

FISHERIES ACT 1985
FISHERIES (MARINE CULTURE SYSTEM) REGULATIONS
1990

ARRANGEMENT OF REGULATIONS

Regulation

1. Citation, commencement and application.
 2. Interpretation.
 3. Application for and issue of permit.
 4. Terms and conditions of permit.
 5. Deposit.
 6. Application for and issue of licence.
 7. Terms and conditions of licence.
 8. Payment of fee.
 9. Identification of marine culture system.
 10. Cancellation of licence or permit.
 11. Duty to inform when ceasing to operate a marine culture system.
 12. Duty to remove marine culture system.
 13. Deposit to be refunded upon removal.
 14. Director-General to remove marine culture system.
 15. Licensee to furnish data, etc.
 16. Penalty.
 17. Existing marine culture systems on commencement of Regulations.
 18. Exemption.
- FIRST SCHEDULE.
SECOND SCHEDULE.
THIRD SCHEDULE.
FOURTH SCHEDULE.

FISHERIES ACT 1985

FISHERIES (MARINE CULTURE SYSTEM) REGULATIONS 1990

In exercise of the powers conferred by section 61 of the Fisheries Act 1985, the Minister makes the following regulations: Act 317.

1. (1) These regulations may be cited as the **Fisheries (Marine Culture System) Regulations 1990** and shall come into force on such date as the Minister may, by notification in the *Gazette*, appoint, and different dates may be appointed for the coming into force of these Regulations in West Malaysia, the State of Sabah, and the State of Sarawak respectively. Citation, commencement and application.

(2) These Regulations shall apply only to culture systems in the maritime waters of Malaysia.

2. In these Regulations, unless the context otherwise requires— Interpretation.

“cage” means an enclosure of whatever shape or size made of any screening material and attached to floating structures which are anchored to the sea-bed;

“clam” means the bivalve of the genus *Paphia*;

“cockle” means the bivalve of the genus *Anadara*;

“culture bed” means an area where cockles, oysters, mussels or clams have been transplanted and allowed to grow;

“fish hatchery” means an establishment, structure or facility which operates fish breeding for the purpose of fish seed production;

“fish nursery” means an establishment, structure or facility which operates rearing of fish eggs, larvae or hatchlings for the purpose of producing fish fingerlings;

“mussel” means any bivalve of the genus *Perna*, *Mytilus* and *Modiolus*;

“natural bed” means an area where natural cockle, oyster, mussel or clam spatfalls occur;

“on-bottom culture” means the method of culturing seaweed, cockles, oysters, mussels or clams on the seabed;

“oyster” means any bivalve of the genus *Crassostrea*, *Ostrea*, *Saccostrea* and *Pteria*;

“pole culture” means the method of culturing mussels or oysters on poles which are arranged in rows and driven into the seabed;

“pen” means an enclosure made of any screening material attached to poles staked to the seabed and used for the purpose of growing or culturing fish;

“raft culture” means the method of culturing seaweed, cockles, oysters, mussels or clams on ropes or trays which are suspended from a platform or rope made of whatever material, buoyed by floats and anchored to the seabed;

“rack culture” means the method of culturing seaweed, cockles, oysters, mussels or clams on ropes or trays suspended or supported from horizontal poles of whatever material and these horizontal poles are in turn supported by vertical poles of whatever material which are driven into the seabed;

“seaweed” means any aquatic plant of the genus *Eucheuma* or *Gracillaria*.

Application
for and issue
of permit.

3. (1) An application for a permit to set up a marine culture system shall be made in writing to the Director-General.

(2) The application shall specify the type of marine culture system sought to be set up and the proposed site and it shall be accompanied with a plan of such site.

(3) Upon receipt of the application the Director-General shall survey the site specified in the application and where he is satisfied that the setting up of such marine culture system will not be detrimental to the development of fisheries in Malaysia, he may issue a permit.

Terms and
conditions
of permit.

4. A permit issued under regulation 3 in respect of a marine culture system shall be subject to the terms and conditions set out in the First Schedule in respect of that marine culture system and to such other terms and conditions as the Director-General may from time to time specify.

Deposit.

5. (1) The Director-General shall, before issuing a permit in respect of a marine culture system, require an applicant to pay the deposit as set out in the Second Schedule in respect of that marine culture system.

