

## FISHERIES AMENDMENT (MARINE FARMING) ACT 1982

## No. 88 of 1982

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## FISHERIES AMENDMENT (MARINE FARMING) ACT 1982

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**No. 88 of 1982**  
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**AN ACT to amend the Fisheries Act 1959 for the purpose of making provision for establishing and conducting marine farms.**

**[Royal Assent 23 December 1982]**

**BE** it enacted by His Excellency the Governor of Tasmania, by and with the advice and consent of the Legislative Council and House of Assembly, in Parliament assembled, as follows:—

**1**—This Act may be cited as the *Fisheries Amendment (Marine Farming) Act 1982*. **Short title.**

**2**—(1) This section and section 1 shall commence on the day on which this Act receives the royal assent. **Commencement.**

(2) Except as provided in subsection (1), this Act shall commence on a day to be fixed by proclamation.

**3**—In this Act, the *Fisheries Act 1959*\* is referred to as the *Principal Act*. **Principal Act.**

\* No. 16 of 1959. For this Act, as amended to 1st August 1980, see the continuing Reprint of Statutes. Subsequently amended by No. 86 of 1980 and No. 40 of 1981.

Amendment of section 9 of Principal Act (Regulations).

4—Section 9 of the Principal Act is amended as follows:—

- (a) by omitting paragraph (tb) of subsection (1);
- (b) by inserting the following subsections after subsection (1B):—

(1C) Regulations under this section shall not apply to fish taken pursuant to a marine farm licence in force under Division 3 of Part II unless the regulations expressly so provide.

(1D) A reference in subsection (1) to a licence shall not include a reference to a marine farm licence in force under Division 3 of Part II.

Substitution of Division 3 of Part II of Principal Act.

5—Division 3 of Part II of the Principal Act is repealed and the following Division is inserted:—

*Division 3—Marine farms*

12—(1) In this Division, except in so far as the context or subject-matter otherwise indicates or requires—

“Authority” means the Fisheries Development Authority constituted under the *Fisheries Development Act 1977*;

“lease” means a lease referred to in section 15 (1), and in force under this Division;

“marine board” means a marine board continued by or constituted under the *Marine Act 1976* and includes a board the name of which has been altered pursuant to section 14 of that Act;

“marine farm” means the area that is being or has been established for the purpose of marine farming and includes all structures and rafts used in connection with that area, all boundary markings for that area, and all fish and marine plants for the time being bred and reared or grown and harvested, as the case may be, in that area in accordance with a marine farm licence;

“marine farm licence” means a licence referred to in section 23E, and in force under this Division;

“marine farming” means the breeding and rearing of any species of fish or the growing and harvesting of any species of marine plants;

“marine plant” includes any kind of plant that normally lives throughout its life in State fishing waters;

Interpretation of Division 3 of Part II.

“ Minister for Crown Lands ” means the Minister for the time being administering the *Crown Lands Act 1976*;

“ Minister for Public Health ” means the Minister for the time being administering the *Public Health Act 1962*;

“ permit ” means a permit referred to in section 15 (2), and in force under this Division;

“ raft ” means a floating platform, pontoon, barge, punt, or hulk which is not self-propelled and is moored for the purpose of providing buoyant support for the surfaces on which, or enclosures in which, fish are bred and reared or marine plants are grown and harvested;

“ structure ” means a platform, pontoon, jetty, building, dam, or trestlework, or any other erection constructed of rocks or other solid material which has foundations in or on, or which is placed on, the sea bed within a marine farm.

(2) In this Division, a reference to “ State fishing waters ” is a reference to all waters, other than inland waters, over which the State has jurisdiction.

13—A person shall not carry on marine farming unless he is the holder of—

Restrictions on conducting marine farming.

(a) a lease or permit, as the case may require; and

(b) a marine farm licence.

Penalty: \$2 000.

14—(1) A lease or permit may be granted only in respect of State fishing waters.

Areas in respect of which leases and permits may be granted, &c.

(2) The Minister and the Minister for Crown Lands shall from time to time determine the areas of State fishing waters within which a lease may be granted and the conditions and rent which shall apply to leases granted or renewed within those areas.

15—(1) A lease, while it is in force, confers on the holder of the lease exclusive possession of—

Authority of leases and permits.

(a) the area of sea bed comprised in the lease; and

(b) the waters above that sea bed.

(2) A permit, while it is in force, confers on the holder of the permit exclusive occupation of the waters specified in the permit.

(3) The decision as to whether a lease or permit is the appropriate instrument to be granted in any particular case is in the discretion of the Minister and without limiting that discretion—

- (a) where the application relates to shallow or inshore waters and where substantial use is intended to be made, in marine farming to be carried on in those waters, of the bed of the waters, a lease is the appropriate instrument to be granted; or
- (b) where the application relates to deeper waters and where it is intended to conduct marine farming from a raft or structure either anchored or moored, without substantial use being intended to be made of the bed of those waters, a permit is the appropriate instrument to be granted.

Application for leases and permits.

16—(1) A person who seeks a lease or permit may make application to the Minister.

(2) An application for a lease or permit—

- (a) shall be in writing;
- (b) shall contain particulars of the marine farming proposed to be carried on in respect of the area or waters to which the application relates; and
- (c) shall be accompanied by the relevant fee prescribed by regulations made under this Division.

