



Tonga

AQUACULTURE MANAGEMENT REGULATIONS



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Arrangement of Regulations

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AQUACULTURE MANAGEMENT REGULATIONS¹

Made under section 41 of the Aquaculture Management Act

Commencement [24th September 2008]

1 Short title

These Regulations may be cited as the Aquaculture Management Regulations.

2 Interpretation

In these Regulations unless the context requires otherwise —

“**aquaculture equipment**” means any fixtures, furniture or equipment of any nature that is not part of the natural environment that is used by the holder of an aquaculture development licence for the purpose of aquaculture;

“**guarantee**” means a written note or memorandum signed by the authorised agent of a financial institution in the Kingdom;

“**extensive operation**” means that form of aquaculture that requires no form of equipment or furniture in the aquaculture premises;

“**high-water mark**” means the shoreline location that corresponds to the mean high water tide level;

“**intensive operation**” means that form of aquaculture that requires the use of equipment or furniture of any sort in the aquaculture premises;

“**internal waters**” means any waters in the Kingdom between the high-water mark and the outer edge of any adjacent reef. Where appropriate, the outer edges of such adjacent reefs shall be joined with straight baselines for the purposes of determining the internal waters;

“**inter-tidal waters**” means the water column of the inter-tidal zones;

“**inter-tidal zone**” means the land exposed when the tides rise and fall;

“**licence**” means a licence issued by the Minister that entitles the holder of the licence to occupy an area in the inter-tidal or sub-tidal area (both seabed and water above the seabed) for the purpose of aquaculture defined in an associated aquaculture development licence;

“**offshore waters**” means any waters in the Kingdom below the high-water mark that are not internal waters;

“**open water releasing**” is the practice of releasing aquaculture product in inter-tidal, internal or offshore waters for subsequent harvest through conventional fishing practices;

“**Plan**” means the aquaculture management and development plan published in the Gazette under section 4 of the Act;

“**sub-tidal waters**” means the shallow water zone.

3 Certification

Aquaculture products shall be certified as being aquaculture products by an aquaculture officer. An aquaculture officer shall base the certification upon reasonable evidence that the product in question is an aquaculture product, for example, through natural or physical tagging, audit or examination of production records.

4 Application for aquaculture development licence

- (1) An application for an aquaculture development licence shall be —
 - (a) made in Form 1 of Schedule 1; and
 - (b) accompanied by the fee specified in Schedule 2.
- (2) The Minister may —
 - (a) issue an aquaculture development licence in Form 2 of Schedule 1 for the appropriate category of aquaculture; and
 - (b) upon payment of the relevant fee for that category specified in Schedule 2.

5 Renewal of aquaculture development licences

An application to renew an aquaculture development licence shall be —

- (a) made in Form 3 of Schedule 1; and
- (b) accompanied by the fee specified in Schedule 2.

6 Production returns

All aquaculture development licence holders shall provide bi-monthly returns in Form 4 of Schedule 1.

SCHEDULE 1

FORM 1

AQUACULTURE MANAGEMENT ACT

(Aquaculture Management Regulations 2008 - regulation 4(1))

APPLICATION FOR A NEW AQUACULTURE DEVELOPMENT LICENCE

INSTRUCTIONS: Underline surname or family name

Address means complete mailing address

Clearly mark the boxes X where appropriate

Use a separate sheet where necessary

I/We (insert full name of applicant(s))

Ofapply for an aquaculture development licence, the full particulars of which are described below.

Address of applicant(s)

1. Location of proposed aquaculture operation in latitude and longitude (Global Position System) coordinates. Please provide a description of the property and a map of the area.

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.....
.....

2. What is the spatial area of the site described in the application, and what area is to be used for the purpose of aquaculture?

.....
.....
.....

3. Is a certified copy of any instrument that demonstrates tenure or authority to undertake aquaculture in the area that is the subject of this application attached? Yes / No. Give details.

.....
.....
.....

4. Is the proposed aquaculture operation to take place in tidal waters? Yes/No. If the proposed aquaculture operation is to occur in tidal waters, is the area in internal waters or offshore waters?