(2) The Director-General shall issue a receipt in respect of every deposit paid.

Application
for and issue
of licence.

6. (1) An application for a licence to operate a marine culture system shall be made in writing by the permit holder to the Director-General and shall contain such information as the Director-General may require.

(2) Upon receipt of the application the Director-General shall survey the marine culture system and where he is satisfied that the setting up of such system is in compliance with the terms and conditions of the permit issued under regulation 3, he may issue a licence.

(3) where a licence has been issued the deposit made in respect of the permit shall be deemed to be a deposit made in respect of the licence issued.

Terms and
conditions
of licence.

7. A licence issued under section 6 shall be subject to the terms and conditions specified in the Third Schedule and to such other terms and conditions as the Director-General may from time to time specify.

8. There shall be paid in respect of the licence issued under section 6 such fee as is set out in the Fourth Schedule. Payment of fee.
9. (1) A marine culture system licenced under these Regulations shall be identified by a number to be allotted by the Director-General. Identification of marine culture system.
- (2) The licensee shall make, at his own expense, a number plate bearing the number allotted by the Director-General and such number plate shall conform to the size, material and colour specifications given by the Director-General.
- (3) The licensee shall at all times display the number plate bearing such number at a conspicuous part of the marine culture system.
10. The Director-General may cancel the licence or permit where the licensee or permit holder, as the case may be, has failed to comply with any of the terms and conditions subject to which it was issued or where the licensee or permit holder has contravened any of the provisions of these Regulations. Cancellation of licence or permit.
11. A licensee who ceases to operate a marine culture system shall forthwith inform the Director-General that he has ceased to operate the marine culture system. Duty to inform when ceasing to operate a marine culture system.
12. (1) A licensee who ceases to operate a marine culture system or a licensee or permit holder whose licence or permit has been cancelled under regulation 10 shall remove or cause to be removed the marine culture system no later than thirty days after being notified by the Director-General to do so. Duty to remove marine culture system.
- (2) No person shall remove any marine culture system except under the supervision of the Director-General.
13. Where a licensee or permit holder has removed or caused to be removed the marine culture system at his own expense and within the time specified, the deposit made under regulation 5 shall be refunded to him. Deposit to be refunded upon removal.
14. (1) Where a licensee who has ceased to operate a marine culture system or a licensee or permit holder whose licence or permit has been cancelled under regulation 10 has failed to remove or cause to be removed the marine culture system within the time specified, the Director-General shall be empowered to take all necessary steps to remove and destroy the same. Director-General to remove marine culture system.
- (2) Any expense incurred in the removal and destruction of the marine culture system under subregulation (1) shall be deducted from the deposit made under regulation 5.
- (3) Where the expenses incurred in the removal and destruction of the marine culture system—
- (a) is less than the amount of the deposit, the balance shall be refunded to the licensee or permit holder;

(b) exceeds the amount of the deposit, the balance shall be recoverable from the licensee or permit holder as a debt due.

(4) A marine culture system set up without a permit or operated without a licence shall be removed and destroyed by the Director-General and no compensation shall be payable to the owner in respect of such removal and destruction.

(5) Any fish recovered from a marine culture system under subregulation (4) shall be auctioned and the proceeds thereof credited to Government revenue.

Licensee
to furnish
data, etc.

15. A licensee shall, on request, furnish to a fisheries officer such data, information and statistics relating to the marine culture system operated by him as the fisheries officer may require.

Penalty.

16. Any person who contravenes any of the provisions of these Regulations or fails to comply with any of the terms and conditions of a permit or licence issued under these Regulations shall be guilty of an offence and shall, on conviction, be liable to a fine not exceeding one thousand ringgit.

Existing
marine
culture
systems on
commencement
of Regulations.

17. Any person operating a marine culture system shall, within three months of the coming into force of these Regulations—

(a) pay the deposit as set out in the Second Schedule in respect of the marine culture system operated by him; and

(b) take all necessary steps to apply for a licence to operate such marine culture system.

Exemption.

18. The Director-General may, in respect of any marine culture system already in existence on the date of the coming into force of these Regulations, by order in writing, exempt any person from compliance with any of the terms and conditions of the permit issued under regulation 3.

