



GOVERNMENT GAZETTE

OF THE

REPUBLIC OF NAMIBIA

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WINDHOEK - 24 May 2018

No. 6601

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Government Notices

MINISTRY OF FISHERIES AND MARINE RESOURCES

No. 92

2018

ANNOUNCEMENT OF PERIOD FOR APPLICATIONS FOR RIGHTS AND CONDITIONS FOR GRANTING OF RIGHTS TO HARVEST CERTAIN MARINE RESOURCES FOR COMMERCIAL PURPOSES: MARINE RESOURCES ACT, 2000

Under section 33(1) read with section 33(3) of the Marine Resources Act, 2000 (Act No. 27 of 2000), I announce that -

- (a) applications for rights to harvest the marine resources, specified in Annexure 1 of the Schedule for commercial purposes, must be made in the manner prescribed in the Regulations Relating to the Exploitation of Marine Resources published in Government Notice No. 241 of 7 December 2001, as amended by Government Notice No. 63 of 30 April 2015, Government Notice No. 55 of 1 April 2016 and Government Notice No. 93 of 24 May 2018;
- (b) where an applicant is applying for more than one species of marine resources specified in Annexure 1, separate applications must be submitted in respect of each of the marine resource in respect of which a right is sought;

- (c) I will only consider applications for rights to harvest the marine resources specified in Annexure 1, if the applications comply with the criteria specified in Annexure 2 of the Schedule;
- (d) applications may be made from the date of publication of this notice until the 31st July 2018, at 17h00;
- (e) applications for rights to harvest any of the marine resources specified in Annexure 1, must be made in sealed envelopes only marked 'Application for a Right to Harvest Marine Resources', and must be deposited in a designated deposit box at the Head Office of the Ministry of Fisheries and Marine Resources, Office No. 300, 3rd Floor, Brendan Simbwaye Square, Corner of Dr. Kenneth Kaunda and Goethe Street, Windhoek, or in designated deposit boxes at any of the 14 Regional Governor's Offices; and
- (f) on the submission of an application in terms of this notice, and on the presentation of a national identity card by the person who has submitted an application, an official designated by the Minister must give that person written proof signifying the submission of the application.

B. ESAU

MINISTER OF FISHERIES AND MARINE RESOURCES

Windhoek, 24 May 2018

SCHEDULE

ANNEXURE 1

The applications for rights to harvest marine resources for commercial purposes may be made in respect of any of the following marine resources -

- (a) Hake;
- (b) Horse mackerel;
- (c) Monk;
- (d) Large pelagic species;
- (e) Line fish species;
- (f) Rock lobster;
- (g) Deep sea red crab;
- (h) Mulletts; and
- (i) Cape fur seals.

ANNEXURE 2
CRITERIA FOR APPLICATIONS FOR RIGHTS TO HARVEST MARINE RESOURCES:
MARINE RESOURCES ACT, 2000

1. Applications for rights to harvest marine resources specified in Annexure 1 must provide information on the criteria specified in this Annexure.
2. The information required to be submitted in respect of applications must only be provided as outlined under the column 'Documents – Means of Verification' as outlined in this Annexure and in the manner prescribed in the Regulations.
3. For the purpose of this Annexure "The Regulations" means the Regulations Relating to the Exploitation of Marine Resources published in Government Notice No. 241 of 7 December 2001, as amended by Government Notice No. 63 of 30 April 2015, Government Notice No. 55 of 1 April 2016 and Government Notice No. 93 of 24 May 2018.