(3) An applicant under this section shall, if required by the Minister to do so, provide such further particulars in relation to the application as the Minister requires.

Notice of application to be published, &c.

17—(1) Where an application for a lease or permit is made in accordance with section 16, the Minister shall, not less than 28 days before making a decision as to whether or not the application will be granted, publish, in a newspaper circulating generally in the State, a notice giving particulars of the application and—

- (a) in the case of an application for a lease, send a copy of the application to the Minister for Public Health together with a request in writing to him to recommend any conditions and restrictions to which the lease, if granted, should be subject; and
- (b) in the case of an application for a permit, send a copy of the application to the marine board having jurisdiction in respect of the waters to which the

application relates together with a request in writing to it to advise the Minister whether or not it considers the raft or structure from which it is intended to conduct marine farming will constitute a hazard to navigation.

(2) The Minister for Public Health shall, as soon as practicable after receiving the request under subsection (1) (a), make his recommendations to the Minister.

(3) The marine board referred to in subsection (1) (b) shall, as soon as practicable after receiving a copy of the application and the request referred to in that subsection, advise the Minister whether or not it considers the raft or structure from which it is intended to conduct marine farming will constitute a hazard to navigation.

18—(1) Any person specified in subsection (2) who wishes to object to the granting of an application for a lease, or any person specified in subsection (3) who wishes to object to the granting of an application for a permit, may, at any time before the expiration of a period of 28 days after the notice relating to the application is published in accordance with section 17, lodge with the Minister an objection in writing to the granting of the application.

Objections to applications for leases or permits.

(2) The following persons but no other person may object to the granting of an application for a lease:—

- (a) the marine board having jurisdiction over the area to be leased;
- (b) the council of the municipality adjacent to the area to be leased;
- (c) a person owning or occupying land adjoining the area to be leased;
- (d) a person who claims that his use of the waters in the area to be leased will be adversely affected by the granting of the application.

(3) The following persons but no other person may object to the granting of an application for a permit:—

- (a) the marine board having jurisdiction over the waters to which the application relates;
- (b) a person who claims that his livelihood or use of the waters to which the application relates will be adversely affected by the granting of the application.

(4) An objection lodged under subsection (1) shall not be considered by the Minister unless—

- (a) it specifies the ground for the objection; and
- (b) the person making the objection has, before the expiration of the period referred to in subsection (1), served on the applicant a copy of the objection.

19—(1) The Minister shall grant or refuse to grant an application for a lease or permit—

- (a) where no objections are lodged in accordance with section 18, as soon as practicable after the expiration of the period for making objections under section 18 (1); or
- (b) where objections are lodged in accordance with section 18, as soon as practicable after considering the objections or after the expiration of the period for lodging objections under section 18 (1), whichever last occurs.

(2) Where an application for a lease or permit is refused, the Minister shall forthwith, by notice in writing served on the applicant, inform him of the refusal and of the ground on which the refusal is based.

(3) Where an application for a lease or permit in respect of which an objection has been lodged in accordance with section 18 is granted, the Minister shall forthwith, by notice in writing served on the person who lodged the objection, inform him of the granting of the application.

(4) Notwithstanding subsection (1), the Minister shall not grant an application for a permit if the marine board having jurisdiction in respect of the waters to which the permit relates has advised the Minister that it considers that the raft or structure, from which it is intended to conduct marine farming, will constitute a hazard to navigation.

(5) Where the Minister grants an application under subsection (1), he shall, if no appeal is lodged under section 23C (2) within the period specified in section 23C (5) (b), issue a lease or permit, as the case may require, to the applicant.

(6) The Minister has power to grant an application for a lease under this Division and issue such a lease notwithstanding anything contained in the *Crown Lands Act 1976*.

Grant or  
refusal of  
applications  
for leases  
and permits.



20—(1) A lease or permit is subject to such conditions and restrictions as are specified in the lease or permit, being conditions and restrictions which are determined by the Minister. Leases and permits subject to conditions and restrictions.

(2) The holder of a lease or permit who contravenes, or fails to comply with, any condition or restriction to which the lease or permit is subject, is guilty of an offence and is liable on summary conviction to a penalty not exceeding \$1 000 and in the case of a continuing offence, a further penalty not exceeding \$100 for each day during which the offence continues.

21—A lease or permit may be granted for a period not exceeding 20 years and may be renewed or further renewed for a period or periods not exceeding 20 years. Duration of leases and permits.

22—(1) The holder of a lease or permit may, at any time within a period of 3 months before the lease or permit held by him ceases to be in force, apply to the Minister for the renewal of the lease or permit. Renewal of leases and permits.

(2) An application for renewal of a lease or permit shall be in a form approved by the Minister and shall be accompanied by the relevant fee prescribed by regulations made under this Division.

(3) On receipt of an application made in accordance with subsections (1) and (2), the Minister may grant or refuse to grant to the applicant the renewal of the lease or permit applied for.

