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## GOVERNMENT NOTICES • GOEWERMENTSKENNISGEWINGS

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### DEPARTMENT OF FORESTRY, FISHERIES AND THE ENVIRONMENT

NO. 4098

17 November 2023

#### PUBLICATION OF THE DRAFT AQUACULTURE DEVELOPMENT BILL FOR PUBLIC COMMENT

I, Barbara Dallas Creecy, Minister of Forestry, Fisheries and the Environment, hereby publish the Draft Aquaculture Development Bill for public comment.

The Department is the lead department responsible for the development and management of the aquaculture sector. The Aquaculture Development Bill will provide for a dedicated legal framework for management and sustainable development of the aquaculture sector in an integrated manner. The Bill will provide a legislative framework that covers both marine and freshwater aquaculture sectors. The Bill aims to promote the development of the sector to ensure meaningful contribution to the country's priorities such as food and nutrition security, economic growth and job creation while addressing the historical imbalances in accessing aquaculture opportunities. The new legislation will streamline the current fragmented regulatory framework, authorisations regime, and provide an enabling environment that contributes to management of the sector in a coordinated manner.

As part of its textual development, the Department undertook an extensive consultation process with the industry's stakeholders and its governmental partners. After sharing the draft Bill during this process, and obtaining inputs from the stakeholders, the Department incorporated those inputs and presented the draft Bill to Cabinet for approval. Cabinet approved the draft Bill for publication for public comment on 13 September 2023.

The primary purposes of the draft Bill are to:

- ☐ promote responsible aquaculture development and the responsible development and management of an aquaculture sector;
- ☐ promote coordination of aquaculture research and development activities;
- ☐ ensure efficient and effective regulation of the aquaculture sector;
- ☐ promote transformation of the aquaculture sector;
- ☐ promote investment into the aquaculture sector;
- ☐ promote aquaculture as a farming activity; and
- ☐ make provision for appropriate support services.

Broadly, the Bill seeks to create a more enabling business environment for the industry in order to stimulate sector growth and development, boost investor confidence, and ultimately job creation. The Bill contains various mechanisms that will enable government to facilitate growth in the sector and regulatory efficiency, such as the creation of the Intergovernmental

Authorisations Committee and provincial structures to assist the sector's business and facilitate growth.

The Socio-Economic Impact Assessment for the Bill has been approved by the Presidency and attached to the Bill in the schedule to this notice. The assessment is also available for download from the Department's website at [www.dffe.gov.za](http://www.dffe.gov.za).

The public is invited to submit written representations on the draft Bill within 60 (sixty) calendar days from the date of the publication of this notice in the *Gazette* or from the date of the corresponding newspaper advert, whichever is the later date. Written representations received after this time may not be considered. All representations and comments must be submitted as follows:

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**BARBARA DALLAS CREECY**  
**MINISTER OF FORESTRY, FISHERIES AND THE ENVIRONMENT**

**REPUBLIC OF SOUTH AFRICA**

**AQUACULTURE DEVELOPMENT BILL**

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*(As introduced in the National Assembly (proposed section 76); explanatory  
summary of Bill published in Government Gazette No. XXXXX)  
(The English text is the official text of the Bill.)*

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**(MINISTER OF FORESTRY, FISHERIES AND THE ENVIRONMENT)**

**[B -2023]**

## **BILL**

**To establish an intergovernmental authorisations committee; to provide for the establishment of a national aquaculture intergovernmental forum; to provide for the establishment of provincial aquaculture intergovernmental forums; to provide for the establishment of the national aquaculture sector liaison forum; to provide for the appointment of aquaculture extension officers; to provide for the appointment of specialists on contract; to provide for the recognition of aquaculture sector associations; to provide for the establishment of a national reference laboratory capacity for aquatic animal diseases; to provide for a national reference laboratory capacity for aquaculture food safety; to provide for the adoption and content of national and provincial aquaculture development strategies; to provide for the establishment of aquaculture development zones; to provide for the establishment of national and provincial aquaculture information systems; to provide for the application, transfer, amendment, renewal and cancellation of aquaculture licences and permits; to provide for a regulatory registration system; to provide for integrated aquaculture authorisations; to prohibit the import, export and movement of aquaculture organisms and products without permits; to provide for the setting of water quality objectives and standards for aquaculture; to provide for the protection of the aquatic environment; to provide for the development of a national aquatic animal health and welfare programme; to provide for the safety and quality of aquatic organisms and products; to provide for the transformation of the aquaculture sector; to provide for the designation of aquaculture inspectors; to provide for the powers and functions of**

aquaculture inspectors; to provide for offences and penalties; to provide for appeals; to provide for ownership of aquaculture organisms and products; to provide for delegation; to provide for the making of regulations; to provide for savings, repeal and amendment of legislation; to provide for transitional arrangements; to limit state liability; and to provide for matters connected therewith.

## PREAMBLE

**WHEREAS** aquaculture has the potential to contribute to food security, equity, job creation and economic development and to create export opportunities for South African businesses;

**AND WHEREAS** appropriate legislation, institutions, and coordination between organs of state is required to ensure responsible aquaculture development and the establishment of a sustainable and responsible aquaculture sector;

**AND WHEREAS** section 27(1)(b) of the Constitution provides that everyone has the right to have access to sufficient food and water and section 27(2) of the Constitution requires the State to take reasonable legislative measures to achieve the progressive realisation of this right;

**AND WHEREAS** section 24(b) of the Constitution provides that everyone has the right to have the environment protected, for the benefit of present and future generations, through reasonable legislative and other measures that prevent pollution and ecological degradation, promote conservation and secure ecologically

sustainable development and use of natural resources while promoting justifiable economic and social development,

**BE IT THEREFORE ENACTED** by the Parliament of the Republic of South Africa, as follows—

## **ARRANGEMENT OF SECTIONS**

### **CHAPTER 1**

#### **INTERPRETATION, OBJECTS, APPLICATION AND CONFLICT WITH OTHER LAWS**

1. Definitions
2. Objects of Act
3. Application of Act
4. Conflicts with other laws

### **CHAPTER 2**

#### **INSTITUTIONAL ARRANGEMENTS**

5. Establishment of Intergovernmental Authorisations Committee
6. National Aquaculture Intergovernmental Forum
7. Provincial Aquaculture Intergovernmental Forum
8. National Aquaculture Stakeholder Liaison Forum
9. Aquaculture Extension Officers
10. Appointment of specialists on contract

11. Recognition of Aquaculture Sector Associations
12. Establishment of National Reference Laboratory for aquatic animal diseases
13. Establishment of National Reference Laboratory for aquaculture food safety

### **CHAPTER 3**

#### **AQUACULTURE PLANNING**

14. National Aquaculture Development Strategy
15. Contents of National Aquaculture Development Strategy
16. Provincial aquaculture development strategy
17. Contents of provincial aquaculture development strategy
18. Alignment of integrated development plan with aquaculture development strategies
19. Aquaculture Development Zones

### **CHAPTER 4**

#### **AQUACULTURE INFORMATION SYSTEM**

20. Establishment of national aquaculture information system
21. Provision of and access to information

### **CHAPTER 5**

#### **AQUACULTURE LICENCES, AQUACULTURE PERMITS AND REGISTRATION**

- 22. Issuing authority
- 23. Aquaculture licence, aquaculture permit and registration
- 24. Application for aquaculture licence
- 25. Considerations relevant to decisions on aquaculture licence application
- 26. Decision on application for aquaculture licence
- 27. Validity period of aquaculture licence
- 28. General provisions relating to aquaculture licences
- 29. Application for aquaculture permit
- 30. Decision on application for aquaculture permit
- 31. Fit and proper person
- 32. Transfer of aquaculture licence, aquaculture permit and seizure of registration
- 33. Amendment, cancellation and suspension of aquaculture licence, aquaculture permit or registration
- 34. Integrated aquaculture authorisations
- 35. Cessation of aquaculture

## **CHAPTER 6**

### **MAINTAINING ENVIRONMENTAL INTEGRITY**

- 36. Protection of aquatic environment
- 37. Reporting of release or escape of live aquaculture organisms



## **CHAPTER 7**

### **HEALTH, WELFARE, SAFETY AND QUALITY OF AQUATIC ORGANISMS AND PRODUCTS**

- 38. Importation procedure
- 39. Movement of aquaculture organisms and products
- 40. Animal welfare
- 41. Power to outline roles and responsibilities for animal health
- 42. National aquatic animal health and welfare programme
- 43. Notifiable pathogens and pests
- 44. Contingency measures for notifiable diseases
- 45. Aquaculture disease zones
- 46. Quarantine areas
- 47. Compensation for destruction of aquaculture organisms
- 48. Use of aquaculture veterinary medicine and feeds
- 49. Provision of veterinary services to aquaculture licence holders
- 50. Power to outline roles and responsibilities for food safety and traceability
- 51. Aquaculture food quality and safety monitoring programmes
- 52. Certification system of aquaculture products

## **CHAPTER 8**

### **TRANSFORMATION AND SOCIAL RESPONSIBILITY**

- 53. Transformation of aquaculture sector
- 54. Compliance with Broad-Based Black Economic Empowerment
- 55. Fair labour practices

## **CHAPTER 9**

### **COMPLIANCE AND ENFORCEMENT**

- 56. Designation of aquaculture inspectors
- 57. Proof of designation
- 58. Functions of aquaculture inspectors
- 59. Inspection powers of aquaculture inspectors
- 60. Criminal investigation powers of aquaculture inspectors
- 61. Disposal of aquaculture products and seized items
- 62. Disposal of perishables
- 63. Power to issue directives
- 64. Failure to comply with directive
- 65. Offences
- 66. Penalties
- 67. Identification of administrative penalty
- 68. Procedure to impose administrative penalty

## **CHAPTER 10**

### **GENERAL AND TRANSITIONAL PROVISIONS**

- 69. Honourary Aquaculture Officers
- 70. Norms and standards
- 71. Appeals
- 72. Exemptions
- 73. Delegation by Minister

- 74. Regulations
- 75. Procedure for making regulations and publication of notices
- 76. Savings, repeal and amendment of legislation
- 77. Transitional arrangements
- 78. State liability
- 79. Short title and commencement

## CHAPTER 1

### INTERPRETATION, OBJECTS, APPLICATION AND CONFLICT WITH OTHER LAWS

#### Definitions

1. (1) In this Act, unless the context indicates otherwise—
- “aquaculture”** means the farming of aquatic organisms, including crocodiles, in a controlled aquatic environment including marine, brackish or freshwater involving—
- (a) a degree of human intervention in the rearing process to enhance production which include propagation, breeding, regular stocking, feeding, protection from predators and harvesting of cultured aquatic organisms; and
  - (b) individual or corporate ownership of the stock being farmed,
- and includes ranching and stock enhancement;
- “aquaculture activity”** means—
- (a) engaging in aquaculture, including the holding of broodstock and operating a hatchery;
  - (b) the operation of an aquaculture processing facility;
  - (c) the transportation of live aquaculture organisms between aquaculture disease zones or catchments in which aquaculture occurs;
  - (d) the collection of broodstock for aquaculture;
  - (e) the import of aquaculture products;
  - (f) the import of aquaculture feed for use in aquaculture;
  - (g) the export of aquaculture products;
  - (h) seeding and harvesting for ranching purposes; and
  - (i) any other activity which may be prescribed.

“**aquaculture development zone**” means an area declared for dedicated aquaculture use in terms of section 19;

“**aquaculture disease zone**” means an area containing an aquatic animal population with a specific aquatic animal health status with respect to a disease, in which surveillance and control measures and basic biosecurity conditions are applied;

“**aquaculture facility**” means a 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 food**” means any aquaculture product which is used or intended to be used for human consumption;

“**aquaculture inspector**” means a person designated by the Minister in terms of section 56;

“**aquaculture licence**” means a licence issued in terms of section 26;

“**aquaculture organism**” means any aquatic organism in, or taken from, an aquaculture facility and which is intended for use in the undertaking of an aquaculture activity, and includes any part or product thereof;

“**aquaculture permit**” means a permit issued in terms of section 29;

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

“**aquaculture research**” means a practical, systematic and scientific investigation into the field of aquaculture for the advancement of existing information, to ascertain facts, seek solutions and benefit society as a whole where that investigation is not

authorised as part of an aquaculture permit or by registration in terms of this Act;

**“aquaculture research facility”** means an institution dedicated to the undertaking of aquaculture research and excludes an aquaculture facility;

**“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;

**“aquatic organism”** means any animal, including a crocodile, including its eggs and gametes, any plant or other living matter that lives wholly or predominantly in water for all or part of its lifecycle, but excludes mammals, birds and any other organism as may be prescribed;

**“coastal public property”** has the meaning assigned to it in the Integrated Coastal Management Act;

**“catchment”** in relation to a watercourse or part of a watercourse, means the area from which rainfall will drain into the watercourse or part of a watercourse through surface flow to a common point or common points;

**“commercial aquaculture”** means aquaculture that is undertaken with the primary purpose of making a profit;

**“Criminal Procedure Act”** means the Criminal Procedure Act, 1977 (Act No. 51 of 1977);

**“Department”** means the national department responsible for aquaculture;

**“Director-General”** means the Director-General of the Department;

**“escape”** means the 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;

**“Fertilizers Act”** means the Fertilizers, Farm Feeds, Agricultural Remedies and

Stock Remedies Act, 1947 (Act No. 36 of 1947);

**“fixed administrative penalty”** means a penalty prescribed in terms of section 67;

**“hatchery”** means a facility for the artificial and controlled breeding, hatching and rearing of aquatic organisms;

**“historically disadvantaged individual”** means a person who—

- (a) is a black person for the purposes of the Broad-Based Black Economic Empowerment Act, 2003 (Act No. 53 of 2003);
- (b) is female; or
- (c) has a disability;

**“Integrated Coastal Management Act”** means the National Environmental Management: Integrated Coastal Management Act, 2008 (Act No. 24 of 2008);

**“Marine Living Resources Act”** means the Marine Living Resources Act, 1998 (Act No. 18 of 1998);

**“MEC”** means the Member of the Executive Council of a province to whom the Premier has assigned responsibility for aquaculture;

**“Medicines Act”** means the Medicines and Related Substances Control Act, 1965 (Act No. 101 of 1965);

**“Minister”** means the Minister responsible for aquaculture;

**“OIE-listed”** in relation to agents pathogenic to aquatic animals, means a disease or pathogen listed in the World Organisation for Animal Health’s OIE 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;

**“organ of state”** means an organ of state as defined in section 239 of the Constitution of the Republic of South Africa, 1996;

**“pilot scale aquaculture”** means a preliminary study conducted in order to evaluate

the feasibility of a new aquaculture activity which may include a new species or technology;

**“prescribe”** means to prescribe by regulation or notice;

**“provincial aquaculture development strategy”** means a strategy adopted in terms of section 16;

**“quarantine”** means quarantine as defined in the Animal Diseases Act, 1984 (Act No. 35 of 1984);

**“ranching”** means the intentional release of a live aquaculture organism into an aquatic environment (marine, brackish or freshwater) which is not controlled or confined, with the intention of harvesting them for sale by the ranching licence-holder;

**“recreational aquaculture”** means aquaculture for recreational, own consumption or ornamental purposes;

**“responsible aquaculture development”** means aquaculture development that aims to—

- (a) promote the entry and participation of historically disadvantaged individuals and local communities in the aquaculture sector;
- (b) promote sound labour practices;
- (c) avoid significant adverse environmental impacts, or where these cannot be avoided, mitigate such impacts;
- (d) promote equitable access to coastal public property, state land, water and other aquaculture resources;
- (e) promote the health and welfare of aquaculture animals during husbandry, harvesting and transportation, including good practice regarding the types of substances, feeds and drugs used in aquaculture; and
- (f) ensure the safety and quality of aquaculture products;



**“small-scale aquaculture”** means an aquaculture activity whose primary purpose is to contribute to sustainable livelihoods through income generation that may include profit-making in which the operator invests operational assets in terms of time, labour, infrastructure and capital;

**“South African waters”** means—

- (a) the South African internal waters, territorial waters, exclusive economic zone and continental shelf as described in the Maritime Zones Act, 1994 (Act No. 15 of 1994); and
- (b) the Prince Edward Islands referred to in the Prince Edward Islands Act, 1948 (Act No. 43 of 1948);

**“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 species, above its current natural levels;

**“subsistence aquaculture”** means aquaculture that is undertaken by a person with the primary purpose of providing food for that person and their family and contributing to their livelihood by producing aquaculture products for sale or barter but not for profit-making;

**“this Act”** includes a regulation or notice made or issued under this Act; and

**“veterinarian”** has the meaning assigned to it in the Veterinary and Para-Veterinary Professions Act, 1982 (Act No. 19 of 1982).

## **Objects of Act**

2. The objects of this Act are to—
- (a) promote responsible aquaculture development and the responsible development and management of an aquaculture sector that—
    - (i) is diverse in terms of species, scale, technology and methodology employed in production;
    - (ii) enhances food security and sovereignty in the Republic;
    - (iii) promotes the farming of indigenous aquatic organisms as far as is reasonably practicable, particularly for subsistence aquaculture and small-scale aquaculture;
    - (iv) contributes to the production of aquaculture products that are safe for human consumption;
    - (v) contributes to the management and control of diseases that have an impact on aquatic organisms;
    - (vi) contributes to income generation and sustainable livelihoods;
    - (vii) is domestically and internationally commercially competitive; and
    - (viii) is ecologically, socially and economically sustainable;
  - (b) promote coordination of aquaculture research and development activities;
  - (c) ensure efficient and effective regulation of the aquaculture sector;
  - (d) promote transformation of the aquaculture sector;
  - (e) promote investment into the aquaculture sector;
  - (f) promote aquaculture as a farming activity; and
  - (g) make provision for appropriate support services.

## **Application of Act**

3. (1) This Act applies to the Republic, including freshwater, brackish waters and South African waters.

(2) This Act binds all organs of State.

## **Conflict with other Acts**

4. In the event of a conflict between a provision of this Act and any other law, the provisions of this Act prevail insofar as the conflict concerns aquaculture.

## **CHAPTER 2**

### **INSTITUTIONAL ARRANGEMENTS**

#### **Establishment of Intergovernmental Authorisations Committee**

5. (1) The Intergovernmental Authorisations Committee is hereby established to—

- (a) promote a streamlined approach to the processing of aquaculture applications and the licensing of aquaculture activities; and
- (b) facilitate the development of, and to the extent possible, fast-track the implementation of integrated, efficient and effective processes for obtaining the authorisations necessary under the applicable law in order to carry out aquaculture activities.