FIRST SCHEDULE

(Regulation 4)

TERMS AND CONDITIONS OF A PERMIT FOR MARINE CULTURE SYSTEMS

PART I

RACK AND POLE CULTURE SYSTEMS

1. The racks or poles erected within the culture site shall be adjacent to each other but they may be of any shape.
2. The distance (if any) between two licensed culture systems shall not be less than twenty metres unless authorized in writing by the Director-General.

3. Only one shelter shall be constructed in respect of each rack or pole culture system and the size of such shelter shall be determined by the Fisheries Officer.
4. The poles used to demarcate the outer boundary of the rack or pole culture system shall be painted with white fluorescent paint so that it is visible at night and during high tide.
5. A white light shall be fixed on the rack or pole culture system and lighted from sunset to sunrise. The light shall be visible for at least one nautical mile in every direction of the culture system.
6. The permit holder shall not resite or extend the location of the culture system or change the structure of the culture system without the written permission of the Director-General.
7. The rack or pole culture system shall be set up within three months from the date of issue of the permit or within such longer period as the fisheries officer may allow.
8. The permit holder shall apply for a licence to operate the rack or pole culture system as soon as it has been set up and in any case no later than twenty-one days after the date thereof.
9. No rack or pole culture system shall be set up in such manner as to cause obstruction to navigation.

PART II

RAFT CULTURE SYSTEM

1. The distance (if any) between two licensed culture systems shall not be less than twenty metres unless authorized in writing by the Director-General.
2. The rafts shall be anchored firmly to the seabed.
3. Only one shelter shall be constructed in respect of each raft culture system and the size of such shelter shall be determined by the Fisheries Officer.
4. The outer corners of each raft culture system shall be painted with fluorescent paint so that it is visible at night and during high tide.
5. A white light shall be fixed on the raft culture system and lighted from sunset to sunrise. The light shall be visible for at least one nautical mile in every direction of the culture system.
6. The permit holder shall not resite or extend the location of the culture system or change the structure of the culture system without the written permission of the Director-General.
7. The raft culture system shall be set up within three months from the date of issue of the permit or within such longer period as the fisheries officer may allow.
8. The permit holder shall apply for a licence to operate the raft culture system as soon as it has been set up and in any case no later than twenty-one days after the date thereof.

9. No raft culture system shall be set up in such manner as to cause obstruction to navigation.

PART III

CAGE AND PEN CULTURE SYSTEMS

1. The distance (if any) between two licensed culture systems shall not be less than twenty metres unless authorized in writing by the Director-General.
2. Only one shelter shall be constructed in respect of each cage or pen culture system and the size of such shelter shall be determined by the Fisheries Officer.
3. The outer corners of each cage or pen culture system shall be painted with white fluorescent paint so that it is visible at night and during high tide.
4. A white light shall be fixed on the cage or pen culture system and lighted from sunset to sunrise. The light shall be visible for at least one nautical mile in every direction of the culture system.
5. The permit holder shall not resite or extend the location of the culture system without the written permission of the Director-General.
6. The cage or pen culture system shall be set up within three months from the date of issue of the permit or within such longer period as the fisheries officer may allow.
7. The permit holder shall apply for a licence to operate the cage or pen culture system as soon as it has been set up and in any case no later than twenty-one days after the date thereof.
8. No cage or pen culture system shall be set up in such manner as to cause obstruction to navigation.

PART IV

ON-BOTTOM CULTURE SYSTEM

1. The area of an on-bottom culture system shall be marked by using a number of poles commonly known as "pancang" which are driven vertically into the seabed to demarcate the boundary of the culture area. The number of poles to be used shall be determined by the fisheries officer.
2. The poles used to demarcate the outer boundary of an on-bottom culture system shall be painted with white fluorescent paint so that it is visible at night and during high tide.
3. The permit holder shall not resite or extend the location of the culture system or change the structure of the culture system without the written permission of the Director-General.
4. No on-bottom culture system shall be set up in such manner as to cause obstruction to navigation.