CRITERIA	DOCUMENTS - MEANS OF VERIFICATION
<p>1. Whether or not the applicant is a Namibian citizen.</p>	<ol style="list-style-type: none"> 1. In the form titled Document 1 in Annexure A to the Regulations – <ol style="list-style-type: none"> (a) indicate all names and citizenship of natural persons who are shareholders in the applicant and its associated legal entities, if any; (b) for Namibian citizen shareholders in the applicant, indicate the name, identity card number, telephone number, district, constituency, region, citizenship, their % shares, and if they are citizen by - <ol style="list-style-type: none"> i. birth or descent; or ii. naturalization; (c) indicate the % of total shares in the applicant held by natural persons, close corporation or trust(s). 2. Natural persons who are currently shareholders in respect of rights granted in terms of section 33 of the Marine Resources Act, 2000, where such rights will not have attained 20 years from their date of first issue until 31 December 2019, are not eligible to apply for rights in terms of this notice. 3. Only companies established in terms of section 20(1)(a) of the Companies Act, 2004 (Act No. 28 of 2004), and which are registered as "(Proprietary) Limited ((Pty) Ltd), are eligible to apply for rights in terms of this notice. 4. Natural persons, companies not having a share capital, section 21 companies and trusts may be incorporated as shareholders under an applicant. 5. Companies listed in any stock exchange are not eligible to apply a right in terms of this notice or to be part of a shareholding structure of an applicant. 6. Where a trust is part of the shareholding structure of an applicant, the trusts must be managed by the beneficiaries through trustees appointed by the beneficiaries. 7. The documents referred to in the form titled Document 1 in Annexure A to the Regulations must be attached to every application.

<p>2. Where the applicant is a company, the extent to which the beneficial control of the company vests in the Namibian citizens.</p>	<p>1. Where an applicant previously held or currently holds a right in terms of section 33 of the Marine Resources Act, 2000, which right is about to expire the applicant must attach evidence of compliance to the conditions of the previous or current right in terms of shareholding.</p> <p>2. In the form titled Document 2 in Annexure A to the Regulations -</p> <p>(a) indicate if the applicant intends to undertake harvesting, processing or marketing operations alone, or in partnership with other companies or persons; and</p> <p>(b) if the applicant company intends to partner with any other company in its operations, indicate the current or intended % shares of the applicant in the company it intends to partner with.</p>
<p>3. The beneficial ownership of any vessel which will be used by the applicant.</p>	<p>1. In the form titled Document 3 in Annexure A to the Regulations -</p> <p>(a) indicate if the applicant -</p> <ol style="list-style-type: none"> i. has sole ownership of a fishing vessel; ii. owns, or intends to own a fishing vessel in partnership with others; or iii. plans to charter a fishing vessel for its operations; <p>(b) if the applicant owns a fishing vessel in partnership with others, indicate -</p> <ol style="list-style-type: none"> i. the flag status of the vessel; ii. the applicant shareholding in the vessel; and iii. % Namibian citizens shareholding in the entire fishing vessel ownership; and <p>(c) if the applicant plans to charter a fishing vessel, indicate -</p> <ol style="list-style-type: none"> i. the flag status of the vessel; and ii. % Namibian shareholding in the vessel. <p>2. The fishing vessel to be used or chartered by the applicant must be licensed and registered in Namibia for the purpose of harvesting marine resources for commercial purposes.</p> <p>3. Attach the licensing and registration documents, referred to in the form titled Document 3 in Annexure A to the Regulations, with every application.</p>
<p>4. The ability of the applicant to exercise the right in a satisfactory manner.</p>	<p>As indicated in form titled Document 4 in Annexure A to the Regulations, attach a business plan. The business plan must be for a minimum period of 10 years. In addition to other standard aspects of a business plan, the business plan must include details on -</p> <p>(a) the capacity (financial, human resources and assets) of the applicant to undertake fishing, fish processing and fish marketing operations;</p> <p>(b) if any of the capacity referred to in paragraph (a) has not yet been acquired, the business plan must indicate proposed timelines for realizing such capacities; and</p> <p>(c) the role of all shareholders in the applicant in the day-to-day operations of the proposed business.</p>

