**Directorate of Natural Resources - Fisheries Department**

**Fisheries (Conservation and Management) Ordinance 2005**

**Guidance on ITQ B Applications – Eligibility and Grant**

**Introduction**

The Fisheries (Conservation and Management) Ordinance 2005 was amended in 2021 to introduce provisions for the transition from existing grants of ITQ (now known as ITQ A) to new grants of ITQ B.

Under the revised Ordinance:

* The existing ITQ **eligibility** register for each fishery has been divided into Parts A and B
* The existing ITQ **ownership** register for each fishery has been divided into Parts A and B

On the date of commencement, all existing entries on those registers automatically become entries on Part A.

This guidance sets out the process and timetable by which companies listed on Part A of the ITQ eligibility register may apply to be listed in Part B; and – subject to the eligibility application being successful – apply to be granted ITQ B holdings in place of part or all of their ITQ A holdings.

**An overview of ITQ B**

***Part B of the ITQ eligibility register***

A company will only be listed on either Part A or Part B of the ITQ eligibility register for each fishery. A company may be listed on Part A in one fishery, and Part B in another fishery.

Entries on both Part A and Part B of the ITQ eligibility register will have to be renewed each year, as is the case now. Companies will need to demonstrate that they continue to meet the relevant eligibility criteria.

Companies on Part B of the eligibility register in each fishery may acquire and hold ITQ A or B, and the Catch Entitlement generated by ITQ A or B.

Companies on Part A of the eligibility register in each fishery may only acquire and hold ITQ A, and Catch Entitlement generated by ITQ A.

***Part B of the ITQ ownership register***

A company may have some holdings of ITQ listed on Part A of the ITQ ownership register, and some holdings listed on Part B, even within the same fishery.

ITQ B has the same core features as the existing ITQ A – it will generate annual Catch Entitlement, and allow fishing licences to be granted to exploit the Catch Entitlement.

The combined holdings of ITQ A and ITQ B in each fishery will add up to no more than 100%.

The provisions on aggregation limits will apply to ITQ A and ITQ B combined.

***Catch Entitlement under ITQ B***

ITQ B will generate Catch Entitlement for each season in the same way as ITQ A.

***Fishing licences under ITQ B***

Fishing licences in respect of Catch Entitlement generated by ITQ B will be granted to:

* the eligible company; or
* a qualifying company that is at least 51% owned by the eligible company that owns, having been granted or otherwise having procured, that Catch Entitlement.

Catch Entitlement is tradeable, so the owner at the point of application for a fishing licence will not necessarily be the same company to whom it was originally awarded.

**The application process**

There will be two legally distinct applications, managed as a single process:

* **ITQ B eligibility** - an application for a company to be entered on Part B of the ITQ eligibility register for the fisheries specified in the application
* **ITQ B ownership** - an application to be granted ITQ B holdings in place of part or all of the company’s ITQ A holdings. Those holdings will be added to Part B of the ITQ ownership register, and removed from Part A.

If the application for ITQ B eligibility is successful, then the application for ITQ B ownership holdings will automatically be approved.

Applications are made for each fishery. It is possible for a company to apply to be listed on the ITQ B eligibility register or to convert its ITQ in some fisheries, and to choose not to apply in others.

If no application for eligibility is made, or an application is refused, a company will continue to be listed on Part A of the ITQ eligibility register, and its ITQ holdings will continue to be listed on Part A of the ITQ ownership register.

It is possible to apply for ITQ B eligibility in a fishery without applying for ITQ B ownership, but not vice versa.

A company can apply for ITQ B eligibility at any point. For the avoidance of doubt, this includes applications from new companies established after the initial application process described in this guidance has been completed; existing companies that chose not to apply initially but subsequently wish to do so; or companies that applied and were unsuccessful but wish to submit a fresh application.

A company added to the ITQ B eligibility register outside of this initial process can then purchase ITQ A or B, or Catch Entitlement generated by ITQ A or B from other companies.

