

South Australia

## **Aquaculture Variation Regulations 2008**

under the *Aquaculture Act 2001*

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### **Part 1—Preliminary**

#### **1—Short title**

These regulations may be cited as the *Aquaculture Variation Regulations 2008*.

#### **2—Commencement**

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

#### **3—Variation provisions**

In these regulations, a provision under a heading referring to the variation of specified regulations varies the regulations so specified.

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## Part 2—Variation of *Aquaculture Regulations 2005*

### 4—Variation of regulation 3—Interpretation

- (1) Regulation 3(1)—after the definition of *large marine vertebrates* insert:

*lease area* means the area of the lease described on the public register under section 80 of the Act;
- (2) Regulation 3(1)—after the definition of *licensee* insert:

*prescribed wild caught tuna* means members of the genera *Allothunnus*, *Auxis*, *Euthunnus*, *Katsuwonus*, and *Thunnus* that have been taken from the wild;
- (3) Regulation 3(1), definition of *tuna*—delete the definition

### 5—Variation of regulation 24—Environmental monitoring and reporting—farming of finfish

- Regulation 24(2)—delete "tuna" and substitute:
- prescribed wild caught tuna

### 6—Variation of regulation 27—Environmental monitoring and reporting—general

- (1) Regulation 27(1)—delete "is designated by the Minister (in the licence or by notice in writing to the licensee) as having a medium or high environmental risk profile," and substitute:

has been classified, under regulation 32(10), as a medium risk (*category B*) or high risk (*category C*) licence,
- (2) Regulation 27(1)(a)—delete "designated as having a medium environmental risk profile" and substitute:

that has been classified as a medium risk (*category B*) licence
- (3) Regulation 27(1)(b)—delete "designated as having a high environmental risk profile" and substitute:

that has been classified as a high risk (*category C*) licence

### 7—Variation of regulation 31—Exemptions

- Regulation 31(1)—delete "standard conditions of lease" and substitute:
- amendment of the *Aquaculture (Standard Lease Conditions) Policy 2005*

### 8—Variation of regulation 32—Fees

- (1) Regulation 32(3)—delete subregulation (3)
- (2) Regulation 32—after subregulation (8) insert:
  - (9) The amount of an application fee in Schedule 1 comprising an advertising component must be refunded to the extent that it is not used for advertising in respect of the application.

- (10) For the purposes of Schedule 1—
- (a) the Minister must classify each licence other than a corresponding licence as a low risk (*category A*), medium risk (*category B*) or high risk (*category C*) licence having regard to factors affecting the ecological sustainability of aquaculture authorised by the licence, including—
    - (i) any discharge of water from the licence area and the treatment of that water prior to discharge; and
    - (ii) whether or not the species to be farmed are native to the locality of the licence area; and
    - (iii) the susceptibility of the species to be farmed to notifiable disease within the meaning of the *Livestock Act 1997*; and
  - (b) the Minister may vary the classification of a licence by written notice to the licensee; and
  - (c) the Minister must classify each variation of licence conditions as a simple, standard or complex variation having regard to the extent to which the variation involves factors affecting the ecological sustainability of aquaculture authorised by the licence, including—
    - (i) whether the variation involves any of the following:
      - (A) a change in the species to be farmed;
      - (B) an increase in the scale or intensity of farming;
      - (C) a change in the type of farming structures or method used;
      - (D) a change that will require reclassification of the licence as a low risk (*category A*), medium risk (*category B*) or high risk (*category C*) licence; and
    - (ii) in the case of a corresponding licence, a consideration of the following:
      - (A) whether the licence area is in an aquaculture zone (where risks affecting ecological sustainability have been more generally assessed);
      - (B) whether the licence area has previously been farmed;
      - (C) whether the licence area is being varied.

## 9—Substitution of Schedule 1—Fees

Schedule 1—delete the Schedule and substitute:

### Schedule 1—Fees

#### Part 1—Application fees

1	On application for consent to transfer a development lease (section 36)	\$525
2	On application for an aquaculture licence (section 49)—	
	(a) in the case of a corresponding licence within an aquaculture zone—	
	(i) administrative component	\$2 015
	(ii) advertising component	\$1 100
	(b) in the case of a corresponding licence outside of an aquaculture zone—	
	(i) administrative component	\$3 435
	(ii) advertising component	\$1 100
	(c) in the case of a licence other than a corresponding licence—	
	(i) for a low risk ( <i>category A</i> ) licence	
	(A) administrative component	\$1 350
	(B) advertising component	\$560
	(ii) for a medium risk ( <i>category B</i> ) licence	
	(A) administrative component	\$1 615
	(B) advertising component	\$560
	(iii) for a high risk ( <i>category C</i> ) licence	
	(A) administrative component	\$2 545
	(B) advertising component	\$560
3	On application to vary the conditions of an aquaculture licence (section 52)—	
	(a) in the case of a corresponding licence—	
	(i) for a simple variation	\$850
	(ii) for a standard variation	\$1 125
	(ii) for a complex variation	\$2 130
	(b) in the case of a licence other than a corresponding licence—	
	(i) for a simple variation	\$605
	(ii) for a standard variation	\$710
	(ii) for a complex variation	\$1 815
4	On application for renewal of an aquaculture licence (section 53)	\$420
5	On application for consent to transfer an aquaculture licence (section 55)—	
	(a) in the case of a corresponding licence	\$485