(2) The Intergovernmental Authorisations Committee must—

- (a) develop and facilitate the implementation of an intergovernmental agreement and protocol on the integration of the authorisations process for aquaculture; and
- (b) facilitate ongoing high-level discussion and cooperation between national, provincial and municipal organs of state, as well as traditional authorities where applicable, in relation to the promotion and regulation of aquaculture.

(3) The Intergovernmental Authorisations Committee is composed of the nominated officials from any organ of state responsible for granting any authorisation necessary to carry out an aquaculture activity.

(4) The Department is responsible for convening and chairing meetings of, and providing secretarial services to, the Intergovernmental Authorisations Committee.

(5) The Minister may appoint one or more advisors to provide specialist advice to the Intergovernmental Authorisations Committee.

### **National Aquaculture Intergovernmental Forum**

6. (1) The Minister may, by notice in the *Gazette*, establish a National Aquaculture Intergovernmental Forum to promote the coordination of aquaculture development and management in the Republic.

(2) The Minister may, by notice in the *Gazette*, appoint members of the National Aquaculture Intergovernmental Forum, who may include—

- (a) representatives of the Department;
- (b) a representative of each national government department that is responsible for administering matters that affect aquaculture development; and

(c) a representative of each Provincial Aquaculture Intergovernmental Forum.

(3) The National Aquaculture Intergovernmental Forum, or in the event that the National Aquaculture Intergovernmental Forum has not been established , the Minister, must—

(a) facilitate and monitor the implementation of the National Aquaculture Development Strategy and ensure its alignment with domestic and international best practice, guidelines and requirements;

(b) ensure that the National Aquaculture Development Strategy is integrated into planning instruments and frameworks administered by each organ of state represented in the National Aquaculture Intergovernmental Forum; and

(c) ensure effective management of national government programmes aimed at the development of the aquaculture sector by—

(i) facilitating joint planning and implementation of aquaculture infrastructure, projects, aquaculture development zones, parks and special economic zones for aquaculture;

(ii) coordinating and facilitating the provision of support services and other resources, monitoring, evaluation and oversight in respect of those programmes; and

(iii) facilitating access to international markets.

### **Provincial Aquaculture Intergovernmental Forums**

7. (1) The MEC may, by notice in the *Provincial Gazette*, establish a Provincial Aquaculture Intergovernmental Forum to promote responsible aquaculture development in the province.

(2) The MEC may, by notice in the *Provincial Gazette*, appoint members to a Provincial Aquaculture Intergovernmental Forum who—

- (a) must include a representative of the Department; and
- (b) may include representatives of provincial and local organs of state responsible for administering matters that affect aquaculture development in the province.

(3) The Provincial Aquaculture Intergovernmental Forum, or in the event that a Provincial Aquaculture Intergovernmental Forum has not been established, the MEC must—

- (a) facilitate and monitor the alignment of the provincial aquaculture development strategy with the National Aquaculture Development Strategy;
- (b) ensure effective management of provincial government programmes aimed at the development of the aquaculture sector in the province by aligning them with national programmes;
- (c) facilitate joint planning, coordination, the provision of support services and other resources, monitoring, evaluation and oversight of the provincial government programmes; and
- (d) facilitate and monitor the implementation of the provincial aquaculture development strategy.

### **National and Provincial Aquaculture Stakeholder Liaison Forum**

8. (1) The Minister, or the MEC in the case of a province, may, by

notice in the *Gazette* or *Provincial Gazette*, establish a National Aquaculture Stakeholder Liaison Forum or a Provincial Aquaculture Stakeholder Liaison Forum and may determine its composition.

(2) The purpose of the National Aquaculture Stakeholder Liaison Forum is to promote and maintain liaison and communication between the Department and participants in the aquaculture sector regarding the management and development of the aquaculture sector, including—

- (a) the promotion of partnerships between government and private sector participants in the aquaculture sector; and
- (b) the regulation of aquaculture.

(3) A Provincial Aquaculture Stakeholder Liaison Forum has the purpose referred to in subsection (2) but must carry out that purpose within the relevant province in collaboration with the provincial department responsible for agriculture.

(4) National Aquaculture Stakeholder Liaison Forum and a Provincial Aquaculture Stakeholder Liaison Forum may include representatives of the sector industry, as well as labour and civil society organisations.

### **Aquaculture Extension Officers**

9. The Minister, or the MEC in the case of a province, may, in accordance with the provisions of the Public Service Act, 1994 (Proclamation No. 103 of 1994), appoint suitably qualified persons as Aquaculture Extension Officers to provide advisory and support services to the aquaculture sector.

### **Appointment of specialists on contract**

**10.** (1) The Minister may appoint specialists, who are not in the full-time employment of the State, on contract outside the provisions of the Public Service Act, 1994, when this is necessary to carry out any functions in support of the objects of this Act.

(2) The Minister must, after consultation with the Minister responsible for Public Service and Administration, determine the conditions of appointment of the specialists.

(3) A specialist appointed in terms of this section must have the appropriate qualification and experience to carry out their contracted functions.

### **Recognition of aquaculture sector associations**

**11.** (1) An aquaculture sector association that wishes to be recognised by the Department must apply to the Minister in the prescribed manner.

(2) The Minister may approve an application for recognition if the aquaculture sector association—

- (a) is representative of a specific body or group which has an interest within the aquaculture sector;
- (b) has a policy that promotes the inclusion of all relevant parties as members; and
- (c) promotes aquaculture development.

(3) The Minister may collaborate with, and enter into an agreement with,



an aquaculture sector association to facilitate the promotion of responsible aquaculture development and related matters.

### **Establishment of national reference laboratory for aquatic organism diseases**

**12.** (1) The Minister may, after consultation with the Minister responsible for agriculture, establish, or designate an existing laboratory, as a national reference laboratory for aquatic organism diseases.

(2) The purpose of the national reference laboratory for aquatic organism diseases is to provide a reference laboratory service to the aquaculture sector by—

- (a) developing expertise for diagnostics in aquatic organism health;
- (b) standardising diagnostic techniques and validating results from other laboratories;
- (c) providing internationally acceptable results for certification of imports and exports of aquaculture products;
- (d) providing assistance and expert advice on aquatic organism disease surveillance and control;
- (e) coordinating and undertaking research in the field of aquatic animal diseases; and
- (f) providing technical training on aquatic organism health matters to both the private and public sectors.

### **Establishment of national reference laboratory for aquaculture food safety**

**13.** (1) The Minister may, after consultation with the Ministers responsible for health, trade and agriculture, establish or designate an existing

laboratory as a national reference laboratory for aquaculture food safety.

(2) The purpose of the national reference laboratory for aquaculture food safety is to provide a reference laboratory service to the aquaculture sector by—

- (a) developing expertise in the testing of hazardous substances and pathogenic organisms that may contaminate aquaculture food;
- (b) standardising diagnostic techniques and validating results from other laboratories;
- (c) coordinating and undertaking research in the field of testing of hazardous substances and pathogenic organisms that may contaminate aquaculture food;
- (d) coordinating the activities of official laboratories responsible for the analysis of aquaculture food product samples;
- (e) conducting comparative tests, where appropriate, between the national laboratories and ensuring an appropriate follow-up of such comparative testing; and
- (f) providing scientific and technical assistance for the implementation of coordinated control plans.

### **CHAPTER 3**

### **AQUACULTURE PLANNING**

#### **National Aquaculture Development Strategy**

**14.** The Minister—

- (a) must, within two years of the commencement of this Act, develop and adopt the National Aquaculture Development Strategy to achieve the objects of this Act; and

- (v) may review and amend the strategy.

### **Contents of National Aquaculture Development Strategy**

- 15.** (1) The National Aquaculture Development Strategy must—
- (a) be informed by best-practice standards and international agreements to which the Republic is a party; and
  - (b) provide for an integrated and coordinated approach to the development and management of the aquaculture sector by organs of state, non-governmental organisations, the private sector and local communities.
- (2) The National Aquaculture Development Strategy must include—
- (a) the national vision for the development of the aquaculture sector in the Republic;
  - (b) goals for realising the national vision;
  - (c) an action plan for achieving the goals;
  - (d) a framework for cooperative governance in the development of the aquaculture sector that—
    - (i) identifies the responsibilities of different organs of state including their responsibilities in relation to historically disadvantaged individuals and communities; and
    - (ii) facilitates coordinated and integrated regulation of aquaculture; and
  - (e) any other matter that is necessary to achieve the objects of this Act.

### **Provincial aquaculture development strategy**

- 16.** (1) The MEC—
- (a) must, within two years after the adoption of the National Aquaculture Development Strategy, and after consultation with the Minister, develop and adopt a provincial aquaculture development strategy for the province; and
  - (b) may review and amend the strategy.
- (2) The provincial aquaculture development strategy may form part of a provincial development plan, programme or strategy.

### **Contents of provincial aquaculture development strategy**

- 17.** (1) A provincial aquaculture development strategy must—
- (a) be informed by the provincial policy on the development of the aquaculture sector in the province;
  - (b) provide for an integrated, coordinated and uniform approach to the development and management of the aquaculture sector in the province; and
  - (c) be consistent with the National Aquaculture Development Strategy.
- (2) A provincial aquaculture development strategy must include—
- (a) a vision for the development of the aquaculture sector in the province, including the sustainable use of natural resources;
  - (b) goals for realising the vision the province; and
  - (c) an action plan for achieving the goals of the provincial aquaculture development strategy.

## **Alignment of integrated development plan with aquaculture development strategies**

- 18.** A municipality must—
- (a) take account of the National Aquaculture Development Strategy and the applicable provincial aquaculture development strategy when preparing or revising its integrated development plan in terms of the Local Government: Municipal Systems Act, 2000 (Act No. 32 of 2000), or any municipal legislation; and
  - (b) ensure that its integrated development plan is aligned with the aquaculture development strategies referred to in paragraph (a).

## **Aquaculture development zones**

- 19.** (1) The Minister may, by notice in the *Gazette*—
- (a) declare any area within the Republic, including any area within South African waters as an aquaculture development zone if—
    - (i) the area is particularly suitable for aquaculture; and
    - (ii) the declaration is consistent with responsible aquaculture development;
  - (b) determine the location and define the boundaries of an aquaculture development zone;
  - (c) determine the boundaries of a buffer zone for the aquaculture development zone;
  - (d) determine measures for the management of land, water and other resources for aquaculture in the aquaculture development zone;
  - (e) determine and implement support measures, including incentive schemes in collaboration with the Ministers responsible for economic development and

finance and the provision of essential services for aquaculture activities within an aquaculture development zone; and

- (f) specify restrictions and conditions on the conduct of activities and uses in the aquaculture development zone including in—
- (i) the waters draining into an aquaculture development zone; and
  - (ii) any buffer zone for an aquaculture development zone,
- to protect aquaculture development activities.

(2) In addition to the process in section 75, before declaring an area as an aquaculture development zone or determining a buffer zone, the Minister must consult with—

- (a) organs of state responsible for regulating activities in the proposed aquaculture development zone; and
- (b) the municipality that has jurisdiction over the area, with a view to aligning aquaculture development considerations and municipal planning considerations, plans, policies and by-laws.

(3) The Minister must, for the purposes of identifying aquaculture development zones and buffer zones, develop criteria and a methodology for determining whether an area is suitable for aquaculture.

## **CHAPTER 4**

### **AQUACULTURE INFORMATION SYSTEM**

#### **Establishment of national aquaculture information system**

20. (1) The Minister must establish a national aquaculture information

system to facilitate the effective management and development of the aquaculture sector.

- (2) The national aquaculture information system must—
- (a) store, verify, analyse and evaluate data and information regarding the aquaculture sector; and
  - (b) provide information to—
    - (i) government for the development and implementation of the National Aquaculture Development Strategy, provincial aquaculture development strategies and the implementation of this Act;
    - (ii) persons undertaking aquaculture activities; and
    - (iii) the public.

(3) The national aquaculture information system must include a register of, and information related to—

- (a) the holders of aquaculture licences;
- (b) the holders of aquaculture permits;
- (c) successful registrants in terms of section 23(3);
- (d) aquaculture development zones and buffer zones;
- (e) any aquaculture veterinary medicine referred to in section 48; and
- (f) aquaculture feed registered in terms of any law including this Act.

- (4) The national aquaculture information system may include—
- (a) results of aquaculture research undertaken using public funds;
  - (b) results of water quality monitoring undertaken by the Department and other relevant organs of state;
  - (c) information about disease notification, surveillance and control;
  - (d) records regarding the use of aquaculture feeds and veterinary medicine;

- (e) records of the movement of aquaculture organisms and aquaculture products within, into and out of the Republic for traceability purposes;
- (f) information about trade in, or marketing of, aquaculture products;
- (g) records regarding compliance with this Act; and
- (h) any other information that the Minister deems necessary for the effective administration of this Act.

(5) The national aquaculture information system may be established incrementally.

### **Provision of and access to information**

21. The Minister may require any person that is in possession of or able to provide any data, information, document, sample or material, that is reasonably required for the purposes of the national aquaculture information system or for achieving the objects of this Act, to provide the data, information, document, sample or material to the Minister within a reasonable time or on a regular basis.

## **CHAPTER 5**

### **AQUACULTURE LICENCES, AQUACULTURE PERMITS AND REGISTRATION**

#### **Issuing authority**

22. The Minister is the issuing authority for an aquaculture licence, aquaculture permit and for authorising a registration in terms of this Act.



### **Aquaculture licence, aquaculture permit and registration**

**23.** (1) Subject to subsection (2), no person may undertake an aquaculture activity unless that activity is—

- (a) authorised by an aquaculture licence or an aquaculture permit; and
- (b) undertaken in compliance with the conditions of that aquaculture licence or aquaculture permit.

(2) A person may undertake an aquaculture activity without an aquaculture licence or an aquaculture permit if the activity is registered in terms of subsection (3).

(3) A person must register in the prescribed manner to undertake the following aquaculture activities:

- (a) commercial aquaculture;
- (b) subsistence aquaculture;
- (c) small-scale aquaculture;
- (d) recreational aquaculture;
- (e) operation of an aquaculture processing facility;
- (f) operation of a hatchery, including the holding of broodstock;
- (g) the display of aquatic organisms for commercial purposes; or
- (h) aquaculture research at an aquaculture research facility.

(4) A request for a registration must—

- (a) be made to the regulatory authority in the prescribed form;
- (b) be accompanied by a registration fee, if prescribed;
- (c) comply with prescribed requirements;
- (d) comply with the objects of this Act; and
- (e) comply with any other applicable legislation.

(5) The regulatory authority must refuse a request for an aquaculture registration where the registration is inconsistent with subsection (4).

(6) The registration remains valid unless terminated by the regulatory authority.

(7) The Minister must prescribe a registration system and registration requirements to enable a person to register one or more aquaculture activities involving one or more species of an aquaculture activity listed in subsection (3).

### **Application for aquaculture licence**

**24.** (1) An aquaculture licence is required to undertake ranching and pilot scale aquaculture.

(2) An application for an aquaculture licence must—

- (a) be made to the Minister in the prescribed form;
- (b) be accompanied by a licence fee, if prescribed; and
- (c) comply with any other prescribed requirements.

### **Considerations relevant to decision on licence application**

**25.** (1) The Minister must consider all relevant factors when deciding an application for an aquaculture licence, including, but not limited to—

- (a) whether granting the licence is consistent with the objects of this Act;
- (b) whether the applicant is a fit and proper person in terms of section 31;
- (c) the applicant's submissions;
- (d) any submissions received from an organ of state and other interested and affected persons; and

- (e) any other requirement or criterion that may be prescribed.

### **Decision on application for aquaculture licence**

**26.** (1) The Minister may—

- (a) grant an application and issue an aquaculture licence subject to conditions, which may be amended periodically; or
- (b) refuse the application and provide reasons.

(2) The Minister must refuse an application for an aquaculture licence if the granting of the licence would be inconsistent with the objects of this Act.

### **Validity period of aquaculture licence**

**27.** An aquaculture licence may be issued for a maximum period of 20 years.

### **General provisions relating to an aquaculture licence**

**28.** (1) A single aquaculture licence may authorise the undertaking of one or more aquaculture activities involving one or more species of an aquaculture organism—

- (a) on a single site; or
- (b) on more than one site, provided that the sites are within the same aquaculture development zone.

(2) An aquaculture licence issued in terms of this Act is subject to—

- (a) conditions which may be prescribed by the Minister generally, or in respect of

- certain categories of aquaculture specifically; and
- (b) conditions specified in the aquaculture licence.

### **Application for aquaculture permit**

**29.** (1) Subject to subsection (2), no person may undertake any of the following activities without an aquaculture permit:

- (a) transport of live aquaculture organisms between aquaculture disease zones or between catchments in which aquaculture is occurring;
- (b) collection of broodstock for aquaculture or the collection of wild broodstock from the natural environment;
- (c) import of live aquaculture organisms;
- (d) export of aquaculture organisms or aquaculture products;
- (e) aquaculture research at an aquaculture facility;
- (f) harvesting of a ranched aquaculture organism;
- (g) seeding of an aquaculture organism for ranching purposes;
- (h) stock enhancement; or
- (i) any other activity prescribed as an aquaculture activity for which a permit is required.

(2) A person does not require an aquaculture permit—

- (a) where that person has been issued with an aquaculture licence in terms of section 28(1) or has registered in terms of section 23(3) and that licence or registration authorises any of the activities in subsection (1); or
- (b) for the import of a live aquaculture organism authorised in terms of other national legislation.

(3) An aquaculture permit to undertake an activity in—

- (a) section 29(1)(a) may be issued for a maximum period of two years;
- (b) section 29(1)(b) to (e) may be issued for a maximum period of one year; and
- (c) section 29(1)(f) to (h) may be issued for a maximum period of five years.

(4) An application for an aquaculture permit must—

- (a) be made to the Minister in the prescribed form;
- (b) be accompanied by the aquaculture permit fee, if prescribed; and
- (c) comply with any other requirements as may be prescribed.

(5) The Minister may prescribe factors for consideration in respect of an application for an aquaculture permit.

### **Decision on application for aquaculture permit**

**30.** (1) The Minister may—

- (a) issue an aquaculture permit subject to conditions; or
- (b) refuse an application for an aquaculture permit and provide reasons.

