**NORTHERN TERRITORY FISHERIES ACT**

*Division 2,* Section 10/11 of the Fisheries Act

Part 10, Division 1 & 2 of the Fisheries Regulations

# Information Relating to the Application

**This form is to be used by a person who wishes to apply for an Aquaculture Licence.**

**This is an Application only. Following assessment of your application, you will be informed of the outcome. You are not permitted to carry out any activities subject of this application until you have been granted a licence.**

### Licence Fee

 $640 + NTSC levy $895

### Legislation

Fisheries Act

Division 2 Licensing

**10 Taking, &c., fish, &c., without licence**

 (1) Subject to this Act or to an instrument of a legislative or administrative character made under it, a person shall not:

(a) take any fish or aquatic life;

(b) farm, breed, culture, or keep live fish or aquatic life for sale or the purposes of aquaculture (whether they are sold or used live or dead) or for the purpose of exhibiting any of them for profit;

(c) take live aquatic life, live fish, or any live eggs, fry, spat, or larva of fish, for the purpose of aquaculture or another purpose referred to in paragraph (b);

(d) sell live aquatic life, live fish, or any live eggs, fry, spat, or larva of fish;

(da) process for sale or sell aquatic life or fish, or eggs, fry, spat or larva of aquatic life or fish; or

(e) take any other action where the action is prescribed as being able to be taken only by the holder of a licence,

unless the person does so under and in accordance with a licence.

Maximum penalty: In relation to paragraph (a), (b), or (c) – 170 penalty units or imprisonment for 2 years.

 In relation to paragraph (d) or (e) – 85 penalty units or imprisonment for 1 year.

 (2) Nothing in this section shall apply to the taking of fish or aquatic life by a person for subsistence or personal use only (and not for the purposes of sale), within such limits (if any) relating to numbers, quantity, size, weight, methods, types and amounts of fishing gear, and periods of time (including closed and open seasons), as may be prescribed for any such fish or aquatic life.

**Section 11**

* + 1. Subject to this Act, every person who proposes to do anything specified in section 10(1) shall apply to the Director for an appropriate licence.
		2. An application for a licence under this section shall be made on an approved form and shall be accompanied by the prescribed fee (if any).
		3. An approved form under subsection (2) shall, at the least, make provision for the applicant's name and an address for service.

(3A) The Director must determine an open and public process for:

 (a) the allocation of licences for a new fishery; and

 (b) if an existing fishery is expanded – the allocation of additional licences, and the review of the conditions attaching to existing licences, for the fishery.

1. In considering an application under this section:
2. (a) the Director's primary regard must be for the sustainability of the fishery; and

 (b) the Director must also have regard to any requirements or matters prescribed in the Regulations as being relevant to an application or a nominated person, or both, as the case may be, for the type of licence applied for.

1. Where an applicant already holds a licence in respect of a fishery or other prescribed matter, any further grant of a licence or licences during the term of that licence may be made by noting the grant on the original licence form.
2. Where the Director is satisfied that, in relation to the application, the applicant complies with this Act or an instrument of a legislative or administrative character made under it and the applicant is not otherwise barred from holding a licence, the Director shall grant the appropriate licence. Subject to subsection (8), a licence under this section may be granted for a period of not more than 5 financial years on payment of the prescribed fee (if any) for each financial year of the licence and shall be subject to such conditions relating to areas, species, quantities, methods, the use or non-use of vessels and the specific vessel or types of vessels (if any) that may be used, types and amounts of fishing gear, harvesting, handling, specific ports or places where fish or aquatic life may be landed, and periods of time as the Director, if those matters are not otherwise prescribed, considers appropriate.

(7A) Where a licence is granted after the commencement of a financial year, the remaining part of the financial year shall be taken as a full financial year for the purposes of this section.

1. A licence relating to aquaculture may be granted for such period as the Director thinks fit, including a period related to the term of a lease, and shall be subject to such conditions as the Director considers appropriate or as may otherwise be prescribed.
2. The fee payable in respect of a licence granted for more than one financial year may be paid in annual instalments, each instalment being paid before the licence, if it were granted for one year, would expire.
3. The Director may from time to time, by written notice to a licence holder, amend or revoke the conditions of the licence or add new conditions.
4. The conditions referred to in this section shall be substantially the same for all licences for any fishery management area or Joint Authority fishery or in respect of the same class or species of fish or aquatic life unless the Director is satisfied, on stated grounds, that different conditions are reasonable.
5. The Director may, if the Director considers it expedient to do so, require a licensee to return the licence document and the Director shall issue a substitute containing any new conditions in its place.
6. – (14) Omitted

(15) Where a licence is cancelled, the registration of a vessel used pursuant to that licence is also cancelled but the Director shall re-register the vessel if the cancellation of the licence is revoked.

(16) Nothing in subsection (15) shall prevent a vessel being registered in relation to a licence held by a licensee who is not the licensee whose licence is cancelled or is not a partnership or company in which that licensee is a partner or has an interest.