(4) Subject to this Act, where an application for renewal of a lease or permit is made before the date on which the lease or permit would, but for this subsection, have ceased to be in force (which day is, in this subsection, referred to as “the date of expiry”) and—

(a) the renewal is granted before the date of expiry—  
on the grant of renewal, the lease or permit shall be in force for the period for which it is renewed commencing on the date of expiry; or

(b) the renewal is not granted before the date of expiry and the application is not withdrawn before the date of expiry—

(i) the lease or permit shall be deemed to continue in force on and from the date of expiry until the renewal is granted or the application is withdrawn, whichever first occurs; and

- (ii) on the grant of the renewal, the lease or permit shall be deemed to have taken effect on and from the date of expiry.

(5) Where an application for the renewal of a lease or permit is refused by the Minister, the Minister shall, by notice in writing served on the applicant, inform him of the refusal and the ground on which the refusal is based.

Surrender of leases and permits.

23—(1) The holder of a lease or permit may surrender the lease or permit by delivering it to the Minister together with a notification in writing to the effect that the lease or permit is being surrendered.

(2) The Minister shall, on receipt of a lease or permit and notification under subsection (1), cancel the lease or permit.

Refund of fees.

23A—Where an application for a lease or permit or for the renewal of a lease or permit is refused or withdrawn or a lease or permit is surrendered, the Minister may refund to the applicant or the holder of the lease or permit, or to any person who appears to the Minister to be entitled to it, the whole or any part of the fee which has been paid by the applicant or the holder.

Cancellation and variation of leases and permits.

23B—(1) The Minister may, subject to subsection (5), cancel a lease or permit—

- (a) if he is satisfied that the area to which the lease relates is, or the waters to which the permit relates are, not being used for the purposes of marine farming;
- (b) if he is satisfied that the holder of the lease or permit has ceased to have any financial interest in the marine farming operations conducted in the area to which the lease relates or the waters to which the permit relates; or
- (c) if the holder of the lease or permit fails to obtain a marine farm licence, or ceases to hold a marine farm licence, authorizing him to carry on marine farming in the area to which the lease relates or the waters to which the permit relates.

(2) On receipt of an application in a form approved by the Minister from the holder of a lease or permit and on payment of the relevant fee prescribed by regulations made under this Division, the Minister may—

(a) in the case of a lease, with the approval of the Minister for Public Health, vary the lease in such manner as may be agreed with the holder of the lease; or

(b) in the case of a permit, vary the permit in such manner as may be agreed with the holder of the permit.

(3) The Minister may, at the request of the Minister for Public Health and with the consent of the holder of a lease, vary the lease.

(4) Where the holder of a lease or permit is convicted of an offence under this Act or regulations made under this Division, the Minister may, subject to subsection (5)—

(a) in the case of a lease, cancel the lease or, with the approval of the Minister for Public Health, vary it; or

(b) in the case of a permit, cancel or vary the permit.

(5) The Minister shall not exercise his powers under subsection (1) or (4) in relation to a lease or permit unless he has first afforded the holder of the lease or permit an opportunity to make submissions to him in relation to the matter.

(6) References in this section to the variation of a lease or permit shall be read as including references to any alteration of the conditions or restrictions to which the lease or permit is subject and, without limiting the generality of the foregoing words, any such variation may be expressed to have effect only for a limited period or until the happening of a specified event, and, if so expressed, has effect accordingly.

(7) Where a lease or permit has been cancelled or varied under subsection (1) or (4), the Minister shall by notice in writing served on the holder of the lease or permit inform him of the cancellation or variation, and the cancellation or variation shall, subject to section 23c (9), take effect on such date as the Minister specifies in that notice, being a date not earlier than 14 days after the service of the notice on the holder of the lease or permit.

23c—(1) A person aggrieved by—

(a) the refusal of the Minister to grant to that person an application for a lease or permit or an application for the renewal of a lease or permit;

(b) the conditions or restrictions to which a lease or permit issued to him is subject; or

Appeals in  
respect of  
leases and  
permits.

(c) the cancellation or variation of a lease or permit held by him,  
may appeal to a magistrate.

(2) Where an application for a lease or permit is granted, a person who lodged an objection under section 18 in respect of the application may appeal to a magistrate against the granting of the application.

(3) An appeal under this section in relation to—

(a) the granting of, or the refusal to grant, an application for a lease or for the renewal of a lease;

(b) the conditions or restrictions to which a lease is subject; or

(c) the cancellation or variation of a lease,

shall be instituted by giving written notice to the clerk of petty sessions in the municipality adjacent to the area to which the lease or application relates and shall be accompanied by the relevant fee prescribed by regulations made under this Division.

(4) An appeal under this section in relation to—

(a) the granting of, or the refusal to grant, an application for a permit or for the renewal of a permit;

(b) the conditions or restrictions to which a permit is subject; or

(c) the cancellation or variation of a permit,

shall be instituted by giving written notice to the clerk of petty sessions in the municipality nearest to the waters to which the permit or application relates and shall be accompanied by the relevant fee prescribed by regulations made under this Division.

(5) An appeal under this section shall be instituted within a period of 14 days after—

(a) the service of a notice under section 19 (2), in the case of an appeal against the refusal to grant an application for a lease or permit;

(b) the service of a notice under section 19 (3), in the case of an appeal against the granting of an application for a lease or permit;

(c) the service of a notice under section 22 (5), in the case of an appeal against the refusal to grant an application for the renewal of a lease or permit;

(d) the receipt of a lease or permit, in the case of an appeal against the conditions or restrictions to which the lease or permit is subject; and

(e) the service of a notice under section 23B (7), in the case of an appeal against the cancellation or variation of a lease or permit.

