

South Australia

Aquaculture Regulations 2002

under the *Aquaculture Act 2001*

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Legislative history

1—Short title

These regulations may be cited as the *Aquaculture Regulations 2002*.

3—Interpretation

In these regulations, unless the contrary intention appears—

abalone means abalone (*Haliotis* spp.) of all species;

Act means the *Aquaculture Act 2001*;

tuna means southern bluefin tuna (*Thunnus maccoyii*);

zone means an aquaculture zone, a prospective aquaculture zone, an aquaculture exclusion zone or an aquaculture emergency zone.

4—Bodies to which draft aquaculture policies must be referred (section 12(4)(a))

The following bodies are prescribed as bodies to which a draft aquaculture policy and related report must be referred under section 12(4)(a) of the Act:

- (a) Aboriginal and Torres Strait Islander Commission; and
- (b) Aboriginal Legal Rights Movement Incorporated; and
- (c) Coast Protection Board; and
- (d) Conservation Council of South Australia Incorporated; and
- (e) Department for Environment and Heritage; and
- (f) Department of Human Services; and
- (g) Department of the Premier and Cabinet; and
- (h) Department of Primary Industries and Resources; and
- (i) Department of Transport and Urban Planning; and
- (j) Department of Water, Land and Biodiversity Conservation; and
- (k) Division of State Aboriginal Affairs in the Department for Administrative and Information Services; and
- (l) Environment Protection Authority; and
- (m) Local Government Association of South Australia; and
- (n) Minister to whom the administration of the *Harbors and Navigation Act 1993* is committed; and
- (o) Office of Local Government; and
- (p) Office of Regional Development; and
- (q) Seafood Council SA; and
- (r) SA Fishing Industry Council Incorporated; and
- (s) South Australian Aquaculture Council; and
- (t) South Australian Recreational Fishing Advisory Council; and
- (u) South Australian Tourism Commission; and
- (v) if the policy is expressed to apply only in relation to one or more zones or areas—
 - (i) any Aboriginal group registered under the *Native Title (South Australia) Act 1994* as holders of, or claimants to, native title in a region comprising or forming part of a zone or area to which the policy applies; and
 - (ii) any person holding an aquaculture licence or aquaculture lease in respect of a region comprising or forming part of a zone or area to which the policy applies; and

- (iii) any catchment water management board (within the meaning of the *Water Resources Act 1997*) responsible for a region comprising or forming part of a zone or area to which the policy applies; and
- (iv) any local government authority responsible for a region comprising, forming part of or adjoining a zone or area to which the policy applies; and
- (w) if the policy is not expressed to apply only in relation to one or more zones or areas—
 - (i) all catchment water management boards (within the meaning of the *Water Resources Act 1997*); and
 - (ii) all local government authorities.

5—Transfer of production leases (section 39(2))

Written notice to the Minister of transfer of a production lease under section 39 of the Act must include the following:

- (a) the full name, address and telephone number of the transferor and transferee; and
- (b) the number of the production lease.

6—Period within which EPA to respond to referred matter (section 59(3))

For the purposes of section 59(3) of the Act, the prescribed period is 6 weeks.

7—Aquaculture Resource Management Fund—percentage of fees (section 79(3))

For the purposes of section 79(3) of the Act—

- (a) the prescribed percentage of fees (other than expiation fees) paid under the Act is 100 percent; and
- (b) the prescribed percentage of penalties recovered in respect of offences against the Act is 100 percent.

8—Defect in application

- (1) The Minister may request an applicant to remedy any defect or deficiency in an application or accompanying document or information required by or under the Act or these regulations.
- (2) If an applicant in relation to whom a request has been made under subregulation (1) fails to comply with the request within 3 months of the request having been made, the Minister may refuse the application.