After this initial application process, all remaining ITQ A holdings will remain ITQ A until they revert to the crown in 2031 (unless FIG decides to offer a further opportunity to surrender such holdings in return for ITQ B).

If an application for ITQ B eligibility is made, there is no need to make a separate application for the renewal of ITQ A eligibility for that fishery. Should the application for ITQ B eligibility prove unsuccessful, the evidence provided will automatically be used to consider renewal of ITQ A eligibility.

For any fishery where an application for ITQ B eligibility is not being made, a separate application for the renewal of ITQ A eligibility will need to be made.

**Making an application**

Applications should be submitted to the Department of Natural Resources by **30th June 2022.**

Companies are invited to raise any questions and discuss the proposed content of their applications with the Department of Natural Resources at any time up to the deadline for applications to be submitted.

Applications should be made on the standard forms with all the necessary supporting documents attached. The application forms set out the supporting documents that are required. The forms are included in Annex 1 (*‘Application for entry upon Part B of the Individual Transferable Quota eligibility register’)* and Annex 2 (*‘Application for grant of Individual Transferable Quota B’*).

A company wishing to apply for both eligibility and grant of ITQ B should submit both forms at the same time.

**Information requirements common to ITQ A and B eligibility**

The requirements for ITQ B under sections 17C(3)(a)-(e),(h) and 17C(5) of the Ordinance are the same as those that apply to ITQ A under sections 24(3)(a)-(f) and 24(4). A statutory declaration must be submitted by a person who is a director of the company, to which are attached:

* a copy of the register of members of the company certified by the secretary of the company to be a true copy of the register as made up to a date not preceding by more than 7 days the date on which the declaration was made;
* a list of the directors and secretary of the company and of their addresses as at the date of the declaration;
* a certified copy of the certificate of incorporation of the company;
* a certified copy of the Articles of Association of the company;
* a copy of the register of members of any company appearing in the register of members to which paragraph (a) refers, certified by the secretary of that company to be a true copy of that register as made up to a date not preceding by more than 7 days the date on which the declaration was made.
* a copy of the company’s audited annual accounts, and in addition, where available, a copy of any later unaudited annual accounts.

Eligible companies - whether listed on Part A or Part B of the eligibility register - also need to comply with section 32 of the Ordinance, which requires certain information to be supplied to the Director, when available. If any of this information is outstanding it will need to be submitted before or at the same time as the application.

The requirements under section 17C(6) are the same as those which apply to ITQ A under section 24(5). These are:

* details of any existing business arrangements with any company, body, organisation or person involved in the taking, processing, purchasing or marketing of fish, or the provision of vessels, equipment, or crews;
* details of any proposed business arrangements with any company, body, organisation or person involved in the taking, processing, purchasing or marketing of fish, or the provision of vessels, equipment, or crews;
* any existing borrowing or financing arrangements with any company, body, organisation or person;
* any proposed borrowing or financing arrangements with any company, body, organisation or person;
* any other information available to the company which demonstrates that —
  + the shareholders of the company who have Falkland Islands status and are ordinarily resident in the Falkland Islands are, or as the case may be, if Individual Transferable Quota B is granted to the company, will be, in effective control of how its Individual Transferable Quota B rights are used;
  + the company is or, in the case of a holding company, its associate companies are, or as the case may be, if Individual Transferable Quota B is granted, will be, actively involved in one or more of taking, processing or selling fish and that its holdings of Individual Transferable Quota B rights are, or as the case may be if Individual Transferable Quota B is granted, will be, commensurate with the level of its business activity;
  + the company’s income and economic returns from taking, processing and sale of fish, or such of them as are relevant in the circumstances of the case represent, or as the case may be, if Individual Transferable Quota B is granted, will represent, a sufficient return on the value of the rights held and one which does not, or as the case may be, will not, over a reasonable period represent a significantly lower rate of return than that received by holders of similar rights.

This should include information relevant to how the company is intending to use their Catch Entitlement, for example, any Catch Entitlement agreements. Any such documents should be submitted with the application for ITQ B eligibility.