<p>5. The advancement of persons in Namibia who have been socially, economically or educationally disadvantaged by discriminatory laws or practices which were enacted or practiced before the independence of Namibia.</p>	<p>In the form titled Document 5 in Annexure A to the Regulations –</p> <ul style="list-style-type: none"> (a) indicate the % shares in the applicant held by previously disadvantaged Namibians; (b) indicate the % shares in the applicant held by previously disadvantaged Namibian, who are - <ul style="list-style-type: none"> i. “veterans” as defined in section 1 of the Veterans Act, 2008 (Act No. 2 of 2008) ; ii. living in economically marginalized communities; iii. women; iv. “youth” as defined in the National Youth Council Act, 2009 (Act No. 3 of 2009); or v. people living with “disabilities” as defined in section 1 of the National Disability Council Act, 2004 (Act No. 26 of 2004); (c) indicate the % shares in the applicant owned and managed by workers through workers trusts; (d) if the applicant owns shares in a fishing vessel, indicate the % of the shares which are owned by previously disadvantaged persons; (e) if the fishing vessel ownership shares are held by previously disadvantaged persons, if any, indicate the % of these shares held by previously disadvantaged Namibians, who are - <ul style="list-style-type: none"> i. “veterans” as defined in section 1 of the Veterans Act, 2008 (Act No. 2 of 2008) ; ii. living in economically marginalized communities; iii. women; iv. “youth” as defined in the National Youth Council Act, 2009 (Act No. 3 of 2009); or v. people living with “disabilities” as defined in section 1 of the National Disability Council Act, 2004 (Act No. 26 of 2004); (f) indicate the % shares in the fishing vessel owned and managed by workers through workers trusts; (g) for the purpose of paragraphs (a) - (f) above, attach a table with all the names, identity number, telephone number, traditional authority, district, constituency, and region of each shareholder or trustee; and (h) all shareholding must be evidenced by a share certificate, issued in terms of applicable legislation.
<p>6. Regional development within Namibia.</p>	<ol style="list-style-type: none"> 1. In the form titled Document 6 in Annexure A to the Regulations indicate, the % of shares in the applicant held by persons from any of the 14 regions in Namibia. 2. If the applicant is already investing in fisheries, indicate in the form titled Document 7 in Annexure A to the Regulations, the amount of investments (in N\$) in each of the 14 regions in Namibia. Attach a list/inventory and values (from valuation reports) for each investment. 3. Indicate, in the business plan, how the applicant plans to undertake enterprise development for previously disadvantaged persons in the regions.

7. Socio-economic concerns;	
7(a): Contribution to Employment per metric ton	<ol style="list-style-type: none"> 1. This criteria only applies to applicants who are already investing in Namibia fisheries. 2. If the applicant has investments in the fisheries, indicate in the form titled Document 8 in Annexure A to the Regulations – <ol style="list-style-type: none"> (a) the total number of Namibian citizen jobs, their salaries or wages, and their total payroll in N\$ (attach payroll); and (b) the total number of Namibian jobs per metric ton of quota allocated in 2017, if any.
7(b): Value addition	Describe, in the business plan referred to in the form titled Document 4 in Annexure A to the Regulations, the planned value addition products and plans to achieve them in your business model.
7(c): Preferential Procurement	Describe, in the business plan referred to in the form titled Document 4 in Annexure A to the Regulations, how the applicant plans to procure goods and services for operations especially from previously disadvantaged persons, where applicable.
7(d): Corporate Social Responsibility	<ol style="list-style-type: none"> 1. Describe, in the business plan referred to in the form titled Document 4 in Annexure A to the Regulations, the planned corporate social responsibilities and plans to achieve them in the business model. 2. Attach letter of support on this from target institutions or communities.
8. The contribution of marine resources to food security.	Describe, in the business plan referred to in the form titled Document 4 in Annexure A to the Regulation, the plans by the applicant to contribute to food security (for example local fish sales and fish donations).

MINISTRY OF FISHERIES AND MARINE RESOURCES

No. 93

2018

AMENDMENT OF REGULATIONS RELATING TO THE EXPLOITATION OF MARINE RESOURCES: MARINE RESOURCES ACT, 2000

In terms of section 61 read with section 33(2) of the Marine Resources Act, 2000 (Act No. 27 of 2000), I have made the regulations set out in the Schedule.

B. ESAU**MINISTER OF FISHERIES AND MARINE RESOURCES**

Windhoek, 24 May 2018

SCHEDULE

Definitions

1. In these regulations, “the Regulations” means the Regulations Relating to the Exploitation of Marine Resources published in Government Notice No. 241 of 7 December 2001, as amended by Government Notice No. 63 of 30 April 2015 and Government Notice No. 55 of 1 April 2016.