9—Records to be maintained by licence holder

- (1) An aquaculture licence holder must maintain a stock register.
- (2) A stock register must contain—
 - (a) in respect of each live aquatic organism supplied to the licence holder—
 - (i) the date on which the aquatic organism was received by the licence holder; and

- (ii) the name and address of the person who supplied the aquatic organism to the licence holder; and
 - (iii) a copy of health certification provided to the licence holder in relation to the aquatic organism; and
 - (b) in respect of each live aquatic organism supplied by the licence holder to another person—
 - (i) the date on which the aquatic organism was supplied to the other person; and
 - (ii) the name and address of the person to whom the aquatic organism was supplied; and
 - (iii) a copy of health certification provided by the licence holder in relation to the aquatic organism; and
 - (c) in respect of each aquatic organism kept by the licence holder—details of any prophylactic or therapeutic treatment administered to the aquatic organism by the licence holder or any other person, including—
 - (i) the reason for the treatment; and
 - (ii) the dates on which the treatment was administered; and
 - (iii) the name (including any trade or patent name) of any substance used as part of the treatment.
- (3) Records maintained under this regulation must be retained for 2 years from the date of the making of the record.
- (4) An aquaculture licence holder must, at the request of a fisheries officer, produce the stock register for inspection by the fisheries officer.
- (5) A fisheries officer may make copies of, or take extracts from, a stock register produced for inspection under this regulation.

10—Periodic returns

An aquaculture licence holder must, on or before 31 January and 31 July in each year, furnish to the Minister a periodic return containing such information as the Minister requires in the manner and form determined by the Minister.

11—Fees

- (1) The fees set out in the Schedule are prescribed for the purposes of the Act.
- (2) The Minister may waive or refund a fee (or part of a fee) payable under the Act or these regulations if satisfied it is appropriate to do so in a particular case.
- (3) A fee payable to the Minister under the Act or these regulations may be recovered by the Minister by action in a court of competent jurisdiction as a debt due to the Minister.

12—Offences

- (1) A person who contravenes or fails to comply with a provision of these regulations is guilty of an offence.

- (2) A person who is guilty of an offence against these regulations is liable to a fine not exceeding \$5 000.

Schedule 1—Fees

Part 1—Application fees

1—Application fees

The following application fees are payable under the Act:

(a)	Application for consent to transfer development lease (section 36)	\$525.00
(b)	Application for aquaculture licence authorising the carrying on of aquaculture in an area held under a lease (section 49)	\$2 000.00
(c)	Application for aquaculture licence authorising the carrying on of aquaculture in an area not held under a lease (section 49)	\$150.00
(d)	Application to vary conditions of aquaculture licence authorising the carrying on of aquaculture in an area held under a lease (section 52)	\$225.00
(e)	Application to vary conditions of aquaculture licence authorising the carrying on of aquaculture in an area not held under a lease (section 52)	\$150.00
(f)	Application for renewal of aquaculture licence (section 53)	no fee
(g)	Application for consent to transfer aquaculture licence (section 55)	\$525.00

Part 2—Periodic fees

2—Preamble relating to new fee structure applicable from 1 July 2005

From 1 July 2005, the periodic fees payable by aquaculture licence holders are payable each financial year (rather than each calendar year).

3—Proportion of periodic fee payable before grant of licence

A person who applies for an aquaculture licence must, before the licence is granted, pay to the Minister a fee of an amount calculated by multiplying—

- (a) the periodic fee that would have been payable by the person had the person held the licence at the last date for payment of periodic fees; and
- (b) the proportion that the number of whole months between the grant of the licence and the next 30 June bears to 12 months.

