

**AQUACULTURE
LICENCES
APPEALS BOARD**

**ANNUAL REPORT
2010**

AQUACULTURE LICENCES APPEALS BOARD

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STATEMENT OF THE CHAIRPERSON
to the
MINISTER FOR AGRICULTURE FISHERIES AND FOOD

I was honoured to be appointed Chairman of the Board on the 27th of November, 2008 and am pleased to include this Statement in the Board's thirteenth annual report.

The number of Board meetings held in 2010 was 9:

Board Member	Number of Meetings Attended
Mr Mark O'Connell	9/9
Mr Mario Minehane, Deputy Chairperson	8/9
Mr Lorcán Ó Cinnéide	8/9
Mr Sean Murphy	7/9
Ms Karin Dubsky	5/9
Ms Deirdre MacGabhann	3/6 (resigned 30 th July 2010)
Mr Michael Sweeney	8/9

There were no appeals received by the Board during the course of 2010.

In respect of the requirements of the Code of Practice for the Governance of State Bodies, I affirm that all appropriate procedures for financial reporting, internal audit, travel, procurement and asset disposals are being carried out. I acknowledge that the Board is responsible for the System of Internal Financial Control of ALAB as referred to in Paragraph 13 of the Code of Practice. Furthermore, as required under Paragraph 12.1 of the Code of Practice, I can confirm that the Board is in compliance with all of its obligations under tax law.

The Board continues to implement all necessary provisions of the Safety, Health and Welfare at Work Act 2005.

There are two sub-committees to the Board: the Internal Audit Sub-Committee and the Remuneration Sub-Committee and I wish to record my appreciation for their work. I also acknowledge the work of the Board members, the Secretary to the Board, the Technical Adviser to the Board and those who provided legal, financial and other services to the Board. I thank all of them (past and present) for their service throughout the year and I look forward to working with them in the years ahead.



Mark O'Connell,
Chairman

BOARD MEMBERS and GENERAL INFORMATION

CHAIRMAN:	Mr Mark O'Connell
DEPUTY CHAIRPERSON:	Mr Mario Minehane
ORDINARY MEMBERS:	Mr Sean Murphy
	Mr Lorcán O'Cinneide
	Ms Karin Dubsky
	Ms Deirdre McGabhann
	Mr Michael Sweeney
SECRETARY:	Mr Brendan Byrne
OFFICE ADDRESS:	3 rd Floor Holbrook House Holles Street Dublin 2
AUDITORS:	Comptroller & Auditor General Treasury Building Dublin Castle Dublin 2.
TELEPHONE:	+353 (0) 1 662 0331
FAX:	+353 (0) 1 662 0340
WEB ADDRESS:	www.alab.ie
E-MAIL ADDRESS:	info@alab.ie

AQUACULTURE LICENCES APPEALS BOARD

The following is some general information regarding the Aquaculture Licences Appeals Board. However, to obtain an overall picture as to how the appeal process, as well as the aquaculture licensing system operates, reference should be made *inter alia* to the Fisheries (Amendment) Act, 1997 (as amended), the Fisheries and Foreshore (Amendment) Act, 1998, Aquaculture (Licence Application) Regulations 1998, the Fisheries (Amendment) Act, 2001.

ESTABLISHMENT OF BOARD

The Aquaculture Licences Appeals Board was established on 17 June 1998 under *Section 22* of the Fisheries (Amendment) Act, 1997. All Board members are engaged on a part-time basis.

FUNCTION

The Board has operated under the aegis of the Department of Agriculture, Fisheries and Food.

The function of the Board is to provide an independent authority for the determination of appeals against decisions of the relevant Minister on aquaculture licence applications. A person aggrieved by a decision of the Minister on an aquaculture licence application, or by the revocation or amendment of an aquaculture licence, may make an appeal within one month of publication (in the case of a decision) or notification (in the case of revocation/amendment).

STATUS

The Board is an independent body with its own funding provided for by the Oireachtas under *Section 36* of the Act.

MEMBERSHIP OF BOARD 2010

As provided for under *Section 23* of the Fisheries (Amendment) Act, 1997, the Board consists of a Chairman and six other members. The Chairman, Mr. Mark O'Connell, a practising barrister, was appointed by the Government for a term of 5 years, effective from 27 November 2008.

