

## What is the main purpose of the new Finfish Act?

The new *Finfish Farming Environmental Regulation Act 2017* (Finfish Act) establishes the legal structure empowering the Director, EPA with an independent statutory role for the environmental regulation of the State's finfish farming industry, including marine and freshwater farms. Essentially, it provides for the transfer of powers from the Minister for Primary Industries and Water, the Secretary of the Department of Primary Industries, Parks, Water and Environment (DPIPWE) and the Director of Inland Fisheries, to the Environment Protection Authority (EPA). The legislation covers the environmental regulation of both marine and freshwater finfish farming activities, including hatcheries.

## When did the new legislation come into effect?

The Government introduced the *Finfish Environmental Regulation Bill 2017* into Parliament on 17 August 2017. It received Royal Assent on 4 December 2017, and the changes to the law are now being implemented under the new Act.

## How has the finfish farming industry been regulated up to now?

Since the mid-1990s, Tasmania's finfish farming industry has been managed differently according to whether farming took place in the marine or freshwater environment. Marine farms have been managed primarily under the *Marine Farming Planning Act 1995* (MFPA) and the *Living Marine Resources Management Act 1995* (LMRMA). Regulation of inland fish farms may have been via one or more of the following legal instruments - license from the Inland Fisheries Service under the *Inland Fisheries Act 1995*; council permit under the *Land Use Planning and Approvals Act 1993*; environment protection notice under EMPCA issued by council or EPA. Individual marine farms are authorised by a Marine Farming Licence under the LMRMA and inland farms are authorised by a Fish Farm Licence under the IFA. The licences specify what species may be farmed within a location or lease area and under what conditions.

## What legislation is being amended by the Finfish Act?

The Finfish Act amends several Acts relating to the environmental management of finfish farming activities:

- *Environmental Management and Pollution Control Act 1994* (EMPCA);
- *Marine Farming Planning and Development Act 1995* (MFPA);
- *Living Marine Resources Management Act 1995* (LMRMA);
- *Inland Fisheries Act 1995* (IFA); and the
- *Resource Management and Planning Appeal Tribunal Act 1993* (RMPATA);

## What is the main difference with new regulation under EMPCA?

An Environmental Licence (EL) is the new legal instrument for regulating the finfish farming industry by the EPA. In order to operate a marine or inland fish farm, a person must hold an Environmental Licence (EL) under EMPCA as well as a Fish Farm Licence under the *Inland Fisheries Act 1995*, in the case of an inland farm or hatchery, or a Marine Farming Licence under the *Living Marine Resources Management Act 1995* in the case of a marine farm. The EL will specify environmental conditions for the operation of an activity and the licence may be varied, transferred, suspended or cancelled.

## What are the changes to EMPCA?

Finfish farming will become a level 2 activity under Schedule 2 of EMPCA. This will apply to both existing finfish farming activities and proposed new activities. Thresholds will apply to inland activities. An application for an EL for a marine finfish farming activity will normally be processed, and the EL granted or refused, by the Director, EPA. The Director may alternatively refer the application to the Board of the EPA for assessment and a decision. Most applications for inland farms will be assessed by the Board in a similar manner to assessment of other Level 2 activities. The Board will grant or refuse to grant an EL after the assessment.

## What has stayed the same?

The overall planning and development framework for marine farming will remain largely unchanged, with primary decision making regarding the areas for development resting with the Minister under the MFPA. Additional powers will enable the Director, EPA to require specific environmental matters to be addressed during the planning process and to ensure the EPA is notified of key decisions.

The general planning and development of freshwater finfish farming operations will also remain largely unchanged. However, in the instance that the EPA's assessment of an application for a new inland fish farm indicates that a particular site is environmentally unsuitable for that activity, the EPA may refuse to grant a licence. The Inland Fisheries Service will also be required to notify the EPA of key decisions that it makes.

## How will the EPA be involved in planning and assessment?

The planning and development processes for finfish marine farming will remain substantially unchanged and will continue under existing legislation, however the role of the Director, EPA in these processes will be strengthened. Although the Director, EPA will no longer be a member of the Marine Farming Planning Review Panel, there will be provision for two new members, one with environmental management expertise and the other with fish health and biosecurity expertise. In addition, the Director, EPA will have new powers to require environmental management matters to be addressed in marine farming development plans and plan amendments. The legislation also provides for the declaration of finfish marine farming exclusion zones.