Amendment of regulation 2 of the Regulations

2. Regulation 2 of the Regulations is amended -

(a) by the substitution for subregulation (1) of the following subregulation:

“(1) An application for an exploratory right or a quota under the Act must be made to the Permanent Secretary -

(a) in respect of an exploratory right, in the form set out in Annexure B; and

(b) in respect of a quota, in the form set out in Annexure C.”; and

(b) by the insertion of the following subregulation after subregulation (1).

“(1A) An application for a right under section 33 of the Act, must

(a) comply with the requirements of the notice issued under section 33(1) of the Act; and

(b) be made in the forms set out in Annexure A.”.

Amendment of Annexure A to the Regulations

3. The Regulations are amended by the substitution for Annexure A to the Regulations of the following Annexure:

**“ANNEXURE A
FORMAT OF DOCUMENTS TO BE INCLUDED IN EACH APPLICATION FOR A
RIGHT TO HARVEST MARINE RESOURCES**

FORM 1A



REPUBLIC OF NAMIBIA

MINISTRY OF FISHERIES AND MARINE RESOURCES

Marine Resources Act, 2000

**APPLICATION FOR A RIGHT TO HARVEST MARINE RESOURCES
FOR COMMERCIAL PURPOSES**

Name of Applicant:

Postal address:

.....

Business or Residential Address:

.....

Telephone Number: Email address:

Species or fisheries in respect of which a right is sought:

.....

(a separate application must be submitted for each species or fishery for which a right is sought)

I, the undersigned, hereby apply for the right to harvest the species or fisheries cited above and declare that the particulars furnished are to the best of my knowledge and belief correct in all respects.

.....
Signature

.....
Place

.....
Date

DOCUMENT 1
APPLICATION FOR A RIGHT TO HARVEST MARINE RESOURCES IN TERMS OF
SECTION 33 OF THE MARINE RESOURCES ACT, 2000

Date:
 Postal address:
 Physical address:
 Telephone (plus contact mobile number):
 Contact Email address:

SHAREHOLDING OF APPLICANT COMPANY

No.	Name	Citizenship: (if Namibian, indicate if a) by birth or descent or b) naturalization)	% shares
For all shareholders in the applicant company			
	List all names of natural persons shareholders:		
1			
2			
....	(add more rows as appropriate)		
	Other legal entities who are shareholders in the applicant company; e.g. trusts, CC,		
	Name of legal entity		
	Names of natural persons in the legal entity		
1			
2			
....	(add more rows as appropriate)		

Signed at (place) on day of (month) 2018 (date),
 by: (name), being duly authorized to make this application for a right to
 harvest marine resources for commercial purposes, at a properly convened meeting of directors of
 (name of the applicant company), held on (date) at(place).

..... (signature)

Countersigned by Chairperson / Director of the Applicant Company:

..... (name) (signature)

AND STAMP of applicant company.

..... (date)

Please attach to DOCUMENT 1:

- (a) Copies of all company registration certificates of applicant company, and associated legal entities (trusts, CCs and others), if any;
- (b) Copies of Memorandum and Articles of Association of the applicant company;
- (c) Copies of shareholders agreement;
- (d) Copies of share certificates of all shareholders;
- (e) Copies of ID cards of all shareholders; and
- (f) Copies of certificates of good standing of applicant and shareholding companies with Namibia revenue authorities and other relevant authorities.

DOCUMENT 2
APPLICATION FOR A RIGHT TO HARVEST MARINE RESOURCES IN TERMS OF
SECTION 33 OF THE MARINE RESOURCES ACT, 2000

Date:
 Postal address:
 Physical address:
 Telephone (plus contact mobile number):
 Contact Email address:

COMPANY BENEFICIAL OWNERSHIP

Activity	Does the applicant company plan to undertake this activity:					
	Alone? (Yes/No)	Through Joint Venture (JV)?		Through shareholding?		
		JV Name	% Namibian shareholding in the JV	Names of each partner	% Namibian shareholding of each partner	Overall % Namibian shareholding
Fishing Operations						
		(add other rows as appropriate)				
On-shore Processing						
		(add other rows as appropriate)				
Marketing						
		(add other rows as appropriate)				

Signed at (place) on day of (month) 2018 (date),
 by: (name), being duly authorized to make this application for a right to
 harvest marine resources for commercial purposes, at a properly convened meeting of directors of
 (name of the applicant company), held on (date) at(place).