Mr Mario Minehane was appointed to the position of Deputy Chairperson with effect from 19 April 2007 for the remainder of his term of office and was reappointed as Deputy Chairman with effect from 1 January 2008 for a further period of three years.

Mr Mario Minehane, Mr Sean Murphy and Mr Lorcán Ó Cinnéide have served on the Board since 4th December 2003. In December 2004 the Marine Minister announced their reappointment, for a period of three years effective from 1st January 2005. They were reappointed by the Minister for Agriculture, Fisheries and Food with effect from 1 January 2008 for a further period of three years. Their terms of office come to an end in December 2010.

Ms Karin Dubsky was appointed by the Minister of State for Communications, Marine and Natural Resources, Mr Pat the Cope Gallagher, T.D., for a period of two years from 1 January 2005 to 31 December 2006. She was re-appointed by Mr John Browne, T.D., Minister of State for Communications Marine and Natural Resources with effect from 5 April 2007 for a further period of two years and was again re-appointed by Mr Brendan Smith, T.D., Minister for Agriculture Fisheries and Food for a further period of two years with effect from 5 April 2009.

Ms Deirdre MacGabhann was appointed by the Minister for Agriculture Fisheries and Food, Ms Mary Coughlan, T.D., for a period of three years effective from 1st January 2008. Ms MacGabhann resigned from the Board on 30th July 2010.

Mr Michael Sweeney was appointed by Mr Brendan Smith, T.D., Minister for Agriculture Fisheries and Food for a period of three years from 13 July 2009.

COMPOSITION OF BOARD

In accordance with *Section 23(3)* of the Act, the Minister for the Marine and Natural Resources made regulations prescribing not less than two organisations, representative of the following groupings:

- (a) organisations concerned with the promotion of the development of aquaculture or representative of persons carrying on the business of developing aquaculture;
- (b) organisations concerned with the conservation, development and protection of wild fisheries;
- (c) organisations representative of persons whose professions or occupations relate to physical planning and development;
- (d) organisations representative of persons concerned with the protection and preservation of the environment and amenities;
- (e) organisations representative of persons concerned with the promotion of general economic development and
- (f) organisations representative of persons concerned with the promotion of community development.

RESPONSIBILITIES

The following is a summary only of the main responsibilities and powers of the Board. Please refer to the Fisheries (Amendment) Act 1997 as amended for the actual provisions of the sections.

Under *Section 40(4)* of the Act, on receipt of an appeal by the Board and provided it is not withdrawn, the Board can determine the appeal by

- (a) confirming the decision or action of the Minister
- (b) determining the application for the licence as if the application had been made to the Board in the first instance or
- (c) in relation to the revocation or amendment of a licence, substituting its decision on the matter for that of the Minister;

Under *Sections 43 and 44* of the Act, the Board must send a copy of the notice of appeal to the Minister and to each other party to the appeal;

Under *Section 46* of the Act, the Board can request submissions or observations from parties or other persons who have already made submissions or observations to the Board in relation to an appeal, if, in the opinion of the Board and in the circumstances, it is in the interests of justice to do so;

Under *Section 47* of the Act, the Board can request documents, particulars or other information it considers necessary for the purpose of enabling it to determine an appeal;

Under *Section 49* of the Act, the Board has the absolute discretion to hold an oral hearing of an appeal;

Under *Section 56* of the Act, the Board is required to ensure that appeals are dealt with and determined expeditiously and that all steps are taken to avoid unnecessary delay.

CONSULTANTS AND ADVISERS

Under *Section 35* of the Act, the Board may engage such consultants or advisers as it considers necessary for the performance of its functions. Fees due to either, are paid by the Board out of moneys made available by the Oireachtas. With effect from the 2nd September 2008 the Board has hired and will continue to hire a consultant Technical Adviser when necessary.

SECRETARIAT

Under *Section 32* of the Act, an officer of the Minister who is an established civil servant and who is seconded to the Board for that purpose, either on a whole-time or part-time basis, shall act as Secretary to the Board. A whole-time Secretary acted for the duration of the year.

BOARD ACTIVITIES 2010

APPEALS RECEIVED

In 2010 the Board received no appeals.

