

SOUTH AUSTRALIA

**FISHERIES (AQUACULTURE MANAGEMENT COMMITTEE)
REGULATIONS 1999**

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REGULATIONS UNDER THE FISHERIES ACT 1982

Fisheries (Aquaculture Management Committee) Regulations 1999

being

No. 24 of 1999: *Gaz.* 1 April 1999, p. 1607¹

¹ Came into operation 1 April 1999: reg. 2.

Citation

1. These regulations may be cited as the *Fisheries (Aquaculture Management Committee) Regulations 1999*.

Commencement

2. These regulations come into operation on the day on which they are made.

Interpretation

3. In these regulations—

"Act" means the *Fisheries Act 1982*;

"committee" means the *Aquaculture Management Committee* established by regulation 4.

Establishment of Aquaculture Management Committee

4. The *Aquaculture Management Committee* is established.

Membership of committee

5. The committee will consist of such members as the Minister thinks fit to appoint to the committee.

Proxies

6. The Minister may, on such terms and conditions as he or she thinks fit, appoint a suitable person to be the proxy of a member of the committee.

Terms and conditions of office

7. (1) A member of the committee will be appointed for such term (being not less than 12 months), and on such conditions, as the Minister determines and will, on the expiration of a term of office, be eligible for reappointment.

(2) On the office of a member of the committee becoming vacant, a person must be appointed in accordance with these regulations to the vacant office, but where the office of a member becomes vacant before the expiration of a term of appointment, the successor will be appointed only for the balance of the term.

(3) The office of a member of the committee becomes vacant if—

(a) the member dies; or

(b) the member completes a term of office and is not reappointed; or

(c) the member resigns by written notice addressed to the Minister; or

(d) the member is removed from office by the Minister—

(i) on the ground that the member has been convicted of—

(A) an offence against the Act; or

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- (B) an offence against any other Act (including an Act of the Commonwealth or another State or a Territory of the Commonwealth), being an offence related to fishing; or
- (ii) on the ground of—
- (A) misconduct; or
 - (B) mental or physical incapacity to carry out satisfactorily the duties of his or her office; or
 - (C) failure to carry out satisfactorily the duties of his or her office.

Presiding member

8. The Minister must appoint a member of the committee to be the presiding member of the committee.

Procedure

9. (1) A meeting of the committee will be chaired by the presiding member or, in his or her absence, by a member chosen by the members present at the meeting.

(2) Subject to subregulation (4), the committee may act despite vacancies in its membership.

(3) The number of members of the committee or proxies of members, or both, that constitutes a quorum of the committee will be as determined by the Minister.

(4) No business may be transacted at a meeting of the committee unless a quorum is present.

(5) Each member present at a meeting of the committee whether personally or by proxy is entitled to one vote on a matter arising for decision at the meeting, but the person presiding at the meeting has, in the event of an equality of votes, a casting vote as well as a deliberative vote.

(6) The committee must cause accurate minutes to be kept of its proceedings at meetings.

(7) The procedure for the calling of meetings of the committee and for the conduct of business at meetings will, subject to these regulations, be as determined by the committee.

Conflict of interest

10. (1) A member of the committee who has a direct or indirect pecuniary interest in a matter decided or under consideration by the committee must disclose the nature of the interest to the Committee.

Maximum penalty: \$4 000.

(2) It is a defence to a charge of an offence against subregulation (1) to prove that the defendant was not, at the time of the alleged offence, aware of his or her interest in the matter.

(3) A disclosure under this regulation must be recorded in the minutes of the committee.

Delegation

11. (1) The committee may, by instrument in writing, delegate any of its powers or functions under these regulations (except this power of delegation) to a member of the committee or a sub-committee established by the committee.

(2) A delegation under this regulation—

- (a) may be absolute or conditional; and
- (b) does not derogate from the power of the committee to act itself in any matter; and
- (c) is revocable by the committee by instrument in writing.

Ministerial control

12. Except where the committee makes, or is required to make, a recommendation to the Minister, the committee is subject to control and direction by the Minister.

