

LEGAL NOTICE NO. 126

THE FISHERIES MANAGEMENT AND DEVELOPMENT ACT

(Cap. 378)

THE FISHERIES MANAGEMENT AND DEVELOPMENT
(AQUACULTURE) REGULATIONS, 2024

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THE FISHERIES MANAGEMENT AND DEVELOPMENT ACT

(Cap. 378)

IN EXERCISE of the powers conferred by section 74 (1) and (2) of the Fisheries Management and Development Act, the Cabinet Secretary for Mining, Blue Economy and Maritime Affairs, makes the following Regulations—

THE FISHERIES MANAGEMENT AND DEVELOPMENT
(AQUACULTURE) REGULATIONS, 2024

PART I – PRELIMINARY

1. These Regulations may be cited as the Fisheries Management and Development (Aquaculture) Regulations, 2024. Citation.
2. In these Regulations, unless the context otherwise requires— Interpretation.
 - “Act” means the Fisheries Management and Development Act; Cap. 378.
 - “aquaculture” has the meaning assigned to it under the Act;
 - “aquaculture activity” includes—
 - (a) engaging in aquaculture, including the holding of brood stock and operating a hatchery;
 - (b) the operation of an aquaculture processing facility;
 - (c) the transportation of live aquaculture organisms;
 - (d) the collection of brood stock for aquaculture;
 - (e) the import of aquaculture products or aquaculture organisms;
 - (f) the import of formulated feed for use in aquaculture;
 - (g) the manufacturing of locally formulated feed for use in aquaculture;
 - (h) the export of aquaculture products; and
 - (i) seeding and harvesting for ranching purposes;
 - “aquaculture development zone” means an area declared for dedicated aquaculture use in terms of Part III;
 - “aquaculture disease zone” means an area declared by the designated officer as such;
 - “aquaculture drug” means a substance or mixture of substances intended or offered to be used, or purporting to be suitable for use or manufactured or sold for use in connection with aquaculture organisms for the diagnosis, prevention, treatment or cure of any disease, infection or other unhealthy condition, or for the maintenance or improvement of health, growth or production, or for curing, correcting or modifying any somatic or organic function or for correcting or modifying behaviour;
 - “aquaculture equipment” means—
 - (a) a farming structure;

- (b) equipment used to anchor or indicate the presence of farming structures;
- (c) a barge used to feed aquatic organisms;
- (d) equipment used to mark-off or indicate the boundaries of an aquaculture development zone; or
- (e) other equipment used for the purposes of aquaculture;

“aquaculture facility” means a purpose-built structure in a geographically defined area of water or land, whether or not submerged, used for aquaculture, and includes all buildings, structures and equipment within that area that are used for aquaculture;

“aquaculture feed” means any solid or liquid substance or product, whether processed, partially processed or unprocessed, which is intended to be used to feed aquaculture organisms;

“aquaculture foods” means any aquaculture product which is used or intended to be used for human consumption;

“aquaculture inspector” means a person designated as such by the competent authority;

“aquaculture licence” means a licence issued under section 122 of the Act;

“aquaculture operations” includes fishing, supply of provisions to fishing vessels, and the handling and processing of fish up to the time it is first landed;

“aquaculture organism” means any aquatic organism in or coming from an aquaculture facility or which has been captured in the wild and is intended for use in undertaking an aquaculture activity;

“aquaculture permit” means a permit issued under section 118 of the Act;

“aquaculture processing” means any process that adds value to or preserves aquaculture fish and includes the cutting up, dismembering, cleaning, sorting, icing, freezing, drying, chilling, salting, gutting, smoking, canning or any other action taken to alter the shape, appearance or form of aquaculture fish from that in which the fish is when first taken from its natural habitat;

“aquaculture processing establishment” means any place other than a licensed fishing vessel where aquaculture fish are canned, dried, gutted, salted, iced, chilled, frozen, smoked or otherwise processed or stored but does not include a restaurant, eating place, hotel, or place where fish is prepared for immediate retail sale or consumption;

“aquaculture processing facility” means any location where an aquaculture product is produced from an aquaculture organism by any specified method;

“aquaculture product” means any product or part thereof (including oil) obtained by aquaculture processing, and intended for use as human food, animal feed or raw material ingredient in the manufacture of other commodities of commercial or ornamental value;

“aquaculture related activity” means any activity in support of, or in preparation for aquaculture including the —

- (a) transshipping of aquaculture products to or from any vessel;
- (b) landing, packaging, processing, handling or transporting of aquaculture products that have not been previously landed at port;
- (c) provision of personnel, fuel and other supplies at sea or performing other activities in support of aquaculture operations;
- (d) exporting aquaculture products from the country; and
- (e) attempting or preparing to do any of the above;

“aquaculture research” means a systematic investigation into the field of aquaculture for the advancement of existing information, to ascertain facts, seek solutions and benefit society as a whole;

“aquaculture research facility” means a facility dedicated to the undertaking of aquaculture research;

“aquaculture sector” means aquaculture and all of the associated activities in the aquaculture value chain, including feed manufacture and supply, stock supply, processing and marketing of aquaculture products, trade in aquaculture products and aquaculture research institutions;

“Cabinet Secretary” means Cabinet Secretary for the time being responsible for aquaculture activities;

“commercial aquaculture” includes any aquaculture operation resulting or intending or appearing to result in the sale or trade of any fish which is a product of such aquaculture operation, including semi-commercial aquaculture;

“competent authority” in accordance with section 58 (1) of the Act, means the Ministry responsible for official control of the safety of fish, fish products and fish seed;

“dealing in aquaculture” includes collecting, transporting, storing, trans-shipping, buying or selling aquaculture products for purposes of trade;

“designated agency” means an institution mandated to carry out that function;