	(b) in the case of a licence other than a corresponding licence	\$400
6	On application for consent to surrender an aquaculture licence other than a corresponding licence (section 56)	\$295
7	On application for the division of a lease area into separate lease areas (regulation 28A)	\$1 005
8	On application for the division of a licence area into separate licence areas (regulation 28B)	\$765
9	On application for renewal of an aquaculture lease ( <i>Aquaculture (Standard Lease Conditions) Policy 2005</i> )	\$440
10	On application to vary an aquaculture lease or its conditions ( <i>Aquaculture (Standard Lease Conditions) Policy 2005</i> )—	
	(a) for a variation consisting of or involving—	
	(i) the substitution of the lease area (within or outside of an aquaculture zone) where at least 80% of the lease area will remain the same	\$1 065
	(ii) the substitution of the lease area within an aquaculture zone (other than a variation of a kind referred to in subparagraph (i))	\$1 795
	(iii) the substitution of the lease area outside of an aquaculture zone (other than a variation of a kind referred to in subparagraph (i))	\$2 540
	(b) for a variation of any other kind	\$650

**Part 2—Periodic fees for corresponding licences for the financial year 2008/09 and for each subsequent financial year**

11	For an aquaculture licence to farm prescribed wild caught tuna	\$1 630
12	For an aquaculture licence to farm finfish other than prescribed wild caught tuna	\$1 701
13	For an aquaculture licence to farm abalone in a subtidal area	\$1 673
14	For an aquaculture licence to farm molluscs other than abalone in a subtidal area	\$1 673
15	For an aquaculture licence to farm molluscs (including abalone) in an intertidal area	\$1 644
16	For an aquaculture licence to farm algae	\$1 526
17	For an aquaculture licence authorising the storage of sea cages	\$1 526

**Part 3—Periodic fees for licences other than corresponding licences for the financial year 2008/09 and for each subsequent financial year**

18	For a low risk ( <i>category A</i> ) licence	\$282
19	For a medium risk ( <i>category B</i> ) licence—	
	(a) in the case of a licence authorising the carrying on of aquaculture on a navigable vessel as it operates within an area of State waters or the use of a farming structure designed to be transported by road or rail	\$311
	(b) in any other case	\$296

20	For a high risk ( <i>category C</i> ) licence—	
(a)	in the case of a licence authorising the carrying on of aquaculture on a navigable vessel as it operates within an area of State waters or the use of a farming structure designed to be transported by road or rail	\$4 121
(b)	in any other case	\$311

## **10—Substitution of Schedule 2**

Schedule 2—delete the Schedule and substitute:

### **Schedule 2—*Aquaculture (Standard Lease Conditions) Amendment Policy 2008***

#### **Part 1—Preliminary**

##### **1—Short title**

This policy may be cited as the *Aquaculture (Standard Lease Conditions) Amendment Policy 2008*.

##### **2—Amendment provisions**

In this policy, a provision under a heading referring to the amendment of specified policy amends the policy so specified.

#### **Part 2—Amendment of *Aquaculture (Zones—Standard Lease Conditions) Policy 2005***

##### **2—Amendment of clause 2—Standard conditions of aquaculture lease**

Clause 2—after its present contents (now to be designated as subclause (1)) insert:

- (2) In the event of an inconsistency between the provisions of this policy and any other conditions of a lease, the provisions of this policy will prevail to the extent of the inconsistency.

##### **3—Insertion of clause 2A**

After clause 2 insert:

###### **2A—Renewal of lease**

An application for renewal of an aquaculture lease—

- (a) must be made to the Minister in the manner and form determined by the Minister; and

- (b) must be accompanied by the amount of the fee fixed for an application for renewal of an aquaculture lease in the *Aquaculture Regulations 2005*.

#### **4—Amendment of clause 3—Variation of lease or lease conditions**

- (1) Clause 3(1)—delete "at the request" and substitute:
  - on application by
- (2) Clause 3—after subclause (1) insert:
  - (1a) An application for a variation under subclause (1)—
    - (a) must be made to the Minister in the manner and form determined by the Minister; and
    - (b) must be accompanied by the amount of the relevant fee fixed for an application to vary an aquaculture lease or its conditions in the *Aquaculture Regulations 2005*.

**Note—**

As required by section 10AA(2) of the *Subordinate Legislation Act 1978*, the Minister has certified that, in the Minister's opinion, it is necessary or appropriate that these regulations come into operation as set out in these regulations.

#### **Made by the Governor**

with the advice and consent of the Executive Council  
on 20 November 2008

No 286 of 2008

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