**Ordinary residence**

Ordinary residence is a concept capturing where a person is considered to be based over a period of time. There is no precise definition, and context will always be relevant. However, when it is a condition for ITQ eligibility that a person is ordinarily resident in the Falkland Islands, the Director will normally consider that to mean that the person has been present in the Falkland Islands for at least 183 days over the course of the past year. However, there may be situations where the Director considers it to be appropriate to accept a different degree of presence. For example, where a person may have been absent for medical reasons or prevented from returning to the Falkland Islands as planned due to transport issues or covid-19 restrictions.

**Additional information requirements for ITQ B eligibility**

Under the amended Ordinance, new and additional information is required to support an application to be entered on Part B of the ITQ eligibility register. These are:

* Evidence in draft or final form that the company making the application:
  + owns at least 51% of a qualifying company; **or**
  + wholly or partly owns an intermediate ITQ company that owns at least 51% of a qualifying company, where the intermediate ITQ company arrangement has been approved by the Director; **or**
  + has capacity to fish in its own right
* A copy of the company’s approved action plan certified by the secretary of the company as a true copy of the approved action plan for the company.

***Additional ITQ B eligibility requirements – ownership and control of qualifying companies***

To demonstrate that the eligible company owns at least 51% of a qualifying company, we will need to see a register of members of the qualifying company certified by the secretary of the qualifying company to be a true copy of the register as made up to a date no more than 7 days before it is submitted.

At the point of application, we will accept evidence in draft form, which should consist of a certified register of members (as above); and a draft share purchase agreement (or similar legal document) demonstrating the commitment of all relevant parties to move a position where the eligible company owns at least 51% of the qualifying company.

The minimum 51% ownership rule will apply to each class of share in the qualifying company.

Where evidence is submitted in draft, and the application is approved, the Director’s decision to add the company’s name to Part B of the eligibility register will be provisional until final copies of the evidence are submitted, which must be within 21 days of the company being notified (see the ‘Summary of timetable’ section). The approval will be withdrawn if the final evidence is not received, or if it has any substantive differences from the draft provided with the application that would impact on the Director’s assessment of a company’s eligibility.

Where an intermediate ITQ company arrangement is in place, the same evidence requirements apply to demonstrate that the intermediate ITQ company owns, or will own, at least 51% of the qualifying company. In addition, the intermediate ITQ company arrangement must have been approved by the Director prior to the application for ITQ B eligibility being made (see *‘Guidance on intermediate ITQ company arrangements’*).

Where there is more than one qualifying company, this information needs to be submitted in respect of each of those companies.

***Additional requirements for ITQ B eligibility - directors of qualifying companies***

There are additional requirements to demonstrate that a qualifying company, or companies, named in the application meets the statutory definition of a qualifying company. These are that each named qualifying company:

* is incorporated in the Falkland Islands and has its principal place of business in the Falkland Islands (so, we ask for application to include a certified copy of the certificate of incorporation);
* has a majority of directors who are either people with Falkland Islands status who are ordinarily resident in the Falkland Islands; or are companies which meet a certain set of criteria (see below);

For the second criteria, we will accept a list of the proposed directors as evidence in draft form. As with evidence about the ownership of qualifying companies, the applicant would then have 21 days from notification of the approval ITQ B eligibility to provide the evidence in final form. The approval will remain provisional until that is received, and will be withdrawn if it not received.

Where a company is named as a director of a qualifying company, we need evidence to be submitted with the application to show that the company so named:

* is incorporated in the Falkland Islands and has its principal place of business in the Falkland Islands;
* has Articles of Association that do not permit the issue of bearer shares, convertible loan stock or convertible debentures nor the issue of shares to, or the registration of shares in the name of, any person other than persons who have Falkland Islands status and are ordinarily resident in the Falkland Islands;
* has the whole of its issued share capital owned by, and all the directors being, persons having Falkland Islands status who are ordinarily resident in the Falkland Islands.