(6) In the proceedings on an appeal under this section in relation to the granting of or the refusal to grant an application for a lease or permit, the Minister, the applicant, and the person who lodged an objection under section 18 in respect of the application are entitled to be heard, but the magistrate may, if he thinks fit, allow any other person to be heard.

(7) The clerk of petty sessions referred to in subsection (3) or (4) shall notify all persons entitled to be heard in the proceedings on an appeal under this section of the time and place at which the appeal will be heard.

(8) At the hearing of an appeal under this section, the magistrate, unless he dismisses the appeal, may quash the decision of the Minister and direct the Minister to take such action as the magistrate considers necessary in the matter to which the appeal relates.

(9) Where an appeal is brought under this section in respect of the cancellation or variation of a lease or permit, that cancellation or variation shall not have effect until the determination or abandonment of the appeal or until such later date as the magistrate may determine.

(10) The magistrate shall cause a copy of his decision in relation to an appeal under this section to be served on all parties to the appeal.

(11) The Minister shall comply with any directions given to him under subsection (8).

(12) The decision of a magistrate on the hearing of an appeal under this section is final.

(13) Subject to this section, an appeal shall be heard and determined as may be prescribed in regulations made under this Division.

23D—(1) Where—

(a) a lease or permit has been cancelled or varied under section 23B; or

(b) pursuant to section 23C (8), a magistrate directs the Minister to vary the conditions or restrictions to which a lease or permit is subject,

Delivery of  
leases and  
permits to  
Minister.

the Minister may, by notice in writing served on the holder of the lease or permit, require that holder to deliver the lease or permit to the Minister within the time specified in the notice.

(2) Where the Minister receives, pursuant to a notice served under subsection (1), a lease or permit—

(a) which has been varied under section 23B; or

(b) in respect of which the Minister has been directed by a magistrate pursuant to section 23C (8) to vary the conditions or restrictions,

the Minister shall endorse on the lease or permit a note of the variation and shall return the lease or permit to the holder of the lease or permit.

(3) The holder of a lease or permit shall not, without reasonable excuse, fail to comply with a notice served on him under subsection (1).

Penalty: \$200.

(4) A reference in subsections (1) and (3) to a lease or permit includes a lease or permit that has been cancelled under this Division and, in relation to any lease or permit that has been so cancelled, a reference in those subsections to the holder of a lease or permit is a reference to the person whose lease or permit was cancelled.

Authority of  
marine farm  
licences.

23E—(1) A marine farm licence, while it is in force, authorizes the holder of the marine farm licence to carry on marine farming in the area to which a lease held by him relates or in the waters to which a permit held by him relates subject to and in accordance with the conditions and restrictions specified in the marine farm licence.

(2) A person who holds a marine farm licence is not required to obtain any other licence under this Act in respect of the marine farming carried on by him.

(3) A marine farm licence while it is in force confers on the holder of the marine farm licence the exclusive right, subject to any conditions and restrictions specified in the marine farm licence, of breeding, rearing, and taking fish, or growing and harvesting marine plants of the kind or species specified in the marine farm licence within the area to which a lease held by him relates or the waters to which a permit held by him relates.

(4) The holder of a subsisting marine farm licence is the absolute owner of all fish and marine plants of the kind or species specified in his marine farm licence in the area to which a lease held by him relates or the waters to which a permit held by him relates and in all courts and for all purposes such fish and marine plants shall be deemed to be in his actual possession.

23F—(1) The holder of a lease or permit who proposes to carry on marine farming in respect of the area to which the lease relates or the waters to which the permit relates may apply to the Authority for a marine farm licence.

Applications  
for marine  
farm licences.

(2) An application for a marine farm licence—

(a) shall be in writing;

(b) shall contain particulars of the fish proposed to be bred and reared and the marine plants proposed to be grown and harvested under the authority of the marine farm licence in respect of the area to which a lease held by the applicant relates or the waters to which a permit held by the applicant relates; and

(c) shall be accompanied by the relevant fee prescribed by regulations made under this Division.

(3) An applicant under this section shall, if required by the Authority to do so, provide such further particulars in relation to the application as the Authority requires.

23G—Where an application for a marine farm licence is made in accordance with section 23F, the Authority shall, within 21 days of the receipt of the application, grant the application and issue a marine farm licence to the applicant.

Grant of  
applications  
for marine  
farm licences.

23H—(1) A marine farm licence is subject to such conditions and restrictions as are specified in the lease or permit, being conditions and restrictions which are determined by the Authority.

Marine farm  
licences subject  
to conditions  
and restrictions.

(2) Without limiting the generality of subsection (1) and notwithstanding any other provisions of this Act, a marine farm licence may specify—

(a) the kinds or species of fish that may be bred and reared and the kinds and species of marine plants that may be grown and harvested under the marine farm licence;

- (b) the minimum size of fish that may be taken from the marine farm;
- (c) the seasons during which fish of a kind or species specified in the marine farm licence may be taken from the marine farm; and
- (d) any conditions or restrictions which the Authority considers necessary for or with respect to the control of diseases or pests in relation to the marine farming carried on under the marine farm licence.