JUDICIAL REVIEW

In accordance with Section 73 of the Fisheries (Amendment) Act, 1997, a person can apply for judicial review of determinations of the Board by way of an application for judicial review, provided it is made within the period of three months commencing on the date on which the determination was made.

There were no Judicial Reviews commenced or ongoing during 2010.

SUMMARY OF DETERMINATIONS MADE IN 2010

Under *Section 40(4)* of the Fisheries (Amendment) Act, 1997, the Board, in determining the appeals has the option of:

- (i) confirming the decision of the Minister to grant or refuse a licence or
- (ii) determining and issuing its own aquaculture licence as if the application for the licence had been made to the Board in the first instance.

Where the Board determines that it wishes to alter the terms or conditions of a licence decision granted by the Minister, it does so by issuing its own licence with additional or altered terms and conditions.

No determinations were made by the Board in 2010.

Aquaculture Licences Appeals Board

Financial Statements for the Year ending 31 December 2010

Aquaculture Licences Appeals Board

Financial Statements for the Year ending 31 December 2010

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Aquaculture Licences Appeals Board

Financial Statements for the Year ending 31 December 2010

Board Members and General Information

Board Members:

Ms. Karin Dubsky
Ms. Mario Minehane (Deputy Chairman)
Ms. Deirdre MacGabhann (Resigned 31 July 2010)
Mr. Sean Murphy
An t-Uasal Lorcán Ó Cinnéide
Mr. Mark O'Connell (Chairman)
Mr. Michael Sweeney

Secretary:

Ms. Ann Marie Mahon (Appointed 6 December 2010)
Mr. Brendan Byrne (Re-assigned 6 December 2010)

Business Address:

Kilminchy Court
Dublin Road
Portlaoise
Co. Laoise

Accountants:

Anne Brady McQuillans DFK
Iveagh Court
Harcourt Road
Dublin 2

Bankers:

Allied Irish Bank
100 Grafton Stret
Dublin 2

Solicitors:

Arthur Cox
Earlsfort Centre
Earlsfort Terrace
Dublin 2

Aquaculture Licences Appeals Board

Financial Statements for the Year ending 31 December 2010

Statement of Responsibilities of the Board

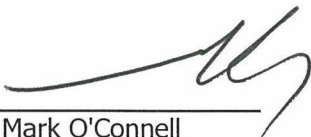
The Board is required by Section 37 (1) of the Fisheries (Amendment) Act, 1997 to keep all proper and usual accounts of all moneys received or expended by it including an income and expenditure account and a balance sheet.

In preparing those statements the Board is required to:

- select suitable accounting policies and apply them consistently
- make judgments and estimates that are reasonable and prudent
- disclose and explain any material departures from applicable accounting standards, and
- prepare the financial statements on a going concern basis unless it is inappropriate to presume that Board will continue in existence.

The Board is responsible for keeping proper accounting records which disclose with reasonable accuracy at any time the financial position of the Board and which enable it to ensure that the financial statements comply with the Act and with accounting standards generally accepted in Ireland. The Board is also responsible for safeguarding the assets of the Board and hence for taking reasonable steps for the prevention and detection of fraud and other irregularities.

On behalf of the Board



Mark O'Connell
Chairman



Lorcan Ó Cinnéide
Board Member

Aquaculture Licences Appeals Board

Financial Statements for the Year ending 31 December 2010

Statement on Internal Financial Control

On behalf of Aquaculture Licences Appeals Board, we acknowledge our responsibility for ensuring that an effective system of internal financial control is maintained and operated in the Office. The system can only provide reasonable, and not absolute assurance, that assets are safeguarded, transactions authorised and properly recorded, and that material errors or irregularities are either prevented or would be detected in a timely period.

Key Control Procedures

The Board has taken steps to ensure an appropriate control environment by:

- Clearly defining management responsibilities.
- Establishing formal procedures for monitoring the activities and safeguarding the assets of the organisation.
- Developing a culture of accountability across all levels of the organisation
- Appointing a firm of external accountants to document the systems of internal control and to make recommendations on enhancing the system.
- Apart from the legal and professional fees, the bulk of the Board expenditure is incurred on staff salaries, Board Member's remuneration and travel and subsistence. The salary of the seconded staff member is paid by the Department of Agriculture, Fisheries and Food and recouped by them from the Board's allocation. An external accountancy firm has been engaged by the Board to deal with Board Member's remuneration.