Where the company named as a director is the eligible company, this information is already covered elsewhere in the application. Otherwise, equivalent information will need to be provided with the application (certificate of incorporation, Articles of Association, register of members).

***Additional ITQ B eligibility requirements – capacity to fish***

If an application does not name a qualifying company in a fishery, the applicant eligible company needs to demonstrate the capacity to fish in its own right. The purpose of this provision is to enable those companies that undertake their own fishing (rather than operating through a qualifying company) to apply for ITQ B eligibility; but without allowing arrangements that would undermine the policy objective of Falkland Islands fishing companies having a minimum 51% ownership of joint venture qualifying companies.

The provision is not intended to limit the operational flexibility and efficiency of fishing companies; or to limit the scope for ITQ and Catch Entitlement to be traded between eligible companies.

The provision does require the eligible company to be involved in the taking of fish in a fishery for which they are listed in Part B of an ITQ eligibility register. It does not require them to be involved in the taking of fish in every fishery in which they are so registered.

For the avoidance of doubt, arrangements that will be taken to indicate the capacity to fish include:

* The taking of fish either by vessel owned by the eligible company, or by vessels that have been chartered by the eligible company
* A capacity to take fish in one fishery, which could be used in another fishery (eg. vessels may be switched from one fishery to another if catch levels are low) even if they are routinely only used for one of those fisheries

Arrangements that will be taken to indicate that the company does **not** have the capacity to fish include:

* Having no capacity to take fish in any of the fisheries for which the company is listed on Part B of the ITQ eligibility register
* Reliance on a business model that envisages selling all the company’s Catch Entitlement across all the fisheries for which the company is listed on Part B of the ITQ eligibility register

If a company experiences a temporary lack of capacity due to exceptional or unforeseen circumstances affecting one or more the vessels which the company owns or charters, the Director has the discretion to allow the company to be remain on the eligibility register notwithstanding that it cannot currently demonstrate capacity to fish.

The examples above are not an exhaustive list. Any proposed arrangements not outlined above will be considered by the Director against the purposes set out at the beginning of this section.

Companies may discuss any proposed arrangements with the Director ahead of submitting their application.

***Additional ITQ B eligibility requirements – action plans***

An action plan for the company that has been approved by the Director must be attached to the application for ITQ B eligibility. The intention is that the approval process for action plans will be completed before the deadline for applications to be submitted. See ‘*Guidance on ITQ B action plans*’.

***Other additional ITQ B requirements*** ***that are not part of the assessment for ITQ B eligibility – directors to exercise independent judgement***

The revised Ordinance places all directors of eligible companies and qualifying companies under a duty to exercise independent judgement in fulfilling their duties as directors.

There is no requirement to provide evidence with an application for eligibility or renewal of eligibility that the directors meet this requirement. If the Director becomes aware of evidence that leads them to form a reasonable judgement that the directors have bound themselves to act in a way that circumvents their independent judgement, then the Director must (under section 17D(2)(d)) refuse an application to be entered on Part B of the ITQ eligibility register and may (under section 26(4)) refuse an application for renewal of that eligibility. The Director’s general policy would be to refuse an application for renewal where this situation arises, and this would only be varied in very exceptional circumstances. If any such refusal is made by the Director, the company may apply to the Disputes Commission for that decision to be reviewed.

In considering whether or not company directors are exercising independent judgement, the Director will have in mind the aim of encouraging transparency in the governance of eligible companies, and ensuring that control is being properly exercised by the named directors.

The existence of a shareholder agreement that prescribes ‘reserved matters’ that must be agreed by all shareholders, will not be taken in itself as evidence that the directors have bound themselves in such a way as the circumvents their independent judgement. However, the arrangements as a whole must continue to meet the requirements of section 17D(3) – commonly referred to as the three tests of effective control, active involvement and economic efficiency.

***Additional ITQ B requirements that are not part of the assessment for ITQ B eligibility – approval of charter party arrangements***

For an eligible or qualifying company to be issued with a fishing licence where a vessel is being used through a charter party agreement, that agreement must have been approved by the Director.