(2) The Minister must refuse an application for an aquaculture permit if the granting of the permit would be inconsistent with the objects of this Act.

(3) In addition to subsection (2), an application for a permit to conduct import or export activities provided for in section 29(1)(c) or (d) must be refused if the aquaculture organism or product—

- (a) poses an unacceptable risk to human and aquatic animal health;
- (b) does not comply with the import or export requirements of the Republic; or
- (c) is not accompanied by a certificate of aquatic animal health, where required.

### **Fit and proper person**

**31.** (1) The regulatory authority may, subject to subsection (2), refuse to issue an aquaculture licence or aquaculture permit to an applicant if there is reason to believe that the applicant is not a fit and proper person to hold such a licence or permit.

(2) In order to determine whether a person is a fit and proper person for the purposes of an application for an aquaculture licence or aquaculture permit, or for the transfer or renewal of an aquaculture licence or aquaculture permit in terms of this Chapter, the Minister must consider all relevant facts, including whether the applicant, or a director or member of the applicant—

- (a) has, in the preceding five years, been convicted of an offence, or issued with a directive or other administrative enforcement notice in terms of this Act or any legislation regulating the environment, agriculture, fisheries or animal welfare;
- (b) held an aquaculture licence or aquaculture permit or an authorisation under any other law to undertake aquaculture that has been suspended or cancelled; or
- (c) has not complied with a material condition of an aquaculture licence, aquaculture permit or registration.

### **Transfer of aquaculture licence, aquaculture permit or registration**

**32.** (1) An aquaculture licence or aquaculture permit-holder may not transfer an aquaculture licence or permit without the written consent of the Minister.

(2) The aquaculture licence or aquaculture permit-holder may apply to the

Minister, in the prescribed manner, for approval to transfer the aquaculture licence or permit.

(3) When considering an application for the transfer of an aquaculture licence or aquaculture permit, the Minister must consider the criteria applicable to an application for an aquaculture licence or aquaculture permit and other requirements which may be prescribed.

(4) The transfer of an aquaculture licence or aquaculture permit does not absolve the former holder of the aquaculture licence or aquaculture permit of any liability that the former holder may have incurred while being the holder of that aquaculture licence or aquaculture permit.

(5) The Minister may prescribe the circumstances and requirements for the transfer of a registration issued in terms of section 23.

### **Amendment, cancellation and suspension of aquaculture licence, aquaculture permit or registration**

**33.** (1) The Minister may amend, cancel or suspend an aquaculture licence, permit or registration issued in terms of this Act, if—

- (a) the holder contravenes or fails to comply with a condition of the licence, permit or registration, a provision of this Act or of another law applicable to the aquaculture activity;
- (b) changes in circumstances require the amendment, cancellation or suspension;
- (c) it is necessary to meet the Republic's international obligations;
- (d) the holder has been issued with a notice or directive in terms of this Act;

- (e) the holder has been convicted of an offence in terms of this Act or any environmental, agricultural, fisheries or animal welfare legislation;
- (f) the carrying out of an aquaculture activity has or will cause significant detrimental ecological, social or economic impacts; or
- (g) the aquaculture licence, aquaculture permit or registration was issued as a result of a misleading or false representation by the holder or a person acting on behalf of the holder.

(2) The Minister must notify the aquaculture licence or aquaculture permit-holder, or registrant in writing of the intention to amend, cancel or suspend an aquaculture licence, aquaculture permit or registration and request the holder to provide written representations, within 15 days from the date that they were notified, why the licence, permit or registration should not be amended, cancelled or suspended.

(3) The Minister must consider any representations made by the holder and may—

- (a) cancel the aquaculture licence, aquaculture permit or registration;
- (b) suspend the aquaculture licence, aquaculture permit or registration for a period determined by the Minister;
- (c) amend the conditions of the aquaculture licence, aquaculture permit or registration; or
- (d) decide not to amend, cancel or suspend the aquaculture licence, aquaculture permit or registration.

(4) A regulatory authority may amend an aquaculture licence, aquaculture permit or the conditions of registration at the request of the holder of the aquaculture licence, aquaculture permit or registration.



(5) Despite subsections (1) and (2), the Minister may amend or suspend an aquaculture licence, aquaculture permit, or registration without prior notice to the aquaculture licence or aquaculture permit-holder or registrant if it is necessary to prevent or reduce the risk of imminent risk of harm to any human or aquatic organism, health or the environment.

### **Integrated aquaculture authorisations**

**34.** (1) If an activity requiring an aquaculture licence or aquaculture permit in terms of this Act also requires an authorisation in terms of one or more other laws, the Minister and the authority empowered under that law to authorise the activity may exercise their respective powers jointly and issue an integrated authorisation instead of separate authorisations.

(2) The Minister may issue an integrated authorisation for the activity in question if the Minister is authorised in terms of another law to issue an authorisation for that activity in terms of that other law.

- (3) An integrated authorisation may be issued only if—
- (a) the relevant provisions of this Act and the other law have been complied with; and
  - (b) the authorisation specifies the—
    - (i) provisions in terms of which it is being issued; and
    - (ii) the authorities that have issued it.

(4) The provisions of this Act relating to the amendment, transfer, suspension and cancellation of an aquaculture licence or aquaculture permit apply to an integrated authorisation issued in terms of this section.

(5) The Minister may not amend, transfer, suspend or cancel an integrated authorisation without the consent of the other authority that was involved in the issuing of that integrated authorisation.

(6) Despite subsections (4) and (5), if urgent action is necessary to protect human health or the environment, to prevent the escape of aquatic organisms or the spread of disease or pests harmful to aquatic organisms, the Minister—

- (a) may immediately suspend the integrated authorisation; and
- (b) must request the other authority or authorities' endorsement of the suspension of the integrated authorisation.

(7) The Minister must immediately withdraw the suspension in writing where the endorsement referred to in subsection (6)(b) is refused.

### **Cessation of aquaculture**

**35.** (1) The holder of an aquaculture licence, permit or registration must inform the Minister in writing by no less than 30 days prior to the planned cessation of an aquaculture activity.

(2) The Minister must notify the Intergovernmental Authorisations Committee in writing of the cessation of aquaculture activities.

(3) The holder of an aquaculture licence, aquaculture permit or registration must comply with any prescribed closure and rehabilitation requirements.

## **CHAPTER 6**

## **MAINTAINING ENVIRONMENTAL INTEGRITY**

### **Protection of aquatic environment**

**36.** (1) The holder of an aquaculture licence, aquaculture permit or registration must comply with environmental legislation applicable to aquaculture activities.

(2) A person engaged in aquaculture activities must take all reasonable measures to—

(a) avoid, and where avoidance is not possible, minimise or remedy any harmful environmental impact caused by aquaculture activities, including but not limited to—

(i) harm to the environment by alien and listed invasive species regulated in terms of the National Environmental Management: Biodiversity Act, 2004 (Act No. 10 of 2004);

(ii) contamination of the environment by genetically modified organisms; and

(iii) pollution of marine, fresh and brackish water resources; and

(b) prevent the release or escape of a live or dead aquaculture organism into South African waters, unless otherwise authorised in terms of this Act.

### **Reporting of release or escape of live aquaculture organisms**

**37.** (1) A person who has been issued with an aquaculture licence, aquaculture permit or registration must, in the event of a release or escape of a live aquaculture organism into the aquatic environment—

(a) immediately take steps to contain the live aquaculture organism;

- (b) as soon as is reasonably possible, but by no later than within six hours of becoming aware of the escape or release, inform an aquaculture inspector; and
- (c) comply with any directive issued in terms of this Act relating to the release or escape.

(2) If a person fails to comply with a directive contemplated in subsection (1)(c), the Director-General may take any reasonable measures to remedy the situation and recover the costs from—

- (a) the holder of an aquaculture licence, aquaculture permit or registration for the facility from which the unauthorised release or escape occurred; and
- (b) any person who caused the release or escape.

## **CHAPTER 7**

### **HEALTH, WELFARE, SAFETY AND QUALITY OF AQUATIC ORGANISMS AND PRODUCTS**

#### **Importation procedure**

**38.** (1) Any consignment of live aquatic organisms or aquaculture products entering the Republic, must be accompanied by an original valid veterinary health certificate and an original valid phytosanitary certificate, where applicable, as well as a certificate of origin.

(2) A person may not remove any live aquatic organism or aquaculture product from customs at a port of entry unless an aquaculture inspector has cleared the consignment.

## **Movement of aquaculture organisms and products**

**39.** (1) If an aquaculture inspector detects that in a consignment, there is an aquaculture organism or an aquaculture product—

- (a) that exhibits a clinical sign of a disease that is OIE-listed or of national significance; or
- (b) poses a significant risk to—
  - (i) any aquatic organism;
  - (ii) the aquaculture industry;
  - (iii) the environment; or
  - (iv) humans or animals who consume the infected organism,

the aquaculture inspector must detain the consignment and immediately request a veterinarian to confirm the existence of the disease or the risk of its existence.

(2) The aquaculture inspector may, after a consignment is detained and at the cost of the aquaculture licence or aquaculture permit-holder or registrant, direct the aquaculture licence or aquaculture permit-holder or registrant to undertake measures to reduce the risk of, or to prevent the spread of, the disease including further tests.

(3) The aquaculture inspector may, after consultation with a state veterinarian or authorised person, order the destruction of the consignment if—

- (a) the measures referred to in subsection (2) are not complied with; or
- (b) a disease or risk has been detected and destruction is necessary to protect human or animal health.

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

the Republic.

### **Animal welfare**

40. The Minister must prescribe norms and standards relating to the welfare of a live aquatic animal used for an aquaculture activity.

### **Roles and responsibilities for animal health**

41. The Minister must, by agreement with the Minister responsible for animal health, by notice in the *Gazette*, outline roles and responsibilities for the competent authorities responsible for aquatic organism health and the veterinary authority.

### **National aquatic animal health and welfare programme**

42. The Minister must, after consultation with the Minister responsible for animal health, adopt a national aquatic organism health and animal welfare programme that must—

- (a) guide the management, control and regulation of aquatic animal health, welfare and disease in the Republic;
- (b) integrate existing independently developed aquatic animal health mechanisms from both the freshwater and marine sectors;
- (c) guide other national departments, provincial departments, research institutions and private sectors on matters related to aquatic animal health and

- disease management; and
- (d) facilitate the Republic's compliance with regional and international agreements or measures relating to aquatic organism health and animal welfare to which the Republic is a party.

### **Notifiable pathogens and pests**

**43.** (1) The Minister may, by notice in the *Gazette*, declare a pest or pathogen that is OIE-listed, or an emerging or known disease, as a notifiable pest or pathogen where that disease—

- (a) poses a significant risk to any aquatic organism or the aquaculture industry or the aquatic environment; or
- (b) may kill or cause illness in humans or animals who eat an organism infected by that disease.

(2) A person engaged in aquaculture or a veterinarian providing veterinary services to an aquaculture facility, must report the presence, or suspected presence, of a notifiable pathogen or pest to an aquaculture inspector immediately after becoming aware of its presence.

(3) A person who knows, or has reasonable grounds for suspecting that a live or dead aquatic organism or aquaculture product is infected with a notifiable pathogen or pest declared in terms of subsection (1) may not—

- (a) sell the aquaculture product or aquatic organism;
- (b) transport or translocate it;
- (c) allow it to be consumed, either by humans or animals; or
- (d) release or dispose it in any waters or on land in a manner, or at any place where it may enter or contaminate water or land.

**Contingency measures for notifiable diseases**

**44.** (1) Where the Minister has declared a pest or pathogen as a notifiable pest or pathogen in terms of section 43(1), the Minister may—

- (a) order the *in loco* isolation, quarantine or treatment of any aquatic organism infected or reasonably believed to be infected with such a pathogen or pest;
- (b) destroy and safely dispose of, or restrict the movement of, an aquatic organism infected or reasonably believed to be infected with such a pathogen or pest;
- (c) quarantine all or part of an aquaculture facility in which the Minister, on reasonable grounds, suspects that such a pathogen or pest is present; or
- (d) take any other measures that the Minister reasonably believes are necessary to prevent the spread of such a pathogen or pest.

(2) A person engaged in aquaculture must—

- (a) take all possible measures to prevent the spread of a pathogen or pest in or from an aquaculture facility, including the destruction and appropriate disposal of aquatic organisms or aquaculture products and the disinfection of aquaculture facilities; and
- (b) immediately comply with any measures that the Minister may order for that purpose.

**Aquaculture disease zones**

**45.** (1) The Minister may declare a specific geographic area as an aquaculture disease zone to prevent, manage or control a disease that is, or which



may, affect aquaculture within that area or any other area.

(2) The Minister may prescribe measures necessary to prevent, manage or control a disease in an aquaculture disease zone.

(3) Where a disease which is the subject of an aquaculture disease zone has an impact which extends beyond the borders of the Republic, the Minister must ensure that the prescripts imposed by international agreements and international instruments relating to aquaculture organism diseases to which the Republic is a party, and has ratified, are implemented in the Republic.

#### **Quarantine areas**

**46.** (1) The Minister may—

- (a) designate a quarantine area for an aquatic organism in any suitable place; and
- (b) prescribe measures applicable to that area.

(2) A quarantine area designated in terms of subsection (1) must comply with measures prescribed by the Minister.

#### **Compensation for destruction of aquaculture organisms**

**47.** (1) The owner of an aquatic organism or aquaculture product that has been destroyed, culled or restricted in terms of this Chapter, may apply to the Director-General for compensation for the loss of the organism or product, based on criteria, if prescribed.

(2) The provisions of section 19 of the Animal Diseases Act, 1984 apply, with the necessary changes, to an application for compensation for an aquatic

organism or product destroyed or restricted in terms of this Chapter.

(3) A person who is dissatisfied with the decision regarding compensation in terms of subsection (1) may appeal to the Minister in terms of section 70.

### **Use of aquaculture veterinary medicine and feeds**

**48.** (1) No person may use, import, market or sell aquaculture veterinary medicine or aquaculture feed unless it is registered or authorised in terms of—

- (a) the Medicines Act in respect of aquaculture veterinary medicine; or
- (b) the Fertilizers Act or this Act in respect of aquaculture feed.

(2) A person must apply to the Minister for the registration of aquaculture feed in terms of this Act where that feed is not registered or authorised in terms of the Fertilizers Act.

- (3) The Minister must, by notice in the *Gazette*, publish—
- (a) a list of aquaculture feeds registered in terms of subsection (2); and
  - (b) a consolidated list of all aquaculture veterinary medicine registered in terms of the Medicines Act and the Fertilizers Act.

### **Provision of veterinary services**

**49.** The Minister must endeavour to enter into an agreement with each MEC to ensure that there is capacity for State veterinarians in the provincial departments responsible for agriculture to provide aquatic organism health services to the aquaculture sector.

**Roles and responsibilities for food safety and traceability**

50. The Minister must, by agreement with the Ministers responsible for health and trade, by notice in the *Gazette*, outline roles and responsibilities for the competent authorities responsible for aquaculture food safety and traceability and prescribe norms and standards for product safety and traceability of aquaculture products.

**Aquaculture food quality and safety monitoring programmes**

51. The Minister must, after consultation with the Ministers responsible for health and trade, adopt product quality and safety programmes for aquaculture food which comply with local food safety and quality standards and requirements and, to the extent possible, with international standards or requirements.

**Certification system for aquaculture products**

52. (1) The Minister must, after consultation with the Ministers responsible for agriculture, health and trade, establish a certification system—

- (a) for aquaculture products that takes account of the requirements of countries that import aquaculture products from the Republic; and
- (b) which comprises a comprehensive framework that includes different certification programmes executed by different competent authorities or mandated entities.

(2) The Minister must, after consultation with the Ministers responsible for agriculture, health and trade, by notice in the *Gazette*, designate one or more organs

of state that employ persons with appropriate expertise, as the authority to issue certificates of food safety, aquatic animal health or other certificates confirming the quality, health or safety of the categories of aquaculture products specified in the notice.

(3) The Minister may not designate an organ of state for which another Minister or a MEC is responsible as an authority in terms of subsection (2), without the written consent of that Minister or MEC.

## **CHAPTER 8**

### **TRANSFORMATION AND SOCIAL RESPONSIBILITY**

#### **Transformation of aquaculture sector**

**53.** The Minister may, after consultation with the aquaculture sector—

- (a) prescribe transformation targets for the aquaculture sector; or
- (b) adopt aquaculture sector specific transformation charter.

#### **Compliance with Broad-Based Black Economic Empowerment**

**54.** An aquaculture licence and permit-holder as well as a registrant must comply with the requirements prescribed in terms of the Broad-Based Black Economic Empowerment Act, 2003, which are applicable to the aquaculture sector.

#### **Fair labour practices**

**55.** The holder of an aquaculture licence, aquaculture permit or registration must comply with applicable labour legislation.

## **CHAPTER 9**

### **COMPLIANCE AND ENFORCEMENT**

#### **Designation of aquaculture inspectors**

- 56.** (1) The Minister may—
- (a) designate an official of the Department or of an organ of state as an aquaculture inspector; and
  - (b) withdraw the designation made in terms of this subsection at any time.
- (2) A designation other than of an official of the Department may only be made by agreement between the Minister and the relevant organ of state.
- (3) A fishery control officer appointed in terms of the Marine Living Resources Act is an aquaculture inspector for the purposes of this Act.
- (4) The Minister may prescribe training requirements for aquaculture inspectors.

#### **Proof of designation**

- 57.** (1) The Minister must issue an aquaculture inspector who is not designated as a fishery control officer with an identity card.
- (2) When exercising powers or performing duties in terms of this Act, an

aquaculture inspector must, on demand by a member of the public, produce the identity card referred to in subsection (1) or the card issued to them in terms of the Marine Living Resources Act.

### **Functions of aquaculture inspectors**

- 58.** (1) An aquaculture inspector must—
- (a) monitor and enforce compliance with this Act;
  - (b) investigate any act or omission where there is a reasonable suspicion that it constitutes—
    - (i) an offence in terms of this Act;
    - (ii) non-compliance with a provision of this Act; or
    - (iii) a breach of a term or condition of an aquaculture licence, aquaculture permit, registration or other instrument issued in terms of this Act.
- (2) An aquaculture inspector—
- (a) must carry out their duties and exercise their powers—
    - (i) in accordance with instructions issued by the designating authority; and
    - (ii) subject to any limitations and in accordance with the procedures that may be prescribed;
  - (b) may be accompanied by an interpreter or a person whose assistance may reasonably be required; and
  - (c) must exercise his or her powers in a way that minimises damage to, loss or deterioration of premises or a thing.