“designated officer” means an officer or employee responsible for fisheries management, research, development, conservation, veterinary services and policies regulation delegated to carry out specific functions as such;

“designated landing” means fishing port established under section 50(1) (b) of the Act;

“escape” means accidental or unintentional release or movement of live aquaculture products from an aquaculture facility so that they

are no longer subject to the control of the owner or operator of that aquaculture facility;

“fish farmer” means a person who does the breeding, cultivating and rearing of any such aquaculture product;

“farming of aquatic organisms” means an organised rearing process involving propagation, breeding, regular stocking, feeding or protection from predators and harvesting of cultured aquatic organisms and plants or other similar intervention in the organisms' natural life cycles;

“farming structures” means structures used for the farming of aquatic organisms and includes sea cages and racks, long lines and submerged lines used for aquaculture, together with their associated baskets, barrels, lanterns and other culture units;

“hatchery” means a facility for the artificial and controlled breeding, hatching and rearing of aquatic organisms through their early life stages;

“illegal aquaculture” includes activities carried out in violation of national laws or international laws or international obligations, including those undertaken by co-operating states to a relevant regional aquaculture management organization;

“OIE-listed”, in relation to agents pathogenic to aquatic animals, means a disease or pathogen listed in the World Organization for Animal Health Aquatic Animal Health Code for the purposes of preventing their transfer via international trade in aquatic animals and their products, while avoiding unjustified sanitary barriers to trade;

“pilot scale aquaculture” means a preliminary study conducted in order to evaluate the feasibility of a new aquaculture activity;

“ranching” means aquaculture activity in which a person intentionally releases aquatic organisms into an aquatic environment including marine, brackish or freshwater in which the aquatic organisms, owned by the ranching licence holder, are not controlled or confined;

“release” in relation to live aquaculture organisms, means intentionally freeing the aquaculture organism from confinement in an aquaculture facility so that it can enter the external environment;

“responsible aquaculture development” means aquaculture development that—

- (a) protects the environment by avoiding significant adverse environmental impacts, including impacts on wild fish populations, or where these cannot be avoided, minimising and rectifying them;
- (b) allows access to land, water and other aquaculture resources on a fair basis;
- (c) does not negatively affect the livelihoods of local communities;

- (d) promotes the health and welfare of aquaculture animals during husbandry, including good practice regarding the types of substances, feeds and drugs used in aquaculture;
- (e) ensures the safety and quality of aquaculture products; and
- (f) promotes sound labour practices;

“stock enhancement” means the release of aquatic organisms into the aquatic environment without the intention to benefit an exclusive user and with the aim of supplementing or sustaining the recruitment of one or more aquatic species and raising the total production or the production of selected elements of a fishery beyond a level which is sustainable through existing natural processes;

3. These Regulations apply to any person engaged in any aquaculture activity, the sustainable use, protection, conservation, management and development of inland, coastal and marine, lake and river basin aquaculture operations, whether occurring on private, public or community land, both natural and man-made. Application.

4. The objectives of these Regulations shall be to— Objective.

- (a) provide for participatory conservation of aquaculture resources in Kenya;
- (b) promote the integration of wise-use of aquaculture resources and operations in the local, county, and national management for ecological, aesthetic, cultural and socio-economic development;
- (c) ensure the protection of the diversity of aquaculture habitats, flora and fauna;
- (d) promote awareness creation, education, research, indigenous knowledge and partnerships with other relevant institutions in the management of aquaculture systems;
- (e) prepare and maintain an up-to-date inventory and database of aquaculture operations, for prioritization of relevant interventions; and
- (f) protect aquaculture operations on land, in river basins, lakes and coastal zones from pollution including siltation, agricultural and infrastructural developments, overexploitation, alien and invasive species, and other activities likely to degrade such ecosystems.

PART II – PROTECTION AND MANAGEMENT OF AQUACULTURE ACTIVITIES

5. (1) The aquaculture development plan shall, in addition to the requirements under section 62 of the Act, include the following— Aquaculture
development plan.

- (a) provide a national vision for the development and management of the aquaculture sector; and
- (b) provide for an integrated and coordinated approach to the development and management of the aquaculture sector by

the National Government, counties, representative non-governmental organisations, the private sector, local communities, individuals and the youth.

(2) The Cabinet Secretary shall, within sixty days of the adoption of the national aquaculture development plan or of any amendment to it, issue notice to the public—

- (a) of the adoption of the plan; and
- (b) that copies of, or extracts from, the plan are available for public inspection at specified places; and
- (c) publish a summary of the final development plan in the Gazette.

(3) The aquaculture development plan shall take into account the following—

- (a) principles of the Constitution;
- (b) international standards and the international agreements to which Kenya is a party;
- (c) provide a national vision for the development and management of the aquaculture sector;
- (d) provide for an integrated and coordinated approach to the development and management of the aquaculture sector by the National Government, counties, representative non-governmental organisations, the private sector, local communities, individuals and the youth; and
- (e) a strategy for monitoring progress at least on an annual basis, and as appropriate an evaluation of the implementation of the aquaculture plan that preceded it.

6. The Director-General shall, in consultation with the Director of Veterinary Services, implement a national aquatic animal health and welfare monitoring plan which shall—

National aquatic animal health and welfare.

- (a) guide the management, control and regulation of aquatic animal health, welfare and disease guide other national departments, county departments, research institutions and private sectors on matters related to aquatic animals;
- (b) provide for health and disease management; and
- (c) ensure that Kenya fulfils the commitments it has made in regional and international agreements relating to aquatic animal health and welfare to which it is a party.

7. (1) There is established a national aquaculture information system pursuant to section 75(1) of the Act which shall facilitate the effective management and development of the aquaculture sector.

Aquaculture information system.