Charter party agreements may be submitted for approval at any time prior to a fishing licence being granted, and do not have to be provided with the application for ITQ B eligibility. See ‘*Guidance on ITQ B charter party agreements’*.

**Assessing applications**

FIG aims to notify companies of the outcome of their applications by **25th August 2022.**

The notification will indicate whether the application to be entered on Part B of the ITQ eligibility register has been successful, in each of the fisheries for which such an application has been made.

The notification will indicate whether the decision to name a company on Part B of the ITQ eligibility register is provisional pending receipt of final documentation, where evidence was provided in draft. The company will have 21 days from this notification to provide the final documentation.

The notification will also set out the proposed provisional grant of ITQ B. Subject to the finalisation of any provisional decision on eligibility and any applications to the Disputes Commission, these grants will be reflected in additions to Part B of the ITQ ownership register, and corresponding removals from Part A.

**Review by the Disputes Commission**

A decision to refuse an application for entry of a company’s name to be placed upon Part B of an ITQ eligibility register on the basis of:

* a company not having demonstrated the capacity to fish
* a company’s directors, or the directors of its associated qualifying company having bound themselves to act or having acted in a way that circumvents their independent judgement
* a company not meeting the three tests of effective control, active involvement and economic efficiency as set out in section 17D(3) of the Ordinance

may be reviewed by the Disputes Commission. An application to the Disputes Commission must be made within 14 days of the decision having being notified.

The decision to grant ITQ B will initially be provisional. Section 20 of the Ordinance requires that information about the proposed grants are published in the Gazette, allowing any person aggrieved by those decisions to apply to the Disputes Commission (under section 108) to review the matter. The grant will become final if no applications for review are made within 14 days. If an application is made to the Disputes Commission, the grant will not become final until the application has been dealt with or disposed of, and will not be made at all if the Disputes Commission (and any appeal from the Disputes Commission to the Supreme Court) does not confirm the Director’s decision to grant ITQ B.

Our intention is to publish a full set of the provisional decisions in the Gazette on **22nd September 2022**, allowing until **6th October 2022** for any applications to the Disputes Commission to be made.

Once that period has elapsed, the Director will confirm all decisions that are not the subject of an application to the Disputes Commission, by written notification to the relevant companies.

Where an application for the Disputes Commission to review a decision has been made, no final decision can be made until that review is complete. Reviews by the Disputes Commission will be conducted as expeditiously as possible, but timings will depend on what needs to be done to consider the case properly.

**Summary of timetable**

|  |  |
| --- | --- |
| 15 October 2021 | Director invites companies to submit applications for ITQ B eligibility and ownership |
| Up to 30 June 2022 | Discussions between DNR and companies on applications |
| Before 30 June 2022 | Approval of company action plans |
| 30 June 2022 | Deadline for applications to be submitted |
| 25 August 2022 | Target\* date for decisions to be notified to companies. Where draft evidence included in the application, 21 days period starts for providing final evidence |
| 15 September 2022 | Deadline for final evidence to be submitted. Allow 1 week for DNR to assess |
| 22 September 2022 | Proposed grants of ITQ B published in the Gazette |
| 6 October 2022 | Deadline for applications for the Disputes Commission to review decisions |
| *Where no application made to the Dispute Commission:* | |
| 10 October 2022 | Target date for final decisions notified to companies. |
| *Where an application has been made to the Disputes Commission* | |
| Case by case | Timetable above delayed by the time take taken for the Disputes Commission, acting as expeditious as possible, to properly consider the application for review |
| *Then:* | |
| 1 January 2023 | Start for first fishing year under ITQ B |
| March/April 2023 | First annual renewal of eligibility for ITQ B (managed as a single process with renewals of ITQ A eligibility). |

\* We are confident that the target dates will be met; but if there is a delay for resourcing, operational or any other reasons, then subsequent dates will be deferred correspondingly

**Annex 1 – ITQ B Eligibility Application Form**

**Directorate of Natural Resources - Fisheries Department**

**Fisheries (Conservation and Management) Ordinance 2005**

**APPLICATION FOR ENTRY UPON PART B OF THE INDIVIDUAL TRANSFERABLE QUOTA ELIGIBILITY REGISTER**

**Introductory Notes**

This form should be used for an initial application for the name of a company to be entered on **Part B** on an Individual Transferable Quota (ITQ) Eligibility Register.

