that make use of neither one of the job evaluation systems [in the table below], nor a customised system linked to one of these, should use the Semantic Scale for guidance in determining occupational levels within that organisation.

Semantic Scale	Paterson		Peromnes	Hay	Castellion
Top Management	F	F	[++ ]+		14
Senior Management	E	E UPPER E LOWER	1 2 3	1 2	13
Professionally qualified, experienced specialists and mid-management	D	D UPPER D LOWER	4 5 6	3 4	12 11 13
Skilled technical and academically qualified workers, junior management, supervisors, foremen, superintendents	C	C UPPER C LOWER	7 8 9 10 11 12	5 6 6A 7 8	9 8
Semiskilled and discretionary decision making	B	B UPPER B LOWER	13 14 15 16	9 10 11	7 6 5 4
Unskilled and defined decisionmaking	A	A	17 18 19	12 13	3 2

As in section 6.4.1 above, if the applicant operates in a Joint Venture ("JV") together with another company or close corporation, then the occupational levels of all the JV partners must be provided in the annexure and the table must be completed by submitting the merged details of all the JV partners. If the applicant is more than 50% owned by another company or close corporation (determined as specified in section 6.7.1 below) then the occupational levels of the holding entity, the Applicant and any sister companies also more than 50% owned by the holding entity must be provided in the annexure and the table must be completed by submitting the merged details of the group (applicant, holder entity and sister company) of companies.

**Example**

If Company A is a designated employer, the data submitted in the October 2004 EEA 2A form should be completed in the table. If Company A is not a designated employer, the occupational levels of employees should be determined in the manner set out above as at 28 February 2005 and the table completed with this data.

Once the number of employees per level is determined, the percentages are to be worked out. For example, Company A employs seven senior officials and managers. Of the seven employees in the occupational category, 1 is an african male, 2 are coloured males, 2 are white males, 1 is an indian female and 1 is a white female. In order to determine the percentages take the number of employees from each designated group in the occupation level and divide it by the total number of employees in the occupational level and multiply by 100.