**Inspection powers of aquaculture inspectors**

**59.** (1) An aquaculture inspector may, without a warrant and at any reasonable time, conduct inspections, for the purposes of ascertaining compliance with this Act, an aquaculture licence, aquaculture permit or registration, or any other instrument issued under this Act, and may—

- (a) enter an aquaculture facility and inspect that aquaculture facility, its infrastructure, equipment, any aquaculture product and any document or record required under this Act;
- (b) stop, enter and inspect a vehicle, vessel or aircraft which may be transporting or otherwise contain aquaculture products, whether within, or outside of, an aquaculture facility;
- (c) question any person who, in the reasonable opinion of the aquaculture inspector, may be capable of furnishing information which the aquaculture inspector may require;
- (d) require any person employed or present at an aquaculture facility to assist in the examination of such aquaculture facility or of any document, in order to ascertain whether this Act or a term or condition of an aquaculture licence, aquaculture permit, registration or other instrument issued under this Act has been complied with;
- (e) make copies of any document, audio, visual or audio-visual recording;
- (f) take photographs or make audio, visual or audio-visual recordings of anything or any person that is relevant for the purposes of ascertaining compliance;
- (g) take samples;
- (h) take possession of items required to be assessed in order to ascertain compliance; and
- (i) give any lawful instruction.

- (2) An aquaculture inspector must—
- (a) provide a receipt for an item removed during the inspection; and
  - (b) return any item removed insofar as the item may lawfully be possessed and does not pose a threat to human health, animal health or the environment, and subject to the outcome of any criminal proceedings that may have commenced.

### **Criminal investigation powers of aquaculture inspectors**

**60.** (1) Where an aquaculture inspector has reasonable grounds to believe that an offence under this Act has been committed, the aquaculture inspector may, with a warrant, subject to subsection (2)—

- (a) enter and search a facility, its infrastructure, equipment, aquaculture product and any document or record for the purpose of searching for admissible evidence of an offence committed;
- (b) stop, enter and inspect a vehicle, vessel or aircraft which may be transporting or otherwise contain aquaculture products, aquaculture organisms or aquaculture feed;
- (c) require any person who may have information concerning a possible offence to furnish his or her personal information, including his or her name, identity number, mobile phone number and address;
- (d) seize anything, including an aquatic organism, aquaculture product or a sample of an organism or aquaculture product, in or on a premises, land, vehicle, vessel, aircraft, container, bag, box or item that—
  - (i) is concerned in or is, on reasonable grounds, believed to be concerned in the commission of an offence;



- (ii) may be used as evidence in the prosecution of any person for an offence in terms of this Act;
  - (iii) is intended to be used, or is on reasonable grounds believed to be intended to be used, in the commission of an offence;
  - (iv) is being, or is likely to be, used in a manner that is causing or may cause significant pollution or degradation of the environment;
  - (v) has a disease or is not safe for human or animal consumption;
  - (vi) has not been farmed in accordance with the requirements of this Act; or
  - (vii) has been removed or transported from any site in contravention of this Act;
- (e) require any person to treat or humanely destroy an aquatic organism that has a disease, which has been confirmed by a veterinarian, to render it unsafe for human or animal consumption, and to dispose of it safely; and
- (f) give any lawful instruction to any person suspected of committing the offence.

(2) An aquaculture inspector may exercise a power in subsection (1) without a warrant where—

- (a) the person in control of the premises consents to the entry and inspection; or
- (b) there are reasonable grounds to believe that a warrant would be issued if an application for a warrant were to be submitted, and the delay that may be caused by applying for the warrant would defeat the object of the entry or inspection.

(3) An aquaculture inspector must provide a receipt for any item seized in terms of subsections (1) and (2).

(4) An aquaculture inspector is deemed to be a peace officer as defined in

the Criminal Procedure Act and may exercise the powers assigned to a peace officer, as well as to a police official who is not a commissioned officer, in terms of Chapters 2, 5, 7 and 8 of the Criminal Procedure Act, to carry out their powers and functions in terms of this Act.

### **Disposal of aquaculture products and seized items**

**61.** (1) The provisions of sections 30 to 34 of the Criminal Procedure Act apply, with necessary changes, to the disposal of anything seized in terms of section 60(1)(d).

(2) When an item is seized in terms of section 60(1)(d), 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 designated by the aquaculture inspector, and if the person refuses or is unable to take the item to the designated place, the aquaculture inspector may do so.

(3) In order to secure a vehicle or vessel that has been seized, the aquaculture inspector may take reasonable steps necessary to secure that vehicle or vessel.

(4) An item seized in terms of this Act, including a part of a vehicle or vessel referred to in subsection (3), must be kept in such a way that it is secured against damage.

(5) An aquaculture product seized under section 60(1)(d) that is likely to perish, may be disposed of in accordance with section 62.

**Disposal of perishables**

**62.** (1) If any product of a perishable nature is seized in terms of section 60(1)(d), the Minister may, if doing so will not cause a significant risk to human health or the environment—

- (a) return the seized perishable to the person from whom it was seized upon receipt of adequate security equivalent to the value of the seized perishable; or
- (b) sell the perishable item at a price which is reasonable in the circumstances and if court proceedings are instituted, pay the proceeds of the sale into a suspense account of the Department pending a court order in respect of the forfeiture of the proceeds of the sale, or if no proceedings are instituted release the proceeds to the person from whom the perishable item was seized.

(2) The Minister may dispose of the perishable item seized in any other reasonable manner, including by destruction, after the Minister has made all reasonable efforts to sell the item, or where the item is unfit for sale.

(3) Pending the institution of any criminal proceedings in terms of this Act or the resolution of those proceedings, a live aquaculture product that has been seized may be deposited with a suitable institution, rescue centre or facility which is able and willing to house and care for the product.

**Power to issue directives**

**63.** (1) An aquaculture inspector may issue a directive if there are reasonable grounds to believe that—

- (a) a person has not complied with—

- (i) a provision of this Act; or
- (ii) a condition of an aquaculture licence, aquaculture permit, registration or other instrument in terms of this Act; or
- (b) an aquaculture organism or aquaculture product has a disease or is not safe for human or animal consumption.

(2) Before issuing a directive, an aquaculture inspector must give the person to whom the aquaculture inspector intends to issue the directive—

- (a) advance notice in writing of his or her intention to issue such directive; and
- (b) a reasonable opportunity to make representations in writing to the aquaculture inspector as to why the aquaculture inspector must not issue the directive as intended.

(3) If an aquaculture inspector has reasonable grounds to believe that giving written notice of the intention to issue a directive in accordance with subsection (2), would cause a delay resulting in significant harm to the environment, human health, the aquaculture sector, or to the welfare of a live aquaculture organism or aquaculture product, the aquaculture inspector may issue a directive without complying with subsection (2) and thereafter provide the person to whom the directive has been issued with an opportunity to make representations.

(4) A directive must set out—

- (a) details of the conduct constituting non-compliance, or details of the disease, as the case may be;
- (b) any steps the person must take and the period within which those steps must be taken;
- (c) anything which the person may not do, and the period during which the person may not do it; and
- (d) the procedure to be followed to submit an appeal to the Minister against the

directive.

(5) An aquaculture inspector may amend a directive and extend the period within which the recipient must comply with the directive if there are adequate reasons for doing so.

(6) The recipient of a directive must comply with that directive within the time period stated in the directive.

### **Failure to comply with directive**

**64.** If a person fails to comply with a directive, the aquaculture inspector must report the non-compliance to the Minister who may—

- (a) suspend, cancel or amend the aquaculture licence, aquaculture permit or other instrument which is the subject of the directive; or
- (b) take any other necessary step and recover the costs of doing so from the person who failed to comply.

### **Offences**

**65.** A person commits an offence if that person—

- (a) contravenes sections 23(1) or (3), 29(1), 32(1), 35(1) or (3), 36(1) or (2), 37(1), 38(1) or (2), 43(2) or (3), 44(2), 48(1) or (2), 54, 55, 63(6);
- (b) fails to comply with norms and standards prescribed in terms of sections 40, 50, or 70(1)(a);
- (c) fails to provide information required in terms of section 21;
- (d) contravenes or fails to comply with a condition of an aquaculture licence, aquaculture permit, registration or exemption which has been granted in terms

of this Act;

- (e) hinders or interferes with an aquaculture inspector in the execution of that aquaculture inspector's official duties;
- (f) impersonates an aquaculture inspector, or the interpreter or assistant of an aquaculture inspector;
- (g) furnishes false or misleading information when complying with a request of an aquaculture inspector;
- (h) fails to comply with a lawful instruction of an aquaculture inspector;
- (i) fails to comply with any programme adopted in terms sections 42 or 51 or any other programme adopted in terms of this Act.

## **Penalties**

**66.** (1) A person convicted of an offence in terms of section 65(a), (b), (c), or (d) is liable to a fine not exceeding R10 million or to imprisonment for a period not exceeding 10 years, or to both a fine and imprisonment.

(2) A person convicted of an offence in terms of section 65(e), (f), (g), (h) or (i) is liable to a fine not exceeding R5 million or to imprisonment for a period not exceeding five years, or to both a fine and imprisonment.

## **Identification of administrative penalty**

**67.** (1) An aquaculture inspector may impose an administrative penalty for—

- (a) the contravention of a term or condition of a licence, permit, registration or exemption issued in terms of this Act; and
- (b) the contravention of a provision of this Act identified in terms of

subsection (2)(b).

(2) The Minister must, by notice in the *Gazette*, identify—

- (a) a specified penalty amount for a contravention contemplated in subsection (1)(a);
- (b) a provision of this Act and a specified penalty amount for a contravention contemplated in subsection (1)(b);
- (c) an applicable reduced penalty amount for a penalty identified in paragraph (a) or (b) where the administrative penalty is paid within the period specified in the notice.

### **Procedure to impose administrative penalty**

**68.** (1) An aquaculture inspector may issue an administrative penalty to a person if there are reasonable grounds to believe that there has been a contravention contemplated in section 67(1) or (2) and after following the process set out in subsection (2).

(2) A notice of intention to issue an administrative penalty must—

- (a) specify the contravention;
- (b) specify that the offender is required to pay an administrative penalty;
- (c) specify the amount of the administrative penalty; and the reduction of the prescribed amount if payment is made within the prescribed period;
- (d) specify the period within which the person is permitted to submit representations in respect of the proposed penalty;
- (e) specify the date and manner of payment of the penalty if imposed;
- (f) specify that non-payment of the fixed administrative penalty is an offence; and

(g) include any other prescribed requirement.

(3) The aquaculture inspector must consider the representations received in terms of subsection (3) and decide whether to issue the administrative penalty and provide written reasons for the decision.

## CHAPTER 10

### GENERAL AND TRANSITIONAL PROVISIONS

#### Honorary aquaculture officers

**69.** (1) The Minister may appoint a member of the public who has appropriate expertise as an honorary aquaculture officer.

(2) An honorary aquaculture officer must exercise the powers and perform the duties assigned to them by the Minister in a manner that serves the objects of this Act.

(3) The Minister must, if an honorary aquaculture officer is appointed—

- (a) prescribe the powers, duties and responsibilities of the honorary aquaculture officer;
- (b) stipulate the powers, duties and responsibilities of the honorary aquaculture officer in their letter of appointment; and
- (c) issue the honorary aquaculture officer with an identity card that confirms appointment.



## Norms and standards

**70.** (1) The Minister may, by notice in the *Gazette*—

- (a) issue norms and standards for the achievement of any of the objects of this Act, including for the—
  - (i) management of the aquaculture sector; or
  - (ii) regulation of aquaculture activities and aquaculture organisms;
- (b) set indicators to measure compliance with those norms and standards; and
- (c) amend the notice issued in terms of paragraph (a) or (b).

(2) Norms and standards may apply—

- (a) throughout the Republic;
- (b) in a specific area only; or
- (c) to a specific category of aquaculture only.

(3) Different norms and standards may be issued for—

- (a) different areas; or
- (b) different categories of persons or activities.

## Appeals

**71.** (1) A person may appeal to the Minister against a decision in terms of this Act.

(2) An appeal is not available to a person where the Minister took the decision.

(3) An appeal under subsection (1) must be dealt with in the prescribed

manner.

(4) The Minister may appoint an appeal panel to advise the Minister on an appeal.

(5) The Minister may, after considering the appeal, confirm, set aside or amend the decision, provision, condition or directive or make any other appropriate decision, including referring the matter back to the delegated authority for reconsideration.

(6) Subject to subsections (7) and (8), an appeal under this section related to a decision to issue an aquaculture licence, aquaculture permit, registration or other decision made in terms of this Act, suspends that decision until the appeal is resolved.

(7) The submission of an appeal in terms of subsection (1) does not automatically suspend a directive issued in terms of section 63.

(8) The Minister may suspend a directive, or part thereof, pending the outcome of an appeal if there are adequate reasons for doing so.

## **Exemptions**

**72.** (1) The Minister may, in writing or by notice in the *Gazette*, exempt a person or group of persons or an organ of state from a provision of this Act, provided that the exemption does not conflict with the objects of this Act.

(2) An exemption granted in terms of subsection (1) may be—

- (a) subject to conditions;
- (b) subject to the payment of a fee; and

- (c) amended or cancelled at any time by the Minister.

### **Delegation by Minister or Director-General**

**73.** (1) The Minister may, subject to subsection (5), delegate a power or duty vested in him or her in terms of this Act to—

- (a) the Director-General or an official of the Department or any other person duly appointed by the Department;
- (b) the MEC, by agreement with the MEC; or
- (c) an organ of state, by agreement with that organ of state.

(2) A delegation referred to in subsection (1)—

- (a) must be in writing;
- (b) may be made subject to conditions;
- (c) does not prevent the exercise of the power or the performance of the duty by the Minister himself or herself;
- (d) may include the power to subdelegate; and
- (e) may be withdrawn by the Minister.

(3) The Minister must give notice in the *Gazette* of a delegation of a power or duty to the MEC or an organ of state.

(4) The Minister may confirm, amend or cancel any decision taken in consequence of a delegation or subdelegation in terms of this section, subject to any rights that may have accrued to a person as a result of the decision.

(5) The Minister may not delegate the power—

- (a) to make regulations; or
- (b) to publish notices in the *Gazette*.

(6) The Director-General may delegate a power or duty vested in him or her under this Act—

- (a) to an official of the Department; or
- (b) after consultation with a provincial head of department, to an official in a provincial administration; or
- (c) after consultation with a municipal manager, to an official of a municipality.

(7) A delegation referred to in subsection (6)—

- (a) must be in writing;
- (b) may be subject to conditions;
- (c) does not prevent the exercise of the power or the performance of the duty by the Director-General himself or herself;
- (d) may include the power to subdelegate; and
- (e) may be withdrawn by the Director-General.

## **Regulations**

**74.** The Minister may make regulations regarding—

- (a) any matter reasonably necessary or expedient to achieve the objects of this Act;
- (b) the regulation of different categories of aquaculture, including recreational aquaculture, subsistence aquaculture and small-scale aquaculture;
- (c) the exclusion of species or other categories of an aquatic organism from being regarded as an aquatic organism for the purposes of this Act;
- (d) the establishment of forums, working groups, advisory and technical committees, or the appointment of specialists, including the terms of their respective appointments, that are necessary to achieve the objects of this Act;
- (e) the establishment of a national aquaculture research and technology

- development programme and any other programmes that are necessary for the achievement of the objects of this Act;
- (f) the establishment of a national reference laboratory for aquatic animal diseases and for aquaculture food safety;
  - (g) criteria applicable to claims for compensation in terms of section 47;
  - (h) the declaration and management of aquaculture development zones;
  - (i) the conduct, management, licensing, permitting, registration and integrated licensing of aquaculture activities;
  - (j) the collection and dissemination of information concerning aquaculture activities;
  - (k) the setting of water quality objectives;
  - (l) the surveillance, monitoring and prevention of diseases of aquatic organisms;
  - (m) measures for controlling disease of aquatic organisms;
  - (n) food safety and aquatic animal health;
  - (o) the registration and use of formulated feeds, aquaculture drugs and other substances for aquaculture purposes;
  - (p) the movement of aquaculture organisms into and within the Republic;
  - (q) the export from, and import into, the Republic of aquaculture organisms and aquaculture products;
  - (r) the traceability and quality control of aquaculture products;
  - (s) the granting of exemptions from the provisions of this Act;
  - (t) appeals against decisions made in terms of this Act;
  - (u) the imposition of fees for applications and levies on the export of aquaculture products or aquaculture organisms in terms of this Act;
  - (v) the setting of health standards for the import of live aquaculture organisms;
  - (x) the form of a health certificate that must accompany a consignment of live

- aquaculture organisms;
- (y) the procedure in respect of the inspection contemplated in section 62(1);
- (z) the process and issuing of a veterinary health certificate or a phytosanitary certificate;
- (zA) control measures for the movement of aquaculture organisms within the Republic;
- (zB) the surveillance and monitoring of aquaculture food safety standards; and
- (zC) any ancillary or incidental administrative or procedural matter that may be necessary for the implementation and administration of this Act.

#### **Procedure for making regulations and publication of notices**

**75.** The Minister must, before making or amending regulations, or publishing a notice under this Act, publish a notice in the *Gazette*—

- (a) setting out the draft regulations or notice that has been developed;
- (b) specifying where a copy of the draft regulations or notice may be obtained; and
- (c) inviting written comments to be submitted on the proposed regulations or notice within a specified period.

### **Savings, repeal and amendment of legislation**

**76.** (1) Subject to subsections (2) and (3), the laws set out in the Schedule are hereby repealed or amended to the extent set out in the third column of that Schedule.

(2) Anything lawfully done or deemed to have been done under a provision repealed or amended by subsection (1) which may or must be done in terms of this Act, must be regarded as having been done in terms of this Act.

(3) Anything done or deemed to have been done under a provision repealed or amended by subsection (1) remains valid to the extent that it is consistent with this Act and must be regarded as having been made in terms of this Act.

(4) Criminal proceedings relating to aquaculture activities which were instituted under Chapter 7 of the Marine Living Resources Act that have not been finalised on the date of coming into effect of this Act, must be finalised as if this Act has not come into force.