4—Transitional arrangements for period between 1 January 2005 and 30 June 2005

- (1) An aquaculture licence holder authorised under the licence to carry on aquaculture in an area held under an aquaculture lease must, before the payment date fixed by the Minister by written notice given to the licence holder, pay to the Minister, in respect of the period between 1 January 2005 and 30 June 2005, a fee of the following amount:
 - (a) for a licence to farm tuna—the amount obtained by multiplying \$37.73 by the number of hectares in the licence area;

- (b) for a licence to farm finfish other than tuna—the amount obtained by multiplying \$73.14 by the number of hectares in the licence area;
 - (c) for a licence to farm abalone—the amount obtained by multiplying \$69.27 by the number of hectares in the licence area;
 - (d) for a licence to farm molluscs other than abalone—the amount obtained by multiplying \$166.01 by the number of hectares in the licence area;
 - (e) for a licence to farm algae—the amount obtained by multiplying \$33.23 by the number of hectares in the licence area;
 - (f) for a licence authorising the storage of sea cages—the amount obtained by multiplying \$33.23 by the number of hectares in the licence area.
- (2) If 2 or more licences are held in respect of the same area—
- (a) the licence holder is only liable for 1 fee under subclause (1); and
 - (b) the fee payable is the higher or highest of the fees that would be payable under subclause (1) but for this subclause.
- (3) An aquaculture licence holder authorised under the licence to carry on aquaculture in an area not held under an aquaculture lease must, before the payment date fixed by the Minister by written notice given to the licence holder, pay to the Minister, in respect of the period between 1 January 2005 and 30 June 2005, a fee of the following amount:
- (a) for an aquaculture licence classified by the Minister (by virtue of the low level of intensity of farming to be carried on under the licence) as a class A licence—\$92.92;
 - (b) for an aquaculture licence classified by the Minister (by virtue of the medium level of intensity of farming to be carried on under the licence) as a class B licence—\$115.36;
 - (c) for an aquaculture licence classified by the Minister (by virtue of the high level of intensity of farming to be carried on under the licence) as a class C licence—
 - (i) in the case of a licence designated by the Minister as being for a mobile farming arrangement—\$1 128.00;
 - (ii) in any other case—\$1 372.00.
- (4) In the case of an aquaculture licence granted on or after 1 January 2005 but before the payment date referred to in this regulation, the periodic fee payable by the licence holder under this regulation is reduced to an amount calculated by multiplying—
- (a) the periodic fee that would be payable but for this subclause; and
 - (b) the proportion that the number of whole months between the grant of the licence and 30 June 2005 bears to 6 months.

- (5) If it is proposed to grant an aquaculture licence to a person on or after the payment date referred to in this regulation but before 1 July 2005, the person must (instead of paying a fee of an amount fixed by clause 3) pay to the Minister a fee of an amount calculated by multiplying—
- (a) the periodic fee that would have been payable by the person under subclause (1) or (3) had the person held the licence at that payment date; and
 - (b) the proportion that the number of whole months between the grant of the licence and 30 June 2005 bears to 6 months.

Legislative history

Notes

- Variations of this version that are uncommenced are not incorporated into the text.
- For further information relating to the Act and subordinate legislation made under the Act see the Index of South Australian Statutes.

Principal regulations and variations

New entries appear in bold.

Year	No	Reference	Commencement
2002	202	<i>Gazette 31.10.2002 p4003</i>	11.11.2002: r 2
2005	35	<i>Gazette 19.5.2005 p1298</i>	19.5.2005: r 2
2005	154	<i>Gazette 30.6.2005 p2239</i>	Pt 3 (r 5)—1.7.2005: r 2

Provisions varied

New entries appear in bold.

Entries that relate to provisions that have been deleted appear in italics.

Provision	How varied	Commencement
<i>r 2</i>	<i>omitted under Legislation Revision and Publication Act 2002</i>	<i>19.5.2005</i>
r 3		
abalone	inserted by 35/2005 r 4(1)	19.5.2005
<i>Fund</i>	<i>deleted by 35/2005 r 4(2)</i>	<i>19.5.2005</i>
tuna	inserted by 35/2005 r 4(2)	19.5.2005
r 11		
r 11(3)	inserted by 35/2005 r 5	19.5.2005
<i>Sch</i>	<i>deleted by 35/2005 r 6</i>	<i>19.5.2005</i>
Sch 1	inserted by 35/2005 r 6	19.5.2005