



AQUACULTURE AGREEMENTS

This information sheet provides information on the aquaculture agreement process established under the 2011 aquaculture legislative reforms.

The Ministry for Primary Industries assesses the effects of coastal permits for new aquaculture space on commercial, customary and recreational fishing through the undue adverse effects test (UAE test). Either before or after the UAE test is completed, coastal permit applicants/holders and quota owners may voluntarily agree on compensation for the adverse effects of marine farms on commercial fishing for a quota management system (QMS) stock through:

Pre-request aquaculture agreements

- » A voluntary agreement made before the UAE test.

Negotiated aquaculture agreements

- » A voluntary agreement made after the UAE test if there is a reservation (an undue adverse effect) on commercial fishing for a QMS stock.

If a negotiated aquaculture agreement is not reached, with or without an attempt to negotiate, the coastal permit holder may request that an independent arbitrator determine compensation.

For information on the arbitration process see the Aquaculture pages on the Ministry for Primary Industries website www.mpi.govt.nz.

For an overview of the aquaculture agreement and arbitration processes, see the process diagram on the next page.

PRE-REQUEST AQUACULTURE AGREEMENTS

Effects on any QMS stocks covered by a pre-request aquaculture agreement are not included in the UAE test. Pre-request aquaculture agreements must be lodged after an applicant has applied for a coastal permit but before the consent authority's request for an aquaculture decision (a UAE test decision).

Pre-request aquaculture agreements require a coastal permit applicant to get agreement of enough quota owners so that at least 75 percent of quota shares for a stock are covered by the agreement. Quota owners who do not consent are entitled to receive the same compensation, proportional to their quota shareholding.

After a pre-request aquaculture agreement is registered, no person who has consented in the agreement may revoke their consent, but the agreement comes to an end if the application for the coastal permit it relates to is declined or withdrawn. If the coastal permit is granted, the agreement expires when the coastal permit expires, unless the permit is replaced by a new permit.

NEGOTIATED AQUACULTURE AGREEMENTS

If an aquaculture decision includes a reservation due to effects on commercial fishing for a QMS stock, a negotiated aquaculture agreement means the reservation will be lifted for quota stocks covered by the agreement. If there is more than one affected stock (that is, stock subject to the reservation),

there must be agreement for all the affected stocks for the reservation to be completely lifted.

Negotiated aquaculture agreements require agreement of the owners of at least 75 percent of the quota shares for a stock that is subject to a reservation. With 75 percent agreement, the coastal permit holder may apply to the High Court to get consent on behalf of the other quota owners to reach the required 100 percent. Any quota owners who do not consent to an aquaculture agreement are still paid compensation.

A negotiated aquaculture agreement must be lodged within six months of the aquaculture decision, unless an extension of time is granted by the Ministry. The six months is paused during any judicial reviews or applications to the High Court.

After a negotiated aquaculture agreement is registered, no person whose consent is contained in the agreement may revoke their consent, but the agreement expires when the related coastal permit expires, unless the permit is replaced by a new permit.

WHAT TERMS MUST BE AGREED?

Pre-request aquaculture agreements and negotiated aquaculture agreements can include any terms or payments agreed between the coastal permit applicant/holder and the quota owners in exchange for consent by the quota owners – for the proposed marine farm.

FEES

The fee for lodging an aquaculture agreement as of 1 October 2011 is \$276 for one stock plus \$24.15 for each additional stock.

HOW DO I LODGE AN AQUACULTURE AGREEMENT?

FishServe, on behalf of the Ministry, receives aquaculture agreement applications and registers aquaculture agreements. See the Information pages on FishServe's website (www.fishserve.co.nz) to obtain aquaculture agreement forms and request aquaculture agreement registers.

FOR MORE INFORMATION ON AQUACULTURE AGREEMENTS

See the Aquaculture pages on the Ministry for Primary Industries website (www.mpi.govt.nz) or contact the Ministry's Aquaculture Unit, phone **03 548 1069**.

Also see the aquaculture agreement and compensation provisions under Part 9A, subpart 4 of the Fisheries Act 1996, regulations 10 and 11 of the Fisheries (Registers) Regulations 2001 for information to be included in the aquaculture agreement and compensation declaration registers, and Part 4 of Schedule 2 of Fisheries (Commercial Fishing) Regulations 2001 for fee information.

This document is intended to give general technical guidance on aspects of marine-based aquaculture under the 2011 aquaculture legislative reforms. It is not legal advice. For legal advice on any aspect of the legislation you should consult your lawyer.

The **general disclaimer on the Ministry for Primary Industries** website also applies to this document and should be read in conjunction with it.

OVERVIEW OF AQUACULTURE AGREEMENT AND ARBITRATION PROCESS

