



FISHER VOICES MUST BE HEARD:

minister reviews rights allocation in the Western Cape.

This pamphlet explains the background to this review, the review process and how small-scale fishers can respond.



Made by the coastal justice network
coastaljusticesa@gmail.com



FISHER VOICES MUST BE HEARD: DEFF: Minister reviews rights allocation in the Western Cape

The Minister of DEFF has approached the courts to reverse and review the process of allocating Small Scale Fisher (SSF) rights in the Western Cape. This is a response to multiple complaints about the fairness and accuracy of the process.

This is an important acknowledgement from DEFF. However, SSF have been raising these concerns for years and the response of the minister raises several contradictions for Small Scale Fishers across the country.

This is a moment at which SSF across the country need to hold DEFF accountable to their responsibilities towards SSF.

Background

Small scale fishers collectively organised against their exclusion from the MLRA which resulted in a court Order in 2007. This ordered the Minister to ensure that there was a process to develop a policy that would recognise the social and economic rights of traditional fishers.

This case was successful and legally recognised that rights were not simply about livelihoods but also cultural heritage, knowledge and practices excluded by dispossession of peoples under colonialism and apartheid.

A small-scale fisher policy gazetted in 2012 recognised that there were many different types of traditional fishers in South Africa who had been marginalised, ranging from subsistence fishers to small-scale commercial, and artisanal fishers. The policy included an umbrella definition termed 'small-scale' that includes all of these different fishers, from subsistence to small-scale commercial. The policy outlined that SSF fishers would be allocated rights through community-based entities. It meant that individual rights would be recognised but the rights would be held as a small-community based entity. In 2014 the Marine Living Resources Act was amended to include small-scale fishers, with an emphasis on the cooperative nature of these fisheries. In 2016

DEFF gazetted Regulations for the SSF sector. These Regulations did not accommodate the diversity in SSF fishers in South Africa and stated that all communities must form a cooperative.

Today in 2021, rights have been allocated in the Eastern Cape, KZN and the Northern Cape only.

In the Western Cape, fishers are operating on Interim relief permits. However in all provinces, many fishers were left out of the registration through no fault of their own or were unsuccessful in their applications and appeals. Based on earlier research, it is estimated that about 20 000 fishers are still not recognised and face repression as they fish to earn a livelihood.

Why is the minister reviewing the rights allocation process in the western Cape?

In 2019 DEFF commissioned an audit into the processes around SSF rights granted in the Western Cape.

Among the errors identified were

- **the inaccurate capturing of information and**
- **incorrect adjudication of applications by community panels,**
- **inconsistent application of criteria between communities,**

- **incorrect and incoherent application and appeals process as well as**
- **incomplete and inaccurate data, including lost applications**

These concerns have been raised by fishers for years prior to the private consultant's audit.



Three reasons why this action from DEFF will further affect small scale fishers negatively.

The Western Cape is not the only province where there has been a lack of fairness and undue process regarding the allocation of fisher rights. While rights have been allocated in the Eastern Cape, Northern Cape and KZN, many fishers in these provinces have been excluded.

Fishers around the country have been unable to participate in decisions affecting their lives and livelihoods.

The ministers review of the process does not review the "entire process" but

only goes back to the initial applications. This excludes those who were not able to apply in the beginning through no fault of their own. It therefore neglects to address the initial concern of the fishing communities.

What should we look out for during this review?

Any interventions that take place must ensure that it treats fishers' fairly and therefore DEFF must extend this review to SSF across the country.

DEFF must consult with small scale fishers themselves about how they have been excluded from the past and present policy regimes.

As fishers across the country are anyway struggling with permit delays and delays due to covid. Further delays would come at too high a cost to these fishers. Fishers should be allowed to proceed with their fishing and have access to resources whilst the Department addresses these problems.

SSF across South Africa need to use this moment to highlight those who have been excluded from DEFF's rights allocation process in these other provinces.