(3) The holder of a marine farm licence who contravenes, or fails to comply with, any condition or restriction to which the marine farm licence is subject is guilty of an offence and is liable on summary conviction to a penalty not exceeding \$1 000 and in the case of a continuing offence, a further penalty not exceeding \$100 for each day during which the offence continues.

Duration of marine farm licences.

23I—A marine farm licence shall, subject to this Division, remain in force for a period of 12 months from the date of issue of the marine farm licence.

Renewal of marine farm licences.

23J—(1) The holder of a marine farm licence may, within the period of 28 days before the marine farm licence held by him ceases to be in force, apply to the Authority for the renewal of the marine farm licence.

(2) An application for renewal of a marine farm licence shall be in a form approved by the Authority and shall be accompanied by the relevant fee prescribed by regulations made under this Division.

(3) On receipt of an application made in accordance with subsections (1) and (2), the Authority may grant or refuse to grant to the applicant the renewal of the marine farm licence applied for.

(4) The Authority shall not grant to an applicant the renewal of the marine farm licence applied for if the applicant has ceased to be the holder of a lease or permit.

(5) Subject to this Act, where an application for renewal of a marine farm licence is made before the date on which the marine farm licence would, but for this subsection, have ceased to be in force (which day is, in this subsection, referred to as “the date of expiry”) and—



- (a) the renewal is granted before the date of expiry—on the grant of renewal, the marine farm licence shall be in force for a further period of 12 months commencing on the date of expiry; or
- (b) the renewal is not granted before the date of expiry and the application is not withdrawn before the date of expiry—
  - (i) the marine farm licence shall be deemed to continue in force on and from the date of expiry until the renewal is granted or the application is withdrawn, whichever first occurs; and
  - (ii) on the grant of the renewal, the marine farm licence shall be in force for the remaining portion of the period of 12 months commencing on the date of expiry, and the renewal shall be expressed to have taken effect on and from that date.

(6) Where an application for the renewal of a marine farm licence is refused by the Authority, the Authority shall, by notice in writing served on the applicant, inform him of the refusal and of the ground on which the refusal is based.

23K—(1) The holder of a marine farm licence may surrender the marine farm licence by delivering it to the Authority together with a notification in writing to the effect that the marine farm licence is being surrendered.

Surrender of marine farm licences.

(2) The Authority shall, on receipt of a marine farm licence and notification under subsection (1), cancel the licence.

23L—Where an application for a marine farm licence or for the renewal of a marine farm licence is refused or withdrawn, the Authority may refund to the applicant or the holder of the marine farm licence, or to any other person who appears to the Authority to be entitled to it, the fee which has been paid by the applicant or holder of the marine farm licence.

Refund of fees.

23M—(1) Where the holder of a marine farm licence is convicted of an offence under this Act or regulations made under this Division, the Authority may, subject to subsection (4), cancel or vary the marine farm licence.

Cancellation, variation, &c., of marine farm licences.

(2) On receipt of an application in a form approved by the Authority from the holder of a marine farm licence and on payment of the relevant fee prescribed by regulations made under this Division, the Authority may vary the marine farm licence in such manner as may be agreed with the holder of the marine farm licence.

(3) Where the Authority is satisfied that a condition or restriction to which a marine farm licence is subject has been contravened or has not been complied with, the Authority may, subject to subsection (4), vary the marine farm licence.

(4) The Authority shall not exercise its powers under subsections (1) and (3) in relation to a marine farm licence unless it has first afforded the holder of the marine farm licence an opportunity to make submissions to the Authority in relation to the matter.

(5) References in this section to the variation of a marine farm licence shall be read as including references to any alteration of the conditions or restrictions to which it is subject; and, without limiting the generality of the foregoing words, any such variation may be expressed to have effect only for a limited period or until the happening of a specified event, and, if so expressed, has effect accordingly.

(6) Where a marine farm licence has been cancelled or varied under subsection (1) or (3), the Authority shall, by notice in writing served on the holder of the marine farm licence, inform him of the cancellation or variation, and the cancellation or variation shall, subject to section 23N (5), take effect on such date as the Minister specifies, being a date not earlier than 14 days after the service of the notice on the holder of the marine farm licence.

Appeals in  
respect of  
marine farm  
licences.

23N—(1) A person aggrieved by—

- (a) the conditions or restrictions to which a marine farm licence issued to him is subject;
- (b) the refusal of the Authority to grant to that person an application for the renewal of a marine farm licence; or
- (c) the cancellation or variation of a marine farm licence held by him,

may appeal to a magistrate.

(2) An appeal under this section shall be instituted by giving written notice to the clerk of petty sessions in the municipality adjacent to the area to which a lease held by him relates or adjacent to the waters to which a permit held by him relates, as the case may be, and shall be accompanied by the relevant fee prescribed by regulations made under this Division.

(3) An appeal under this section shall be instituted within a period of 14 days after—

- (a) the receipt of a marine farm licence, in the case of an appeal against the conditions or restrictions to which the marine farm licence is subject;
- (b) the service of a notice under section 23J (6) in the case of an appeal against the refusal to grant an application for the renewal of a marine farm licence; and
- (c) the service of a notice under section 23M (6) in the case of an appeal against the cancellation or variation of a marine farm licence.