## Do I need to apply for an Environmental Licence to operate a fish farm?

Existing operators of both marine and inland fish farming activities are not required to submit an application to the Director, EPA for an Environmental Licence under EMPCA. Instead, these activities can continue under the existing authorisation until an Environmental Licence is issued by the EPA. Further information on the regulatory arrangements for both inland and marine finfish farming activities are available in the relevant Fact Sheets on the EPA website at [www.epa.tas.gov.au/regulation/salmon-aquaculture/industry-regulation](http://www.epa.tas.gov.au/regulation/salmon-aquaculture/industry-regulation).

## What are the benefits of the changes to the regulatory system?

The Government has separated the ongoing environmental regulation of the finfish farming industry from the development and planning regulatory functions. This will enhance and streamline environmental regulatory processes and provide a regulatory framework that keeps pace with industry growth. It should address community concerns regarding the independence and transparency of environmental regulation and enforcement functions, and it supports community expectations and market confidence.

Placing environmental regulation under the responsibility of the EPA will bring the finfish farming industry into line with other large industry sectors such as mining and food processing and integrates the environmental regulation of marine and inland salmon farms and hatcheries under the EPA. This should also relieve the regulatory burden on some local Councils. The new Environmental Licence enables the EPA to consolidate all environmental conditions into one instrument and ensure these conditions are being met by operators.

## How is the regulatory system enforced?

Offences and penalties relating to finfish farming activities are included in changes to EMPCA. It will be an offence to operate a finfish farming activity without an EL, to contravene a condition of an EL or to expand an activity without approval. Penalties include fines and a prison sentence for individuals. There is provision for special monetary penalties to be prescribed in regulations in

relation to the contravention of particular types of licence conditions. The penalties for existing general environmental offences under EMPCA will also apply.

Various existing environmental regulatory powers will also apply in relation to finfish farming activities. For example the Resource Management and Planning Appeal Tribunal will in future be able to make civil enforcement orders in relation to compliance with an EL.

## Will the changes impose a significant cost on industry?

The fees to hold an Environmental Licence are commensurate with the regulatory effort necessary to ensure effective compliance with licence conditions. In the case of existing farms, they are not required to submit an application for a new licence. Under provisions of the Finfish Bill they are deemed to have applied for an environmental licence, and will be issued with one in due course. The activity may continue under its existing authorisation until the Environmental Licence is issued and the associated fee is paid.

In the case of applications to establish new marine or inland fish farms, environmental assessment requirements are expected to remain largely unchanged and assessment fees will be similar to those currently charged. Should the Director, EPA consider it appropriate to refer an application for an Environmental Licence for a marine farm to the EPA Board for assessment, there will be an additional cost to the applicant.

## Will the changes hold up approvals for new proposals?

One of the key objectives of the changes is to clarify and streamline environmental regulatory processes and avoid unnecessary red tape. Consideration of a new application for an Environmental Licence by the Director, EPA or Board of the EPA will coincide with the planning and assessment processes for Marine Farming or inland Fish Farm licences. No undue delays for applicants are anticipated, provided that the information supplied is adequate for the EPA to make a decision on whether an Environmental Licence should be granted.

In the case of inland farms and hatcheries, existing application processes will remain the same, although in future, all proposed fish farms above certain thresholds will need to be assessed by the EPA. Applicants for new marine farms will be required to complete an application form for an Environmental Licence.

## Further information

Salmon Environmental Management Section, EPA Tasmania  
PO Box 1550, Hobart, TAS 7001  
134 Macquarie Street, Hobart, TAS 7000  
Phone: 03 6165 4599  
Email: [enquiries@epa.tas.gov.au](mailto:enquiries@epa.tas.gov.au)  
Website: [www.epa.tas.gov.au](http://www.epa.tas.gov.au)

Marine Farming Branch, Water and Marine Resources Division, DPIPWE  
GPO Box 44, Hobart TAS 7001  
Phone: 03 6165 3110, 1300 368 550  
Email: [marinefarming.enquiries@dpipwe.tas.gov.au](mailto:marinefarming.enquiries@dpipwe.tas.gov.au)

Inland Fisheries Service  
PO Box 575, New Norfolk, TAS 7140  
17 Back River Road, New Norfolk, TAS 7140  
Phone: (03) 6165 3808  
Email: [infish@ifs.tas.gov.au](mailto:infish@ifs.tas.gov.au)  
Website: [www.ifs.tas.gov.au](http://www.ifs.tas.gov.au)