### Fisheries Regulations

**Part 10 Aquaculture**

**Division 1 Licensing generally**

**159 No aquaculture without licence**

A person shall not breed, farm or hold live fish for sale unless he or she holds a licence in respect of this Part.

**160 Criteria for grant or renewal**

The matters to which the Director may have regard in considering an application for the grant or renewal of a licence under this Part include:

(a) whether the applicant's financial resources are, in the opinion of the Director, sufficient to enable commercial use of the licence; and

(b) whether the applicant has attained the age of 18 years; and

(c) whether the applicant has all approvals required under any other Act of the Territory to conduct the operation; and

(d) where an applicant has previously held a licence under this Act, whether the applicant has supplied all accounts, records, returns and information in the approved manner and form and within the time prescribed or specified by the Director; and

(e) any other criteria set out in these Regulations in respect of the licence.

**161 Application for licence**

An application for a licence in respect of this Part must contain:

(a) details of the species, stage of life cycle and number of fish or aquatic life that the applicant intends to stock or culture or intends to take or retain as broodstock; and

(b) details of the gear that the applicant intends to use to take fish or aquatic life, other than gear used to take fish within the aquaculture facility to which the application relates; and

(c) plans relating to the construction, development or modification of an aquaculture facility to which the application relates; and

(d) a proposed plan of operation in respect of the aquaculture facility to which the application relates; and

(e) approvals required under any another Act of the Territory for the operation of the aquaculture facility to which the application relates; and

(f) details of the location of the aquaculture facility and of all places at which the applicant intends to breed, hold, rear, process or sell fish or aquatic life; and

(g) such other information as the Director requires.

**162 Place of processing to be specified in licence**

(1) The holder of a licence in respect of this Part shall not breed, hold, rear, process or transfer fish into the possession of a person other than an assistant of the licensee, except in or at a place specified in the licence.

(2) The Director shall not grant a licence in respect of this Part in respect of a domestic dwelling unless the dwelling:

 (b) will not contravene control plans made under the *Planning Act*.

**163 Modification of aquaculture facility**

The holder of a licence in respect of this Part shall not modify an aquaculture facility to which the licence relates unless he or she has submitted specifications and plans relating to the proposed modification to the Director and the Director has, in writing, approved the modification.

**165 Licence details to be displayed**

The holder of a licence in respect of this Part shall display, in a prominent place in each of the places noted in the licence, the number and expiry date of the licence.

**168 Broodstock**

 (1) The holder of a licence in respect of this Part must, as soon as practicable after taking barramundi broodstock from waters outside an aquaculture facility, tag it in the approved manner.

 (2) For section 10(1)(e) of the Act, the disposal otherwise than by sale of fish taken as broodstock is prescribed as being an action able to be taken only by a holder of a licence in respect of this Part.

**169 Labelling of fish etc. from aquaculture facility**

The holder of a licence in respect of this Part must ensure that fish or aquatic life leave the aquaculture facility with a statement indicating:

(a) the number of the licence under which the fish or aquatic life were bred or held; and

(b) that the fish or aquatic life is the product of an aquaculture facility in the Northern Territory; and

(c) such other information as required by the Director;

attached to or accompanying the fish or aquatic life and that the statement remains attached to or accompanies the fish at all times when the fish is in the possession or control of the holder of the licence outside the aquaculture facility.

**Division 2 Aquaculture licence**

**170 Activities authorised by Aquaculture licence**

 (1) A person may take fish as broodstock, purchase fish, breed fish or aquatic life, rear or hold such fish or aquatic life and process and sell such fish or aquatic life, under and in accordance with an Aquaculture licence.

 (2) For subregulation (1), ***fish*** does not include a member of the genus *Pinctada* (pearl oysters).

**171 Conditions of licence**

The conditions to which an Aquaculture licence may be subject include:

(a) limitation of the species of fish which may be kept and the stages of the life cycle of a fish at which the fish may be kept; and

(b) limitation of the number of fish which may be kept or sold; and

(c) limitation of the use of chemicals or drugs, including the regulation or prohibition, for such period as the Director thinks fit, of the transport or release from the aquaculture facility of fish exposed to chemicals or drugs; and

(d) a requirement for the lodgement of an ADI guarantee or securities to cover the cost of damage which may be caused by the operation of the aquaculture facility; and

(e) a condition that the licensee shall operate the aquaculture facility in accordance with the plan of operation submitted in accordance with regulation 161(d) and approved by the Director; and

(f) the method of water discharge or other waste disposal.

**172 Licence conditional on construction**

 (1) The Director may, on receipt of an application for an Aquaculture licence, grant the licence on condition that the aquaculture facility to which the licence relates is constructed or altered in accordance with the specifications or plans accompanying the application under regulation 161(c), as modified by the conditions or requirements, if any, imposed by the Director.

 (2) The conditions referred to in subregulation (1) may include a requirement that construction or alteration take place in stages and at times determined by the Director.

 (3) At the completion of a stage of construction or alteration determined by the Director under subregulation (2), the Director or a person authorised by the Director for that purpose shall examine the aquaculture facility and, if satisfied that the construction or alteration complies with the specifications or plans referred to in subregulation (1) for that stage of construction as determined in accordance with subregulation (2), shall certify that construction or alteration may proceed to the next stage.