(2) The national aquaculture information system shall –

- (a) store, verify, analyse and evaluate data and information and its sources; and

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- (b) provide information to—
- (i) government for the development and implementation of the national aquaculture development plans and county aquaculture development plans and the implementation of this Act;
 - (ii) persons undertaking aquaculture activities; and
 - (iii) the public.
- (3) The system shall be administered by the Director- General.
- (4) The national aquaculture information system shall include an electronic and manual register of, and information related to—
- (a) the holders of aquaculture licences;
 - (b) the holders of aquaculture permits;
 - (c) aquaculture development zones and buffer zones;
 - (d) relevant research findings and recommendations incorporated from recognized national institutions;
 - (e) aquaculture production data and information;
 - (f) registered aquaculture drugs registered in accordance with the Act or any other relevant law; and
 - (g) registered aquaculture feeds registered in accordance with the Act and any other relevant law.
- (5) The national aquaculture information system may include—
- (a) the results of aquaculture research undertaken using public funds;
 - (b) the results of water quality monitoring undertaken by the recognized national institutions and other relevant organs of state;
 - (c) information about disease notification, surveillance and control;
 - (d) records regarding the use of aquaculture feeds and drugs;
 - (e) movement control records of aquaculture activities for traceability purposes;
 - (f) records of the movement of aquaculture organisms and aquaculture products within, into and out of the Republic;
 - (g) information about trade in or marketing of aquaculture products; and
 - (h) records regarding compliance with the Act.
- (6) The Director-General shall, in coordination with the county governments, implement an information communication technology infrastructure to host a national aquaculture data base to enhance information sharing and access pursuant to section 75(1) of the Act.

(7) Counties shall, pursuant to the provisions of sub-regulation (6), collaborate jointly with the national government in maintaining and updating the national aquaculture data base.

PART III—LICENSING AND REGISTRATION OF AQUACULTURE OPERATIONS

8. A person engaged in aquaculture activities shall, in addition to meeting the conditions provided under section 122 of the Act, take all reasonable practical measures to avoid or minimise any harmful environmental impact caused by aquaculture, including—

Conditions for
aquaculture
licences.

- (a) harm to the environment by alien and invasive species;
- (b) contamination of the environment by genetically modified organisms; and
- (c) prevention of the escape of live aquaculture organisms into the aquatic environment of the Republic.

9. (1) A person who wishes to operate a commercial aquaculture establishment shall apply for an aquaculture licence to the Director-General in accordance with section 119 of the Act and in the Form set out in the First Schedule.

Application for a
licence.

(2) When considering an application under sub-regulation (1), the Director-General shall, in addition to the standards of approval provided under section 120 of the Act, consider—

- (a) whether granting the licence is consistent with—
 - (i) the objects of the Act and these Regulations;
 - (ii) responsible aquaculture development; and
 - (iii) any mandatory standards, guidelines or requirements that have been set in terms of the Act and these Regulations;
- (b) if the applicant is the holder of a pilot scale aquaculture licence, any reports on the activities conducted by the applicant under that licence;
- (c) the applicant's submissions;
- (d) any submissions received from a county and any interested and affected persons; and
- (e) any relevant Guidelines, Code of Practice or other requirements published by the competent authority.

(3) Where the Director-General approves the application under sub-regulation (1), the Director-General shall—

- (a) issue an aquaculture licence within thirty working days of the decision to approve the application in the Form set out in the Second Schedule; or
- (b) reject the application.

(4) Where the Director-General refuses the application for an aquaculture licence, Director-General shall inform the applicant with written reasons for the refusal and the applicant shall be given an opportunity to appeal within seven working days.

(5) The Director-General shall constitute an evaluation committee within twenty-one days of receiving the application to review and submit recommendations on the appeal.

(6) Upon receiving the recommendations, the Director-General shall within fourteen days of receiving the evaluation report inform the applicant of the decision within fourteen days.

(7) A person aggrieved by the decision under sub-regulations (5) and (6) shall appeal in accordance with section 97 of the Act.

(8) Any person who contravenes the provisions of this section shall, on conviction, be liable to the penalties provided under section 116(2) of the Act.

10. (1) An application for renewal of a licence, shall —

Renewal of a licence.

- (a) be made in accordance with regulation 12;
- (b) be accompanied by the fee specified in the Sixth Schedule which shall be reviewed from time to time by the Cabinet Secretary;
- (c) be accompanied by a site suitability report sourced from designated agency depending on the type of an aquaculture system, describing the overall location of the proposed site and the specific deployment of facilities and structures;
- (d) include such other information as may be specified in the guidelines referred to in regulation 12(2)(e) depending on the type of an aquaculture system;
- (e) be accompanied by a no objection letter from the community management unit associated with the potential space or area for aquaculture operations as may be appropriate depending on the type of an aquaculture system;
- (f) be accompanied by a no objection or approval letter from the County Department responsible for aquaculture; and
- (g) a concession letter from the National Land Commission depending on the aquaculture system.

(2) The requirements referred to in sub regulation (1) shall demonstrate that the applicant is able to comply with all applicable regulatory requirements, including those contained in—

- (a) the Act and these Regulations;
- (b) any code of practice or standards applicable to the proposed aquaculture activities;
- (c) an environmental management plan indicating the Environmental and Social Impact Assessment finalized

report pursuant to the Environmental Management and Coordination Act, in accordance with regulation 36; and

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(d) any other regulatory requirements applicable to the proposed aquaculture activities, arising under other enactments.

(3) Sub-regulations (1) and (2) shall apply to aquaculture establishments such as hatcheries, and any other aquaculture production facility provided for under the Act.

11. Unless otherwise provided, aquaculture organisms and aquaculture products—

Ownership of aquaculture organisms and products.