### **Transitional arrangements**

**77.** (1) A person who, on the date of commencement of this Act, was authorised to undertake aquaculture in terms of a right in terms of section 18 of the Marine Living Resources Act or a permit in terms of section 13 of that Act, and freshwater aquaculture operators, must apply for an aquaculture licence or an aquaculture permit or register under this Act, within two years of the date of commencement of this Act.

(2) A person who, on the date of commencement of this Act, was

undertaking aquaculture activities unlawfully must apply to the Minister for an aquaculture licence, aquaculture permit or registration, whichever is applicable, within 1 year of the date of commencement of this Act.

(3) A person who, when this Act commences, is undertaking an aquaculture activity which is regulated in terms of this Act, must apply for an aquaculture licence or permit or register in terms of this Act within two years of the date of commencement of this Act.

(4) A person who applies for an aquaculture licence, aquaculture permit or registration within the period referred to in subsections (1), (2) and (3) is deemed to have complied with the obligation to obtain the licence, permit or registration until the Minister determines the application.

### **State liability**

**78.** Neither the State nor a person working for the State is liable for damage or loss caused by—

- (a) the exercise of a power or performance of a duty in terms of this Act; or
  - (b) the failure to exercise a power or perform a duty in terms of this Act,
- unless that exercise or failure was unlawful, negligent or in bad faith.

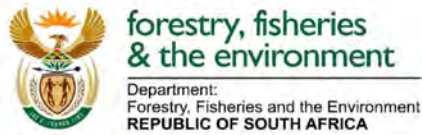
### **Short title and commencement**

**79.** This Act is called the Aquaculture Development Act, 2023, and takes effect on a date determined by the President by proclamation in the *Gazette*.



**Schedule****LAWS REPEALED OR AMENDED**

<b>Number and year of the law</b>	<b>Short title</b>	<b>Extent of repeal or amendment</b>
Act No. 18 of 1998	Marine Living Resources Act, 1998	Amends the definition of "fishing" in section 1 by adding the words "excluding aquaculture as defined in terms of section 1 of the Aquaculture Development Act, 2023" at the end of that definition
		Amends section 1 by deleting the definition of "mariculture"
		Amends the definition of "fish processing establishment" by the addition of the words "excluding an aquaculture processing facility as defined in section 1 of the Aquaculture Development Act, 2023 that does not process any fish captured in the wild"
		Amends section 2(d) by deleting the words "and mariculture"
		Amends section 18(1) by deleting the words, "engage in mariculture"
		Amends section 34(4) by deleting the words "or mariculture"
		Deletes section 77(2)(cc)



**SOCIO-ECONOMIC IMPACT ASSESSMENT SYSTEM (SEIAS)**

**REVISED (2020): FINAL IMPACT ASSESSMENT TEMPLATE –PHASE 2**

**NAME OF THE PROPOSAL: AQUACULTURE DEVELOPMENT BILL**

**DATE: 06 JUNE 2023**

1. Please **DO NOT ALTER** the template and questionnaire.
2. Draft SEIAS report should be accompanied by the supporting documents (draft proposal, M&E plan and pieces of research work)
3. FINAL report will be in PDF format and will be inclusive of the sign-off.
4. Sign off forms are only valid for a period of six months.
5. Bills and Regulations that introduce permitting, licensing and registration system must be accompanied by a streamlined process map and indicate the proposed turnaround time for processing of such.

**PART ONE: ANALYSIS FOR FINAL SEIAS REPORT**

Please keep your answers as short as possible. Do not copy directly from any other document.

# 1. Conceptual Framework, Problem Statement, Aims and Theory of Change

## 1.1. What socio-economic problem does the proposal aim to resolve?

The current legislative regime regulating the aquaculture sector in South Africa is fragmented, leading to investor and producer frustration because of long delays related authorisation processes and uncertainty. There are other significant gaps that compromise the sector as observed during audits by potential markets (e.g. People's Republic of China, Russian Federation and the European Union) which include:

- ☐ The exclusion of invertebrate fish in the definition of an animal in the Animal Disease Act, 1984;
- ☐ The Marine Living Resources Act, 1998, the legislation through which the marine aquaculture sub-sector is regulated is pro-environment conservation and protection with no provisions for aquatic animal health, thus living DFFE Minister with no significant powers to gazette any identified problematic diseases in the sub-sector as notifiable diseases warranting reporting to DFFE by producers and attending private vets; and
- ☐ All existing domestic legislation governing aquaculture in South Africa are outdated, not aligned to the current national priorities, particularly those that seek to address food and nutrition security, job creation and contribution to the country's Gross Domestic Product.
- ☐ None of the legislation referred to above addresses aquaculture in particular and does not take into consideration the current societal needs in as far as inclusion of previously disadvantaged individuals is concerned.

The proposed Aquaculture Development Bill will, amongst other things make provision for the establishment of pro-aquaculture development institutional arrangements i.e. National and Provincial Aquaculture Intergovernmental Forum; Interdepartmental Authorisations Committee, Aquaculture Development Zones and Aquaculture Development Fund. The Aquaculture Development Bill will provide for integrated regulation of both marine and freshwater aquaculture and bring clarity, security and certainty to this growing sector.

## 1.2. What are the main root causes of the problem identified above?

What socio-economic problem does the proposal aim to resolve	What are the main roots or causes of the problem
Inefficient, underdeveloped and uncompetitive aquaculture sector which is unresponsive to the socio-economic objectives and priorities of government.	<p>Regulatory:</p> <ul style="list-style-type: none"> <li><input type="checkbox"/> Fragmented legislation and gaps in current legislation (e.g. for food safety and animal health issues).</li> <li><input type="checkbox"/> Clashing mandates amongst departments that have a role to play in the aquaculture sector.</li> <li><input type="checkbox"/> Inefficient legislation due to non-existent clear developmental aquaculture specific legislation.</li> <li><input type="checkbox"/> Poor cooperative governance.</li> </ul>
	<p>Economic:</p> <ul style="list-style-type: none"> <li><input type="checkbox"/> Low investment confidence.</li> <li><input type="checkbox"/> Barriers to trade through strict and restrictive trade measures, some of which are not based on science.</li> <li><input type="checkbox"/> Difficulties in accessing markets, both international and local.</li> <li><input type="checkbox"/> High production costs, such as costs for feed, water, genetic material, electricity.</li> </ul>
	<p>Capacity and access to capital:</p> <ul style="list-style-type: none"> <li><input type="checkbox"/> Insufficient government support for programmes to develop the aquaculture sector. (E.g. who pays for the lab testing costs).</li> <li><input type="checkbox"/> Lack of sector transformation.</li> <li><input type="checkbox"/> Lack of access to start up developmental funds.</li> <li><input type="checkbox"/> Lack of support services; e.g. reference and lab testing services, extension officers.</li> <li><input type="checkbox"/> Lack of aquaculture research and development information and skills.</li> <li><input type="checkbox"/> Lack of pre-tested business plans.</li> </ul>

	<input type="checkbox"/> Lack of existing success stories and business ventures especially in the freshwater and marine finfish sectors.
	<b>Infrastructure and other resources:</b> <input type="checkbox"/> Access to electricity is a challenge for some farmers. <input type="checkbox"/> Lack of available suitable natural resources for the aquaculture sector i.e. land, water and sea space.
	<b>Others:</b> <input type="checkbox"/> Lack of buy in from NGOs and other key stakeholders on aquaculture development.

1.3. Summarise the aims of the proposal and how it will address the problem in no more than five sentences.

The proposed Aquaculture Development Bill aims to achieve an increased sustainable aquaculture production, contribution to job creation, food safety & security and economic growth in both freshwater and marine aquaculture subsectors. This will be achieved through the implementation of an enabling aquaculture legislation that is tailored for specific needs of the sector and responsive to the current and development needs of the aquaculture industry in South Africa in alignment with domestic and international practices.

1.4. How is this proposal contributing to the following national priorities?

National Priority	Impact
1. Building a capable, ethical and developmental state	The Act will facilitate for inclusion of Historically Disadvantaged Individuals (HDIs) and local communities in the sector.
2. Economic transformation and job creation	Job creation, more investments into the sector. The new Act will assist with bringing new entrants into the sector especially PDIs.
3. Education, skills and health	<input type="checkbox"/> The Act will promote improved coordination of research and skills development within various fields in aquaculture. <input type="checkbox"/> The sector is anticipated to contribute significantly

National Priority	Impact
	to food and nutrition security as a result of increased fish consumption which will be made possible by sustainable development of the sector which is supported by government nationwide.
4. Consolidating the social wage through reliable and quality basic services	The Bill provides for promotion of sound labour practices in line with national policies that seek to promote decent working environment and fair remuneration of employees.
5. Spatial integration, human settlements and local government	N/A
6. Social cohesion and safe communities	The new Act will assist with bringing new entrants into the sector especially previously disadvantaged individuals. Furthermore, the sustainable development of the sector will potentially result in more jobs created that will lead to a decrease in crime.
7. A better Africa and world.	N/A

1.5. Please describe how the problem identified could be addressed if this proposal is not adopted.

At least one of the options should involve no legal or policy changes, but rather rely on changes in existing programmes or resource allocation.

Option 1.	Self-regulation of the industry. However, this is undesirable as it deviates from the responsibilities bestowed upon government and is not aligned to best international practices.
Option 2.	The amendment of existing legislation to close the current regulatory gaps. This is undesirable as it would involve amendment of over 36 pieces of legislation.

## PART TWO: IMPACT ASSESSMENT

2. Policy/Legislative alignment with other departments, behaviours, consultations with stakeholders, social/economic groups affected, assessment of costs and benefits and monitoring and evaluation.

2.1. Are other government laws or regulations linked to this proposal? If so, who are the custodian departments? Add more rows if required.

The current regulatory environment is complicated with over thirty-six (40) pieces of legislation. The "Review of Legislative and Institutional Arrangements Governing Aquaculture in South Africa," details the impact of various legislative tools on the sector. The most significant legislative prescripts are outlined in the table below.

Government legislative prescripts	Custodian Department	Areas of Linkages	Areas of contradiction and how will the contradictions be resolved
Marine Living Resources Act	DFFE	Regulation of marine aquaculture. The main provision of significance is section 18 which provides for allocation of a right to operate a marine aquaculture facility.	<p>The Aquaculture Development Act will either delete or amend certain provisions of the Marine Living Resources Act in as far as marine aquaculture is concerned. The following provisions of the MLRA will be affected:</p> <p><input type="checkbox"/> Amendment of section 1 by deleting the definition of "mariculture".</p> <p><input type="checkbox"/> Amendment of definition of "fish processing establishment" by the addition of the words "excluding an aquaculture processing facility as defined in section 1 of the Aquaculture Development Act, 2023; that does not process any fish captured in the wild".</p> <p><input type="checkbox"/> Amendment of section 2(d) by deleting the words "and mariculture".</p> <p><input type="checkbox"/> Amendment of section 18(1) by deleting the words, "engage in mariculture".</p>



			<input type="checkbox"/> Amendment of section 34(4) by deleting the words "or mariculture". <input type="checkbox"/> Deletion of section 77(2)(cc).
Animal Diseases Act, 35 of 1984	Department of Agriculture, Land Reform and Rural Development	The definition of an animal covers fish and its carcass but limited to only to vertebrates.	The exclusion of invertebrate fish in the definition of an animal. The Aquaculture Development Act will include invertebrate fish to address the current legislative gap.
Intergovernmental Relations Framework Act, 13 of 2005		<p>This legislation provides for establishment of structures to facilitate intergovernmental structures for dispute resolution and coordination of government processes at various spheres of government.</p> <p>The Bill provides for the establishment of sector specific National Aquaculture Intergovernmental Forum and Provincial</p>	None

		<p>Aquaculture Intergovernmental For a. The Bill goes further by providing for the establishment of public-private engagement forum i.e. National Aquaculture Sector Liaison Forum.</p>	
<p>National Environmental Management Act, 107 of 1998 and the relevant Specific Environmental Management Acts</p>	<p>DFFE</p>	<p>Section 24 (2) (a) provides for the listing of certain activities that may not commence without environmental authorisations. Some operations will be required to obtain Environmental Impact Assessment (EIA) before they can be issued with an authorisation in terms of the Aquaculture Development Act. The operator of an aquaculture facility will further be required to comply</p>	<p>None</p>

		with applicable requirements in terms of any applicable environmental legislation (NEMA and its specific Environmental Management Acts).	
Criminal Procedure Act 51 of 1977	Department of Justice and Correctional Services and South African Police Service	Penalties in terms of the Aquaculture Development Act are aligned to the prescripts in terms of the CPA with due consideration of the unique nature of the aquaculture sector.	None
National Water Act 36 of 1998	Department of Water and Sanitation	The freshwater aquaculture operations will be required to obtain water use licence as provided for by section 21 of the NWA. This requirement does not apply to marine aquaculture facilities.	None
Provincial Legislation	Administered by different departments within the provinces but in most cases the	Most of these laws dates back to pre-democratic dispensation. In	The sector will be managed and regulated through a national body of legislation to address the current

	administration of applicable legislation is the responsibility of provincial departments responsible for the agriculture and the environment.	certain instances, one piece of legislation applies to more than one province in line with the previous provincial demarcation and not the current nine (9) provincial demarcation. To make matters more complicated, some of these laws applies to a particular part of the province and not the entire province.	confusing and inconsistent regulatory environment and thus, standardising the legislative requirements where possible.
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2.2. Proposals inevitably seek to change behaviour in order to achieve a desired outcome. Describe (a) the behaviour that must be changed, and (b) the main mechanisms to bring about those changes. These mechanisms may include modifications in decision-making systems; changes in procedures; educational work; sanctions; and/or incentives.

a) What and whose behaviour does the proposal seek to change? How does the behaviour contribute to the socio-economic problem addressed?

- ☐ Interest groups (such as environmentalists, recreational users, property developers, conservationists, municipalities) have negative perceptions towards aquaculture and have been advocating against this sector.
- ☐ Freshwater farmers- Lack of cooperation from the freshwater sector with regards to submission of production statistics. This behaviour arises because the DFFE does not have a national legislation that gives it a mandate for the freshwater sector. The sector has a perception that DFFE is not doing much for the sector and hence it's not important for them to cooperate.
- ☐ Relevant government departments- There is inadequate cooperation amongst the relevant departments in aquaculture development because the different departments

previously supported the sector individually without any department taking the lead in aquaculture development. Furthermore, there is a lack of legislation that provides for a mechanism that supports cooperation for aquaculture development.

- Existing farmers- Unwillingness of some of the existing farmers to transform the sector because the investments have been mainly from the private sector and there are no incentives from government for transformation.
- Consumers of fishery products- There is increasing global demand for aquatic products whilst the wild fisheries are under considerable pressure and their growth is either stagnant or declining. Fisheries products are perceived to be for elites and this might be because fish is not readily available at the local markets at affordable prices.

b) How does the proposal aim to bring about the desired behavioural change?

- It is acknowledged that the sector is currently managed and regulated through over 36 pieces of legislation, with the freshwater aquaculture being outside the legislated mandate of the DFFE. This proposal will bring about an improved coordination of the sector through one piece of dedicated legislation which is enabling in nature. This approach will improve the management of the sector, create an environment where resource mobilisation for both marine and freshwater aquaculture is balanced and facilitates the sustainable development of the sector.
- The current legislative environment has proven to cause confusion in as far as compliance is concerned. Therefore, the adoption of a dedicated legislation which encompasses the developmental aspects and takes cognisance of social, economic and environmental responsibilities will address the current behaviour in alignment with international practices.

### 2.3. Consultations

- a) Who has been consulted inside of government and outside of it? Please identify major functional groups (e.g. business; labour; specific government departments or provinces; etc.); you can provide a list of individual entities and individuals as an annexure if you want.

## Consulted Government Departments, Agencies and Other Organs of State

Department's name	What do they see as main <u>benefits</u> , <u>Implementation/</u> <u>Compliance costs and</u> <u>risks</u> ?	Do they <u>support</u> or <u>oppose</u> the proposal?	What <u>amendments</u> do they propose?	Have these amendments been <u>incorporated</u> in your proposal? If yes, under which section?
Department of Forestry, Fisheries and the Environment (DFFE), Department of Science, Technology and Innovation (DSTI), Department of Public Works (DPW), Department of Water and Sanitation (DWS), Department of Agriculture, Land Reform and Rural Development (DALRRD), National Regulator of Compulsory Specifications (NRCS) Provincial	<p>Benefits</p> <p><input type="checkbox"/> Access to the incentive scheme.</p> <p><input type="checkbox"/> The crocodile sector will be eligible to utilise the ADZs thereby reducing costs to the investor.</p> <p><input type="checkbox"/> Integrated authorisations process will be beneficial for the crocodile farmers as it will lead to reduced costs and will shorten the time of applying for authorisations.</p> <p>Risks</p> <p>Overregulation</p> <p>Costs</p> <p><input type="checkbox"/> Increased number of aquaculture operations to service by other institutions such as NRCS as a result of a</p>	Support	None	N/A

Departments of Agriculture, Environment and Economic Development.	growing sector and incorporation of freshwater sector.			
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Consulted stakeholders outside government.

Name of Stakeholder	What do they see as main <u>benefits</u> , <u>Implementation/ Compliance costs and risks?</u>	Do they <u>support</u> or <u>oppose</u> the proposal?	What <u>amendments</u> do they propose?	Have these amendments been <u>incorporated</u> in your proposal?
Crocodile sector	<p>Risks</p> <p><input type="checkbox"/> Act not developmental</p> <p><input type="checkbox"/> Overregulation</p> <p>Costs</p> <p><input type="checkbox"/> Costs on the farmer to comply with food safety programmes.</p> <p><input type="checkbox"/> Costs for applying for authorisations.</p> <p>Benefits</p> <p><input type="checkbox"/> ADZs will benefit the sector as the government will assist with</p>	They are opposing the inclusion of crocodiles in the Bill.	They propose the status quo to continue.	No. The DFFE has included crocodiles in the Bill because there is a need to have one national Act that deals with farming of all aquatic animals.