PART V

FISH HATCHERIES AND NURSERIES

1. The permit holder shall not breed or produce any species of fish other than those species specified in the permit.
2. The permit holder shall install, to the satisfaction of the Director-General, sufficient facilities to ensure the proper sanitation of waters discharged from the hatchery or nursery.
3. The permit holder shall not resite or extend the location of the fish hatchery or nursery without the written permission of the Director-General.
4. The fish hatchery or nursery shall be set up within twelve months from the date of issue of the permit or within such longer period as the fisheries officer may allow.
5. The permit holder shall apply for a licence to operate the fish hatchery or nursery no later than three months after it has been set up.

SECOND SCHEDULE

(Regulation 5)

DEPOSITS FOR MARINE CULTURE SYSTEMS

<i>Marine Culture System</i>	<i>Deposit</i>
1. Rack Culture System	\$1.00 per square metre of water surface
2. Pole Culture System	\$1.00 per square metre of water surface
3. Raft Culture System	\$1.00 per square metre of water surface
4. Cage Culture System	\$1.00 per square metre of water surface
5. Pen Culture System	\$1.00 per square metre of water surface
6. On-Bottom Culture System	\$5.00 per hectare under culture
7. Hatchery	No deposit required
8. Nursery	No deposit required

THIRD SCHEDULE

(Regulation 7)

TERMS AND CONDITIONS OF A LICENCE FOR
MARINE CULTURE SYSTEMS

1. The licensee shall ensure that the marine culture system is in operation within three months from the date of issue of the licence.
2. Except in respect of on-bottom culture, hatcheries and nurseries, a white light shall be fixed on every marine culture system and lighted from sunset to sunrise. The light shall be visible for at least one nautical mile in every direction of the marine culture system.

3. The licensee shall not resite or extend the location of the culture system or change the structure of the culture system without the written permission of the Director-General.
4. The licensee shall immediately report any outbreak of disease at the culture system to the Director-General.
5. The licensee shall not harvest or offer for sale any fish or fish seed raised in a marine culture system during any period or periods where the waters of or in which the marine culture system is operated is polluted or infected by any organic or inorganic substance or organism harmful to man. However, such fish or fish seed may, with the permission of the Director-General be harvested, but only for the purpose of destroying it.
6. The licensee shall permit any fisheries officer to visit or inspect the marine culture system.
7. For purposes of research or investigation, the licensee shall permit the Director-General to take samples of fish, water, fish feed and chemicals used in the culture system and the Director-General shall acknowledge in writing the receipt of such items so taken.
8. The licensee shall provide such information on the operation of a marine culture system as may be requested for by any fisheries officer.
9. The licensee shall comply with any directions on sanitation and fish health as may be imposed by the Director-General from time to time.
10. No marine culture system shall be operated in such manner as to cause obstruction to navigation.
11. The licensee shall not transfer the licence in respect of the marine culture system without the prior written permission of the Director-General.
12. The licensee shall continue to comply with all the terms and conditions of the permit issued in respect of the marine culture system.

FOURTH SCHEDULE

(Regulation 8)

LICENCE FEES FOR MARINE CULTURE SYSTEMS

<i>Marine Culture System</i>	<i>Fees</i>
1. Rack Culture System	\$10.00 per year for each culture system comprising a water surface area of 200m ² or less For each additional water surface area of 100m ² or part thereof, an additional fee of \$5.00 per year

<i>Marine Culture System</i>	<i>Fees</i>
2. Pole Culture System	\$10.00 per year for each culture system comprising a water surface area of 200m ² or less For each additional water surface area of 100m ² or part thereof, a water surface additional fee of \$5.00 per year
3. Raft Culture System	\$10.00 per year for each culture system comprising a water surface area of 200m ² or less For each additional water surface area of 100m ² or part thereof, an additional fee of \$5.00 per year
4. Cage Culture System	\$10.00 per year for each culture system comprising a water surface area of 200m ² or less For each additional water surface area of 100m ² or part thereof, an additional fee of \$5.00 per year
5. Pen Culture System	\$10.00 per year for each culture system comprising a water surface area of 200m ² or less For each additional water surface area of 100m ² or part thereof, an additional fee of \$5.00 per year
6. On-Bottom Culture System	\$50.00 per year for each culture system
7. Hatchery	\$10.00 per year for each culture system
8. Nursery	\$10.00 per year for each culture system

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Minister of Agriculture