(a) specified in a licence, permit or exemption relating to commercial aquaculture are owned by the holder of that licence, permit or exemption;

(b) farmed or produced by a person lawfully engaged in subsistence aquaculture, are owned by that person; and

(c) farmed or produced by a person lawfully engaged in semi-commercial aquaculture for which a licence, permit or exemption is not required, are owned jointly by the persons undertaking that enterprise.

12. (1) A person who wishes to harvest the products in an aquaculture establishment shall apply for an aquaculture permit to the Director-General in the Form set out in the Third Schedule.

Application for an aquaculture permit.

(2) Upon receipt of the application to the Director-General, and where a designated officer is satisfied with requirements in regulation 11, the applicant shall submit recommendations to the Director-General for inspection of the proposed site for issuance of an aquaculture permit in accordance with section 121 of the Act.

(3) The Director-General may require an authorized officer to inspect any site proposed by a permit applicant for the establishment of an aquaculture establishment to determine the suitability or otherwise of such site for use as an aquaculture establishment.

(4) After receipt of an application pursuant to sub-regulation (2) and (3), the Director-General shall ensure that any relevant environmental standards for the proposed aquaculture project are being met, including requirements for siting, emissions and other relevant matters under the Environment Management and Coordination Act, and may, in consultation with the relevant County, determine whether the applicant is required to submit an environmental assessment of the proposed aquaculture project;

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(5) If the applicant is required to undertake an environmental impact assessment under the Environmental Management and Coordination Act, the application shall be accompanied by a copy of any environmental impact assessment report and the recommendations of any person responsible for reviewing the environmental impact assessment report.

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(6) The applicant shall issue notice of the application, in such manner as may be specified and at the applicant's expense, to such person or persons, including the public in general, as the designated officer may determine, and such notice shall invite all those to whom it is addressed to submit in writing to the designated officer, within thirty days from the date of the notice, any objections to or representations in connection with the application;

(7) The Director-General shall permit the applicant an opportunity to make representations on any objections to the application.

(8) The Director-General may by written notice require an applicant, at the applicant's cost, to obtain and provide within a specified period any other information reasonably required to make a decision on the application;

(9) If, before a permit is issued, there is any change in the particulars submitted under sub-regulation (2) or, where an environmental assessment is required, any change in the information on which the environmental assessment is based, the applicant shall immediately communicate such change or changes in writing to the Director-General;

(10) An aquaculture permit may authorise the undertaking of one or more aquaculture activities involving one or more species of aquaculture organisms on a single site; or on more than one site provided that the sites are within the same aquaculture development zone or catchment;

(11) A person who contravenes any of these Regulations commits an offence and shall be liable the penalties provided under sections 119 and 88 of the Act and section 58 of the Environment Management and Coordination Act, and any licence issued pursuant to this Act which is held by such person shall be revoked.

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13. Subject to the Director-General approval, an aquaculture permit to undertake any of the following activities may be issued per consignment as shall be provided for in the permit for -

Conditions of a permit.

- (a) transporting live aquaculture organisms;
- (b) collecting brood-stock for aquaculture;
- (c) importing live aquaculture organisms or aquaculture products;
- (d) importing formulated feed for use in aquaculture; and
- (e) exporting aquaculture organisms or aquaculture products.

14. (1) Any person who establishes an aquaculture seed production facility, including the hatchery, fish management and fish husbandry, shall apply to the Director-General for a permit in the form set out in the Fourth Schedule.

Requirements for seed and feed production facility.

(2) The application in sub-regulation (1) shall be accompanied by proof of the following—

- (a) approved statutory documents as required by the competent authority;
- (b) approved layout plan of the production establishment as specified in the Physical and Land Use Planning Act;
- (c) good quality and adequate water supply all year round;
- (d) brood stock of known origins for traceability;
- (e) documented methods to monitor and maintain good water quality;
- (f) qualified hatchery manager, fish management and fish husbandry competent staff and a management plan;
- (g) adequate technology and reliable production facilities;
- (h) use of only approved hormones and gonadotropins for sex reversal and propagation;
- (i) production and handling materials and equipment such as; aerators, graders, digital balances, fish handling nets, water quality meters, incubators, seine nets, hapa nets, packaging containers, oxygen facilities and trays;
- (j) adequate and safe storage facilities for biological and chemical agents;
- (k) equipment for handling fish seed that should be maintained clean and stored safely in designated areas;
- (l) designated areas for storage of general packaging material and for packing fish seed and feed;
- (m) experience in conditioning and transportation of live fish for high survival rates;
- (n) records of origin of inputs;
- (o) adequate biosecurity and biosafety measures in place;
- (p) appropriate personal protective gear for personnel and visitors;
- (q) a well-documented personal and visitor's hygiene procedure;
- (r) well-designed inlet and drainage system equipped to screen water into and out of the hatchery;
- (s) documented procedures for waste disposal and management;
- (t) documented standard operating procedures displayed at all designated areas;
- (u) arrangements in place for routine inspections and monitoring by the designated officers; and
- (v) an optional business plan to assist in profitability assessment.

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(3) The Director-General shall, in consultation with other relevant agencies, operationalize the best management practices for quality brood stock in any production facility, including a hatchery, fish management and fish husbandry, with the following components—

- (a) utilize brood-stock from known published authenticated sources in a manner specified by the competent authority;
- (b) keep different species and strains in secure and separate holding facilities while maintaining systematic records;
- (c) prevent any deliberate or accidental introduction of inferior fish species, which may crossbreed with the desired fish species; and
- (d) manage brood-stock properly to prevent disease outbreaks.