If the application is not approved, the information contained in this form will – where appropriate – be treated as an application for the renewal of the period for which the name of a company shall appear upon Part A of an ITQ Eligibility Register.

Applications for the renewal of the period for which the name of a company shall appear upon Part A of an ITQ Eligibility Register, where no application is being made for the name of a company to be entered on Part B on an ITQ Eligibility Register, should not use this form. Such applications should use the form for Application for Renewal of Entry upon Individual Transferable Quota Eligibility Register.

**Section 1: Company Details**

Company name and address:

Person(s) to contact in relation to this application:

*Name:*

*Email address:*

*Phone:*

**Section 2: Fishery Details**

Application is being made to enter the Company named in Section 1 on Part B of the ITQ Eligibility Register in respect of the following fisheries:

|  |  |  |  |
| --- | --- | --- | --- |
| **Description of Fishery** | **Species** | **Applications for entry on Part B (Yes or No)** | **Qualifying Company**  *(if applicable)* |
| Unrestricted Finfish | All finfish species except Skate (*Rajidae*) and Toothfish (*Dissostichus eleginoides*) |  |  |
| Scallops | Zygochlamys patagonica |  |  |
| Squid – Jig or Trawl | *Illex argentinus* and *Martialia hyadesi* |  |  |
| Squid | *Doryteuthis gahi* |  |  |
| Skate | All species of Skate (*Rajidae*) |  |  |
| Squid and Restricted Finfish | *Illex argentinus, Martialia hyadesi,* all Finfish species except Hake (*Merluccius spp.*), Skate (*Rajidae*) and Toothfish (*Dissostichus eleginoides*) |  |  |
| Restricted Finfish - Pelagic | Blue Whiting (*Micromesistius australis*) Hoki (*Macruronus magellanicus*) |  |  |
| Restricted Finfish | Restricted Finfish  All finfish species except Hake (*Merluccius spp.*) Skate (*Rajidae*) and Toothfish (*Dissostichus eleginoides*) |  |  |
| Toothfish – Longline | Toothfish (*Dissostichus eleginoides*) |  |  |
| Squid | *Doryteuthis gahi* |  |  |

The third column (Applications for entry on Part B) should be completed with ‘Yes’ if an application is being submitted to have the company’s name entered on Part B of the Eligibility Register for this fishery, or ‘No’ if entry on Part B is not being sought.

The fourth column (Qualifying Company) should be completed with the name of the qualifying company that is intended to be used to fish the Catch Entitlement held by the applicant company.

**Section 3: Section 17C Statutory Declaration**

This application must be accompanied by a statutory declaration made by a director of the company as to the matters set out in subsection 17C(2) of the Fisheries (Conservation & Management Ordinance) 2005.

The statutory declaration should contain statements as to the matters set out in subsection 17C(3)-(5).

The statutory declaration should be made in the presence of a solicitor or notary public and witnessed by them.

The director of the company making the statutory declaration should include a statement confirming that the statutory declaration is made in accordance with the provisions of the Statutory Declarations Act 1835.

The application should also include information as required by section 17C(6) as appropriate.