..... (signature)

Countersigned by Chairperson / Director of the Applicant Company:

..... (name) (signature)

AND STAMP of applicant company.

..... (date)

Please attach to DOCUMENT 2:

- (a) All agreements and resolutions of Boards of Directors as appropriate;
- (b) Share certificates of all shareholders;
- (c) Attach memorandum and articles of association of the applicant company, shareholders agreement and any other relevant agreement; and
- (d) Copies of certificates of good standing of applicant company and shareholding companies with Namibia revenue authorities and other relevant authorities.

DOCUMENT 3
APPLICATION FOR A RIGHT TO HARVEST MARINE RESOURCES IN TERMS OF
SECTION 33 OF THE MARINE RESOURCES ACT, 2000

Date:
 Postal address:
 Physical address:
 Telephone (plus contact mobile number):
 Contact Email address:

FISHING VESSEL BENEFICIAL OWNERSHIP

Does the applicant company:						
Own a fishing vessel?		Have (or plan to have) access to a fishing vessel through Joint Venture (JV)		Own a fishing vessel through shareholding		
As a sole owner? Yes /No	Name(s) /Flag of vessel(s)	JV and vessel name	% Namibian shareholding in the JV	Name and flag status of each vessel	% of applicant company shareholding in each vessel	Overall % Namibian shareholding in each vessel

Signed at (place) on day of (month) 2018 (date),
 by: (name), being duly authorized to make this application for a right to
 harvest marine resources for commercial purposes, at a properly convened meeting of directors of
 (name of the applicant company), held on (date) at(place).

..... (signature)

Countersigned by Chairperson / Director of the Applicant Company:

..... (name) (signature)
 AND STAMP of applicant company.

..... (date)

Please attach to DOCUMENT 3:

- (a) All agreements and resolutions of Boards of Directors as appropriate.
- (b) Share certificates of all shareholders, shareholders agreements and any other relevant agreement;
- (c) Memorandum and articles of association of the vessel company;
- (d) Fishing Vessel flag status attestation documents;
- (e) Fishing Vessel licensing and registration documents in terms of applicable Namibian legislation.
- (f) Copies of certificates of good standing of applicant and shareholding companies with Namibia revenue authorities and other relevant authorities.

DOCUMENT 4
APPLICATION FOR A RIGHT TO HARVEST MARINE RESOURCES IN TERMS OF
SECTION 33 OF THE MARINE RESOURCES ACT, 2000

Date:
 Postal address:
 Physical address:
 Telephone (plus contact mobile number):
 Contact Email address:

APPLICANT BUSINESS PLAN

1. All applicants must ensure that all aspects required in the business plan are included in the business plan.
2. The business plan should be approved by the applicant company.
3. The business plan must be approved as follows:

Signed at (place) on day of (month) 2018 (date),
 by: (name), being duly authorized to make this application for a right to
 harvest marine resources for commercial purposes, at a properly convened meeting of directors of
 (name of the applicant company), held on (date) at(place).

..... (signature)

Countersigned by Chairperson / Director of the Applicant Company:

..... (name) (signature)

AND STAMP of applicant company.

..... (date)

DOCUMENT 5
APPLICATION FOR A RIGHT TO HARVEST MARINE RESOURCES IN TERMS OF
SECTION 33 OF THE MARINE RESOURCES ACT, 2000

Date:
 Postal address:
 Physical address:
 Telephone (plus contact mobile number):
 Contact Email address:

SHAREHOLDING OF PREVIOUSLY DISADVANTAGED NAMIBIANS

No	Name of Preciously Disadvantaged (PD) Namibian citizen	% shares in applicant company	PD and liberation war veteran?	PD and Woman?	PD and youth?	PD and person living with disability?	PD and living in economically marginalized community
1							
2							
3							
...	Add more rows as appropriate						
TOTAL shareholding of each category							
% shareholding in applicant							

Category	Number of beneficiaries	% shares
Individual shareholders who are previously disadvantaged		
Workers Trust		
Other Trusts		
Others (specify)		
TOTAL		

Signed at (place) on day of (month) 2018 (date),
 by: (name), being duly authorized to make this application for a right to
 harvest marine resources for commercial purposes, at a properly convened meeting of directors of
 (name of the applicant company), held on (date) at(place).

