

TASMANIA

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**MARINE FARMING PLANNING AMENDMENT  
BILL 2006**

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**MARINE FARMING PLANNING AMENDMENT  
BILL 2006**

*(Brought in by the Minister for Primary Industries and Water,  
the Honourable David Edward Llewellyn)*

**A BILL FOR**

**An Act to amend the *Marine Farming Planning Act 1995***

Be it enacted by His Excellency the Governor of Tasmania, by  
and with the advice and consent of the Legislative Council and  
House of Assembly, in Parliament assembled, as follows:

**1. Short title**

This Act may be cited as the *Marine Farming  
Planning Amendment Act 2006*.

**2. Commencement**

This Act commences on the day on which this  
Act receives the Royal Assent.

**3. Principal Act**

In this Act, the *Marine Farming Planning Act  
1995*\* is referred to as the Principal Act.

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\*No. 31 of 1995

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THIS BILL IS COGNATE WITH THE *LIVING MARINE RESOURCES MANAGEMENT  
(MISCELLANEOUS AMENDMENTS) BILL 2006*

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**4. Section 73 amended (Transfer of lease)**

Section 73 of the Principal Act is amended as follows:

- (a) by omitting from subsection (2) “An” and substituting “The”;
- (b) by omitting from subsection (3)(a) “a lease” and substituting “the lease”;
- (c) by inserting in subsection (3)(b) “of the lease” after “transfer”;
- (d) by omitting subsections (4) and (5) and substituting the following subsections:
  - (4) However, if the lessee holds a marine farming licence authorising the lessee to carry on marine farming in respect of the lease area, the Minister is not to approve the transfer of the lease unless the Minister has already agreed to the transfer of the marine farming licence.
  - (5) If the Minister approves the transfer of the lease, it is transferred subject to the same conditions and restrictions that it was subject to immediately before the transfer unless the Minister varies them under this Part.

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- (e) by omitting from subsection (6) “a lease” and substituting “the lease”;
- (f) by omitting from subsection (6) “must” and substituting “is to”;
- (g) by inserting the following subsection after subsection (6):

(7) For the avoidance of doubt –

- (a) no approval for the transfer of a lease given under subsection (3)(a) before the commencement of the *Marine Farming Planning Amendment Act 2006* is to be taken as having been invalid by reason only that the Minister had not already agreed to the transfer of a marine farming licence authorising the transferor of the lease to carry on marine farming in respect of the lease area; and
- (b) no transfer of a lease effected pursuant to this section before the commencement of the *Marine Farming Planning Amendment Act 2006* is to be taken as having been

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invalid by reason only  
that –

- (i) the transfer of the lease was approved by the Minister before he or she had agreed to the transfer of a marine farming licence authorising the transferor of the lease to carry on marine farming in respect of the lease area; and
- (ii) the lease was not transferred in conjunction with such a marine farming licence.

**5. Section 87 amended (Undertaking of survey)**

Section 87 of the Principal Act is amended by omitting subsections (6) and (7) and substituting the following subsection:

- (6) Section 302 of the *Living Marine Resources Management Act 1995* is incorporated with this section.

**6. Section 121 amended (Demerit point by penalty)**

Section 121 of the Principal Act is amended by inserting “by a court” after “convicted”.

**7. Section 122 repealed**

Section 122 of the Principal Act is repealed.

**8. Section 123 substituted**

Section 123 of the Principal Act is repealed and the following section is substituted:

**123. Period of demerit point**

A demerit point allocated under this Division remains in force for a period of 5 years from the date of the conviction that causes the demerit point to be allocated.

**9. Section 124 amended (Disqualification from obtaining lease)**

Section 124 of the Principal Act is amended as follows:

- (a) by omitting from subsection (1)(a) “during a period of 5 years referred to in section 123”;

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- (b) by omitting from subsection (1)(b) “during that period”;
- (c) by omitting from subsection (1)(c)(i) “during that period”;
- (d) by omitting from subsection (1)(c)(ii) “during that period”;
- (e) by inserting in subsection (4) “, to a person who is not their associate,” after “transfer”;
- (f) by inserting the following subsection after subsection (5):

(6) In this section –

**“allocated”** means allocated under this Division on one day;

**“associate”** has the same meaning as in section 82 of the *Living Marine Resources Management Act 1995*.

**10. Section 142 amended (Surveys)**

Section 142 of the Principal Act is amended by omitting “authorised survey within the meaning of the *Land Surveyors Act 1909*” and substituting “survey within the meaning of the *Surveyors Act 2002*”.