(4) At the hearing of an appeal under this section, the magistrate, unless he dismisses the appeal, may quash the decision of the Authority and direct the Authority to take such action as the magistrate considers necessary in the matter to which the appeal relates.

(5) Where an appeal is brought under this section in respect of the cancellation or variation of a marine farm licence, that cancellation or variation shall not have effect until the determination or abandonment of the appeal or until such later date as the magistrate may determine.

(6) The magistrate shall cause a copy of his decision in relation to an appeal under this section to be served on the parties to the appeal.

(7) The Authority shall comply with any directions given to it under subsection (4).

(8) The decision of a magistrate on the hearing of an appeal under this section is final.

(9) Subject to this section, an appeal shall be heard and determined as may be prescribed in regulations made under this Division.

Delivery of  
marine farm  
licences to  
Authority.

23O—(1) Where—

(a) a marine farm licence has been cancelled or varied under section 23M; or

(b) pursuant to section 23N (4), a magistrate directs the Authority to vary the conditions or restrictions to which a marine farm licence is subject, the Authority may, by notice in writing served on the holder of the marine farm licence, require that holder to deliver the marine farm licence to the Authority within the time specified in the notice.

(2) Where the Authority receives, pursuant to a notice served under subsection (1), a marine farm licence—

(a) which has been varied under section 23M; or

(b) in respect of which the Authority has been directed by a magistrate pursuant to section 23N (4) to vary the conditions or restrictions,

the Authority shall endorse on the marine farm licence a note of the variation and shall return the marine farm licence to the holder of the marine farm licence.

(3) The holder of a marine farm licence shall not, without reasonable excuse, fail to comply with a notice served on him under subsection (1).

Penalty: \$200.

(4) A reference in subsections (1) and (3) to a marine farm licence includes a marine farm licence that has been cancelled under this Division and, in relation to any marine farm licence that has been so cancelled, a reference in those subsections to the holder of a marine farm licence is a reference to the person whose marine farm licence was cancelled.

Transfer of  
leases, permits,  
and marine  
farm licences.

23P—(1) Any subsisting lease or permit may, with the consent of the Minister and on payment of the relevant fee prescribed in regulations made under this Division, be transferred for the remainder of the period of the lease or permit to a person approved by the Minister.

(2) A lease or permit transferred under subsection (1) shall continue to be subject to the conditions and restrictions to which it was subject immediately before the transfer.

(3) On the transfer of any lease or permit under this section, a marine farm licence authorizing the holder to carry on marine farming in respect of the area to which that lease relates or the

waters to which that permit relates may, with the consent of the Authority, be transferred for the remainder of the period of the marine farm licence to the person to whom that lease or permit is transferred.

(4) A marine farm licence transferred under subsection (3) shall continue to be subject to the conditions and restrictions to which it was subject immediately before the transfer.

23Q—(1) Where the holder of a lease or permit and a marine farm licence (in this subsection referred to as “the deceased”) dies, a person who is his personal representative may, by virtue of his appointment as a personal representative, occupy the sea bed comprised in the lease and the waters above that sea bed or the waters specified in the permit, as the case may be, and carry on marine farming in accordance with the marine farm licence held by the deceased for the period until—

Death of holder of lease or permit and marine farm licence.

- (a) the expiration of 6 months after the date of the death of the deceased;
- (b) his appointment as a personal representative is terminated; or
- (c) the distribution of the estate of the deceased is completed,

whichever first occurs.

(2) Where a personal representative occupies the area to which a lease relates or the waters to which a permit relates and carries on marine farming in accordance with a marine farm licence pursuant to subsection (1), the lease or permit and marine farm licence shall continue in force until the conclusion of the period during which he is authorized by that subsection to occupy the area or waters and carry on marine farming, and while the lease or permit, as the case may be, and the marine farm licence continue in force, the personal representative shall be deemed to be the holder of the lease or permit, as the case may be, and the holder of the marine farm licence.

23R—A person who makes an application under this Division which to his knowledge is false or misleading in a material respect is guilty of an offence and is liable on summary conviction to a penalty not exceeding \$200.

False or misleading statements in applications.

23s—(1) The holder of a permit shall—

- (a) maintain any raft or structure used in connection with a marine farm in the waters to which the

Raft, &c., to be marked and maintained, &c.

permit relates in a safe and seaworthy condition to the satisfaction of the marine board having jurisdiction in respect of those waters; and

- (b) mark the raft or structure in a manner approved by that marine board.

(2) Where the marine board referred to in subsection (1) is of the opinion that the holder of a permit has failed to maintain a raft in a safe and seaworthy condition or has failed to mark a raft or structure in a satisfactory manner, the marine board shall notify the Minister who may cause the raft or structure to be removed to such place as he determines.

(3) Any costs incurred by the Minister in causing a raft or structure to be removed pursuant to subsection (2) are recoverable from the holder of the permit in any court of competent jurisdiction as a debt due to the Crown.

Injury or  
damage to  
marine farms.

