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### Marine Farming Planning Regulations 2016

Version current from 18 October 2017 to date (accessed 18 October 2018 at 14:00)

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TASMANIA

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### Marine Farming Planning Regulations 2016

I, the Governor in and over the State of Tasmania and its Dependencies in the Commonwealth of Australia, acting with the advice of the Executive Council, make the following regulations under the Marine Farming Planning Act 1995 .

19 September 2016

C. WARNER

Governor

By Her Excellency's Command,

JEREMY ROCKLIFF

Minister for Primary Industries and Water

#### 1. Short title

These regulations may be cited as the Marine Farming Planning Regulations 2016 .

## 2. Commencement

These regulations take effect on 11 October 2016.

## 3. Interpretation

In these regulations –*[Regulation 3 Amended by S.R. 2017, No. 47, Applied:26 Jul 2017]*

*[Regulation 3 Amended by S.R. 2017, No. 47, Applied:26 Jul 2017]* **Act** means the Marine Farming Planning Act 1995 ;

*[Regulation 3 Amended by S.R. 2017, No. 47, Applied:26 Jul 2017]* **Director** means the Director, Environment Protection Authority appointed under the Environmental Management and Pollution Control Act 1994 .

## 4. Fees and charges

- (1) The application fees specified in Part 1 of Schedule 1 are prescribed as the application fees that are payable for the matters specified in that Part to which they respectively relate.
- (2) The charges specified in Part 2 of Schedule 1 are prescribed as the charges that are payable for the matters specified in that Part to which they respectively relate.
- (3) The annual lease fees specified in Part 3 of Schedule 1 are prescribed as the annual lease fees that are payable for the matters specified in that Part to which they respectively relate.

## 5. Exemption

- (1) A person may apply to the Minister for an exemption from any fees or charges on or before the date on which the fees or charges are payable.
- (2) The Minister, by notice in writing to the person, may –
  - (a) approve the application; or
  - (b) refuse to approve the application.

## 6. Remission

- (1) A person may apply to the Minister for the remission of any fees or charges within 14 days after the fees or charges are paid.
- (2) The Minister, by notice in writing to the person, may –
  - (a) approve the application; or
  - (b) refuse to approve the application.

## 7. Prescribed offences

- (1) The offences under the Act specified in column 1 of Schedule 2 are the offences in respect of which infringement notices may be served under Division 7 of Part 5 of the Act.
- (2) The penalties specified in column 2 of Schedule 2 are the penalties to be imposed by infringement notices for the corresponding offences specified opposite in column 1 of that Schedule.
- (3) A daily penalty in relation to an offence may not be imposed by an infringement notice in relation to that offence.

## 8. Special penalty for obstruction of execution of plans

*[Regulation 8 Inserted by S.R. 2017, No. 47, Applied:26 Jul 2017]*

- (1) In the case of an offence against section 91(1) of the Act constituted by the holder of a lease or a sub-lease exceeding the assigned quantity of dissolved nitrogen, the special penalty to be imposed under section 91(3) of the Act is a fine of \$150 000 for each tonne of dissolved nitrogen that exceeds the assigned quantity of dissolved nitrogen.

(2) For the purposes of subregulation (1) , where the amount of dissolved nitrogen that exceeds the assigned quantity of dissolved nitrogen is not a whole number of tonnes, the special penalty is to be calculated on a pro rata basis.

(3) For the purposes of this regulation –

***assigned quantity of dissolved nitrogen*** means the quantity of the total permissible dissolved nitrogen output, attributable to marine farming operations in respect of a particular area or part of a particular area, that is the quantity apportioned, by a determination of the Director from time to time under a marine farming development plan, to the lessee or sub-lessee;

***particular area*** means an area determined by the Director from time to time under a marine farming development plan.

# SCHEDULE 1 - Fees and Charges

Regulation 4

## PART 1 - Application fees

No.	Item	Amount (Fee units)
1.	Approval to prepare draft marine farming development plan	735
2.	Exemption from emergency plan	400
3.	Certificate of preference	400
4.	Lease	1 140
5.	Emergency lease	400
6.	Renewal of lease	250
7.	Transfer of lease	450
8.	Sub-lease	150
9.	Expansion of lease area	1 090
10.	Subdivision of lease area	720

## PART 2 - Charges

No.	Item	Amount (Fee units)
1.	Processing request to vary lease	740
2.	Processing request to vary lease area	1 090
3.	Processing request to amend marine farming development plan	1 140

### **PART 3 - Annual lease fees**

<b>No.</b>	<b>Item</b>	<b>Amount (Fee units)</b>
1.	Annual fees for lessees of shellfish farms – base fee	90
	plus additional fee per hectare of lease area	45
2.	Annual fees for lessees of finfish farms – base fee	1 500
	plus additional fee per hectare of lease area	170

## SCHEDULE 2 - Infringement Notice Offences

Regulation 7

*[Schedule 2 Amended by S.R. 2017, No. 68, Applied: 18 Oct 2017]*

<b>COLUMN 1</b>	<b>COLUMN 2</b>
<b>OFFENCES</b>	<b>PENALTY (Penalty Units)</b>
1. Failing to take oath or make affirmation at hearing of Panel – section 12(4)(a)	2
2. Failing to comply with emergency order – section 43(6)	2
3. Failing to comply with provisions of emergency plan – section 45(6)	2
4. Contravening or failing to comply with condition or restriction of lease – section 64(4)	4
5. Failing to comply with notice to remove equipment, debris and fish stock – section 71(2)	2
6. Placing equipment etc. or fish stock within lease area without approval – section 71(3)	2
7. Sub-leasing without approval – section 74(1)	2
8. Failing to comply with notice requiring delivery of lease – section 76(3)	2
9. Interfering with surveyor performing survey – section 87(4)	2
10. Acting contrary to marine farming development plan, emergency order or emergency plan – section 91(1)(a)	4
10A. Impeding or obstructing execution of marine farming development plan, emergency plan or emergency order – section 91(1)(b)	4
10B. Contravening condition of marine farming development plan, emergency plan, emergency order or determination – section 91(1)(c)	4
10C. Contravening condition of lease – section 91(1)(d)	4
11. Unlawfully taking, removing, disturbing or interfering with fish, marine plants, raft, structure or implement – section 92(1)(a)	2
12. Unlawfully dredging, digging or dragging lease area – section 92(1)(b)	2
13. Unlawfully causing harm or damage to lease area or other area or to equipment or fish stocks in such area – section 92(1)(c)	2
14. Unlawfully depositing stone, ballast, rubbish or deleterious matter in lease area – section 92(2)(a)	2
15. Unlawfully using explosive or toxic gas or toxic, poisonous or narcotic substance in lease area – section 92(2)(b)	2
16. Unlawfully removing, destroying, damaging or interfering with beacon, buoy or mark used to indicate boundary of lease area – section 93(a)	2
17. Unlawfully removing, destroying, damaging or interfering with light – section 93(b)	2
18. Unlawfully removing, destroying, damaging or interfering with beacon, signal or light attached to raft or structure – section 93(c)	2
19. Having rope, cable or other device securing marine farming equipment outside marine farming zone unless authorised – section 94(1)(a)	4
20. Having marine farming equipment (other than rope, cable or other device securing marine farming equipment) outside lease area unless authorised – section 94(1)(b)	4

Displayed and numbered in accordance with the *Rules Publication Act 1953*.

Notified in the *Gazette* on 28 September 2016

These regulations are administered in the Department of Primary Industries, Parks, Water and Environment.