Functions and powers

13. (1) The committee has the following functions:

- (a) to advise the Minister and the Director on matters related to fish farming; and
- (b) such other functions as are prescribed by these regulations.

(2) For the purposes of subregulation (1), the committee may—

- (a) make recommendations to the Minister on any of the following matters:
 - (i) any matter related to fish farming that may be the subject of regulations under the Act;
 - (ii) proposals to make, vary or revoke regulations relating to fish farming made under the Act, or to make amendments to provisions of the Act relating to fish farming;
 - (iii) the granting of leases or licences under section 53 of the Act and the conditions to be included in such leases and licences;
 - (iv) any matter related to the administration of the Act;
 - (v) any matter that the Minister refers to the committee for advice or on which the committee believes it should advise the Minister;
- (b) make recommendations to the Director on any of the following matters:
 - (i) the granting of authorities under the Act and the conditions to be included in such authorities;
 - (ii) any matter related to the administration of the Act;

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- (iii) any matter that the Director refers to the committee for advice or on which the committee believes it should advise the Director.

Aquaculture management plan

14. (1) The committee must, at the request of the Minister, prepare or cause the preparation of a plan of management for fish farming in the marine waters of the State.

(2) A plan of management—

(a) must include objectives or principles relating to—

- (i) the ecologically sustainable development of fish farming in the marine waters of the State; and
- (ii) the management, conservation and use of natural and other resources in marine waters of the State in which fish farming activities are or are to be carried out;

(b) must be consistent with the Planning Strategy and any relevant Development Plan;

(c) may establish areas of marine waters of the State as aquaculture zones within which specified classes of fish farming activities may be carried out;

(d) may prescribe conditions that are to apply to fish farming activities carried out in aquaculture zones;

(e) may be comprised of a single plan or a series of plans.

(3) When a plan of management has been prepared, the committee must—

(a) give notice of that fact by public advertisement; and

(b) refer the plan for comment to any government Department or agency that has a direct interest in the plan.

(4) The notice must—

(a) specify an address at which copies of the plan of management may be inspected; and

(b) specify an address to which representations in connection with the plan of management may be forwarded.

(5) Any person may within three months after publication of the notice, or such longer period as may be specified in the notice, make representations to the committee in connection with the plan of management.

(6) If a government Department or agency to which the plan of management is referred does not respond to the committee within six weeks, it will be taken that the Department or agency does not desire to make any comment.

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(7) The committee must make copies of all representations and comments available for public inspection or purchase (except in the case of a representation or comment that was made in confidence) and for that purpose the committee must, by public advertisement, give notice of the place or places at which the copies are available.

(8) The Minister may adopt a plan of management—

(a) without alteration; or

(b) with such alterations as the Minister thinks reasonable in view of the representations made by members of the public or comments made by a Government department or agency.

(9) When the Minister adopts a plan of management, notice of that fact must be given by public advertisement.

(10) The Director must, on application and payment of the prescribed fee, furnish the applicant with a copy of a plan of management adopted under this regulation.

(11) The committee must keep a plan of management adopted under this regulation under review and prepare such amendments to it as from time to time appear necessary or expedient.

(12) In this regulation—

"Development Plan" means a Development Plan under the *Development Act 1993*;

"Planning Strategy" means the Planning Strategy formulated under the *Development Act 1993*;

"plan of management" includes an amendment to a plan of management;

"public advertisement" means an advertisement published in the *Gazette* and in a newspaper circulating throughout the State.

Five year strategic plans

15. (1) The committee must, within six months after the commencement of these regulations—

(a) prepare a plan for the management of the fish farming industry for the ensuing five years; and

(b) prepare a plan of the committee's proposed operations for the ensuing five years.

(2) The committee must submit a plan prepared under subregulation (1) to the Minister.

(3) The committee may amend a plan under subregulation (1) at any time, but must submit a revised plan for the ensuing five years to the Minister at least once every 12 months after the initial submission of the plan.

7.

Annual report

16. The Committee must, on or before 30 November in each year, submit a report to the Minister on the operations of the Committee during the preceding financial year.