..... (signature)

Countersigned by Chairperson / Director of the Applicant Company:

..... (name) (signature)

AND STAMP of applicant company.

..... (date)

Please attach to DOCUMENT 5:

- (a) Copies of share certificates of all shareholders; and
- (b) Copies of ID cards of all shareholders.

DOCUMENT 6
APPLICATION FOR A RIGHT TO HARVEST MARINE RESOURCES IN TERMS OF
SECTION 33 OF THE MARINE RESOURCES ACT, 2000

Date:
 Postal address:
 Physical address:
 Telephone (plus contact mobile number):
 Contact Email address:

REGIONAL DEVELOPMENT

No.	Name of Region	Name of Shareholder	% shares in applicant company	Total % shares for each region
	Erongo			
	Khomas			
	(insert more rows as appropriate)			

Signed at (place) on day of (month) 2018 (date),
 by: (name), being duly authorized to make this application for a right to
 harvest marine resources for commercial purposes, at a properly convened meeting of directors of
 (name of the applicant company), held on (date) at(place).

..... (signature)

Countersigned by Chairperson / Director of the Applicant Company:

..... (name) (signature)

AND STAMP of applicant company.

..... (date)

Please attach to DOCUMENT 6:

- (a) Copies of share certificates of all shareholders; and
- (b) Copies of ID cards of all shareholders.

DOCUMENT 7
APPLICATION FOR A RIGHT TO HARVEST MARINE RESOURCES IN TERMS OF
SECTION 33 OF THE MARINE RESOURCES ACT, 2000

Date:
 Postal address:
 Physical address:
 Telephone (plus contact mobile number):
 Contact Email address:

REGIONAL DEVELOPMENT - INVESTMENTS

No	Name of Region	Investments	Value (N\$)	Total investments (N\$) for each region
	Erongo			
	Khomas			
	(insert more rows as appropriate)			

Signed at (place) on day of (month) 2018 (date),
 by: (name), being duly authorized to make this application for a right to
 harvest marine resources for commercial purposes, at a properly convened meeting of directors of
 (name of the applicant company), held on (date) at(place).

..... (signature)

Countersigned by Chairperson / Director of the Applicant Company:

..... (name) (signature)

AND STAMP of applicant company.

..... (date)

Please attach to DOCUMENT 7:

Photos and other evidence of investments as appropriate. Investments will be physically verified.

DOCUMENT 8
APPLICATION FOR A RIGHT TO HARVEST MARINE RESOURCES IN TERMS OF
SECTION 33 OF THE MARINE RESOURCES ACT, 2000

Date:
 Postal address:
 Physical address:
 Telephone (plus contact mobile number):
 Contact Email address:

EMPLOYMENT CREATION

(Note: Document 8 is only applicable for companies already investing in fisheries industry)

A: PAY-ROLL OF APPLICANT COMPANY

No	Name of Employee/ and	ID Number	tel number	Position	Number of Months worked in 2017	Salary (N\$/Month)
For Namibian Citizens						
1						
2						
3						
Insert more rows as appropriate						
TOTAL						
For foreign workers						
1						
2						
3						
Insert more rows as appropriate						
TOTAL						

x 100

b) Quality of Namibian jobs:=

Signed at (place) on day of (month) 2018 (date),
 by: (name), being duly authorized to make this application for a right to
 harvest marine resources for commercial purposes, at a properly convened meeting of directors of
 (name of the applicant company), held on (date) at(place).

..... (signature)

Countersigned by Chairperson / Director of the Applicant Company:

..... (name) (signature)

AND STAMP of applicant company.

..... (date)

Please all relevant payrolls attach to DOCUMENT 8.