	<p>identifying suitable areas, installation of basic infrastructure and conducting the EIAs.</p> <p><input type="checkbox"/> Provision of services (e.g. extension officers, reference lab).</p> <p><input type="checkbox"/> ADF will be accessible to all including HDIs.</p> <p><input type="checkbox"/> Integrated permitting and streamlined authorisations which will lead to reduced costs and will shorten the time of applying for authorisations.</p> <p><input type="checkbox"/> The certification system will assist the farmers to export products and make more profits.</p> <p><input type="checkbox"/> The freshwater sector will be able</p>			
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	to trade their products as there will be an enabling legal framework			
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Marine and freshwater farmers; Tilapia Association of South Africa, Trout South Africa, Abalone Farmers Association of South Africa, Bivalve Association of South Africa and Marine Fish Farmers Association of South Africa)	<p><b>Risks</b></p> <p><input type="checkbox"/> Act not developmental</p> <p><input type="checkbox"/> Overregulation</p> <p><b>Costs</b></p> <p><input type="checkbox"/> Costs on the farmer to comply with food safety programmes.</p> <p><input type="checkbox"/> Costs for applying for authorisations.</p> <p><b>Benefits</b></p> <p><input type="checkbox"/> ADZs will benefit the sector as the government will assist with identifying suitable areas, installation of basic infrastructure and conducting the EIAs.</p> <p><input type="checkbox"/> Provision of services (e.g. extension officers, reference lab).</p> <p><input type="checkbox"/> ADF will be accessible to all</p>	<p><input type="checkbox"/> They are opposed to the perceived overregulation of the sector.</p> <p><input type="checkbox"/> They are opposed to short term authorisations.</p>	Integrated and Simplified permitting system	<p>Yes. Simplified authorisation system is being proposed in Section 5 (2) of the Draft Aquaculture Development Bill.</p> <p>The developmental aspects of the Act will be made clearer</p>
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	<p>including HDIs.</p> <p><input type="checkbox"/> Integrated permitting and streamlined authorisations which will lead to reduced costs and will shorten the time of applying for authorisations.</p> <p><input type="checkbox"/> The certification system will assist the farmers to export products and make more profits.</p> <p><input type="checkbox"/> The freshwater sector will be able to trade their products as there will be an enabling legal framework</p>			
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Feed Manufacturers	<p>Benefits</p> <p><input type="checkbox"/> Compliance with regulation will make feed manufacturers globally competitive.</p> <p><input type="checkbox"/> Consumer food safety will be improved</p>	<input type="checkbox"/> Support	None	N/A
Food and Agricultural Organisation of the United Nations (FAO)	<p>Benefits:</p> <p>Developmental legislation aligned to the best international practices.</p>	Support	Non-substantial editing and clarification of multiple clauses to remove ambiguity.	Yes.

- b) Summarise and evaluate the main disagreements about the proposal arising out of discussions with stakeholders and experts inside and outside of government. Do not give details on each input, but rather group them into key points, indicating the main areas of contestation and the strength of support or opposition for each position.

The main area of disagreement was on the licencing of certain aquaculture activities. The Department has considered the concerns and proposals from a fraction of the industry, with due consideration of the need to put in place a regulatory regime that would best serve the sector and ensure its sustainable development. To address the disagreement, the Department introduced a registration regime where the affected activities will no longer require a licence but rather, a registration.

2.4. Describe the groups that will benefit from the proposal, and the groups that will face a cost.

These groups could be described by their role in the economy or in society. Note: NO law or regulation will benefit everyone equally so do not claim that it will. Rather indicate which groups will be expected to bear some cost as well as which will benefit. Please be as precise as possible in identifying who will win and who will lose from your proposal. Think of the vulnerable groups (disabled, youth, women, SMME), but not limited to other groups.

List of beneficiaries (groups that will benefit)	How will they benefit?
Sector organisations.	Formal recognition process of producer Associations by DFFE
Investors.	The new Act will provide for an enabling and developmental regulatory framework with a clear dispute resolution process and this will in turn increase investor confidence and reduce the investor risks.
Aquaculture industry (especially producers, processors, exporters/importers).	<input type="checkbox"/> Eligible industries will benefit through:- <ul style="list-style-type: none"> <li>○ Increased government support services (incentives, extension services, long term</li> </ul>

List of beneficiaries (groups that will benefit)	How will they benefit?
	<p>licences.</p> <ul style="list-style-type: none"> <li>○ an effective integrated authorisations system.</li> <li>○ reduced time for applying for authorisations.</li> <li>○ reduced costs of applying for authorisations.</li> <li>○ access to land and sea space through Aquaculture Development Zones (ADZs).</li> </ul> <ul style="list-style-type: none"> <li><input type="checkbox"/> Small Scale and subsistence farmers will be exempted from the requirement of an aquaculture licence.</li> <li><input type="checkbox"/> The Act will provide for compensation to producers through the Aquaculture Development Fund (ADF), in cases where the farmer is instructed to destroy disease infected stock.</li> <li><input type="checkbox"/> The Act will provide for a clear transfer of licences system which will enable transfer of the aquaculture business from one person/entity to another.</li> <li><input type="checkbox"/> There will be an increase of investors into the aquaculture sector because of an improved enabling legal framework.</li> <li><input type="checkbox"/> The introduction of the certification system through the Act will expand the existing markets for aquaculture products.</li> </ul>
Recreational/ Anglers.	Increased supply of fish through the Trout sector

List of beneficiaries (groups that will benefit)	How will they benefit?
Consumers of aquaculture products.	Fish products will be more accessible, affordable and safe to eat.
Fish Processing Establishments.	They will be able to get more business if there is increased production of aquaculture products.
Seed producers/ Feed manufacturers.	There will be more demand for seed and feed and this will create more business for the seed producers and feed manufacturers.
Supporting services such as Veterinary services.	They will get more business if there is increased fish production.
Exporters/ Importers.	They will be able to conduct sustainable business as there will be legislation providing for this. Currently some of them are restricted to conduct business in the freshwater sector because of a lack of clear enabling legal framework.
New Entrants (small scale fishers, coastal communities seeking sustainable coastal livelihoods, rural and farming communities, emerging especially young, women and entrepreneurs living with disabilities).	<input type="checkbox"/> Reduced start-up costs because of Aquaculture Development Zones (ADZs). <input type="checkbox"/> Qualifying new entrants will be able to get funding for aquaculture through the Aquaculture Development Fund (ADF). <input type="checkbox"/> Job opportunities and employment
Subsistence farmers.	<input type="checkbox"/> Upon registration with the department, subsistence farmers will benefit from extension and other support services provided by the department. <input type="checkbox"/> Subsistence farmers will not require a licence to engage in aquaculture activities.

List of beneficiaries (groups that will benefit)	How will they benefit?
Retailers/ Restaurants.	<input type="checkbox"/> They will be able to sell aquaculture products without having to comply with size restrictions under the Marine Living Resources Act, Act No. 18 of 1998 (MLRA). <input type="checkbox"/> They will not have to pay fees to get permits under the MLRA.
DFFE.	<input type="checkbox"/> The DFFE will be able to comply with international obligations. <input type="checkbox"/> Will have enabling legislation that provides DFFE with a legal mandate to support and develop the whole aquaculture sector.
Government.	<input type="checkbox"/> Improve compliance with international obligations (e.g. FAO's Code of Conduct for Responsible Fisheries and Aquaculture) Increase in transformation in the aquaculture sector. <input type="checkbox"/> Contribution to the fulfilment of government's obligation of ensuring food and nutrition security for all. <input type="checkbox"/> Job creation that will lead to a reduction of social support. <input type="checkbox"/> There will be an increased contribution to the GDP through increased revenue and investment opportunities in the aquaculture sector. <input type="checkbox"/> More export opportunities for aquaculture products will ensure the sector's increased contribution to the trade balance. <input type="checkbox"/> Savings to be realised through streamlining



List of beneficiaries (groups that will benefit)	How will they benefit?
	and well-co-ordinated aquaculture activities.
Certification bodies both local and international.	<input type="checkbox"/> They will be able to get business from the aquaculture sector.
Researchers/ institutions.	<input type="checkbox"/> There will be coordinated aquaculture research

List of cost bearers (groups that will bear the cost)	How will they incur / bear the cost
DFFE.	<p>Human Resources Costs</p> <p><input type="checkbox"/> DFFE will potentially need:</p> <ul style="list-style-type: none"> <li>○ to employ more people to implement the Bill especially for the freshwater aquaculture sector,</li> <li>○ more funding for training and capacity development especially extension officers,</li> <li>○ more funding for re-training of existing compliance officers and also recruiting new enforcement and compliance officers (new costs),</li> <li>○ funding to conduct viability assessments for business case.</li> </ul> <p>Governance Structures</p> <p><input type="checkbox"/> The DFFE will incur costs to establish and maintain new structures, such as the Intergovernmental Authorisations Committee (IAC) and ADF.</p>

List of cost bearers (groups that will bear the cost)	How will they incur / bear the cost
	<p><b>Infrastructure Development</b></p> <ul style="list-style-type: none"> <li><input type="checkbox"/> The DFFE will incur costs to develop and declare ADZs (identification of sites, conducting impact assessments in line with environmental management requirements and installation of basic infrastructure).</li> <li><input type="checkbox"/> The DFFE will incur costs to establish the national reference laboratory.</li> </ul> <p><b>Ongoing Administration Costs</b></p> <ul style="list-style-type: none"> <li><input type="checkbox"/> The DFFE will incur costs for ongoing administrative costs (transitional arrangements communications, education and awareness campaigns, road shows).</li> <li><input type="checkbox"/> Development of Regulations.</li> </ul> <p><b>Other Costs</b></p> <ul style="list-style-type: none"> <li><input type="checkbox"/> The Act will provide for the DFFE to compensate farmers in the event of destruction of infected stock (new costs).</li> <li><input type="checkbox"/> The DFFE will incur costs for developing the new aquaculture plans.</li> <li><input type="checkbox"/> The DFFE will incur costs for developing food safety programmes for the freshwater sector (new cost).</li> </ul>
Provincial Departments of Agriculture	<ul style="list-style-type: none"> <li><input type="checkbox"/> Provincial Departments of Agriculture (PDA) will potentially need to employ more state veterinarians and extension officers and will incur costs for training and capacity development of employees, especially extension officers and those responsible for</li> </ul>

List of cost bearers (groups that will bear the cost)	How will they incur / bear the cost
	<p>animal health.</p> <p><input type="checkbox"/> The PDAs will need to incur costs to develop plans and to establish and maintain new structures (such as the Provincial Aquaculture Intergovernmental Forums).</p>
Recreational/ Anglers	They will pay for the farmed fish that they will be using in their operations.
Aquaculture industry (especially producers, processors, exporters/importers)	<p><input type="checkbox"/> The producers will pay for the aquaculture authorisation fees but since these will be streamlined it is expected that these fees may be significantly reduced.</p> <p><input type="checkbox"/> Producers might also incur costs to implement a proper traceability system (new cost for freshwater sector) and packaging for their products.</p> <p><input type="checkbox"/> Producers will pay for independent auditors to conduct certification audits on their farms.</p> <p><input type="checkbox"/> The freshwater sector and the new entrants will need to pay for water quality testing, food safety compliance costs, costs for buying drugs, costs for attending meetings, costs for veterinary services, transfer of licences costs.</p>
The Department of Trade, Industry and Competition (DTIC)	<input type="checkbox"/> The DTIC will need to provide incentives for the Aquaculture sector for both new entrants and existing farmers.
Provincial Departments of Environment.	<input type="checkbox"/> Developing guidelines and environmental monitoring programmes for the aquaculture sector.

List of cost bearers (groups that will bear the cost)	How will they incur / bear the cost
	<input type="checkbox"/> Assisting with the identification of sites. <input type="checkbox"/> Participating in the Intergovernmental Authorisations Committee meetings. <input type="checkbox"/> Streamlining of authorisations for aquaculture.
The Department of Water and Sanitation (DWS).	<input type="checkbox"/> Streamlining of authorisations for aquaculture <input type="checkbox"/> Access to water space within the state water space <input type="checkbox"/> Participating in the Intergovernmental Authorisations Committee and other relevant Forums
Consumers of aquaculture products.	They will need to pay for aquaculture products
The National Regulatory for Compulsory Specifications (the NRCS).	The NRCS might have to increase capacity to service the growing aquaculture sector.
National Treasury.	The National Treasury might need to provide more funding to DFFE in order to fully administer and implement the Act.
Municipalities.	<input type="checkbox"/> Provision of basic services at aquaculture sites-water and electricity- rezoning. <input type="checkbox"/> Budget for installation of access roads and supply of electricity to aquaculture sites.
Department of Small Business.	Funding of aquaculture businesses.
Department of Public Enterprises (DPE)	<input type="checkbox"/> Through Transnet, National Ports Authority: <input type="checkbox"/> Will have to budget for basic services for aquaculture development within their jurisdiction.

List of cost bearers (groups that will bear the cost)	How will they incur / bear the cost
	<input type="checkbox"/> Zoning of areas for leasing sea space. <input type="checkbox"/> Electricity infrastructure.
Provincial Economic Development departments.	Funding of aquaculture business and providing for infrastructure development in the sector
Department of Science, Technology and Industry (DSTI).	Budget for research and technology development programmes in the aquaculture sector
Department of Transport (DOT), South African Maritime Safety Authority (SAMSA) and Provincial Departments of Transport.	<input type="checkbox"/> Budgeting for construction of access roads to the aquaculture sites. <input type="checkbox"/> Inspections and licensing of aquaculture vessels.
Department of Agriculture, Land Reform and Rural Development (DALRRD).	<input type="checkbox"/> Budgeting for the Interdepartmental Authorisations Committee and Infrastructure projects.
Department of Public Works (DPW).	<input type="checkbox"/> Budgeting for participation in the Interdepartmental Authorisations Committee <input type="checkbox"/> Budget for the general maintenance services within the Aquaculture Development Zones

2.5. Describe the costs and benefits of implementing the proposal to each of the groups identified above, using the following chart. Please do not leave out any of the groups mentioned, but you may add more groups if desirable. Quantify the costs and benefits as far as possible and appropriate. Add more lines to the chart if required.

Note: "Implementation costs" refer to the burden of setting up new systems or other actions to comply with new legal requirements, for instance new registration or reporting requirements or by initiating changed behaviour. "Compliance costs" refers to on-going costs that may arise thereafter, for instance providing annual reports or other administrative actions. The costs and benefits from achieving the desired outcomes relate to whether the particular group is expected to gain or lose from the solution of the problem.

For instance, when the UIF was extended to domestic workers:

- ☐ The implementation costs were that employers and the UIF had to set up new systems to register domestic workers.
- ☐ The compliance costs were that employers had to pay regularly through the defined systems, and the UIF had to register the payments.
- ☐ To understand the inherent costs requires understanding the problem being resolved. In the case of UIF for domestic workers, the main problem is that retrenchment by employers imposes costs on domestic workers and their families and on the state. The costs and benefits from the desired outcome are therefore: (a) domestic workers benefit from payments if they are retrenched, but pay part of the cost through levies; (b) employers pay for levies but benefit from greater social cohesion and reduced resistance to retrenchment since workers have a cushion; and (c) the state benefits because it does not have to pay itself for a safety net for retrenched workers and their families.

Group	Implementation costs	Compliance costs	Costs/benefits from achieving desired outcome	Comments
DFFE	<input type="checkbox"/> DFFE will incur costs for establishing the Aquaculture Inspection Officers. <input type="checkbox"/> DFFE to cover the costs of approving drugs. <input type="checkbox"/> DFFE will incur costs of conducting	<input type="checkbox"/> Operational and logistical costs to participate in IAC meetings by the relevant departments. <input type="checkbox"/> Transitional arrangement costs (e.g. costs of changing authorisations)	Improved service delivery within cost and acceptable time frames Public trust, investor confidence, food security (availability, access and affordability), GDP growth, Cost saving Transformation	

Group	Implementation costs	Compliance costs	Costs/benefits from achieving desired outcome	Comments
	<p>EIAs, installation of basic infrastructure for ADZs.</p> <p><input type="checkbox"/> Research and Development costs.</p> <p><input type="checkbox"/> Auditing the farms and product residue testing.</p> <p><input type="checkbox"/> Diagnostics testing for animal health stock inspections.</p> <p><input type="checkbox"/> Costs of establishing a National Reference Lab.</p> <p><input type="checkbox"/> Costs of developing and establishing ADZs.</p>	<p><input type="checkbox"/> Awareness and dissemination of information campaigns</p> <p><input type="checkbox"/> User training on new authorisations application procedure</p> <p><input type="checkbox"/> Development of new user guide manuals</p> <p>Development of new information and commutation systems</p>	<p>process.</p> <p>Benefits:</p> <p><input type="checkbox"/> Integrated, speedy issuing of permits and licences.</p> <p><input type="checkbox"/> Infrastructure and funding support which will contribute to high level outcomes.</p> <p><input type="checkbox"/> a transformed aquaculture sector.</p> <p><input type="checkbox"/> contribution to food security through available fish</p> <p><input type="checkbox"/> More jobs will be created in the aquaculture sector;</p> <p><input type="checkbox"/> Increased exports,</p> <p><input type="checkbox"/> More contribution to the GDP by the aquaculture</p>	

Group	Implementation costs	Compliance costs	Costs/benefits from achieving desired outcome	Comments
	<input type="checkbox"/> HR costs (salaries and training of staff). <input type="checkbox"/> Operational costs. <input type="checkbox"/> Producers compensation (e.g. as a result of destruction of diseased stock).		sector; <input type="checkbox"/> Integrated and streamlined authorisations. <input type="checkbox"/> reduction of duplication of efforts by different government departments. DFFE will incur costs: <input type="checkbox"/> To establish ADZs and providing incentives for the sector. <input type="checkbox"/> To set up and maintain intergovernmental structures and committees. <input type="checkbox"/> For marketing and branding <input type="checkbox"/> To attract investment to establish reference labs and for diseases	



Group	Implementation costs	Compliance costs	Costs/benefits from achieving desired outcome	Comments
			diagnostic testing	

Group	Implementation costs	Compliance costs	Costs/benefits from achieving desired outcome	Comments
Existing farmers.	None.	None. The existing farmers are already incurring authorisation fees. It is expected that with the implementation of the Aquaculture Development Bill, certain costs will fall away especially in the instance where the operation requires the newly introduced registration regime. It is also anticipated that the fees will be reduced for permit and licence fees which will have longer validation	Access to support services such as: <input type="checkbox"/> Access to government support services e.g. extension services, veterinary. <input type="checkbox"/> Access to financial incentive schemes <input type="checkbox"/> Access to existing and new markets. <input type="checkbox"/> Protection of investment.	