(4) The Director-General shall specify measures for compliance of packaging, labelling and traceability of fish seed from a production facility, including a hatchery, fish management and fish husbandry which may comprise—

- (a) fish handling in a manner that minimizes injury or stress;
- (b) packaging of fish seed in oxygenated, aerated and suitable weather-resistant material;
- (c) clean and durable packaging materials and containers consisting of aerated tanks and inflated oxygenated bags that are durable for transportation;
- (d) the number of fish seed in a package to be determined by the species of fish, the volume of oxygen, the average weight of the fish packed, the volume of the container, duration of transportation and the distance to be covered;
- (e) each package for fish seed to be of correct water temperature that favours survival of the fish; packaging materials to be adequately labelled and contain the information of name of the product including species name; size, age and quantity of the fish seed; batch number; name and physical address of the hatchery, fish management and fish husbandry; instructions for handling; and name and address of the consignee.

(5) Every person who operates an aquaculture establishment, including a production facility, and not limited to a hatchery, fish management and fish husbandry, shall be required by the Director-General to maintain and furnish documentation that may not be limited to the following—

- (a) reporting of the feed safety incidents to the designated officer;
- (b) approved hazard analysis of critical control points manual and the sanitary standard operation procedures;
- (c) compliance of any feed additives and veterinary drugs used;

- (d) a protocol for customer complaints and redress;
- (e) undertake periodical external audit for compliance through inspection and control procedures;
- (f) allow for periodical sampling and testing of the facilities and records of such an activity kept for a period not exceeding three years;
- (g) have a documented recall procedure; and
- (h) undertake authentication procedures specified by the competent authority.

(6) Upon application to the Director-General, and where a designated officer is satisfied with the requirements in sub-regulation (2), shall submit recommendations to the Director-General for inspection of the proposed site for issuance of an aquaculture permit.

(7) The Director-General may require an authorized officer to inspect any site proposed by a permit applicant for the establishment of an aquaculture establishment to determine the suitability or otherwise of such site for use as an aquaculture establishment.

15. (1) The licence holder shall inform the Director-General in writing not less than thirty days prior to the planned cessation of aquaculture activities at an aquaculture facility.

Cessation of aquaculture operations.

- (2) On receiving the notification, the Director-General shall—
 - (a) respond to the application by specifying the date for decommissioning of the aquaculture facilities;
 - (b) provide a record of documentation of the equipment, live specimen and quantities of materials to be removed from the site; and
 - (c) supervise the decommissioning of the facilities.

PART IV — REGISTERS AND INFORMATION

16. The Director-General shall maintain a national register of all licences and permits issued under the Act and these Regulations in accordance with section 81 of the Act.

Register of permits.

17. Any person may access the register in accordance with section 81(8) of the Act during official working hours.

Inspection of register.

18. (1) A licence holder shall maintain accurate records as set out in the Fifth Schedule with respect to the aquaculture facility relating to—

Maintenance of records by licensees.

- (a) the type and amount of food used in relation to the aquatic organisms at the site or aquaculture facility;
- (b) the type of any medication, including drugs, antibiotics or other chemicals used in relation to aquatic organisms, including the dosage and treatment date and the duration of any veterinarian treatments;

- (c) the source, number and specific location of all aquatic organisms; and
- (d) a record of all disposals and sales of aquaculture products, including the date, number or weight and destination of each disposal and sale.

(2) Every person who operates an aquaculture establishment, including a production facility, a hatchery, fish management and fish husbandry, shall be required by the Director-General to maintain and furnish documentation containing the following—

- (a) reports of feed safety incidents to the designated officer;
- (b) have approved Hazard Analysis of Critical Control Points manual and the Sanitary Standard Operation;
- (c) standard operating procedures;
- (d) compliance of any feed additives and veterinary drugs used;
- (e) a protocol for customer complaints and redress;
- (f) periodical external audit for compliance through inspection and control procedures;
- (g) periodical sampling and testing of the facilities and records of such an activity kept for a period not exceeding three years;
- (h) recall procedure; and
- (i) authentication procedures specified by the competent authority.

PART V — WATER QUALITY MANAGEMENT

19. Any person engaged in aquaculture activities who—

Management of water resources.

- (a) takes water from a water resource without a water abstraction permit;
- (b) alters the beds, banks or course or characteristics of a water course;
- (c) impedes or divert the flow of water in a water course without authorization; and
- (d) disposes of waste in a manner which may detrimentally impact on a water resources without a licence, permit or authorization as required under the Act, these Regulations or any other enactment,

commits an offence and shall be liable to a penalty under section 122 (4) of the Act.

20. (1) Each person engaged in commercial aquaculture in Kenya shall—

Control of pollution and waste.

- (a) comply with the provisions of the Sixth Schedule of the Environmental Management and Coordination Act; and

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- (b) comply with the specific terms and conditions relating to control of pollution and waste set out in the commercial aquaculture licence and or permit as the case may be.

(2) Where any person fails or apparently fails to fulfil the conditions set out in sub-regulation (1), the Director-General may, in consultation with relevant agencies, notify such person in writing of the requirement to take measures to restore the applicable facility or area to such standard as the designated officer may specify, within a stated period of time, and may upon inspection require such person to redesign the applicable area;

(3) Each person who is notified by the Director-General under sub-regulation (2) shall fulfil the requirements set out in the notification.

(4) A person who contravenes sub-regulations (1), (2) or (3) commits an offence and shall, on conviction, be liable to the penalty under section 122(4) of the Act and in addition shall be responsible for compensation for the costs of restoring the applicable area as required.

(5) Subject to applicable regional and international law, the Director-General shall, in consultation with the Cabinet Secretary, initiate dialogue with other riparian States to ensure that governments and aquaculture farmers are obliged to protect transboundary aquatic ecosystems from—

- (a) waste from aquaculture activities; and
- (b) effluent that might affect transboundary aquatic ecosystems.