.....
.....

.....
5. If the proposed aquaculture operation is to take place in tidal waters, is exclusive access required for part or all of each year that the aquaculture development licence is valid?

Yes No

6. If the proposed aquaculture operation is to take place in tidal waters and exclusive access is not required for a full year, for what months of the year is exclusive access required, and what is the basis for requiring exclusive access in this period?

.....
.....
.....

7. If the proposed aquaculture operation is to take place in tidal waters and exclusive access is required for a full year, what is the basis for requiring exclusive access?

.....
.....
.....

8. Describe the nature and extent of any existing activities, business or current human use of the area that is the subject of this application. Use a separate attachment where necessary.

.....
.....
.....

9 If the application refers to intertidal or sub-tidal areas, or to water bodies that are common property, have the relevant communities been consulted?

Yes No

Are comments from those communities attached?

Yes No

10. Does the proposed aquaculture development require the use of broodstock, seedling supply or fish as defined in the Fisheries Management Act in its operation?

Yes No

11. If the proposed aquaculture operation requires the use of broodstock, seedling supply or fish as defined in the Fisheries Management Act in its operation, does the applicant have an authority to take these fish issued by the Fisheries Department?

Yes No

12. Describe the nature of the proposed aquaculture operation.

.....
.....
.....

(a) What species are to be used for aquaculture? Give scientific name for all species being reared or cultured.

.....
.....
.....

(b) What methods are proposed for the potential aquaculture operation (e.g. land based ponds, marine longline culture, etc)?

.....
.....
.....

(c) How is the proposed aquaculture area to be marked?

.....
.....
.....

(d) If the proposed aquaculture area is in a tidal or sub-tidal area has this form of marking been supported by the Ministry of Marine and Ports?

Yes No

(e) Is a copy of their supporting letter attached?

Yes No

(f) Does the proposal involve the use of feeds (artificial or natural) ? Yes/ No. If so, describe the nature, type and quantity of feeds to be used, on an annual basis.

.....
.....
.....

(g) Describe the type and quantities of any chemicals that are proposed to be used for the purpose of plant control, parasite or disease control, bio-remediation or bio-control, predator control or any other related purpose. Give estimated annual usage.

.....
.....
.....

All applications for an aquaculture development licence must be accompanied by a business development plan. The minimum information requirements for a business development plan are given in Schedule 4. Does this application include such a plan that describes —

4 'Oku kau 'i he tohi kole ni ha palani 'oku fakamatala'i ai 'a e -

Location and area of the proposed business?

Yes No

Nature of the operation, in terms of species to be cultured and method of aquaculture to be used?

Yes No

Area of land or water proposed to be used for aquaculture?

Yes No

Infrastructure associated with the proposed aquaculture operation?

Yes No

Time over which the proposed aquaculture project is to be established, and phases in which the development is to occur?

Yes No

Proposed annual production schedule?

Yes No

Description of employment over the project’s lifetime?

Yes No

Detailed management plan that describes procedures for dealing with disease, predators, biofouling, machinery breakdown, equipment failure, theft and other contingencies?

Yes No

A detailed, time-structured budget that estimates costs, income and cash flow throughout the proposed project’s life?

Yes No

Markets for aquaculture product, market size, price structure of market?

Yes No

Details of the proponent’s technical and management experience?

Yes No

A summary of how the proposed aquaculture operation is to be financed?

Yes No

The Aquaculture Management Act provides penalties for persons who provide false information. I certify that the information supplied in this application is a true and correct statement.

.....
.....

Name of applicant(s) and role in the company (where relevant)

.....

Signature of applicant(s) or authorised company representative

.....

Date of application

FORM 2

AQUACULTURE MANAGEMENT ACT 2003
(Aquaculture Management Regulations 2008 - regulation 4(2))

AQUACULTURE DEVELOPMENT LICENCE

LICENCE No.....

ISSUED TO.....

ADDRESS OF THE LICENCE HOLDER

.....

.....

.....

1. Area in which aquaculture may be undertaken

.....