Group	Implementation costs	Compliance costs	Costs/benefits from achieving desired outcome	Comments
		period in comparison to the costs in terms of the current authorisation regime.		
Government Departments other than DFFE (IAC member Departments).	<input type="checkbox"/> HR costs (salaries and training of officials). <input type="checkbox"/> Operational costs <input type="checkbox"/> NRCS will incur costs for sampling services.	<input type="checkbox"/> Operational and logistical costs to participate in IAC meetings by the relevant departments. <input type="checkbox"/> Transitional arrangement costs (e.g. costs of changing authorisations). <input type="checkbox"/> Awareness and dissemination of information campaigns. <input type="checkbox"/> Development of new user guide manuals	Improved service delivery within cost and acceptable time frames Public trust, investor confidence, food security (availability, access and affordability), GDP growth, cost effective transformation process. Benefits: <input type="checkbox"/> a transformed aquaculture sector. <input type="checkbox"/> contribution to food security through available	

Group	Implementation costs	Compliance costs	Costs/benefits from achieving desired outcome	Comments
		Development of new information and commutation systems.	<p>fish.</p> <p><input type="checkbox"/> reduction of duplication of efforts by different government departments.</p> <p><input type="checkbox"/> More jobs will be created in the aquaculture sector.</p> <p><input type="checkbox"/> Increased exports.</p> <p><input type="checkbox"/> More contribution to the GDP by the aquaculture sector;</p> <p><input type="checkbox"/> Integrated and streamlined authorisations.</p> <p>Costs:</p> <p><input type="checkbox"/> Relevant departments will incur costs for ensuring integrated planning.</p> <p><input type="checkbox"/> Provincial Departments of</p>	

Group	Implementation costs	Compliance costs	Costs/benefits from achieving desired outcome	Comments
			<p>Agriculture will incur costs of appointing vets and training them.</p> <p><input type="checkbox"/> NRCS will incur costs for sampling of products for food safety purposes</p>	
Crocodile sector.	None.	None.	<p>Benefits:</p> <p><input type="checkbox"/> Enabling legal environment will improve Investor confidence due to reduction of red tape.</p> <p><input type="checkbox"/> Costs for undertaking aquaculture activities will be greatly reduced through integrated permitting.</p>	
Marine and freshwater farmers.	None.	None.	<p>Benefits:</p> <p><input type="checkbox"/> Saving of costs and time due to reduced red tape.</p>	

Group	Implementation costs	Compliance costs	Costs/benefits from achieving desired outcome	Comments
			<input type="checkbox"/> Consumer confidence on aquaculture products; <input type="checkbox"/> Development of new markets due to the certification system that will be introduced in the Act; <input type="checkbox"/> Maintenance of national biosecurity thereby reducing disease risks, <input type="checkbox"/> minimising loss of stock at farms <input type="checkbox"/> In the case of loss of stock due to diseases, the farmers will be able to claim compensation. Costs: <input type="checkbox"/> The farmers will need to comply with environmental	

Group	Implementation costs	Compliance costs	Costs/benefits from achieving desired outcome	Comments
			<p>legislation to ensure sustainability.</p> <p><input type="checkbox"/> Industry will incur costs for marketing and branding to attract investment.</p> <p><input type="checkbox"/> The farmers will incur analytical costs to comply with food safety standards.</p>	

2.6 Cost to government: Describe changes that the proposal will require and identify where the affected agencies will need additional resources.

- a) Budgets, has it been included in the relevant Medium Term Expenditure Framework (MTEF) and
- i. The development of a authorisation system, its administration and related activities- the costs related to this activity are not included in the MTEF. However, the costs will be included in the budget upon completion of costing analysis.
  - ii. Costs associated with running fora as per the institutional arrangements- the costs related to this activity are not included in the MTEF. However, the cost will be included in the budget when the policy is adopted.
  - iii. IT infrastructure- the costs related to this activity are not included in the MTEF. However, the costs will be included in the budget upon completion of costing analysis.

iv. Development of food safety management programmes for the sector- the costs related to this activity are not included in the MTEF. However, the costs will be included in the budget upon completion of costing analysis.

b) Staffing and organisation in the government agencies that have to implement it (including the courts and police, where relevant). Has it been included in the relevant Human Resource Plan (HRP)

Note: You MUST provide some estimate of the immediate fiscal and personnel implications of the proposal, although you can note where it might be offset by reduced costs in other areas or absorbed by existing budgets. It is assumed that existing staff are fully employed and cannot simply absorb extra work without relinquishing other tasks.

i. Additional human resource may be required to service the sector, especially the freshwater sector. A full audit on the required human resource will be conducted at a later stage. Broadly, the Department will require additional capacity to carry out the new functions related to the management of the freshwater sector which is currently outside the legislated mandate of the Department.

2.7 Describe how the proposal minimises implementation and compliance costs for the affected groups both inside and outside of government.

- ☐ The small scale and subsistence farmers will be exempted from licence requirements.
- ☐ ADZs will be established to minimise the costs of conducting environmental authorisations for new entrants/ PDIs/ existing farmers who want to expand their business.
- ☐ A National Reference Lab will be established and will reduce costs of referring samples to labs in other countries.
- ☐ Integrated authorisations will minimise costs of obtaining authorisations because they will now be more streamlined and there will be a one stop shop for the aquaculture sector.
- ☐ Establishment of the Aquaculture Development Fund - avoid duplication on funding projects.
- ☐ Establishment of Intergovernmental Relations (IGR) structures for integrated Aquaculture Development Planning and thus better prioritisation and management of resources across the three spheres of government, and social partners (Business, Labour and Civil Society)

For groups outside of government (add more lines if required)

Group	Nature of cost (from	What has been done to minimise the cost?
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	question 2.6)	
Previously Disadvantaged Individuals	<input type="checkbox"/> Environmental authorisations <input type="checkbox"/> Infrastructure development	<input type="checkbox"/> Environmental Authorisations will be undertaken by the Department for the entire Aquaculture Development Zone meaning the aspiring operations within the ADZ will not be required to obtain individual EIAs.  <input type="checkbox"/> Common infrastructure will be developed within the Aquaculture Development Zones thus waving off costs associated with these costly aspects of establishing a new enterprise.
New entrants	<input type="checkbox"/> Environmental authorisations <input type="checkbox"/> Infrastructure development	<input type="checkbox"/> Environmental Authorisations will be undertaken by the Department for the entire Aquaculture Development Zone meaning the aspiring operations within the ADZ will not be required to obtain individual EIAs.  <input type="checkbox"/> Common infrastructure will be developed within the Aquaculture Development Zones thus waving off costs associated with these costly aspects of establishing a new enterprise.
Existing farmers	<input type="checkbox"/> Environmental authorisations <input type="checkbox"/> Infrastructure development	<input type="checkbox"/> Environmental Authorisations will be undertaken by the Department for the entire Aquaculture Development Zone meaning the aspiring operations within the ADZ will not be required to obtain individual EIAs.  <input type="checkbox"/> Common infrastructure will be developed within the Aquaculture Development Zones thus waving off costs associated with these costly aspects of establishing a new enterprise.  <input type="checkbox"/> Integrated authorisations will minimise costs of obtaining authorisations because they will now be more streamlined and there will be a one

		<p>stop shop for the aquaculture sector.</p> <p><input type="checkbox"/> A National Reference Lab will be established and will reduce costs of referring samples to labs in other countries.</p>
Small-scale and subsistence farmers	Authorisation costs	<p><input type="checkbox"/> These groups will be exempted from certain authorisation requirements. For example, a registration regime has been introduced which is less stringent and does not have date of expiration.</p>

For government agencies and institutions:

Agency/institution	Nature of cost (from question 2.6)	What has been done to minimise the cost?
DFFE	Project funding	Establishment of Aquaculture Development Fund.
DFFE	Compensation of farmers for destruction of stock	Incorporation of biosecurity protocol (including a national disease surveillance plan) and national aquatic animal health plan.
All spheres of government with a role to play on the IAC	Administrative costs related to issuing of permits and licences.	Establishment of Aquaculture Interdepartmental Committee.

## 2.8 Managing Risk and Potential Dispute

- a) Describe the main risks to the achievement of the desired outcomes of the proposal and/or to national aims that could arise from implementation of the proposal. Add more lines if required.

Note: It is inevitable that change will always come with risks. Risks may arise from (a) unanticipated costs; (b) opposition from stakeholders; and/or (c) ineffective implementation co-ordination between state agencies. Please consider each area of risk to identify potential challenges.

There is a risk that the farmers will not comply with the Act. The DFFE will manage this risk by developing a User Guide and application process flow for the new Act. The DFFE will also conduct education and awareness sessions throughout the different provinces on the new Act.

There is a risk that the farmers might be unwilling to change and comply with the new Act. The DFFE will ensure that they partner with the industry when developing the Act. A Task Team was also established which includes both industry and government departments to ensure buy-in on the proposal by relevant stakeholders. The DFFE will conduct more consultation on the Bill will conduct both informal and formal consultations on the Bill until its finalisation to ensure that the stakeholders are aware of the contents of this Bill which takes into consideration their inputs.

- b) Describe measures taken to manage the identified risks. Add more rows if necessary.

Mitigation measures means interventions designed to reduce the likelihood that the risk actually takes place.

Identified risk	Mitigation measures
Illegal and unregulated sale of aquaculture products.	A blanket approval for the sale of under-size farmed abalone were granted by DFFE to all abalone producers who sell in the local market
Non-compliance with the Bill by Farmers, especially for small scale farmers not complying with food safety	Collaboration with other government departments (e.g. the DTIC on ADEP and NRCS on the certification of fish and fish products destined for local and international markets, Universities (MoU with 8 South African Universities on Aquaculture Research), South Africa/People's Republic of China (Gariep Agriculture and Technology Demonstration

and traceability programmes.	Centre in the Free State).
Lack of required resources (funding, personnel, capacity and infrastructure.	<p><input type="checkbox"/> The Aquaculture Development Bill provides for the Minister of DFFE to delegate certain functions to the Provincial Departments of Agriculture.</p> <p><input type="checkbox"/> The Bill provides for the self-regulation within certain terms and conditions to ensure responsible and sustainable aquaculture that does not undermine the objects of the Bill.</p>
Lack of capacity to implement the Bill.	<p><input type="checkbox"/> There are existing Intergovernmental Aquaculture Forums (e.g. NAIF and PAIF) where DFFE meets with all relevant government departments at both national and provincial level.</p> <p><input type="checkbox"/> The Bill also provides for the development a national and provincial Aquaculture Development Strategies that would be aligned to the objects of the Bill.</p>
Minimal participation by intergovernmental stakeholders in the implementation of the Bill..	<p><input type="checkbox"/> There are existing Intergovernmental Aquaculture Forums (e.g. NAIF and PAIF) where DFFE meets with all relevant government departments at both national and provincial level.</p> <p><input type="checkbox"/> The Bill also provides for the development a national and provincial Aquaculture Development Strategies that would be aligned to the objects of the Bill.</p>
The growth of the sector will come with increased risk of aquatic animal diseases introduction and spread.	<p><input type="checkbox"/> On farm Bio-security plans will be implemented and biosecurity audits will be conducted by veterinarians</p> <p><input type="checkbox"/> Passive surveillance (general stock inspection) will be conducted annually on farms.</p> <p><input type="checkbox"/> Farm registration for all aquaculture activities.</p> <p><input type="checkbox"/> There will be a duty to report diseases on the person in charge of a farm (OIE diseases and other diseases of national importance).</p>

Unregulated sale of aquaculture products especially by small scale farmers.	Consultation with relevant stakeholders when developing the Act to get stakeholders buy-in.
Non-compliance with the Act by Farmers, especially the small-scale farmers.	<input type="checkbox"/> Develop a User Guide for the Act. <input type="checkbox"/> DFFE will need to conduct education and awareness campaigns to outline the benefits of the Act.
Risk on small scale farmers not complying with food safety and traceability programmes.	Develop traceability protocol that caters for small scale farmers.
Resources: funding, personnel, capacity and infrastructure.	Once the Bill is finalised, a complimentary Implementation Plan with costs implications, resource requirements, timeframes and roles and responsibilities would be drafted and used as a monitoring and evaluation tool.
Overregulation of the sector by adding another layer of legislation	The Bill has been drafted with due consideration of possible duplication and overregulation of the sector. This undesired implications are avoided to the extend possible. To a greater extent, the sector growth is hindered by the current incoherent legislative environment. Therefore, the Bill will bring about a system that streamlines the aquaculture authorisations from various institutions in order to improve coordination in the regulation of the industry so as to promote growth and the participation of historically disadvantaged individuals. An example of this is the Intergovernmental Authorisation Committee which is responsible for processing and licensing of aquaculture applications and to facilitate the development and, to the extent possible, fast-track implementation of integrated, efficient and effective processes for obtaining all the authorisations necessary under applicable law in order to carry out aquaculture activities.

- c) What kinds of dispute might arise in the course of implementing the proposal, whether (a) between government departments and government agencies/parastatals, (b) between government agencies/parastatals and non-state actors, or (c) between non-state actors? Please provide as complete a list as possible. What dispute-resolution mechanisms are expected to resolve the disputes? Please include all of the possible areas of dispute identified above. Add more lines if required.

Note: Disputes arising from regulations and legislation represent a risk to both government and non-state actors in terms of delays, capacity requirements and expenses. It is therefore important to anticipate the nature of disputes and, where possible, identify fast and low-cost mechanisms to address them.

Nature of possible dispute (from sub-section above)	Stakeholders involved	Proposed Dispute-resolution mechanism
Disclosure of confidential information, some fish farmers have IP hence and are concerned about competitors having access to production information.	Fish farmers.	DFFE will disclose information in terms of the Promotion to Access to Information Act. The timeframes for making decisions on requests for access to information are provided under PAIA.  The information will be collected, stored and analysed/consolidated for reports such as the annual aquaculture yearbook and to determine any relevant management action/intervention. The information will be disseminated and/ or protected in line with the applicable laws taking into consideration, the need to

Nature of possible dispute (from sub-section above)	Stakeholders involved	Proposed Dispute-resolution mechanism
		maintain confidentiality where applicable. This is already the case in the mariculture sector where the department receives and stores information in compliance with the current applicable legislation.
Authorisations that are not being processed timeously.	Authorisation applicants depending on the nature of activity requiring authorisation.	<input type="checkbox"/> The DFFE will set Service Standards that will include a complaints mechanism. There will be a complaints hotline/ email and members of the public will easily lodge a complaint. <input type="checkbox"/> An escalation mechanism will also be put in place to ensure that officials are held accountable to their managers. Once a complaint has been escalated to managers, the relevant manager will easily follow up on the complaint with the relevant official to solve the dispute. <input type="checkbox"/> The service standards will be gazetted and a governance mechanisms will be put in place to ensure that all complaints are dealt with.
Authorisations not granted.	Permit applicants	<input type="checkbox"/> The authorisations application

Nature of possible dispute (from sub-section above)	Stakeholders involved	Proposed Dispute-resolution mechanism
	depending on the nature of activity requiring authorisation.	process will be outlined to promote transparency. <input type="checkbox"/> Publication/Gazetting of permit requirements. <input type="checkbox"/> Applicants can also institute proceedings for Judicial Review under the Promotion of Administrative Justice Act, 2000 (Act 3 of 2000).
Definition of aquaculture.	Crocodile farmers.	Use internationally recognised definition of aquaculture.
ADF (structure and allocation of the fund).	Fish farmers	Formal procedures to be followed when developing the Fund including an element of public participation.
Existing markets not wanting to accommodate new entrants into the sector.	Retailers.	<input type="checkbox"/> DFFE and the DTIC to enter into bilateral agreements on new markets for aquaculture products. <input type="checkbox"/> Participation in Regional Economic Communities by South Africa. <input type="checkbox"/> Farmers to ensure good quality products that are marketable both locally and internationally.



Nature of possible dispute (from sub-section above)	Stakeholders involved	Proposed Dispute-resolution mechanism
Disputes arising as a result of not enforcing provisions regarding disease management and control.	Fish farmers.	<input type="checkbox"/> The Bill proposes a compensation fund under the Aquaculture Development Fund and this will have to be proven that there is no negligence by the product owner, failing which the Department would not be obliged to provide compensation via the Fund.  <input type="checkbox"/> Claimant can appeal if not satisfied with the amount of compensation paid.
If consignments get spoilt at the hands of the Department.	Importers and exporters.	Hold consignment in bond (get monetary value of consignment).

## 2.9 Monitoring and Evaluation

Note: Sound implementation of policy and legislation is due to seamless monitoring and evaluation integration during the policy development phase. Policies and legislation that are proficiently written yet unable to report on implementation outcomes are often a result of the absence of an M&E framework at the policy and legislative planning phase. It is therefore imperative to state what guides your policy or legislation implementation monitoring.

2.9.1 Develop a detailed Monitoring and Evaluation Plan, in collaboration with your departmental M&E unit which should include among others the following:

2.9.1.1 Provide clear and measurable policy or legislative objectives.

2.9.1.2 Provide a Theory of Change clearly describing the following components:

- Impact: the organisational, community, social and systemic changes that result from the policy or legislation;

- Outcomes: the specific changes in participants (i.e. beneficiaries) behaviour, knowledge, skills, status and capacity;
- Outputs: the amount, type of degree of service(s) the policy or legislation provides to its beneficiaries;
- Activities: the identified actions to be implemented
- Input: departmental resources used in order to achieve policy or legislative goals i.e. personnel, time, funds, etc.
- External conditions: the current environment in which there's an aspiration to achieve impact. This includes the factors beyond control of the policy or legislation (economic, political, social, cultural, etc.) that will influence results and outcomes.
- Assumptions: the facts, state of affairs and situations that are assumed and will be necessary considerations in achieving success

2.9.1.3 Provide a comprehensive Logical Framework (LogFrame) aligned to the policy or legislative objectives and the Theory of Change. The LogFrame should contain the following components:

- Results (Impact, Outcomes and Output)
  - Activities and Input
  - Indicators (A measure designed to assess the performance of an intervention. It is a quantitative or qualitative factor or variable that provides a simple and reliable means to measure achievement, to reflect the changes connected to an intervention, or to help assess the performance of a development actor)
  - Baseline (the situation before the policy or legislation is implemented)
  - Targets (a specified objective that indicates the number, timing and location of that which is to be realised)
- ☐ The Department will develop a detailed monitoring and evaluation plan before the Bill is signed into law. Thus far, it is anticipated that the Bill will result in Improved service delivery within cost and acceptable time frames. The implementation of the legislation will result in improved public trust, investor confidence, food security (availability, access and affordability), cost saving process towards transforming the sector. Integrated, speedy issuing of permits and licences. Development of infrastructure and funding support which will contribute to high level outcomes, a transformed aquaculture sector and contribution to food security through available fish. The legislation will contribute towards the facilitation of job creation in the aquaculture sector, increased exports, more

contribution to the GDP by the aquaculture sector, integrated and streamlined authorisations, reduction of duplication of efforts by different government departments. All these will bring a significant development to the stagnant growth of the sector which is attributed to the incoherent and non-supportive legislative environment. The factors mentioned above will form the basis for sectoral development. Therefore, they will be monitored once the legislation is implemented.