PART VI — CONTROL OF DISEASES

21. (1) Any person engaged in aquaculture shall take all possible measures to prevent the spread of a pathogen or pest in or from an aquaculture facility, including the destruction of infected or infested aquatic organisms or aquaculture products and the disinfection of aquaculture facilities.

General obligation.

(2) Any person who suspects that any aquatic animal or aquaculture product is infected with a notifiable pathogen, shall not—

- (a) sell the aquaculture product or aquatic organism, whether alive or dead;
- (b) transport or translocate it;
- (c) allow it to be eaten by humans or animals; or
- (d) deposit it, whether alive or dead, in any waters or land in a place where it may enter or contaminate any water.

(3) Any person suspecting that any aquatic animal product is infected shall notify the authorized officer as soon as is practicable.

(4) Any person who contravenes sub-regulations (1),(2) or (3) commits an offence and shall be liable to the penalty under section 122(4) of the Act and in addition such a person shall be liable to pay compensation in respect of any resulting loss or damage as well as full cost of restoring the affected environment to its previous state.

22. (1) The Director-General shall collaborate with relevant stakeholders where any pest or pathogen has been listed to be of national significance and poses a significant risk to any aquatic organism or the aquaculture industry or the aquatic environment or that kills or causes illness in humans or animals who eat the infected organism, to be a notifiable pest or pathogen.

Pathogens and pest affecting aquatic organisms, humans or animals.

(2) If the pest control product is registered, the owner or operator of the aquaculture establishment shall use it in accordance with any conditions specified under the Pest Control Products Act, including any conditions relating to the place where it may be used and the quantity and concentration that may be used.

Cap. 346.

(3) The owner or the operator shall consider, before depositing the pest control product, whether there are alternatives to the deposit of that pest control product and make a record of that consideration.

(4) Any person engaged in aquaculture or any veterinarian providing veterinary services to an aquaculture facility shall report the presence of a notifiable pathogen or pest to the designated officer or to an aquaculture inspector immediately after becoming aware of its presence.

(5) A person who contravenes the provisions of this regulation shall, on conviction, be liable to a penalty set out in section 12(1) of the Pest Control Products Act, and in addition such a person shall be liable to pay compensation in respect of any resulting loss or damage as well as full cost of restoring the affected habitat to its previous state.

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23. (1) The designated officer may declare a specific geographic area as an aquaculture disease zone for the purpose of prescribing measures for the prevention, management and control of diseases affecting aquaculture.

Aquatic disease zones.

(2) If a catchment in an aquaculture disease zone extends beyond the borders of the Republic, the Director-General may, through the Ministry responsible for fisheries, for the purposes of specifying disease prevention, management or control measures that apply to the movement of aquaculture organisms or aquaculture products into, out of or through an aquaculture disease zone, initiate international collaboration in specifying the aquaculture disease zone to include those areas of the catchment situated outside the borders of the Republic.

24. (1) If the designated officer reasonably believes that a pest or pathogen that is OIE-listed or is of national significance and poses a significant risk to any aquatic organism, to the aquaculture industry or to the aquatic environment or that kills or causes illness in humans or animals who eat the infected organism, the Cabinet Secretary responsible for foreign affairs, in consultation with the Cabinet Secretary responsible for fisheries, may order the isolation, quarantine or treatment of any aquatic organism infected or thought to be infected with such a pathogen or pest—

Contingency measures for notifiable aquaculture diseases.

- (a) destroy and safely dispose of, or restrict the movement of, any aquatic organisms infected or thought to be infected with such a pathogen or pest;

- (b) quarantine all or part of any aquaculture facility in which the designated officer on reasonable grounds suspects that such a pathogen or pest is present; or
- (c) take any other measures that the designated officer on reasonable grounds believes are necessary to prevent the spread of such a pathogen or pest; and
- (d) immediately comply with any measures that the designated officer may order for that purpose.

(2) The designated officer may designate quarantine areas for aquatic organisms in any suitable place including at border posts and ports within the Republic.

(3) Each quarantine area shall be under the control of an aquatic animal health authority which shall take appropriate measures to ensure that aquatic organisms in the quarantine area are properly contained and monitored and that the spread of pathogens and pests is prevented.

(4) Where any aquaculture animal imported into Kenya is intended for quarantine, it is an offence for the person importing the animal to fail to transport it directly to a quarantine facility;

(5) Where quarantine is a condition for the placing on the market of any aquaculture animal, it is an offence for the operator of a quarantine facility to release the animal from quarantine without the prior written consent of a veterinary officer.

(6) Any person who contravenes any of the provisions of these Regulations commits an offence and shall, on conviction, be liable to the penalty under section 122 of the Act.

25. (1) If an aquaculture inspector detects in a consignment of aquaculture organisms or aquaculture products exhibiting clinical signs for a disease that is OIE-listed or of national significance and poses a significant risk to any aquatic organism or the aquaculture industry or the aquatic environment or that kills or causes illness in human or animals who eat the infected organism, the inspector shall issue a directive to the person in charge of the consignment prohibiting the movement of the consignment and specifying measures to be taken in order to reduce or prevent the risk to human or animal health.

Restrictions on movement of aquaculture organisms.

(2) Subject to sub-regulation (1), the aquaculture inspector may order further tests to be conducted on the consignment.

(3) The designated officer may order the destruction of the consignment if the measures referred to in sub-regulation (1) are not complied with or if a positive disease or a contaminant has been detected and it is necessary to protect human or animal health.

(4) The Cabinet Secretary may, by notice in the Gazette, establish aquatic animal health and product movement protocols or requirements for the aquaculture sector in the Republic.

(5) Any person who violates any provisions of these Regulations commits an offence and shall be liable to a penalty under section 122(4) of the Act.