23T—(1) A person who wilfully and without lawful authority—

- (a) takes, removes, disturbs, or interferes with—

(i) fish being bred or reared, or marine plants being grown or harvested in the area to which a lease relates or the waters to which a permit relates; or

(ii) a raft, structure, or implement used by the holder of the marine farm licence in connection with the breeding or rearing of fish or the growing or harvesting of marine plants in that area or those waters;

- (b) dredges, digs, or drags that area or those waters with any implement; or

- (c) does any other act which causes damage to a marine farm established in that area or those waters,

is guilty of an offence and is liable on summary conviction to a penalty not exceeding \$500 or 6 months' imprisonment.

(2) A person who wilfully and without lawful authority—

- (a) deposits in the area to which a lease relates or the waters to which a permit relates any stone, ballast, rubbish, or deleterious matter; or

(b) uses in the area to which a lease relates or the waters to which a permit relates an explosive or toxic gas or a toxic, poisonous, or narcotic substance, is guilty of an offence and is liable on summary conviction to a penalty not exceeding \$500.

(3) Notwithstanding the provisions of subsections (1) and (2), in any proceedings for an offence under those subsections, it is a defence to establish that the act to which the proceedings relate was caused by a person acting with the sole object of saving his life or that of some other person or of saving his ship or boat or the ship or boat of some other person.

23u—A person who, without lawful authority, wilfully removes, destroys, damages, or interferes with— Removal, &c. of beacons.

- (a) a beacon, buoy, or mark which is used to indicate the boundary of an area to which a lease relates or the waters to which a permit relates;
  - (b) a light provided in respect of any such beacon, buoy, or mark; or
  - (c) a beacon, signal, or light that is attached to a raft or structure used in connection with a marine farm,
- is guilty of an offence and is liable on summary conviction to a penalty not exceeding \$500.

23v—A person who, without lawful authority, obstructs, hinders, or prevents the holder of a marine farm licence or a person employed by him or acting under his authority from conducting marine farming in the area to which a lease relates or the waters to which a permit relates is guilty of an offence and is liable on summary conviction to a penalty not exceeding \$500. Obstructing holder of marine farm licence from conducting marine farming.

23w—(1) A person authorized in writing by the Authority for the purpose may at any reasonable time enter and remain on a marine farm for the purpose of— Entry on, inspection, &c., of, marine farms.

- (a) ensuring that the provisions of this Division are being complied with; and
- (b) ensuring that the conditions and restrictions to which a lease, permit, or marine farm licence is subject are being complied with.

(2) Where a person referred to in subsection (1) enters a marine farm he may—

- (a) make such inspections, examinations, and inquiries as he thinks necessary for the purposes referred to in that subsection; and
- (b) examine, with respect to marine farming conducted on that marine farm, any person apparently employed on the marine farm.

(3) Any person who—

- (a) without reasonable excuse, fails or refuses to answer a question put by a person referred to in subsection (1) during the course of an examination under subsection (2); or
- (b) gives an answer to such a question which, to his knowledge, is false or misleading in a material particular,

is guilty of an offence and liable on summary conviction to a penalty not exceeding \$300.

(4) Where in or on any marine farm a person referred to in subsection (1) is about to exercise, or is in the course of exercising, a power conferred on him by this section, and a person apparently in charge of the marine farm, or of any work or activity carried on there, requests him to produce his authorization to enter marine farms, it is not lawful for him to exercise or, as the case may be, to continue to exercise that power unless he produces his written authorization from the Authority to enter marine farms.

23x—(1) The Authority or a person authorized in writing by the Authority for the purpose may—

- (a) conduct such inquiries and investigations in relation to marine farming or a marine farm, as it or he considers necessary; and
- (b) in pursuance of an inquiry or investigation referred to in paragraph (a), require from any person such information, relating to marine farming, as it or he considers necessary.



(2) Any person who—

(a) without reasonable excuse, fails or refuses to provide the Authority or a person referred to in subsection (1) with information, or to answer a question put by the Authority or such a person, when he is requested to do so by the Authority or such a person in pursuance of an inquiry or investigation conducted under this section; or

(b) in the course of such an inquiry or investigation—

(i) provides the Authority or the person conducting the inquiry or investigation with information; or

(ii) gives an answer to a question put by the Authority or the person conducting the inquiry or investigation,

which, to his knowledge, is false or misleading in a material particular,

is guilty of an offence and is liable on summary conviction to a penalty not exceeding \$300.

23Y—(1) If at any time the Minister is satisfied, on reasonable grounds, that the whole or any part of a marine farm is diseased or infected by marine pests to such an extent that the farming of fish or marine plants in the marine farm or in any other area is likely to be prejudiced, he may, by notice in writing to the holder of the marine farm licence, declare the marine farm to be diseased or infected by marine pests and order that no fish or marine plants be removed from the marine farm while the notice remains in force or that fish may be removed from the marine farm only under such conditions as he may specify in the notice. Closing orders.

(2) An order under subsection (1) may require the holder of the marine farm licence to take specified steps for—

(a) the treatment of fish or marine plants in the marine farm;

(b) the eradication from the marine farm of the disease or pests specified in the notice; or

(c) the destruction of fish or marine plants in the marine farm.

(3) The Minister may, by a like notice, rescind wholly or in part any order given pursuant to this section, or he may vary any such notice.

(4) The holder of a marine farm licence shall not, without reasonable excuse, fail to comply with a notice served on him under subsection (1).

Penalty: \$1 000.

Service of  
documents, &c.