The system of internal financial control is based on a framework of regular management information, administrative procedures including segregation of duties, and a system of delegation and accountability. In particular it includes:


- Regular review by the Board of periodic and annual financial reports. If a problem arises, the Board can then decide on corrective action required.
- Regular Board meetings

Annual Review of Controls

The Board conducted a review of the effectiveness of the system of internal control in respect of the year 2010.

On behalf of the Board


Mark O'Connell
Chairman

 22.12.11
Lorcan Ó Cinnéide
Board Member

Aquaculture Licences Appeals Board

Financial Statements for the Year ending 31 December 2010

Report of the Comptroller and Auditor General



Comptroller and Auditor General

Report for presentation to the Houses of the Oireachtas

Aquaculture Licences Appeals Board

I have audited the financial statements of the Aquaculture Licences Appeals Board for the year ended 31 December 2010 under the Fisheries (Amendment) Act 1997. The financial statements, which have been prepared under the accounting policies set out therein, comprise the Statement of Accounting Policies, the Income and Expenditure Account, the Balance Sheet and the related notes. The financial reporting framework that has been applied in their preparation is applicable law and Generally Accepted Accounting Practice in Ireland.

Responsibilities of the Members of the Board

The Board is responsible for the preparation of the financial statements, for ensuring that they give a true and fair view of the state of the Board's affairs and of its income and expenditure, and for ensuring the regularity of transactions.

Responsibilities of the Comptroller and Auditor General

My responsibility is to audit the financial statements and report on them in accordance with applicable law.

My audit is conducted by reference to the special considerations which attach to State bodies in relation to their management and operation.

My audit is carried out in accordance with the International Standards on Auditing (UK and Ireland) and in compliance with the Auditing Practices Board's Ethical Standards for Auditors.

Scope of Audit of the Financial Statements

An audit involves obtaining evidence about the amounts and disclosures in the financial statements, sufficient to give reasonable assurance that the financial statements are free from material misstatement, whether caused by fraud or error. This includes an assessment of

- whether the accounting policies are appropriate to the Board's circumstances, and have been consistently applied and adequately disclosed
- the reasonableness of significant accounting estimates made in the preparation of the financial statements, and
- the overall presentation of the financial statements.

I also seek to obtain evidence about the regularity of financial transactions in the course of audit.

Opinion on the Financial Statements

In my opinion, the financial statements, which have been properly prepared in accordance with Generally Accepted Accounting Practice in Ireland, give a true and fair view of the state of the Board's affairs at 31 December 2010 and of its income and expenditure for the year then ended.

In my opinion, proper books of account have been kept by the Board. The financial statements are in agreement with the books of account.

Matters on which I report by exception

I report by exception if

- I have not received all the information and explanations I required for my audit, or
- my audit noted any material instance where moneys have not been applied for the purposes intended or where the transactions did not conform to the authorities governing them, or
- the Statement on Internal Financial Control does not reflect the Board's compliance with the Code of Practice for the Governance of State Bodies, or
- I find there are other material matters relating to the manner in which public business has been conducted.

I have nothing to report in regard to those matters upon which reporting is by exception.

Andrew Harkness

For and on behalf of the
Comptroller and Auditor General

22 December 2011

Aquaculture Licences Appeals Board

Financial Statements for the Year ending 31 December 2010

Statement of Accounting Policies

1 General

The Aquaculture Licences Appeals Board was established on 17 June 1998 under Section 22 of the Fisheries (Amendment) Act, 1997. The Board deals with appeals against decisions of the Minister relating to aquaculture licenses.

2 Basis of Preparation

The financial statements are prepared under the accruals method of accounting, except as indicated below, and in accordance with generally accepted accounting principles under the historical cost convention. Financial reporting standards recommended by the recognised accountancy bodies are adopted, as they become operative.

3 Income

Appeal Fees are recognised in the Financial Statements on a receipts basis.