PART IV – MISCELLANEOUS

26. (1) An aquaculture inspector may —
- Powers of aquaculture inspectors.
- (a) enter any aquaculture facility and inspect that aquaculture facility, its human resource, infrastructure, equipment, any aquaculture product and any document or record required under these Regulations;
 - (b) stop, enter and inspect any vehicle, vessel or aircraft which may be transporting aquaculture products; question any person who, in the reasonable opinion of the inspector, may be capable of furnishing any information which the inspector may require;
 - (c) require any person employed or present at any aquaculture facility to assist in the examination of such aquaculture facility or any document in order to ascertain whether the Act and these Regulations have been complied with;
 - (d) seize any aquatic organism or aquaculture product or any sample of an aquatic organism or aquaculture product, which the inspector has reasonable grounds for suspecting has disease or is not safe for human consumption; has not been farmed in accordance with a licence issued under this Act; or has been removed or transported from any site in contravention of this Act;
 - (e) require any licensee or any person responsible for an aquaculture facility to treat or humanely destroy any aquatic organism that has disease or is not safe for human or animal consumption and dispose of it safely;
 - (f) issue directives in a specified manner to enforce the provisions of this Act and these Regulations; and
 - (g) conduct routine inspections, in a specified manner, and inspect any vehicle, vessel, building or premises for the purposes of ascertaining compliance with this Act and these Regulations or condition of a licence, permit or other instrument issued in terms of the Act and these Regulations.
- (2) Where an aquaculture inspector suspects that an offence under the Act and these Regulations has been committed, upon obtaining a warrant the inspector may —
- (a) seize any vehicle, vessel, equipment or any other article which the inspector has reasonable grounds for suspecting has been used in the commission of that offence or where such seizure is reasonably necessary to preserve evidence; or
 - (b) require any person who may have information concerning a possible offence to submit their name and address.
27. (1) When an item is seized in terms of these Regulations, an aquaculture inspector may request the person who was in control of the item immediately before the seizure of the item, to take it to a place
- Disposal of aquaculture products and seized items.

designated by the aquaculture inspector, and if the person refuses to take the item to the designated place, the aquaculture inspector may do so.

(2) In order to secure a vehicle or vessel that has been seized, the aquaculture inspector may take such steps as are reasonably necessary to secure that vehicle or vessel.

(3) An item seized in terms of the Act and these Regulations including a part of a vehicle or vessel shall be kept in such a way that it is secured against damage.

(4) Any aquaculture product seized under this regulation that is likely to perish may be disposed of in such a manner as the circumstances may require.

28. A person aggrieved by any decision made in accordance with these Regulations shall apply for an appeal in accordance with section 97 of the Act.

Appeals.

29. (1) The Fisheries Management and Development (Aquaculture) Regulations, 2024 are revoked.

Revocation of
L.N. No. 62 of
2024.

(2) Notwithstanding the provisions of sub-regulation (1), a person who was carrying out any activity involving access to aquaculture resources in accordance with the revoked Regulations shall, within six months of the commencement of these Regulations, comply with the requirements of these Regulations.

FIRST SCHEDULE (r. 9(1))
 APPLICATION FORM FOR COMMERCIAL AQUACULTURE LICENCE

Official Use Only
File #:
Date received:

Proposed site [Existing site]
 Amendment to licence

Applicant Information: <i>(Please identify appropriate names and addresses below)</i>	
Name of applicant:	
Postal address: _____	
County	Postal
If a business, name of contact person and position:	
Work telephone: _____	Fax #: _____
Home	E-mail: _____
If applicable, name of agent: _____	
Postal address: _____	
P.O. Box / Street name / Town _____	
County	Postal code
Work telephone: _____	Fax #: _____
Home telephone: _____	E-mail: _____

1.2 License class and Aquaculture activities: *(Please*

1.2. Community Commercial Institutional/Research
Specify purpose: _____

1.2. For commercial applications: *(Specify existing aquaculture*

Hatchery Intensive culture for retail
 Intensive culture supplier of live fish
 Other (Please Specify) Brood stock

1.3 Existing / Previous approvals for the aquaculture installations				
Department of Environment	Yes	No	Permit #	Expiry Date
Water Permit				
Other Permits				

1. 4. Location of aquaculture site & property ownership status: *(Please provide the following information)*

1.4.1 Location of site (town/village/community): _____ Street: _ County: _
 _____ Property Identification Number (PID): _____

Name of road/street that is used to access the aquaculture site: _____

1.4.2 Survey / Topographic map no.: _____

A copy of the applicable section of the topographic map (1:50 000) identifying the location of the site shall be included.

Are you the owner or lessee of the property where the proposed / existing aquaculture activity is / will be located? *(Please provide copies of ownership or lease/rental documents).*

1.6.3 Are there any other users (including aquaculture facilities) within 1km of the water system you propose to use? If yes, identify the distance and the operator/use. If space provided is insufficient, please provide information as an attachment.

Downstream Distance_____ Operator/User _

Upstream Distance_____ Operator/ User _____

Use: _____

- b) Please identify the nature of the use of the groundwater source of other users noted in (a) above.
- a) For operations processing to use a groundwater resource (a well), please identify other users of a ground water source within 250m

Stock identification: *(Please provide the following information)*

- 1.7.1 Identify the species you wish to culture, including the development stage at the time of purchase and supplier.
- 1.7.2. What is the maximum number and average size of all your classes that will be held at the site?
- 1.7.3 What is the maximum daily amount of feed in kilograms: kg

Number	Size
<i>Example: 2000</i>	<i>300 grams (3/4 lb)</i>

1.8 Applicant’s signature: *(Please sign your name in the space below)*

Signature: _____ Dated: _____

Applicant

For Official Use Only	
Aquaculture application fee received:	Receipt #:
Received by:	Dated:

Applications for aquaculture licenses should be submitted to the State Department of Fisheries & Blue Economy

Application Fees
Please enclose your KES xxx [discuss with stakeholders] application fee

Species	Supplier(s) and Address(s)	Development stage
	<i>XYZ Fish Hatchery Ltd. Sussex, NB</i>	<i>7.6 cm (3) feeding fry</i>

SECOND SCHEDULE

(r. 9(3)(a))

AQUACULTURE LICENCE

Serial No:

Identification No:

LICENCE is hereby granted to

to carry on the following regulated Aquaculture activity:

Designated area of business

.....

on condition that the licensee shall—

- (a) adhere to the provisions of the Act and the Regulations.
- (b) Meet the conditions attached to this licence.
- (c)
- (d)

Fees Paid:

This Licence is valid up to

Date of issue:

.....