23z—(1) Where under this Division a document or notice is required to be served on a person, the document or notice may be served—

(a) in the case of a person who is neither a body corporate nor a firm—

- (i) by delivering it to him personally;
- (ii) by leaving it at that person's place of residence last known to the person required to serve the document or notice with someone who apparently resides there, or at that person's place of business or employment last known to the person required to serve the document or notice with someone who is apparently employed there, being in either case a person who has or apparently has attained the age of 16 years; or
- (iii) by sending it by post to that person's place of residence, business, or employment last known to the person required to serve the document or notice;

(b) in the case of a body corporate—

- (i) by delivering it to the secretary of the body corporate personally;
- (ii) by leaving it at the registered office of the body corporate or at the place or principal place of business of the body corporate in Tasmania with a person apparently employed there, being a person who has or apparently has attained the age of 16 years; or

(iii) by sending it by post to the registered office of the body corporate or to the place or principal place of business of the body corporate; or

(c) in the case of a firm—

(i) by delivering it to a member of the firm personally;

(ii) by leaving it at the place or principal place of business of the firm in Tasmania last known to the person required to serve the document or notice with a person apparently employed there, being a person who has or apparently has attained the age of 16 years; or

(iii) by sending it by post to the place or principal place of business of the firm in Tasmania last known to the person required to serve the document or notice.

(2) Notwithstanding subsection (1), a document or notice referred to in that subsection may be served by affixing it in a conspicuous position to a structure or raft that is used in connection with marine farming carried on in accordance with a marine farm licence by the person on whom the document or notice is intended to be served.

(3) A reference in subsection (1) to the registered office of a body corporate includes a reference to a registered office that is outside Tasmania.

(4) The provisions of this section are in addition to the provisions of section 528 of the *Companies (Tasmania) Code*.

23ZA—(1) The Governor may make regulations for the purposes of this Division. **Regulations.**

(2) Without limiting subsection (1), the regulations may be made for all or any of the following purposes:—

(a) providing for the form of leases, permits, and marine farm licences;

(b) providing for the management and control of marine farms;

- (c) regulating the stocking of marine farms with fish or marine plants, as the case may require;
- (d) regulating the removal of fish bred or reared, or marine plants grown or harvested, in marine farms;
- (e) providing for the Authority to prescribe steps to be taken by the holders of marine farm licences to keep marine farms free from disease, infection by marine pests, and contamination by sewage or other cause;
- (f) regulating the removal and disposal of waste matter from marine farms;
- (g) requiring holders of marine farm licences to keep records of fish bred or reared, or marine plants grown or harvested, in marine farms and of any such fish or plants sold or marketed, and authorizing an authorized officer of the Authority to inspect such records;
- (h) providing for the marking of the area to which a lease relates and the waters to which a permit relates;
- (i) prescribing the requirements relating to structures and rafts used in connection with marine farms;
- (j) prescribing the fees payable in respect of the issue of leases, permits, and marine farm licences and the renewal or variation of leases, permits, and marine farm licences;
- (k) prescribing the cases in which, and the conditions upon which, duplicates of marine farm licences may be issued and the fees payable in respect of the issue of those duplicates;
- (l) providing for such other matters as may be necessary or convenient for carrying out or giving effect to this Division.

(3) Regulations under this section may be made subject to such conditions, or be made to apply differently according to such factors, as may be specified in the regulations or according to such limitations or restrictions, whether as to time or circumstance or otherwise, as may be so specified.

(4) Regulations under this section may provide that it is an offence, punishable on summary conviction, for a person to contravene or fail to comply with any of the regulations and may provide in respect of any such offence for the imposition of a penalty not exceeding \$500 and where the offence is a continuing one, further penalties not exceeding \$50 for each day during which the offence continues.

(5) A regulation under this section may authorize any matter or thing to be from time to time determined, applied, or regulated by any person or body specified in the regulation.

**6**—(1) A lease issued under section 12 or 13 of the Principal Act (as in force immediately before the day fixed by proclamation under section 2 (2) and in force immediately before that day shall be deemed to have been granted as a lease under section 19 of the Principal Act (as in force on and after that day) for the remainder of the period for which it was issued under section 12 or 13 of the Principal Act. Savings, &c.

(2) The Authority shall, as soon as practicable after the day fixed by proclamation under section 2 (2), issue to the holder of a lease referred to in subsection (1) a marine farm licence referred to in section 23E of the Principal Act (as inserted by this Act).

(3) The holder of a lease referred to in subsection (1) is, by virtue of this subsection, authorized to carry on marine farming from the day fixed by proclamation under section 2 (2) until the Authority issues to him a marine farm licence pursuant to subsection (2).

(4) Every application for a lease under Division 3 of Part II of the Principal Act (as in force immediately before the day fixed by proclamation under section 2 (2)) which is pending on that day shall be dealt with as if this Act had not been enacted, but any lease or permit granted pursuant to the application shall have effect as if it had been granted under Division 3 of Part II of the Principal Act as in force on and after that day.

**7**—Subsection (2) of section 12 of the Principal Act (as inserted by this Act) shall expire on the date referred to in section 2 (2) of the *Fisheries Amendment (Commonwealth-State Arrangements) Act 1981*. Expiry of section 12 (2) of Principal Act.