 (4) Where:

(a) the Director or a person authorised by the Director:

(i) has inspected the aquaculture facility at a stage of construction specified in the licence and cannot certify that construction or alteration may proceed to the next stage or that the facility, when completed, would be constructed or altered in accordance with the requirements of subregulation (1); or

(ii) at any time during the period in which the licence is valid has reasonable grounds for concluding that the aquaculture facility will not be constructed or altered in accordance with those requirements; or

(b) the licensee has breached another condition of the licence or committed an offence under the Act;

the Director may, if he or she thinks fit, refuse to permit the construction or alteration of the aquaculture facility to continue to the next stage and the licensee shall, notwithstanding any other provision in these Regulations, cease to be permitted to take, purchase, breed, hold, process or sell fish or aquatic life under the licence.

**173 Possession of broodstock**

An Aquaculture licensee must not possess fish or aquatic life for breeding except those fish or aquatic life:

(a) taken under and in accordance with the Act; or

(b) obtained from a person who holds a commercial fishing licence; or

(c) imported in accordance with a permit; or

(d) obtained from another Aquaculture licensee; or

(da) obtained from an Ornamental Aquaculture licensee; or

(e) obtained from an aquaculture facility operated by a statutory corporation; or

(f) obtained from an Aboriginal Coastal licensee.

**174 Sale of fish**

An Aquaculture licensee may sell fish or aquatic life to the following:

(a) an Aquarium Fishing/Display Fishery licensee;

(b) a Fish Broker licensee;

(c) a Fish Retailer licensee;

(d) a Fish Trader/Processor licensee;

(e) an Aquaculture licensee;

(ea) an Ornamental Aquaculture licensee;

(f) an Aquarium Trader licensee;

(g) a Public Aquarium licensee;

(h) a member of the public not purchasing fish or aquatic life for resale.

**175 Disposal of broodstock**

An Aquaculture licensee shall not sell or otherwise dispose of fish or aquatic life taken as broodstock under this Part to another person except:

(a) after 12 months after the date the fish or aquatic life was taken; and

(b) with the prior approval of the Director.

For any queries please contact the Fisheries Licensing Office. (08) 8999 2183

# Instructions for completing an application for the grant of a Aquaculture Licence

Before completing the form **read** these instructions. **Please** use **BLOCK LETTERS** when completing the form.

1. The application can be in the name of a company, partnership or an individual.
2. If the licence is in an individual or a partnership complete the application on the top left hand side. Proof of identity is required for an individual (drivers licence, passport etc). For a partnership, documentation to prove that the partnership exists along with the individual proof of identity for each partner will be required.
3. If the application is in a company name then complete the top right hand side of the application and proof that the company exists is required. This is the extract from ASIC.
4. Aquaculture location is the location of the operation.
5. Species to be farmed must be specified.
6. Make sure that the document is signed by the applicant(s).
7. Aquaculture licence proposal to be submitted with this application.

**Declaration**

Under Section 35 of the *Northern Territory Fisheries Act* making false or misleading statements in applications is an offence

**Changes to legislation**

Please note that the *Fisheries Act*, regulations and management plans are amended from time to time. Current versions of these documents are available on the Internet and may be viewed at nt.gov.au.

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| Office Address:Goff Letts BuildingBerrimah FarmMakagon StreetBERRIMAH | Tel: 08 89992183Fax: 08 89992057Email: Fisherieslicensing@nt.gov.au  | Postal AddressFisheries LicensingDepartment of Primary Industryand FisheriesGPO Box 3000DARWIN NT 0801 |

**Privacy Statement:** Details in this application will be recorded in a Fisheries Register and certain personal details may be released but, will only be done so in accordance with S9 of the *Fisheries Act*.

**NORTHERN TERRITORY FISHERIES ACT**
Division 2, Section 10/11 of the Fisheries Act
(Part 10 Division 1 & Division 2A – Fisheries Regulations)

Incomplete applications cannot be processed. If you have any queries please contact Licensing Section on 08 89992183.

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| **APPLICATION BY AN INDIVIDUAL/PARTNERSHIP**Business Trading Name Surname Given name Date of birth Male/FemaleResidential address Postal address Phone No Fax No Email Address  | **APPLICATION BY A COMPANY**Company name A.C.N. No Trading name Postal address  Public Officer’s surname Given name Date of birth Male/FemaleResidential address  Postal address  Phone No Fax No Email Address   |
|   Signature of applicant Date |   Signature of Public Officer Date |
| **AQUACULTURE LOCATION**   Postal Address  Phone No Fax No **SPECIES TO BE FARMED**     If more than one Aquaculture Location and/or insufficient space to list species farmed an extra page may be submitted with this form. | OFFICE USE ONLYRecommended by Aquaculture Manager [ ] Check list completed [ ] Proof of ID [ ] Police check [ ] Receipt No Date This application is: APPROVED/NOT APPROVED Director of Fisheries or Delegate DateLicence No. |