*Director General,
Kenya Fisheries Service.*

Signature/Seal stamp

-
15. Location, size and description of the site at which it is proposed to undertake aquaculture:
 16. Source of the stock of aquatic organisms for cultivation:
 17. Maximum annual production intended, in quantity or weight per year:
 18. Brief description of the type and size of aquaculture facilities to be used:
 19. Source of water supply, indicating whether it is fresh water, and if appropriate, the flow rate:
 20. Brief statement as to whether effluent is to be discharged to waters and, if so the annual quantity and composition of such discharge:
 21. Other information, including such other information as the applicant considers relevant to this application (*use attachments if necessary*):

FOURTH SCHEDULE

(r. 14(1))

AQUACULTURE PERMIT

Serial No:

Identification No:

PERMIT is hereby granted to
to harvest the following products in an aquaculture establishment:
.....
.....
.....

on condition that the licensee shall—

- (a) adhere to the provisions of the Act and the Regulations.
- (b) Meet the conditions attached to this permit.
- (c)
- (d)

Fees Paid:

This permit is valid up to

Date of issue:

.....

*Director General,
Kenya Fisheries Service.*

Signature/Seal stamp

FIFTH SCHEDULE

(r. 18)

RECORDS TO BE MAINTAINED AND MADE AVAILABLE FOR INSPECTION

A licence holder shall enter in their books or registers the information concerning

- (1) the aquatic organisms cultivated, raised or kept in captivity
- (2) the feeding of the aquatic organisms
- (3) the health of the aquatic organisms
- (4) the non-prescription products used to treat the aquatic organisms
- (5) The water processing products and the cleaning products for the equipment and facilities in contact with the aquatic organisms

B. Information and records on aquatic organisms cultivated, raised or kept in captivity

Information concerning the aquatic organisms cultivated, raised or kept in captivity shall be entered for each species according to number or weight and size or age category, and pertains to

- (1) all the supplies, stating for each of them: *(a)* the genetic line or strain; *(b)* the name and address of the supplier; *(c)* the date of receipt; and *(d)* the name and address of the carrier;
- (2) the production of seeds, eggs, spats, cuttings, rhizomes, stolons or tubers and the eggs or spats harvested or the number of collectors used for that purpose and the date on which they were put into or removed from the water;
- (3) the inventories of the aquatic organisms, including each inventory date;
- (4) in the case of an aquaculture licence, the sales, including their date and, for wholesale sales, the name and address of each purchaser, the shipping date and the intended purposes for which the aquatic organisms are to be used;
- (5) in the case of a fishing pond licence, the fish caught by fishers on each day of operation; and
- (6) Any massive loss of the aquatic organisms, including the date and cause of the event and the disposal method and site.

A. Feeding

Information concerning the feeding of the aquatic organisms shall be entered by food type, whether as dry or semi-moist food, live products or fertilizers, and pertains to:

- (1) supplies, including the product name and quantity, the supplier's name and address and the date of receipt; and
- (2) In the case of food prepared by the licence holder information ON each ingredient used in the preparation.

B. Health

Information concerning the health of the aquatic organisms pertains to:

- (1) consultations with veterinarians or specialists, including their name and professional address, the date and purpose of the consultation, the diagnostic and, where applicable, the proposed treatment and its duration;
- (2) the date of the various analyses and their results and the name and professional address of the persons who made them;
- (3) the purchase of prescription products such as drugs, vaccines or medicinal foods, including the product name and quantity, the supplier's name and address and the date of receipt; and
- (4) If a treatment is administered, the chemicals/drugs used, the dates on which it begins and ends, the method of administration and, if a waiting period is required, the daily water temperature of each cultivation or raising unit, or fishing pond basin, containing the treated aquatic organisms.

C. Non-prescription products

Information concerning non-prescription products used to treat aquatic organisms pertains to

- (1) supplies, including the product name and quantity, the supplier's name and address and the date of receipt; and
- (2) The use of the products, including the date and method of administration and the quantity or concentration used.

D. Water processing Information of relevance relates to the water processing products and the cleaning products for the equipment and facilities in contact with the aquatic organisms is to specify the name of the product used, the date and method of use, and the quantity or concentration used.

A licence holder's invoices, veterinary prescriptions, analysis reports and other supporting documents may stand in lieu of the books or registers if they contain the information required.

H. Duration

A licence holder shall keep in chronological order the invoices, veterinary prescriptions, analysis reports and other supporting documents throughout the duration of a production cycle, plus 3 years. The licence holder shall also keep, for the same duration as of the last entry, the books, registers and other documents used in the aquaculture activities.

SIXTH SCHEDULE

(r. 10(1)(b))

Aquaculture Fee

<i>Particulars of fees</i>	<i>Amount (Kshs)</i>
Application for commercial aquaculture license	50,000
Application for commercial aquaculture permit (for aquaculture establishments in public water bodies)	5% <i>ad valorem</i> the value of fish landed

Made on the 10th July, 2024.

SALIM MVURYA,
*Cabinet Secretary, Ministry of Mining,
Blue Economy and Maritime Affairs.*