**Section 4: Document Checklist – Statutory Declaration**

The following is a checklist of documents which should be attached to the statutory declaration.

|  |  |  |
| --- | --- | --- |
| **Subsection** | **Description of document** | **Document(s) attached**  **(Yes or No)** |
| 17C(3)(a) | A copy of the register of members of the company certified by the secretary of the company to be a true copy of the register as made up to a date not preceding by more than 7 days the date on which the declaration was made; |  |
| 17C(3)(b) | A list of the directors and secretary of the company and of their addresses as at the date of the declaration; |  |
| 17C(3)(c) | A certified copy of the certificate of incorporation of the company; |  |
| 17C(3)(d) | A certified copy of the Articles of Association of the company; |  |
| 17C(3)(e) | A copy of the register of members of any company appearing in the register of members to which paragraph (a) refers, certified by the secretary of that company to be a true copy of that register as made up to a date not preceding by more than 7 days the date on which the declaration was made; |  |
| 17C(3)(f)(i)  17C(3)(f)(ii) | Evidence in draft or in final form that the company –  owns at least 51% of a qualifying company or wholly or partly owns an intermediate Individual Transferable Quota company, approved by the Director, that owns at least 51% of a qualifying company.  **Please complete Section 7 of this form.** | Draft/Final  *(please delete as applicable)* |
| **OR**  Evidence in draft or in final form that the company –  has capacity to fish in its own right | Draft/Final  *(please delete as applicable)* |
| 17C(3)(g) | A copy of the company’s approved action plan certified by the secretary of the company as a true copy of the approved action plan for the company. |  |
| 17C(3)(h) | A copy of the company’s audited annual accounts |  |
| 17C(3)(h) | Where available, a copy of any later unaudited annual accounts |  |
| 17C(3)(i) | *(If applicable)* Any other document which the Director may have notified the applicant is required to accompany the application. |  |

**Section 5: Document Checklist – Other Information**

The following is a checklist of information required with an application for a company’s name to be entered on Part B of an ITQ Eligibility Register, as set out in sections 17C(2)(b) and 17C(6) of the Ordinance.

If the company has relevant documents, please list the titles of these documents in the third column and attach copies of the documents to this application.

|  |  |  |
| --- | --- | --- |
| **Subsection** | **Description of document** | **Documents appended**  **(Yes or No, and details)** |
| 17C(6)(a) | Details of any existing business arrangements with any company, body, organisation or person involved in the taking processing, purchasing or marketing of fish, or the provision of boats, equipment, or crews; |  |
| 17C(6)(b) | Details of any proposed business arrangements with any company, body, organisation or person involved in the taking, processing, purchasing or marketing of fish, or the provision of boats, equipment, or crews; |  |
| 17C(6)(c) | Any existing borrowing or financing arrangements with any company, body, organisation or person; |  |
| 17C(6)(d) | Any proposed borrowing or financing arrangements with any company, body, organisation or person; |  |
| 17C(6)(e) | Any other information available to the company which may serve to demonstrate that— |  |
| 17C(6)(e)(i) | The shareholders of the company who have Falkland Islands status are, or as the case may be, if Individual Transferable Quota is thereafter granted to the company, will be, in effective control of how its Individual Transferable Quota rights are used; |  |
| 17C(6)(e)(ii) | The company is or, in the case of a holding company, its associate companies are, or as the case may be, if Individual Transferable Quota is thereafter granted, will be, actively involved in one or more of taking, processing or selling fish and that its holdings of Individual Transferable Quota rights are, or as the case may be if Individual Transferable Quota is thereafter granted, will be, commensurate with the level of its business activity; |  |
| 17C(6)(e)(iii) | The company’s income and economic returns from catching, processing and sale of fish, or such of them as are relevant in the circumstances of the case represent, or as the case may be, if Individual Transferable Quota is thereafter granted, will represent, a sufficient return on the value of the rights held and one which does not, or as the case may be, will not, over a reasonable period represent a significantly lower rate of return than that received by holders of similar rights. |  |

**Section 6: Company Information**

Under section 32 of the Ordinance, companies which own ITQ (A or B) are required to provide certain financial and other company information on an annual basis. The company accounts and Articles of Association will be provided as part of Section 3. If a copy of the company’s most recent annual return under section 126 of the Companies Act 1948 has not previously been submitted to the Director, please include it with this application.

|  |  |  |
| --- | --- | --- |
| **Section** | **Description of document** | **Documents appended**  **(Yes or No – if no, please confirm date submitted)** |
| 32(1)(a)(ii) | A copy of the company’s annual return under the provisions of section 126 of the Companies Act 1948 |  |