.....

.....

2. Species licensed to be used in the licensed aquaculture area for the purpose of aquaculture

.....

.....

3. Technique(s) authorised to be used in the licensed aquaculture area for the purpose of aquaculture

.....

.....

.....

4. Subject to the provisions of the Aquaculture Management Act and Regulations made thereunder, this licence is valid from day of 20..... to the day of 20.....

5. This licence shall not be transferable.

6. TERMS & CONDITIONS THAT APPLY TO THIS LICENCE

(a) The Fisheries Department must be notified of any change of address by the licence holder within 21 days of such a change in address.

(b) The Minister may access the bank guarantee and instruct staff from the Ministry or subcontractors to remove abandoned equipment and clean the aquaculture premises, meeting any costs with the bank guarantee.

(c) The licensee may not collect fees from any other person or company for the use, sub-letting, rental, leasing or any other form of agreement to undertake aquaculture in the licensee’s aquaculture premises.

7. Special Conditions

FAILURE TO COMPLY WITH THESE AND ALL OTHER TERMS AND CONDITIONS OF THE LICENCE, THE AQUACULTURE MANAGEMENT ACT AND REGULATIONS MADE THEREUNDER MAY RESULT IN THE SUSPENSION OR LOSS OF THIS LICENCE, EITHER TEMPORARILY OR PERMANENTLY.

FORM 3

AQUACULTURE MANAGEMENT ACT 2003
(Aquaculture Management Regulations 2008 - regulation 5)

APPLICATION TO RENEW LICENCE

INSTRUCTIONS: Underline surname or family name

Address means complete mailing address

Clearly mark the boxes X where appropriate

Use a separate sheet where necessary

LICENCE No.

Name of current licence holder

Address of current licence holder

Location of aquaculture area to which the current aquaculture development licence applies
in latitude and longitude (Global Position System) coordinates

.....
.....
.....

If there is no certified copy to demonstrate the applicant has formal title or tenure (title deed, lease or licence), the application cannot be approved. Is such a certified copy attached to this application?

Yes No

Has the relevant fee been paid?

Yes No

The Aquaculture Management Act provides penalties for persons who provide false information. I certify that the information supplied in this application is a true and correct statement.

.....
.....
.....

Name of applicants(s) and role in the company (where relevant)

.....
.....
.....

Signature of applicant(s) or authorised company representative

.....

Date of application

FORM 4

AQUACULTURE MANAGEMENT ACT 2003
(Aquaculture Management Regulations 2008 - regulation 6)

BI-MONTHLY PRODUCTION RETURN

LICENCE No.....

ISSUED TO.....

ADDRESS OF THE LICENCE HOLDER

.....

1. Production from aquaculture area in the period...../ .../... to...../ .../.....

- Kg or pieces Species 1.....
- Species 2.....
- Species 3.....
- Species 4.....

2. Standing stock of aquaculture products in cultivation as of/...../....

- Kg or pieces Species 1.....
- Species 2.....
- Species 3.....
- Species 4.....

3 Incidental mortalities of aquaculture products in the period...../...../... to...../...../.....

- Kg or pieces Species 1.....
- Species 2.....
- Species 3.....
- Species 4.....

4. Number of full time employees employed on aquaculture operations for the period covered by this report

5 Number of part time employees employed on aquaculture operations for the period covered by this report

The Aquaculture Management Act provides penalties for persons who provide false information I certify that the information supplied in this application is a true and correct statement.

Name of licence holder(s)

Signature of licence holder(s)

Date of bi-monthly return

SCHEDULE 2*(Regulations 4 and 5)***FEES**

Fee for an application for an aquaculture development licence for a business or company —	\$300
Fee for issuance or renewal of a licence for a category A-type of aquaculture —	\$ 100 per year
Fee for issuance or renewal of a licence for a category B-type of aquaculture —	\$400 per year
Fee for issuance or renewal of a licence for a category C-type of aquaculture —	\$1,000 per year

ENDNOTES

¹ GS 47/2008, commencement 24th September 2008