2.9.1.4 Provide an overview of the planned Evaluation, briefly describing the following:

- *Timeframe: when it the evaluation be conducted*
- ☐ *The Department will develop a implementation plan once the Bill is finalised. The implementation plan will provide details for evaluation of the Bill. The Bill impact evaluation will be undertaken within 5 years of implementation.*
- *Type: What type of evaluation is planned (formative, implementation or summative) – the selection of evaluation type is informed by the policy owners objective (what it is you want to know about your policy or legislation).*

*The Department will undertake the following actions before and during the implementation of the legislation:*

- Develop an Aquaculture Strategy and Plan with clear activities and timelines that will be monitored to check progress on key activities.
- Establish and implement a Complaints register that will be accessible to stakeholders.
- Monitoring and Evaluation of the implementation of the national and provincial aquaculture development plans, the national and provincial aquaculture policies will also be done through the following structures (MINTEC, MINMEC, Intergovernmental Authorisation Committee (IAC\_, Operation Phakisa Aquaculture Delivery Unit, National Aquaculture Intergovernmental Forum (NAIF), Provincial Aquaculture Intergovernmental Forum (PAIF) and Aquaculture Industry Liaison (AIL).
- The IAC will be responsible to facilitate the development and implementation of integrated, efficient, and effective processes for obtaining all the authorisations necessary under applicable.
- Internally-the unit responsible for the overall coordination and monitoring of this bill is Directorate: Sustainable Aquaculture Management within the Chief Directorate: Aquaculture Development and Freshwater Fisheries of the Branch: Fisheries Management of the DFFE.

2.9.1.5 Provide a straightforward Communication Plan (Note: a common assumption is that the target group will be aware of, and understand how to comply with a policy or legislation come implementation. However, increases in the complexity and volume of new or amendment policy or legislation render this assumption false. Hence, the need for a communication plan to guide information and awareness campaigns to ensure that all stakeholders (including beneficiaries) are informed.

- Awareness campaigns will be conducted throughout the country.
- Information material in all South African official languages will be developed and distributed in areas most frequented by the fishermen i.e. dam access points, municipal offices, local stores and government buildings where authorisations are to be applied for and obtained.
- Newsletters will be developed in collaboration with the fishing communities and non-state actors/civil societies. The newsletters will be distributed using different social media platforms.
- Media statements will be issued towards and during the implementation of the Bill.
- There will be continuous communication and information dissemination through the leaders of fishing groups on the multi-stakeholder working groups as proposed in the Bill.

- ☐ A comprehensive Communication Plan will be developed in consultation with the Directorate: Communication.

2.10 Please identify areas where additional research would improve understanding of then costs, benefit and/or of the legislation.

- ☐ Insurance for diseases and disasters.
- ☐ Aquaculture Development Fund- to determine how it will be administered and its structure.
- ☐ Consumer preference and behaviours.
- ☐ Cost effective traceability systems.

### PART THREE: SUMMARY AND CONCLUSIONS

1. Briefly summarise the proposal in terms of (a) the problem being addressed and its main causes and (b) the measures proposed to resolve the problem.

- ☐ Inefficient, underdeveloped and uncompetitive aquaculture sector which is unresponsive to the socio-economic objectives and priorities of government. These problems are attributed to the fragmented legislative environment which does not address aquaculture in particular. To address this problem, the sector requires an enabling aquaculture legislation that is responsive to the current and development needs of the aquaculture industry in South Africa.

a) Identify the social groups that would benefit and those that would bear a cost, and describe how they would be affected. Add rows if required.

Groups	How they would be affected
Beneficiaries	
1. Sector Organisations.	Their operations will be legally recognised as another category of aquaculture allowing them to benefit from government support programmes.
2. Investors.	The new Act will provide for an enabling and developmental regulatory framework with a clear dispute resolution process and this will in turn increase investor confidence and reduce the investor risks.

<p>3. Aquaculture industry (especially producers, processors, exporters/importers).</p>	<p><input type="checkbox"/> Eligible industries will benefit through:-</p> <ul style="list-style-type: none"> <li>○ Increased government support services (incentives, extension services, long term authorisation and registration regime</li> <li>○ an effective integrated authorisations system,</li> <li>○ reduced time for applying for authorisations,</li> <li>○ reduced costs of applying for authorisations,</li> <li>○ access to land and sea space through Aquaculture Development Zones (ADZs).</li> </ul> <p><input type="checkbox"/> Small-scale and subsistence farmers will be exempted from certain authorisation requirements.</p> <p><input type="checkbox"/> The Act will provide for compensation to aquaculturists through the Aquaculture Development Fund (ADF), in cases where the farmer is instructed to destroy disease infected stock.</p> <p><input type="checkbox"/> The Act will provide for a clear transfer of licences system which will enable transfer of the aquaculture business from one person/entity to another.</p> <p><input type="checkbox"/> There will be an increase of investors into the aquaculture sector because of an improved enabling legal framework.</p> <p><input type="checkbox"/> The introduction of the certification system through the Act will expand the existing markets for aquaculture products.</p>
<p>4. Recreational anglers.</p>	<p>Increased supply of fish through the trout farmers and importers of seed</p>
<p>5. Consumers of aquaculture products.</p>	<p>Improved accessibility, affordability and safety of fish and fish products.</p>
<p>6. Fish Processing Establishments.</p>	<p>They will be able to get more business if there is increased production of aquaculture products.</p>
<p>7. Seed producers/ Feed manufacturers.</p>	<p>There will be more demand for seed and feed and this will create more business for the seed producers and feed manufacturers.</p>

8. Supporting services such as Veterinary services.	They will get more business if there is increased fish production.
9. Exporters/ Importers.	They will be able to conduct sustainable business as there will be legislation providing for this. Currently some of them are restricted to conduct business in the freshwater sector because of a lack of clear enabling legal framework.
10. New Entrants (small scale fishers, coastal communities seeking sustainable coastal livelihoods, rural and farming communities, emerging especially young, women and entrepreneurs living with disabilities).	<input type="checkbox"/> Reduced start-up costs because of Aquaculture Development Zones (ADZs). <input type="checkbox"/> Qualifying new entrants will be able to get funding for aquaculture through the Aquaculture Development Fund (ADF). <input type="checkbox"/> Job opportunities and employment
11. Subsistence farmers.	<input type="checkbox"/> Upon registration with the department, subsistence farmers will benefit from extension and other support services provided by the department. <input type="checkbox"/> Subsistence farmers will not require a licence to engage in aquaculture activities.
12. Retailers/ Restaurants.	<input type="checkbox"/> They will be able to sell aquaculture products without having to comply with size restrictions under the Marine Living Resources Act, Act No. 18 of 1998 (MLRA). <input type="checkbox"/> They will not have to pay fees to get permits under the MLRA.
13. DFFE.	<input type="checkbox"/> The DFFE will be able to comply with international obligations. <input type="checkbox"/> Will have enabling legislation that provides DFFE with a legal mandate to support and develop the whole aquaculture sector.
14. Government.	<input type="checkbox"/> Improve compliance with international obligations (e.g. FAO's Code of Conduct for Responsible Fisheries and

	<p>Aquaculture) Increase in transformation in the aquaculture sector.</p> <p><input type="checkbox"/> Contribution to the fulfilment of government's obligation of ensuring food and nutrition security for all.</p> <p><input type="checkbox"/> Job creation that will lead to a reduction of social support.</p> <p><input type="checkbox"/> There will be an increased contribution to the GDP through increased revenue and investment opportunities in the aquaculture sector.</p> <p><input type="checkbox"/> More export opportunities for aquaculture products will ensure the sector's increased contribution to the trade balance.</p> <p><input type="checkbox"/> Savings to be realised through streamlining and well-co-ordinated aquaculture activities.</p>
15. Certification bodies both local and international.	They will be able to get business from the aquaculture sector.
16. Researchers institutions.	There will be coordinated aquaculture research.
Cost bearers	
1. DFFE.	<p>Human Resources Costs</p> <p><input type="checkbox"/> DFFE will potentially need:</p> <ul style="list-style-type: none"> <li>○ to employ more people to implement the Bill especially for the freshwater aquaculture sector.</li> <li>○ more funding for training and capacity development especially extension officers.</li> <li>○ more funding for re-training of existing compliance officers and also recruiting new enforcement and compliance officers (new costs).</li> <li>○ funding to conduct viability assessments for business case.</li> </ul> <p>Governance Structures</p> <p><input type="checkbox"/> The DFFE will incur costs to establish and maintain new structures, such as the Intergovernmental Authorisations</p>



	<p>Committee (IAC) and ADF.</p> <p><b>Infrastructure Development</b></p> <p><input type="checkbox"/>The DFFE will incur costs to develop and declare ADZs (identification of sites, conducting impact assessments in line with environmental management requirements and installation of basic infrastructure).</p> <p><input type="checkbox"/>The DFFE will incur costs to establish the national reference laboratory.</p> <p><b>Ongoing Administration Costs</b></p> <p><input type="checkbox"/>The DFFE will incur costs for ongoing administrative costs (transitional arrangements communications, education and awareness campaigns, road shows).</p> <p><input type="checkbox"/>Development of Regulations.</p> <p><b>Other Costs</b></p> <p><input type="checkbox"/>The Act will provide for the DFFE to compensate farmers in the event of destruction of infected stock (new costs).</p> <p><input type="checkbox"/>The DFFE will incur costs for developing the new aquaculture plans.</p> <p><input type="checkbox"/>The DFFE will incur costs for developing food safety programmes for the freshwater sector (new cost).</p> <p><input type="checkbox"/>The DFFE will incur costs for developing guidelines and environmental monitoring programmes for the aquaculture sector.</p> <p><input type="checkbox"/>The DFFE will incur costs for identification of sites, and</p> <p><input type="checkbox"/>Streamlining of authorisations for aquaculture.</p>
2. Provincial Departments of Agriculture.	<p><input type="checkbox"/>Provincial Departments of Agriculture (PDA) will potentially need to employ more state vets and extension officers and will incur costs for training and capacity development of employees, especially extension officers and those responsible for animal health.</p> <p><input type="checkbox"/>The PDAs will need to incur costs to develop plans and to</p>

	establish and maintain new structures (such as the Provincial Aquaculture Intergovernmental Forums).
3. Recreational anglers.	They will pay for the farmed fish that they will be catching as part of their recreational activities. The costs associated with this activity are already incurred by the sector.
4. Aquaculture industry (especially producers, processors, exporters/importers).	<p><input type="checkbox"/>The producers will pay for the aquaculture authorisation fees. However, with the Bill introducing an efficient and streamlined authorisation system, it is anticipated that the fees will be significantly reduced in comparison with the current authorisation costs.</p> <p><input type="checkbox"/>Producers might also incur costs to implement a proper traceability system (new cost for freshwater sector) and packaging for their products.</p> <p><input type="checkbox"/>Producers will pay for independent auditors to conduct certification audits on their farms.</p> <p><input type="checkbox"/>The freshwater sector and the new entrants will need to pay for water quality testing, food safety compliance costs, costs for buying drugs, costs for attending meetings, costs for veterinary services, transfer of licences costs. These costs are already in place for the marine aquaculture subsector.</p>
5. The DTIC.	The DTIC will incur costs for provision of incentives for the aquaculture sector for both new entrants and existing farmers.
6. The Department of Water and Sanitation (DWS).	<p><input type="checkbox"/>Streamlining of authorisations for aquaculture.</p> <p><input type="checkbox"/>Access to water space within the state water space.</p> <p><input type="checkbox"/>participating in the Intergovernmental Authorisations Committee and other relevant Forums.</p>
7. Consumers of aquaculture products.	They will need to pay for aquaculture products.
8. The National Regulatory for Compulsory Specifications (the NRCS).	The NRCS might have to increase capacity to service and provide regulatory support to the growing aquaculture sector.

9. National Treasury.	The National Treasury might need to provide more funding to DFFE in order to fully administer and implement the Act.
10. Municipalities.	<input type="checkbox"/> Provision of basic services at aquaculture sites i.e. water and electricity. <input type="checkbox"/> Budget for installation of access roads and supply of electricity to aquaculture sites.
11. Department of Small Business Development.	Funding of aquaculture businesses.
12. Department of Public Enterprises.	<input type="checkbox"/> Through Transnet, National Ports Authority: <input type="checkbox"/> Will have to budget for basic services for aquaculture development within their jurisdiction. <input type="checkbox"/> Zoning of areas for leasing sea space. <input type="checkbox"/> Electricity infrastructure.
13. EDD and Provincial Economic Development departments.	Funding of aquaculture business and providing for infrastructure development in the sector.
14. Department of Science, Technology and Innovation.	Budget for research and technology development programmes in the aquaculture sector.
15. Department of Transport, South African Maritime safety Authority (SAMSA) and Provincial Departments of Transport.	<input type="checkbox"/> Budgeting for construction of access roads to the aquaculture sites. <input type="checkbox"/> Inspections and licensing of aquaculture vessels.
16. Department of Agriculture, Land Reform and Rural Development.	Budgeting for the Interdepartmental Authorisations Committee and infrastructure for projects.
17. Department of Public Works.	<input type="checkbox"/> Budgeting for participation in the Interdepartmental Authorisations Committee. <input type="checkbox"/> Budget for the general maintenance of common infrastructure within the Aquaculture Development Zones.

b) What are the main risks from the proposal in terms of (a) undesired costs, (b) opposition by specified social groups, and (b) inadequate coordination between state agencies?

- ☐ Illegal and unregulated sale of aquaculture products.
- ☐ Non-compliance with the Bill by Farmers, especially for small scale farmers not complying with food safety and traceability programmes.
- ☐ Lack of required resources (funding, personnel, capacity and infrastructure)
- ☐ Lack of capacity to implement the Bill.
- ☐ Minimal participation by intergovernmental stakeholders in the implementation of the Bill.
- ☐ Resources: funding, personnel, capacity and infrastructure.

c) Summarise the cost to government in terms of (a) budgetary outlays and (b) institutional capacity.

- ☐ The capital expenditure is estimated at R 32 million and thereafter the annual operational cost is estimated at R25 million for the implementation of the Bill. Human resource costs for implementation of the Bill are estimated at R 15 million per annum.

d) Given the assessment of the costs, benefits and risks in the proposal, why should it be adopted?

- ☐ A well-coordinated aquaculture development will result increased contribution to the GDP through increased revenue and investment opportunities in the aquaculture sector. Furthermore, increased export opportunities for aquaculture products will ensure the sector's increased contribution to the trade balance. Savings will be realised through streamlining and well-coordinated aquaculture activities. As part of international community, the country will realise improved compliance with international obligations (e.g. FAO's Code of Conduct for Responsible Fisheries and Aquaculture) and increase in transformation of the aquaculture sector.

e) Please provide two other options for resolving the problems identified if this proposal were not adopted.

Option 1.	Self-regulation of the industry.
Option 2.	The amendment of existing legislation to close the current regulatory gaps.

f) What measures are proposed to reduce the costs, maximise the benefits, and mitigate the risks associated with the legislation?

## 1. The following should be done to reduce costs for the industry and to maximise benefits

- ☐ An effective and efficient integrated and streamlined authorisations process.
- ☐ Provision of long-term licences to increase investor confidence.
- ☐ A clear dispute resolution process to mitigate risk on the investor.
- ☐ Development and Implementation of a biosecurity protocol (including a national disease surveillance plan) and national aquatic animal health plan.
- ☐ Conducting of Strategic Environmental Assessments and EIAs for ADZs to minimise costs on the farmer.
- ☐ Promotion of the aquaculture sector to DFIs and other potential financiers
- ☐ Development and Implementation of food safety programme to ensure consumer confidence for aquaculture food products.
- ☐ Establish a certification system to ensure more export opportunities for the industry.

## 18. The following should be done to reduce costs for DFFE and to maximise benefits.

- ☐ The risk of compensating farmers for destruction of stock can be minimised through the Development and Implementation of a biosecurity protocol (including a national disease surveillance plan) and national aquatic animal health plan.
- ☐ Develop a user-friendly guide for the Bill to ensure compliance with the Bill by farmers.
- ☐ Establishment of efficient structures for dealing with authorisations.
- ☐ The risk of double dipping for aquaculture funds will be minimised through the coordination of aquaculture activities such as Research and Technology Development activities, projects, etc.
- ☐ DFFE to conduct awareness campaigns aimed at reducing compliance and enforcement costs.
- ☐ Development of the aquaculture sector through consumer confidence and lower risks.

## g) Is the proposal (mark one; answer all questions)

	Yes	No
a. Constitutional?	X	
b. Necessary to achieve the priorities of the state?	X	
c. As cost-effective as possible?	X	
d. Agreed and supported by the affected departments?	X	

h) What is the impact of the Proposal to the following National Priorities?

National Priority	Impact
1. Building a capable, ethical and developmental state.	The Act will facilitate for inclusion of Historically Disadvantaged Individuals (HDIs) and local communities in the sector.
2. Economic transformation and job creation.	Job creation, more investments into the sector. The new Act will assist with bringing new entrants into the sector especially PDIs.
3. Education, skills and health.	<input type="checkbox"/> The Act will promote improved coordination of research and skills development within various fields in aquaculture. <input type="checkbox"/> The sector is anticipated to contribute significantly to food and nutrition security as a result of increased fish consumption which will be made possible by sustainable development of the sector which is supported by government nationwide.
4. Consolidating the social wage through reliable and quality basic services	The Act will provide for promotion of sound labour practices in line with national policies that seek to promote decent working environment and fair remuneration of employees.
5. Spatial integration, human settlements and local government	N/A
6. Social cohesion and safe communities	The new Act will assist with bringing new entrants into the sector especially previously disadvantaged individuals. Furthermore, the sustainable development of the sector will potentially result in more jobs created that will lead to a decrease in crime.

National Priority	Impact
7. A better Africa and world.	N/A

For the purpose of building a SEIAS body of knowledge please complete the following:

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