Income from Oireachtas Grants represents actual cash receipts in the period from the Department of Agriculture, Fisheries and Food and payments in the year by the Department in respect of the Aquaculture Licences Appeals Board seconded staff.

4 Insurance

The current insurance policy covers the following:

- Commercial (employers liability, product liability and public liability)
- Travel (travel and injury)
- Directors and Officers liability

5 Employees and Superannuation

The Secretary of the Board is on secondment from the Department of Agriculture, Fisheries and Food. The Secretary's salary costs for the year are recouped from the relevant Department.

6 Judicial Review

Section 73 of the Fisheries (Amendment) Act, 1997, provides for applications for judicial review of decisions of the board. The Board accounts for those events under the generally accepted accounting practice.

7 Tangible Fixed Assets and Depreciation

Tangible fixed assets are stated at their historical cost or valuation less accumulated depreciation. Depreciation is charged to the income and expenditure account, on a straight line basis, at the rates set out below, so as to write off the assets, adjusted for estimated residual value, over their expected useful lives.

Computer Equipment: 33 1/3%
Office Equipment: 33 1/3%

8 Capital Account

The Capital Account represents the unamortised value of income used for capital purposes.

Aquaculture Licences Appeals Board

Financial Statements for the Year ending 31 December 2010

Income and Expenditure Account

	Notes	2010 €	2009 €
Income			
Oireachtas grants	1	416,633	676,951
Appeal Fees		-	-
		<u>416,633</u>	<u>676,951</u>
Transfer from capital account	9	203	272
Total Income		<u>416,836</u>	<u>677,223</u>
Expenditure			
Wages and salaries	2	98,911	105,948
Administration	3	70,723	90,855
Depreciation	4	203	272
Total Expenditure		<u>169,837</u>	<u>197,075</u>
Surplus for period		<u>246,999</u>	<u>480,148</u>

The results for the period relate to continuing operations.

The notes on pages 8 to 10 form part of these financial statements.

On behalf of the Board



Mark O'Connell
Chairman



Lorcan Ó Cinnéide
Board Member

Aquaculture Licences Appeals Board


Financial Statements for the Year ending 31 December 2010

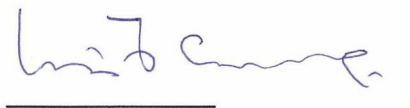
Balance Sheet as at 31 December 2010

	Notes	2010 €	2009 €
Fixed Assets			
Tangible Assets	4	-	203
Current Assets			
Debtors and Prepayments	5	3,722	4,265
Bank and Cash	6	<u>13,974</u>	<u>1,159</u>
		17,696	5,424
Current Liabilities			
Creditors and Accruals	7	<u>21,945</u>	<u>256,672</u>
Net Current Liabilities		(4,249)	(251,248)
Net Assets		<u>(4,249)</u>	<u>(251,045)</u>
Financed by:			
Capital Account	9	-	203
Income and Expenditure Account	8	<u>(4,249)</u>	<u>(251,248)</u>
		<u>(4,249)</u>	<u>(251,045)</u>

The notes on pages 8 to 10 form part of these financial statements.

On behalf of the Board


Mark O'Connell
Chairman


Lorcan Ó Cinnéide
Board Member

Aquaculture Licences Appeals Board

Financial Statements for the Year ending 31 December 2010

Notes to the Financial Statements

1 Oireachtas Grant Income Drawdown	2010	2009
	€	€
Oireachtas Grant Income drawdown	416,633	676,951
	<u>416,633</u>	<u>676,951</u>

The Department of Agriculture, Fisheries and Food paid the Secretary's salary directly and deducted the salary costs from the grant drawdown.

2 Wages and Salaries	2010	2009
	€	€
Secretary salary	54,133	59,231
Board members remuneration	41,428	45,634
Employers PRSI	3,350	1,083
	<u>98,911</u>	<u>105,948</u>

The Secretary of the Aquaculture Licences Appeals Board is on secondment from the Department of Agriculture, Fisheries and Food and was not in receipt of any extra remuneration, emoluments or expenses in respect of her role as Secretary for the Aquaculture Licences Appeals Board. The Department of Agriculture, Fisheries and Food paid all remuneration and emoluments and deducted all relevant expenses, including the pension levy, from her salary.