**Section 7: Qualifying Companies**

If the company is proposing to utilise qualifying companies to fish its Catch Entitlement, please provide the following details with this application:

|  |  |  |
| --- | --- | --- |
| **Subsection** | **Description of document** | **Documents appended**  **(Yes or No, and details)** |
| 41(14)(b)(i)-(iii) | For each qualifying company:  A certified copy of the certificate of incorporation of the company;  A list of the directors and secretary of the company and of their addresses as at the date of the declaration |  |
| 41(14)(ii) | For any companies listed as directors of a qualifying company (where not already provided under headings above):  A certified copy of the certificate of incorporation of the company;  A certified copy of the Articles of Association of the company;  A copy of the register of members of the company certified by the secretary of the company to be a true copy of the register as made up to a date not preceding by more than 7 days the date on which the declaration was made. |  |
|  | For each qualifying company, a copy of the most recent audited annual accounts and, where available, a copy of any later unaudited annual accounts |  |

**Section 8: Signature**

Application submitted on behalf of the company by:

Signature:

Name and position:

Date:

**Annex 2 – ITQ B Grant Application Form**

**Directorate of Natural Resources - Fisheries Department**

**Fisheries (Conservation and Management) Ordinance 2005**

**APPLICATION FOR GRANT OF INDIVIDUAL TRANSFERABLE QUOTA B**

**Introductory Notes**

This form should be used for an initial application for some or all of a company’s Individual Transferable Quota (ITQ) A holdings to be transferred to **ITQ B**.

This form **must** be submitted together with an application for the name of the company to be entered on to **Part B** of an ITQ Eligibility Register for the relevant fisheries. A grant of ITQ B will only be made after confirmation that the company has been named on Part B of the ITQ Eligibility Register.

It is a condition of any grant of ITQ B ownership as a result of this application process that the company surrender an equivalent amount of ITQ A in the relevant fishery. Such holdings will be removed from Part A of the ITQ Ownership Register and an equivalent amount of ITQ B will be entered onto Part B of the ITQ Ownership Register.

**Section 1: Company Details**

Company name and address:

Person(s) to contact in relation to this application:

*Name:*

*Email address:*

*Phone:*

**Section 2: Grants of ITQ B**

Please set out which holdings you wish to be granted as ITQ B, and which you wish to remain as ITQ A:

|  |  |  |  |  |
| --- | --- | --- | --- | --- |
| **Description of Fishery** | **Species** | **Current ITQ A holding**  **(%)** | **Holdings to be granted as ITQ B**  **(%)** | **Holdings to remain as ITQ A**  **(%)** |
| Unrestricted Finfish | *All finfish species except* Skate (*Rajidae*) and Toothfish (*Dissostichus eleginoides*) |  |  |  |
| Scallops | Zygochlamys patagonica |  |  |  |
| Squid – Jig or Trawl | *Illex argentinus* and *Martialia hyadesi* |  |  |  |
| Squid | *Doryteuthis gahi* |  |  |  |
| Skate | All species of Skate (*Rajidae*) |  |  |  |
| Squid and Restricted Finfish | *Illex argentinus, Martialia hyadesi,* all Finfish species except Hake (*Merluccius spp.*), Skate (*Rajidae*) and Toothfish (*Dissostichus eleginoides*) |  |  |  |
| Restricted Finfish - Pelagic | Blue Whiting (*Micromesistius australis*) Hoki (*Macruronus magellanicus*) |  |  |  |
| Restricted Finfish | Restricted Finfish  All finfish species except Hake (*Merluccius spp.*) Skate (*Rajidae*) and Toothfish (*Dissostichus eleginoides*) |  |  |  |
| Toothfish – Longline | Toothfish (*Dissostichus eleginoides*) |  |  |  |
| Squid | *Doryteuthis gahi* |  |  |  |

**Section 3: Signature**

Application submitted on behalf of the company by:

Signature:

Name and position:

Date: