

ORDINANCE 18 OF 2001

**AN ORDINANCE
TO PROVIDE FOR THE CONTROL OF MATTERS
RELATED TO AQUACULTURE**

T.W. RIMMER
ADMINISTRATOR

6th September 2001.

BE it enacted by the Administrator of the Sovereign Base Areas of Akrotiri and Dhekelia as follows:-

1. This Ordinance may be cited as the Fish Farming Ordinance 2001. Short title.

2. In this Ordinance, unless the context otherwise requires - Interpretation.

“appropriate Republican law” means the Aquaculture Law No. 117(I)/2000 as amended or substituted from time to time and includes any regulations or orders made thereunder;

“aquatic species” means any live species of aquatic flora and fauna, including all aquatic plants and animals, fish, shellfish, molluscs, crabs, their fry and eggs;

“fish farm” means any place or any establishment where aquatic species are bred or reproduced for the purposes of sale;

“fish farming” means all forms of aquaculture including the breeding, rearing or cultivating of aquatic species for sale;

“means of transport” means any form of transport used or capable of being used for the transport of persons or goods by land, sea or air;

“permit” means a permit for the establishment and operation of a fish farm granted under the provisions of this Ordinance or deemed to have been so granted under section 24;

“pollution” has the meaning assigned to it by the Control of Water Pollution Ordinance; Ordinances 7/98
and 11/99.

“the Committee” means the Advisory Committee for Aquaculture established under the appropriate Republican law.

Advisory
Committee for
Aquaculture.

3. On any matter of policy relating to fish farming, the Fiscal Officer shall have regard to any relevant opinion, advice or recommendation of the Committee.

Permit for the
establishment and
operation of a fish
farm.

4. - (1) Notwithstanding the provisions of any other Ordinance or regulations, a person shall not establish or operate a fish farm without a permit granted to him by the Fiscal Officer under the provisions of this Ordinance.

(2) A permit shall be granted upon an application submitted by an interested person and accompanied by any documents or information that the Fiscal Officer may require.

Environmental
impact statement.

5. - (1) Within one month of the date of the submission of an application such as is referred to in section 4(2), the Fiscal Officer shall require the applicant to prepare and submit to him a written statement of the impact on the environment ("an environmental impact statement") by reason of the proposed establishment and operation of the fish farm to which the application relates.

(2) An environmental impact statement shall include prescribed particulars but the Fiscal Officer may in addition require such further particulars to be included as he deems necessary with respect to any particular application.

Preconditions for
the grant and form
of, and fees for,
permit.

6. - (1) A permit such as is referred to in section 4 shall not be granted, unless -

- (a) the applicant furnishes all the particulars and documents requested from him;
- (b) the applicant has secured all the necessary approvals concerning the use of the site and water for the establishment and operation of the proposed fish farm to which the application relates;
- (c) the environmental impact statement which the Fiscal Officer will have required from the applicant includes all the necessary particulars and its contents have been approved.

(2) The form of a permit and the fees for its grant shall be as prescribed.

Period of validity
of permit.

7. The period of validity of a permit shall be as prescribed.

Imposition of
conditions.

8. - (1) Subject to the provisions of any other Ordinance, the Fiscal Officer may, upon the grant or renewal of a permit, impose any conditions he deems necessary regarding the following matters -

- (a) the area or the site within which the fish farm is to be operated;
- (b) the construction works, installations, equipment and the machinery and the manner of maintenance thereof at the fish farm;
- (c) the time within which those construction works are to be completed and the operation of the fish farm is to be commenced;
- (d) the aquatic species and the quantity thereof which are to be introduced to the fish farm;

- (e) the composition, quality and quantity of feed to be used in the fish farm;
- (f) the use and control of pharmaceutical preparations or drugs or the prohibition on the use thereof, based on the recommendations of the Director of the Department of Veterinary Services of the Republic;
- (g) the notifications to be given by the applicant or his representatives or employees to the Director of the Department of Veterinary Services of the Republic of the symptoms observed at the fish farm of any disease;
- (h) the destruction or disposal of dead fish or any waste emanating from the operation of the fish farm;
- (i) the removal from or to the fish farm of any type of fish;
- (j) the control of the quality of the water used at the fish farm;
- (k) the insurance cover against third party risks of the installations at the fish farm;
- (l) the maintenance of a register regarding the content of the fish farm and of the activities there;
- (m) the furnishing of any information and statistical data regarding the activities of the applicant in the field of fish farming.

(2) Notwithstanding the following provisions of this Ordinance, the Fiscal Officer shall, when considering an application for the grant of a permit, have regard to and apply any Ordinance or regulation or any decision of the Administrator from time to time in force regarding matters concerning the environmental impact arising from the establishment or operation of any work in connection with the proposed fish farm.

(3) When considering any application for the grant or renewal or the revocation of a permit, the Fiscal Officer shall seek the expert opinion of the Director of the Department of Veterinary Services of the Republic on matters relating to the prevention and control of the spread of diseases of aquatic species.

9. Notwithstanding any other provisions of this Ordinance, the Fiscal Officer may, at any time, require the holder of a permit to furnish him in writing with any information regarding the fish farm or the production of any products of the fish farm.

Information to
Fiscal Officer.

10. Any alterations with regard to the development of the site of a fish farm or to the installations or equipment or maintenance thereof at a fish farm, which are not in accordance with the conditions of the permit or the prior written consent of the Fiscal Officer are hereby prohibited.

Alterations to a
fish farm.

11. - (1) The Fiscal Officer may refuse to grant or renew any permit, if he has reason to believe that the activities of the applicant in the field of fish farming –

Refusal to grant or
renew a permit or
restrictions on
grant or renewal of
permit.

- (a) are likely, in the expert opinion of the Director of the Department of Veterinary Services of the Republic, to lead to the communication of any disease to any aquatic species;

- (b) are likely to increase the risk of pollution of the environment or change the character thereof;
- (c) are incompatible with any activity for the protection or preservation of the environment or character thereof;
- (d) are likely adversely to affect the volume of traffic or the carrying out of any development works in the vicinity of the fish farm;
- (e) are incompatible or do not comply with any condition of the permit; or
- (f) are otherwise contrary to the public interest.

(2) If, when considering an application for the renewal of a permit, the Fiscal Officer finds that there exists any of the reasons referred to in paragraphs (c), (d) and (e) of subsection (1) above, he may reject the application, or renew it, and impose such new conditions as he deems necessary.

12. - (1) The Fiscal Officer may revoke a permit if he finds that any of the following reasons exist -

- (a) on the basis of the expert opinion of the Director of the Department of Veterinary Services of the Republic, there has been an outbreak of disease in one or more aquatic species in the fish farm to which the permit relates, or by reason of the manner of operation of the fish farm in question, there exists a serious risk of the spread of contagious diseases affecting aquatic species;
- (b) the permit holder has breached or is in breach of any conditions of his permit;
- (c) the permit holder has ceased to engage in fish farming;
- (d) a period of six months has elapsed from the date of the grant of a permit and the fish farm to which the permit relates is not in full operation or the volume of production there does not meet the condition of the permit relating to production;
- (e) the continued operation of the fish farm prejudices the public interest.

(2) The Fiscal Officer may, instead of revoking the permit in the cases referred to in subsection (1) above, impose on the permit holder any further conditions that the Fiscal Officer deems necessary with regard to the operation of the fish farm and with which additional conditions the permit holder shall be obliged to comply.

13. - (1) Notwithstanding the following provisions of this Ordinance, the Fiscal Officer may order the removal of any fish farm to another site if he thinks that this is necessary by reason of an infringement of any condition of the related permit or for reasons of public security or for the protection of the rights and freedoms of others or for the development or use of any property or site for the benefit of the public.

(2) The Fiscal Officer may revoke a permit if the owner or the person in control of the fish farm in question fails to remove the fish farm in compliance with an order made under subsection (1) above.

Revocation of permit.

Removal of fish farm.

(3) Where the Fiscal Officer orders the removal of a fish farm by reason of the infringement of any condition of the related permit, the expenses of such removal shall be borne by the owner of the fish farm or by the person responsible for its operation or by both such persons.

(4) Where such order to remove a fish farm is made for reasons other than those referred to in subsection (3) above the expense of such removal shall be borne by the Administration.

14. - (1) Any interested person who is not satisfied by a decision of the Fiscal Officer made under this Ordinance, whether it relates to a refusal to grant or renew a permit, or to the revocation of a permit or to the removal of a fish farm, may, within thirty days of the date the said decision is notified to him submit an appeal to the Chief Officer in writing setting out the reasons for the appeal.

Appeal against a decision of the Fiscal Officer.

(2) As soon as is reasonably possible the Chief Officer shall consider such appeal after hearing the appellant or giving him an opportunity to support the reasons on which the appeal is based and the decision of the Chief Officer on the appeal shall be issued and notified to the appellant.

(3) For the purposes of his consideration of an appeal the Chief Officer may assign to one or more of his officers the investigation of certain matters concerning the appeal and require such officers to submit to him a relevant report, before making his decision.

(4) A decision of the Fiscal Officer to refuse to grant or to renew a permit or to revoke a permit or to remove a fish farm shall not take effect --

- (a) until a period of thirty days have elapsed from the date of the decision and no appeal against the decision has been brought under subsection (1) above;
- (b) where an appeal against the decision is brought under subsection (1) above, unless and until that appeal has been decided against the appellant.

15. - (1) No permit may be transferred to a third party without the written consent of the Fiscal Officer.

Transfer of permit.

(2) Where a permit is lawfully transferred under subsection (1) above, the Fiscal Officer may impose on the new permit holder any of the conditions provided for in section 8 or he may modify any of the conditions imposed on the previous permit holder.

16. The Fiscal Officer may -

- (a) enter any place (other than a dwelling house) used solely for the purposes of fish farming and carry out an inspection of the installations and products of the fish farm;
- (b) stop, enter and search any means of transport in respect of which there is reasonable suspicion that it carries fish farming products, produced in the Areas or the Republic without a permit in breach of the provisions of this Ordinance, or, as the case may be, the corresponding laws of the Republic;
- (c) seize any fish farming products in respect of which there is reasonable suspicion that they were produced in the

Powers of the Fiscal Officer.

Areas or the Republic in breach of the provisions of this Ordinance, or, as the case may be, the corresponding laws of the Republic;

- (d) seize any means of transport or any other thing in respect of which there is reasonable suspicion that it has been used to commit any offence under this Ordinance;
- (e) participate in the application of any measures deemed necessary on the advice of the Director of the Department of Veterinary Services of the Republic by way of seizure and destruction of fish farming products, for the purpose of preventing the spread or of combatting any disease of aquatic species;
- (f) order the termination of any activity relating to fish farming, where there is reasonable suspicion that such activity has been undertaken in breach of the provisions of this Ordinance.

Seized items.

17. - (1) Any fish farming products seized under the provisions of this Ordinance which are liable to perish within a short time, may be sold by the Fiscal Officer and the proceeds of their sale shall remain in his possession until the conclusion of the relevant judicial procedure with regard to such products.

(2) If any fish farming products seized by the Fiscal Officer under the provisions of this Ordinance are liable to decay within a short time and it has not been possible to sell them or they are unfit to be sold, the Fiscal Officer may destroy such products in any manner he deems proper and the expenses of such destruction shall be borne by the owner of the products.

(3) Any means of transport or any other thing, seized under the provisions of this Ordinance, shall be kept in accordance with the directions of the Fiscal Officer pending the trial by the Court of the related offence or until a decision not to prosecute has been taken.

Offences and penalties.

18. - (1) Any person who operates a fish farm, without a valid permit under the provisions of this Ordinance, shall be guilty of an offence and on conviction shall be liable to imprisonment not exceeding one year or to a fine not exceeding five thousand pounds (£5.000) or to both such penalties.

(2) Any holder of a permit who does not comply with any condition imposed upon him under the provisions of this Ordinance shall be guilty of an offence and on conviction shall be liable to imprisonment not exceeding two months or to a fine not exceeding two thousand pounds (£2.000) or to both such penalties.

(3) Any person who enters the premises of a fish farm without being duly authorised by the holder of the permit relating to the fish farm or by the Fiscal Officer, shall be guilty of an offence and on conviction shall be liable to imprisonment not exceeding one month or to a fine not exceeding five hundred pounds (£500) or to both such penalties.

(4) Any person who interferes in the operation or handling of the installations of a fish farm or of any part or section thereof without being duly authorised by the holder of the permit relating to the fish farm or by the Fiscal Officer, shall be guilty of an offence and on conviction shall be liable to imprisonment not exceeding six

months or to a fine not exceeding three thousand pounds (£3.000) or to both such penalties.

(5) Any person who deposits any aquatic species in the territorial waters of the Areas or in a dam, reservoir, river or lake, without the permission of the Fiscal Officer, shall be guilty of an offence and on conviction shall be liable to imprisonment not exceeding six months or to a fine not exceeding three thousand pounds (£3.000) or to both such penalties.

(6) Any person who obstructs an officer of the Administration or any other person authorised by the Chief Officer in the execution of his duties assigned to him for the purposes of this Ordinance, shall be guilty of an offence and on conviction shall be liable to imprisonment not exceeding six months or to a fine not exceeding three thousand pounds (£3.000) or to both such penalties.

(7) Any breach of any provision of this Ordinance for which no penalty is provided under the subsections (1) to (6) above of this section, shall be an offence punishable with a fine not exceeding five hundred pounds (£500).

19. No provision of this Ordinance shall be construed as granting a right or authority to any person to fish within or under the installations of any fish farm in a manner which does not comply with the provisions of this Ordinance or with the Fisheries (Consolidation) Ordinance.

Right to fish.

Ordinances 2/82,
3/91 and 5/94.

20. On any matter which concerns animal diseases or the use of pharmaceutical preparations in fish farming, the Fiscal Officer shall have regard to any relevant opinion, advice or recommendation of the Director of the Department of Veterinary Services of the Republic.

Diseases and
drugs.

21. The Administrator may grant permission to use a sea site within the territorial waters of the Areas for the purpose of fish farming subject to and in accordance with the prescribed conditions, procedure and fees.

Permission to use
sea site for fish
farming.

22. Any trade or economic information concerning a fish farm, coming to the knowledge of the Fiscal Officer or any officer of the Administration in the course of exercising their powers or duties under this Ordinance and any regulations made under it, shall be confidential and shall not be disclosed to anyone, except in the following cases -

Information to be
treated as
confidential.

- (a) with the written consent of the holder of the permit relating to the fish farm;
- (b) for the purposes of a prosecution of an offence under this Ordinance;
- (c) when it is necessary for the purposes of implementing a programme of the Areas or of the Republic relating to the protection of the environment or the prevention or combat of animal diseases in the vicinity of the fish farm.

23. - (1) The Administrator may make regulations in relation to any matter which may be prescribed under this Ordinance and generally for the more effective application of this Ordinance and for putting it into effect.

Regulations.

(2) Without prejudice to the generality of subsection (1) above, the Administrator may make regulations to provide for the following matters -

- (a) the procedure for the grant or renewal of a permit, the form of the application for a permit or the renewal of a permit, and the fees payable for a permit or renewal of a permit;
- (b) the period of validity of a permit, having regard to the type or the size of the fish farm or its site;
- (c) the necessary particulars to be included in an environmental impact statement such as is described in section 5 and the procedure and time for the submission of an environmental impact statement;
- (d) particulars regarding the equipment, the construction and the machinery of a fish farm and the operation of the relevant installations;
- (e) the control of the waste of fish farms;
- (f) the collection by the Fiscal Officer of information or data concerning fish farming;
- (g) the establishment of safety zones and the installation of suitable signs for the safety of navigation in sea areas where fish farm installations are situated;
- (h) the areas within which fish farms and related installations may be established;
- (i) the ways and means of controlling the quantity and quality of the feed used in fish farms and the imposition of duties and charges in the cases where specified feed is used;
- (j) the movement of fish farming products in the Areas;
- (k) the control of risks to wild life arising from fish farming;
- (l) the control of the quality of fish farming products;
- (m) the conditions for granting permission by the Administration to use sea sites for the purposes of fish farming, and the procedure for submitting and approving applications therefor;
- (n) measures for the protection of the environment from activities connected with fish farms, including the payment of any expenses for environmental control.

(3) Any regulation made under this Ordinance may make different provisions for different cases or classes of case and may contain such incidental, supplementary or transitional provisions as appear to the Administrator to be necessary or expedient for the purposes of this Ordinance or the regulations.

24. Any fish farms operating lawfully on the date of commencement of this Ordinance, under and by virtue of the provisions of the Fisheries (Consolidation) Ordinance and regulations made thereunder, shall be subject to the provisions of this Ordinance and there shall be deemed to have been granted in respect of such fish farm a permit under this Ordinance with a period of validity of three years from that date provided that the total annual production of such fish farm does not exceed three hundred tons of fish.

25. No new permission for fish farming within the territorial waters of the Areas shall be granted under this Ordinance before regulations relating to such fish farming have been made under sections 21 and 23(2)(m).

Limitation on grant of permission for fish farming within territorial waters.

26. Paragraph (h) of subsection (2) of section 6 of the Fisheries (Consolidation) Ordinance 1982 is hereby repealed and any regulations made thereunder are hereby revoked but without prejudice to anything done or left undone thereunder.

Repeal.

6th September 2001
(157/2B)

D.J. BONNER,
Chief Officer