There was no pension levy deducted from board members in 2010 as their remuneration was below the relevant thresholds.

The Board members received the following remuneration and travel and subsistence for the year ended 31 December 2010:

	Remuneration	Travel & Subsistence
	€	€
Ms. Karin Dubsky	5,985	493
Ms. Mario Minehane (Deputy Chairman)	5,985	5,841
Ms. Deirdre MacGabhann (Resigned 31 July 2010)	3,150	999
Mr. Sean Murphy	5,985	3,230
An t-Uasal Lorcán Ó Cinnéide	5,985	-
Mr Mark O'Connell (Chairman)	8,978	-
Mr Michael Sweeney	5,985	2,347

3 Administration Costs	2010	2009
	€	€
Travel and subsistence	13,803	13,770
Technical & scientific support costs	35,787	68,150
Office supplies and computer equipment	365	2,815
Insurance	3,323	4,255
Rates	5,325	5,432
Cleaning	930	2,781
Repairs, maintenance and security	6,309	4,797
Courier and taxi costs	56	171
Telephone	2,427	3,785
Legal and professional fees	(4,909)	(33,930)
Other professional fees	(533)	4,015
Accountancy and payroll costs	7,371	4,885
Audit fees	3,872	4,400
Bank charges	236	169
Miscellaneous expenses	82	(1,684)
Publications	(3,632)	225
Printing	-	3,986
Light & heat	(1,600)	2,833
Advertising	1,169	-
Postage	342	-
	<u>70,723</u>	<u>90,855</u>

Aquaculture Licences Appeals Board

Financial Statements for the Year ending 31 December 2010

Notes to the Financial Statements

4 Fixed Assets	Computer Equipment €	Office Equipment €	Total €
Cost at 1 January 2010	69,379	37,811	107,190
Additions	-	-	-
	<u>69,379</u>	<u>37,811</u>	<u>107,190</u>
Accumulated depreciation at 1 January 2010	69,176	37,811	106,987
Depreciation charge for year	203	-	203
	<u>69,379</u>	<u>37,811</u>	<u>107,190</u>
Net book value 31 December 2010	-	-	-
Net book value at 31 December 2009	<u>203</u>	<u>-</u>	<u>203</u>
5 Debtors	2010 €	2009 €	
Prepayments	3,722	4,265	
	<u>3,722</u>	<u>4,265</u>	
6 Bank and cash	2010 €	2009 €	
Current account	13,963	1,109	
Petty cash	11	50	
	<u>13,974</u>	<u>1,159</u>	
7 Creditors	2010 €	2009 €	
Accruals	17,848	251,311	
PAYE / PRSI payable	4,097	4,737	
PSWT payable	-	624	
	<u>21,945</u>	<u>256,672</u>	

Aquaculture Licences Appeals Board

Financial Statements for the Year ending 31 December 2010

Notes to the Financial Statements

8 Income and Expenditure Account	2010 €	2009 €
Balance brought forward at 1 January 2010	(251,248)	(731,396)
Surplus / (Deficit) for period	246,999	480,148
Balance at 31 December 2010	<u>(4,249)</u>	<u>(251,248)</u>

9 Capital Account

Balance at 1 January 2010		203
<u>Transfer (to) / from Income & Expenditure:</u>		
Funds allocated to acquire fixed assets	-	
Amount amortised in line with depreciation	<u>(203)</u>	<u>(203)</u>
Balance at 31 December 2010		<u>-</u>

10 Premises Note

The Aquaculture Licences Appeals Board occupies a premises at Kilminchy Court, Dublin Road, Portlaoise, Co. Laois. The main tenant of the building is the Agriculture Appeals Office. The Aquaculture Licences Appeals Board were not liable to any rent, rates or related service charges in 2010.

11 Board Members Interests

In the normal course of business the Board may enter into contractual arrangements in which the Aquaculture Licences Appeals Board Members are employed or otherwise interested. The Board adopted procedures in accordance with the guidelines issued by the Department of Finance in relation to the disclosure of interests by Board Members and these procedures have been adhered to by the Board during the year.

No contractual arrangements were approved or paid during the year to companies with which Board Members are associated.

12 Approval of Financial Statements

The financial statements were reviewed by the Board on

22/11/11